

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 28, 2012 at 8:00 P.M.

PRESENT:

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

ABSENT: RICHARD FILIPPI, Councilman

The Council convened at 7:30 p.m. Councilwoman Parker made a motion, seconded by Councilwoman Keith and unanimously carried to immediately adjourn into executive session to discuss real estate matters. Councilman Jovanovich made a motion, seconded by Councilwoman Parker and unanimously carried to adjourn the executive session at 8:12 p.m. The regular session began at 8:17 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

- City representatives presented at the County Mobility Forum regarding the process of Complete Streets Planning.
- A public hearing was held at City Hall regarding the County Playland Pathway expansion project.

4. Draft unapproved minutes of the regular meeting of the City Council held March 14, 2012

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the minutes of the regular meeting of the City Council held on March 14, 2012, as submitted.

5. Bid Award for the Bowman Avenue Sluice Gate Project (Contract #2012-01)
Roll Call.

Mayor French noted that the Sluice Gate project is being funded with County, State and City money and has been approved by other municipalities and governmental agencies. City Manager Pickup said work on the project started after the floods of 2007 when the City hired an engineering firm to look at hydrology in order to come up with ways to mitigate flooding and hopefully this is the first of many steps. The bid numbers for the project came in better than had been anticipated and the contractor has previously done work for the City.

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

WHEREAS, the Assistant City Engineer recommends that Contract #2012-01 be awarded to the low bidder, ELQ Industries, Inc., in the amount of Nine Hundred Seventy Thousand Seven Hundred Twenty-Five dollars and no cents (\$970,725.00), from account 585405-52906-85405 and,

WHEREAS, City staff has determined that the following costs will be associated with the Bowman Avenue Sluice Gate project for the Engineering firm of WSP Sells: Supplemental Agreement of \$42,300, Construction Inspection of \$50,000, and Construction Support of \$20,000, totaling \$112,300, from account 585405-52902-85405 and,

WHEREAS, the Accounts 585405-52902-85405 and 585405-52906-85405 have sufficient balance to fund the project, now therefore be it

RESOLVED, that the City Council award the Bowman Avenue Sluice Gate Project with the total cost of \$1,083,025.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Jovanovich, Keith, Parker and Sack

NAYS: None

ABSENT: Councilman Filippi

The Resolution was adopted by a 6-0 vote

Contract 2012-01
Bowman Avenue Dam Sluice Gate Project

Position	Contractor	Contractor's Bid	% Above Low Bidder
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1	ELQ Industries	\$970,725.00	0.00%
2	McNamee Construction	\$974,000.00	0.34%
3	Bilotta Construction	\$989,556.15	1.94%
4	Bradhurst Site Construction	\$1,084,208.00	11.69%
5	Legacy Value LLC	\$1,120,000.00	15.38%
6	Arben Group	\$1,148,000.00	18.26%
7	R. Pagni and Sons	\$1,185,875.00	22.16%
8	Fourmen Construction	\$1,208,497.00	24.49%
9	Rock Island Contractors Inc.	\$1,238,404.00	27.24%
10	Eventus Construction Co. Inc.	\$1,295,806.00	31.55%
11	Landi Contracting Inc.	\$1,450,000.00	37.69%
12	MVM Construction	\$1,485,000.00	37.60%

6. Authorization for the City Manager to enter into an agreement with WSP Sells for the Bowman Avenue Upper Dam Resizing Flood Control Project
Roll Call.

Mayor French said that the second piece of the flood plan is to retain more water upstream. The City wants to test the soil in the area above the dam to determine what a project to expand the size of the upper pond would cost. City Manager Pickup said the City had applied for FEMA mitigation grant funds and was awarded the money but has not received it yet, and now there is an opportunity to begin the engineering analysis for that option while contractors are on site for the Sluice Gate project. He said that when the award of the FEMA money is finalized, the City will ask to apply it to an engineering and feasibility analysis of additional storage north of Anderson Hill Road.

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

RESOLVED that the City Council of the City of Rye hereby authorizes the City Manager to enter into an Agreement with the engineering firm of WSP Sells for the Bowman Avenue Upper Dam Resizing Flood Control Project for the amount of One Hundred and Eight Thousand, Six Hundred Dollars (\$108,600.00) to be funded from account 585405-52902-85405.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Jovanovich, Keith, Parker and Sack

NAYS: None

ABSENT: Councilman Filippi

The Resolution was adopted by a 6-0 vote

7. Mayor's Management Report

- Update from the Recreation Commission

Bart DiNardo, the Chair of the Recreation Commission, said that he believed the Recreation Department accomplished their mission statement of “providing quality leisure services to all residents of Rye” in 2011. 2011 was a challenging year and the Department achieved over a 40% return on revenue for programs. The Department lost three staff members but the remaining staff members rose to the challenge. He said that user groups are very demanding and many have gone outside the City because there are not enough fields to support their programs and a Recreation Commission sub-committee is looking into a turf field with lighting and have hired a consultant to investigate the possibility. He said the Department needs to look at maintaining its fields and facilities but it is a very expensive and they may be coming back to the Council seeking money for capital improvements. There were 27 new programs introduced last year and each year the Superintendent evaluates all new programs at budget time to determine if they are worthwhile and valuable. The goals of the members of the Recreation Commission for 2012 are: (1) keep costs reasonable; (2) open the lines of communication with the public; (3) complete the field study and provide a recommendation; (4) talk with the Finance Committee about what recreation provides; (5) maintain fiscal vigilance; (6) create a foundation to raise private money to support recreation activities; (7) better communication with the City Council; (8) increase summer programs for the seniors; and (9) advocate in the community about the role of recreation.

- Update from the Sustainability Committee Update on energy saving projects: Biofuels, Energy Audit, the Plastic Bag Ban implementation and the April 23rd No-Idling Day.

Sara Goddard and Mimi Bateman made a presentation on various projects the Sustainability Committee has been working on:

- Energy Audit – An energy audit was done following approved ICLEI methodology. 2009 was selected as the baseline year and data was gathered on energy and waste-related activities from municipal and community sources. The data was then entered into ICLEI's Clean Air and Climate Protection software. After the data was input into the software it was converted into a summary of greenhouse gas emissions for both the municipality and community by sector and energy sources. The audit findings can be incorporated into the Sustainability Plan and can provide a framework to reduce Rye's carbon footprint. The Audit can also be used when applying for grants as evidence of existing effort and commitment by the City.
- No-Idling Day – April 23rd - Ten schools across four communities are participating in the event and the municipalities are preparing resolutions in support. The Committee has met with the Police Commissioner, who has agreed to help raise awareness prior to April 23rd and is requesting that a “No Idling” sign be put up in the parking lot near the Library.

- Plastic Bag Ban implementation – The Jay Heritage Center has underwritten the cost of posters, cards and information packets for merchants that have been distributed by the Sustainability Committee and Chamber of Commerce. There is a need for a way to handle the questions and concerns of the community when the law goes into effect. City Manager Pickup said the City does not anticipate doing aggressive enforcement of the law but more of encouraging compliance.

Beau Kemp of Hudson Biofuels made a presentation on the process of collecting used cooking oil from restaurants, filtering it to create recycled vegetable oil, and using the recycled oil as feed stock to produce biodiesel. Most of this biodiesel that is created is used as a blend of petroleum-based diesel for cars and trucks or for home heating oil. Utilization of the program could help reduce the City's carbon footprint, educate the business and residential community about the disposal of grease, and provide cost savings and environmental benefits to the City.

After the presentation the Council considered adopting a Declaration in support of the Sound Shore Communities' No-Idling Day.

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

As part of "Rye Sustainability Committee Celebrates Earth Day", The City of Rye is joining with the Village of Larchmont, Town of Mamaroneck, and the Village of Mamaroneck to declare Monday, April 23, 2012 a day of awareness about the harmful effects of engine idling and to encourage our community to take action to reduce unnecessary idling.

We recognize that excessive emissions from idling are harmful to our environment, our citizens' health, and a drain on our wallets. Excessive idling:

- is against the law, with a fine of up to \$250.00 for any vehicle idling longer than 3 minutes;
- wastes fuel and money;
- is hazardous to our health, impacting children more than adults; and
- affects air quality and pollutes the environment.

The City Council, Rye Police Department, and area schools are united in encouraging residents to:

- turn off their engines when idling for longer than 30 seconds;
- spread the word to family and friends and encourage others to eliminate unnecessary idling; and
- maintain vehicles to reduce excessive exhaust.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

- *Butler v. Planning Commission, et al* – Judge Lorenzo rendered a decision that upheld a Planning Commission decision to grant a modified subdivision approval in this Article 78 proceeding. Notice of entry has been served on the petitioner.
- *Shew v. City of Rye* – This matter has been settled in principle with no exchange of money. Paul Shew has agreed to withdraw his appeal to the Appellate Division, Second Department, and Mayor French will sign a letter of recommendation based on his relationship with Mr. Shew when the Mayor was Chairman of the Recreation Commission. The Stipulation will be circulated to the Council and a vote will be taken at the next Council meeting.

8. Presentation by Commissioner William R. Connors on the proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order# 121.04

Police Commissioner Connors said that the proposed revision to the Rules and Regulations of the Police Department regarding “Social Media” is something that has been looked at for the last year and a half and is based on a model policy published by the International Association of Chiefs of Police. About 48% of Police Departments have adopted such policies. It is a Risk Management issue that is supported by insurance companies and trade publications. The goal is not to promote the use of social media by the Police Department, although he noted that social media is becoming extensively used in law enforcement. The City must be prepared for the day it decides to move into this area in order to establish guidelines for use of social media by both the Department officially and personal use by members of the Department that will insure that the Department and the City are represented appropriately and properly. The policy for the Department establishes guidelines for authorization of content and the administration of what the Department might do and sets up rules for dissemination, language and decorum. The goal of the policy for personal use is to guarantee that personnel are free to express themselves appropriately as private citizens but also addresses statements made in regard to public duties. There was a discussion among the Council regarding whether the entire policy should be adopted or just the section dealing with use by department personnel because of liability issues that might arise due to responses that might be posted to a Department sponsored site. There was also a suggestion that there should be a city-wide policy for all employees regarding the use of social media.

9. Discussion of the position of City Engineer and Public Works Superintendent and the upgrade of an existing staff position to Assistant Civil Engineer

City Manager Pickup said that the City Engineer has also doubled as the Superintendent of Public Works and has traditionally been supported by a staff person who is an Engineering technician. With the retirement of the prior City Engineer, the City looked at trying to make the position one of a consulting engineer but with the workload and infrastructure needs of the City based on general maintenance, flood maintenance, flood recovery, flood mitigation and potential capital projects it has become evident that the position needs to be reestablished. Mr. Pickup said that 10% of capital projects consist of engineering soft costs and the City needs people to manage that aspect of the projects in order to insure better projects that are one time, and on budget. Council discussion touched on the following aspects: should the City continue to use a

consultant rather than an employee in order to save money on benefit costs that are undefined; has the City reached the tipping point for use of consultants where it is no longer efficient; how is the consultant position allocated in the budget; what changed since the adoption of the budget to warrant the reinstatement of the position; and, after it strategic discussion in January, the Council wants to move forward with an emphasis on the City's crumbling infrastructure.

Mitchell Palais of 70 Grace Church Street said that school districts utilize separate engineers to manage projects and suggested this was an alternative the City should explore.

10. Resolution to transfer funds from the Contingency account and the Building and Vehicles fund, to fund the position of City Engineer/Public Works Superintendent and Assistant Civil Engineer
Roll Call.

This agenda item was deferred.

11. Consideration of a request by the Rye Little League to approve a parade to kickoff Opening Day of the 55th Little League Season on Saturday, April 21, 2012 beginning at 12:00 p.m.

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

RESOLVED that the request of the Rye Little League for use of City streets for a parade to kickoff Opening Day of the 55th Little League Season on Saturday, April 21, 2012, beginning at 12:00 p.m. is hereby approved.

12. Consideration of a request by the Midland Elementary School PTO to approve a parade to precede the Midland Elementary School Fair on Saturday, April 28, 2012 from 9:00 a.m. to 10:15 a.m.

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

RESOLVED that the request of the Midland Elementary School PTO for use of City streets for a parade to precede the Midland Elementary School Fair on Saturday, April 28, 2012 from 9:00 a.m. to 10:15 a.m. is hereby approved.

13. Consideration of a request by the Rye YMCA for the use of City streets for the 24th Annual Rye Derby on Sunday, April 29, 2012 from 9:00 a.m. to 2:00 p.m.

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

RESOLVED, that the request of the Rye YMCA for the use of City streets for the 24th Annual Rye Derby on Sunday, April 29, 2012 from 9:00 a.m. to 2:00 p.m. is hereby approved.

14. Consideration of a request by the Cystic Fibrosis Foundation for the use of City streets for the 24th Annual Great Strides Walk on Sunday, May 20, 2012 from 9:00 a.m. to 2:00 p.m.

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

RESOLVED that the request of the Cystic Fibrosis Foundation for use of City streets for the 24th Annual Great Strides Walks on Sunday, May 20, 2012 from 9:00 a.m. to 2:00 p.m. is hereby approved.

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

Ray Tartaglione, 600 Anderson Hill Road, Purchase, said he understood the State had contacted the City regarding an investigation on Hen Island. City Manager Pickup said he had received a phone call from Ron Gatto and he put him in contact with the Board of Directors for Kuder Island. He said he is not sure what the State wants to do.

Jim Amico, 350 Midland Avenue, asked about the status of the work application for a stop sign on file with the County. City Manager Pickup said he spoke with the County Commissioner of Public Works about the application last week and he wants to have a follow up discussion on this matter because they must go out to the site and take measurements. There is a 50-foot limit from where the sign is located to where there is a cross-walk and if it is farther it will not meet the requirements for a controlled intersection. Mr. Amico also referred to an email received by Councilwoman Parker from the State Department of Transportation (DOT) recommending the City not go forward with the stop sign until the City has been reimbursed for the Stimulus Projects. He said the email suggested that if the City wants to proceed with the stop sign it should contact the DOT's Regional Office in Poughkeepsie. Mr. Amico inquired if any one had contacted this office. Mr. Pickup said he has spoken to the DOT about the project many times.

16. Miscellaneous Communications and Reports

Councilwoman Parker said that the City has still not been able to set up a meeting with the County Executive's Office regarding the #76 bus route situation. She said she understands that the meeting will no longer be in person, but a phone conversation. County Legislator Judy Myers says that Liberty Lines has provided numbers to the County regarding the extension of the #13 bus route to include the previous route of the #76 bus and it appears to be within fees already in the budget.

Councilwoman Keith asked that the presentation made at the County Mobility Workshop be put on the City website. She thanked all those who have helped the City with the various traffic and pedestrian safety projects that have been completed since 2007. She said that the NYU Capstone Program students would be coming to make a presentation in April on developing a manual for policies for a Complete Streets Program.

Mayor French said that the Rye Town Park Commission has voted to do away with the \$2 beach entrance fee; and is also looking: to get a car counter installed, to adopt the Port Chester parking model of displaying the receipt in the car window; and to accept credit cards. The tentative budget looks like it will break even, dependent upon the weather.

17. Old Business

Councilman Sack suggested that the Board of Ethics should be given the same authority to conduct investigations as the City Council, including the ability to subpoena witnesses and take sworn testimony; in order to conduct an investigation that he believes should have been conducted by the Council. Corporation Counsel Wilson said that changing the authority of the Board of Ethics would have to be done by local law, not Resolution. Councilwoman Parker said she hopes the Board of Ethics will issue a decision sending the issue back to the Council. Councilwoman Brett said that although the Board of Ethics does not have subpoena power, it does have the power to interview City staff.

Councilwoman Keith asked for an update on the following projects:

- 2 Central Avenue – The contractor has been on site to remove the asbestos but the Building Inspector must review the report on the removal before the demolition can take place. The Zoning Board has granted the owner's request for a variance.
- Central Avenue Bridge – The State Department of Transportation has issued more questions on the project. City Manager Pickup said that there are problems due to some of the issues raised about the Construction Management Plan that are physically impossible to answer. Staff is trying to arrange a meeting with Assemblyman Latimer.

Mayor French asked about the proposed sculpture exhibit on Purchase Street. Councilwoman Parker said that a tour of Purchase Street was taken and potential sites have been located. Discussions will need to be held with business owners at the proposed locations. City Manager Pickup said they hope to have a preliminary list by the second meeting in April.

18. New Business

Mayor French suggested that the Nature Center should make a presentation to the Council. He asked why the strip of parking spots near Sunrise Pizza and the Rye Bar and Grill were not metered. City Manager Pickup said that those spaces had been specifically designated by the Council a couple of years ago. He also said there would be an update on several parking “hot spots” on a future Council agenda.

Councilman Sack asked why there were different recycling trucks for cans and newspapers. City Manager Pickup said that because the current recycling trucks are not adequate and need to be replaced, the City is looking at different ways of collecting recycling for data collection purposes.

Councilwoman Keith asked when the proposed public safety bond would be discussed. City Manager Pickup said there would be a request to set a public hearing in April and two meetings in May to evaluate proposals and a meeting in June to put together a bond package and then a vote to move forward to permissive referendum in the fall. Ms. Keith also asked when the Council would move forward with a Complete Streets Resolution.

19. Adjournment

There being no further business to discuss Councilwoman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the regular meeting at 10:59 p.m.

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn into executive session to discuss a personnel matter relating to a complaint that was brought forward by an employee at 11:00 p.m. Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the executive session at 11:55 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk