

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on April 18, 2012 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
LAURA BRETT
RICHARD FILIPPI (arrived at 9:50 p.m. and left at 11:30 p.m.)
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

- A public hearing will be held by the County on the bus situation in Rye on Tuesday April 24th in City Hall.
- The Sustainability Committee was recognized by the EPA for the plastic bag law.
- The City will receive an award for recycling.
- The Council will ask candidates who are interested in applying for the Council seat that will be vacated by Councilwoman Keith to attend the May 23rd Council meeting. The final appointment will be made on June 13th.

Announcements were also made regarding the activities of various organizations and upcoming events that will be held in town.

Mayor French announced that he has received a retroactive permit for work done by the previous owners of the property he owns at 13 Richard Place. He added that there was no illegal construction.

4. Approval of the election of the Chiefs of the Rye Fire Department

Councilwoman Parker made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the election of Michael Taylor as Chief of the Rye Fire Department; Peter Cotter as 1st Assistant Chief; and Michael Billington as 2nd Assistant Chief held at the Annual Fire Department Meeting held in April.

5. Draft unapproved minutes of the regular meeting of the City Council held April 4, 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 April 4, 2012, as amended.

The Council heard two speakers for Agenda Item 11 out of order.

Agenda Item 6 was discussed after Agenda Item 10.

6. Mayor's Management Report

- Update on the City of Rye 2011 Result of Operations

City Manager Pickup provided the highlights from the preliminary results of operation for 2011 prepared by the auditors. 2011 actuals on revenues were about \$700,000 higher than forecast. \$300,000 is sales tax revenue; \$250,000 is building department revenue; the Recreation Camp was \$100,000; and the City received an additional \$85,000 in an unbudgeted Workers Comp premium refund. Although, the Mortgage Tax Revenues were \$28,000 over the amount budgeted, they were \$107,000 lower than 2010 figures. The total Mortgage Tax Revenue received for 2011 was \$1,153,559. Sales tax revenues cover the period October 2010 through September 2011 and the City receives two major postings of sales tax revenue during the year. 2011 actual expenses came in about \$500,000 less than forecast. Most of the savings were due to internal controls on purchase orders and elimination of non-necessary expenditures. Looking forward, the Undesignated Fund Balance is projected to be \$3.8 million, which is about 12% of appropriations. The City has about 70 cost centers with 300 expense accounts within the cost centers, which have been carefully reviewed. A full presentation will be made by the auditors at the May 23rd meeting.

- Legal Update

Corporation Counsel Wilson reported on the following items:

- *Butler v. Planning Commission* – Petitioners have filed a Notice of Appeal in connection with this Article 78 proceeding. They have six months to perfect their appeal in the Appellate Division, Second Department.
- *Panetta v. Planning Commission* – The attorneys for the Petitioner have commenced a Declaratory Judgment Action regarding a Takings Claim that was not addressed in the original decision wherein the Court found that the Planning Commission had not been “arbitrary and capricious”.
- *Dapolite v. City Manager* – An Article 78 Petition and Amended Notice of Petition have been served on the City by the attorney for Andrew Dapolite. The matter has been referred to the City’s insurance carrier for a coverage determination.

7. Presentation on a Zoning Amendment Petition for 120 Old Post Road to include zoning for Hotels

Seth Mandelbaum, Esq., of the firm of McCullough, Goldberger & Staudt, represented Old Post Road Associates, the owners of 120 Old Post Road, which is currently improved with a three-story, approximately 75,000 sq. ft. office building that has been almost entirely vacant for about two years. The owners request an amendment to the Zoning Ordinance to facilitate the adaptive reuse of the building for use as a hotel. The proposed reuse would increase tax revenue for the City and would create no significant environmental impact on the property or area. They request that the Council refer the request to the Planning Commission and Westchester County Planning Department for their input and recommendations back to the Council. The proposed hotel would not be an extended stay hotel. There is no bar, restaurant or banquet facility proposed. There would be a breakfast area and a small pool and workout area for guests. There will be a 15,000 sq. ft. decrease in impervious area on the property and a decrease of 71 parking spaces, which creates the opportunity for additional landscaping and state of the art stormwater management techniques. The traffic would be less than that generated by an office building. Jeff Wyszynski of Tecton Architects made a presentation on the concept plans for the building and landscaping and said that the key drivers in the project were: (1) a sustainable approach to the adaptive reuse of the building; (2) creating a transitional aesthetic through the building and landscaping; and (3) sensitivity to the existing buffers. The proposed area is 97,000 sq. ft., consisting of the existing building and a three-story addition at the rear of the property. There would be 150 rooms and 169 parking spaces. The reduced parking areas would be turned into green space. John Saccardi of VHB Engineering spoke about the planning basis for the requested amendment. He said there are six planning factors and one economic factor that are important considerations for why the transitional use plan makes sense: (1) the reduction in impervious surface of 15,000 sq. ft; (2) the reduction in parking spaces; (3) the additional landscaping throughout the site; (4) the lesser amount of peak hour traffic (approximately 20%) that will be generated by a hotel; (5) the low impact stormwater management; (6) the architectural character of the building that has a more residential feel than the existing office building; and (7) the hotel will generate additional revenue for the City through both hotel occupancy tax (\$184,000 per year estimate) and property taxes (\$65,000 per year estimate). City Planner Christian Miller gave an overview of the process. The Council will refer the application to the Planning Commission and the County Planning Department for advisory recommendations. The recommendations will then be referred back to the City Council in order for the Council to consider setting a public hearing on the proposed zoning change. Additional environmental review must also be done. If the zoning change is approved there will still be a substantial

review process by the Planning Commission and other City boards before the project could go forward.

Council comments and questions:

- Will the proposed zoning change allow for hotels at other locations? (There is a slight possibility if they met the strict requirements in the proposed amendment.)
- What is the vacancy rate for office space in Westchester County? (30%)
- There should be several public meetings with the Council on this project. What is the noticing process? (Discussions have been held with the applicant about doing more than the legally required notifications.)
- Will the building be LED certified? (The project will reuse the existing building and will be a sustainably designed building.)
- The applicant should reach out to the residents of Old Post Road to alleviate their concerns.
- The City Council must make a determination based on the best interests of the City – quality of life vs. greater tax revenues.
- The public safety issue of children walking to school along this route should have been addressed in the proposal. (The number of trips decreases during the time when school children will be in the area.)
- What about lighting in the parking lot at night? (The same boxed down lighting that is presently in the lot will be used.)
- The applicant should commit to putting up notification signs on the property regarding public hearings.

Greg Wilson, 11 Hammond Road said that he opposed the project because of the impact it would have on homeowners, traffic and safety issues, and the increased costs to the City for services provided by the Police Department, Fire Department and Department of Public Works.

The City Manager was asked to provide the Council with regular updates on the progress of the application.

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

RESOLVED, that the petition of Old Post Road Associates, LLC to amend the City of Rye Zoning Code be forwarded to the Rye City Planning Commission and the Westchester County Planning Department for their recommendations and comments.

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

8. Discussion of proposal to amend Chapter 187, "Trees" of the City Code regarding the legislation of trees

City Planner Miller outlined the changes made to the draft Tree Ordinance based on discussions at a previous Council meeting. Additional language was included to clarify requirements; scientific names were added for invasive tree species; a provision was included to allow for mitigation that can be required by the Board of Architectural Review (BAR); the tree removal criteria was modified; and different standards were established for larger properties (five acres or more) that would allow removal of more trees without having to obtain BAR approval. Corporation Counsel Wilson reported that she had met with the BAR and EAGR members. They are positive about the proposed amendments, but do not agree with the sliding scale for larger properties and would prefer the requirement to seek BAR approval for removal of four trees or more. It was the consensus of the Council to not go forward with the larger property standards and return to the requirement to seek approval from the BAR to remove more than four trees.

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

WHEREAS, the Council wishes to amend Chapter 187 "Trees" of the Code of the City of Rye; and

WHEREAS, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

RESOLVED, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on May 23, 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 187 “Trees” of the City Code regarding the legislation of trees.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 23rd day of May, 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 187 “Trees” of the City Code of the City of Rye regarding the legislation of trees.

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

Dawn F. Nodarse
City Clerk
Dated: May 11, 2012

9. Discussion of proposed Memorandum of Understanding between the City of Rye and Lester’s of Rye, LLC for the right of first refusal for the purchase of the property located at 1037 Boston Post Road

Councilman Filippi made a motion seconded by Councilwoman Parker and unanimously carried to adjourn into executive session to discuss a potential real estate matter relating to the property located at 1037 Boston Post Road at 10:12 p.m.

Councilwoman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried to adjourn the executive session at 10:42 p.m. The regular meeting reconvened at 10:44 p.m.

Mayor French announced that this agenda item would be deferred to a special meeting of the City Council to be held on Wednesday, April 25, 2012 at 7:00 p.m.

10. Consideration to set a Public Hearing for May 9, 2012 to discuss potential capital projects to be included in a November, 2012 Bond Referendum

City Manager Pickup reported on key dates for consideration of putting a bonding resolution together for the General Election in November. There will be discussions at both May meetings where a list of potential projects will be presented. At the end of the public hearing process staff will have bond counsel prepare the appropriate Resolutions for approval in June. A sixty percent majority vote of the Council will be required to go forward with the Referendum.

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

WHEREAS, the Council wishes to discuss potential capital projects to be included in a November 2012 Bond Referendum; and

WHEREAS, it is now desired to call a public hearing to discuss such potential capital projects, 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 May 9, 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 potential capital projects to be included in a November 2012 Bond Referendum.

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

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing to discuss potential capital projects to be included in a November 2012 Bond Referendum.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 9th day of May, 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 potential capital projects to be included in a November 2012 Bond Referendum.

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

Dawn F. Nodarse
City Clerk
Dated: April 28, 2012

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

The first two speakers were heard after Agenda Item 5.

Lawrence Lehman, 10 Chester Drive, said he had submitted his resignation from the Flood Advisory Committee on April 9th to the City Manager and said he had spoken to him about what he believed were the problems with the Committee as constituted and that he could not continue to serve unless there was a change in leadership. He noted that he was the only engineer appointed to the Committee. Mr. Lehman also questioned the plans and specs for the Sluice Gate Project as being “contractor friendly”. Members of the Council expressed their thanks to Mr. Lehman for his past service to the City.

Dhruu Narain, 6 Martin Butler Court, spoke on behalf of the Sustainable Playland Group. The Group will be holding a fund-raising event on Friday April 20th at the Coveleigh Club. The guest speaker will be Dan Biederman, who led the restoration of Bryant Park in New York City.

Ray Tartaglione, 600 Anderson Hill Road, Purchase, asked Mayor French if he had put a new heating system in the residence owned by him at 13 Richard Place in 1995. Mayor French said that he has addressed the situation regarding the property at 13 Richard Place and no illegal construction was done at the property.

Jim Amico, 350 Midland Avenue, read a statement about the death of his son Jared six years ago and the fact that stop signs have yet to be put up at the intersection of Midland Avenue and Palisade Road. He said he believes a stop sign at that intersection will prevent other children from being struck by cars on Midland Avenue.

Bob Zahm, 7 Ridgewood Drive, spoke about the new sidewalks on Old Post Road near the bridge over the Playland Parkway and said it was much safer in that area now. He asked when legal crosswalks would be put in to complete the project. City Manager Pickup said he would talk to the construction manager so they can be put in when the heavy equipment is finished at the location.

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

Mayor French made a motion, seconded by Councilwoman Keith and unanimously carried, to appoint Howard Husock to the Board of Assessment Review for a five-year term expiring on September 30, 2016.

13. Miscellaneous Communications and Reports

Councilwoman Parker announced that there will be a Playland Advisory Committee meeting on Monday, April 23rd at the Playland Ice Casino to discuss the beginning of the season.

Councilwoman Keith reminded people that the Plastic Bag Ordinance will go into effect in the beginning of May. An Eye on Rye will be done in connection with the implementation of the law.

Councilman Sack noted that the Rye Town Park Commission passed a balanced budget of revenues and expenditures of \$917,000. There was \$53,000 in the budget for capital expenditures, of which the City is responsible for 39% or approximately \$20,000. Mayor French added that credit cards would now be utilized to take cash out of the system; car counters were being installed; the wrist bands for beach access were being numbered in order to keep a set inventory; parking receipts must be displayed in the car window; and if an incorrect receipt is received the recipient will get a free pass to the park for a future visit. Also, the security team has been asked to work on community relations.

14. Old Business

Councilwoman Brett asked for an update on the sluice gate and the soil testing on the upper pond. City Manager Pickup said that borings were being done on the upper pond location and a preconstruction meeting will be held next week on the sluice gate project.

Councilwoman Keith asked for an update on the Central Avenue Bridge. Mayor French said that a letter had been received from the Department of Transportation (DOT) saying that the project was not fully funded by \$5,800, which is money the City had already committed to pay. The Mayor will write to the Lieutenant Governor and advise him of the situation. A meeting has been held with Assemblyman Latimer and another one will be set up. Ms. Keith also asked what the next steps were on the proposed grease recycling program. City Manager Pickup said the vendor who made a presentation to the Council was supposed to provide the City with follow up information, but it has not been received yet.

Mayor French said he was disappointed in the new restaurant fee for Golf Club members and that Council members are now hearing from Club members who are receiving notification about the requirement and saying that they were not aware of it until now. Councilwoman Parker suggested that a workshop be held to allow for dialogue among the Commission, the City Council and Club members. The Mayor asked for a report to determine if the new dining requirement has impacted pool memberships. The Mayor also asked for an update on the Midland/Palisades stop sign. City Manager Pickup said that the City did a mark out and asked the County DPW to come out and review it. It has now been submitted to the County for approval. Once approval is received, speed studies will be done in May and June and a presentation will be done on the impacts in order to determine if a stop sign is the appropriate measure for this intersection.

Councilman Sack asked about a new yield sign that has been put up at the intersection of Ridge and Purchase Streets and asked for an update on the proposed rotary. City Manager Pickup said he would look into the sign and that the County has spent the money that would have been used on the rotary project and if the project is done now it would all be at City cost. He added that the project is not on the current City Capital Plan. Mr. Pickup said that the County has also raised the issue of removing the mid-block stop signs, which are in the City Code. Councilman Sack also asked if the Council should consider passing a Resolution supporting continuation of bus service in Rye.

15. New Business

Mayor French said there is a proposed Joint Resolution with the School Board regarding mandate reform. He asked Council members to notify the City Manager's office of any proposed changes. The Resolution will be discussed at the Joint Meeting with the School Board on Saturday, April 21st.

16. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Councilwoman Brett and unanimously carried, to adjourn the meeting at 11:48 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk