

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on May 23, 2012 at 8:00 P.M.

PRESENT:

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

ABSENT: None

The Council convened at 7:10 p.m. Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried to immediately adjourn into executive session to discuss real estate matters related to the sale of 1037 Boston Post Road. Mayor French arrived at 7:20 p.m. Councilman Sack was not present. Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried to adjourn the executive session at 7:40 p.m. The regular session began at 8:14 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

Mayor French announced that due to the time involved in transitioning her family's move to Houston, Councilwoman Suzanna Keith has resigned from the Council effective tonight. He added that much had been accomplished during her term and that she will be missed.

The 18 affordable housing units at Cottage Street should be open and ready by August. The lottery will be held by a third party called The Housing Action Council.

Stop signs have been erected at Midland Avenue and Palisade Road as part of a pilot program for a few months to test the feasibility of making them permanent.

4. Draft unapproved minutes of the regular meeting of the City Council held May 9, 2012

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the regular meeting of the City Council held on May 9, 2012.

Agenda Items 8 and 13 were taken out of order.

5. Mayor's Management Report

- Recap of the NYU Wagner Capstone Presentation

This presentation was deferred.

- Presentation by the Finance Committee on the Sanitation Department Study

Warren Keegan, Co-Chair of the Finance Committee and Committee member John Monahan presented a report on sanitation collection costs in the City. The City has five garbage routes a day and each route is collected twice a week with two men assigned to each route. The average compensation of salary plus benefits is \$106,000 per worker with benefits going up faster than base salaries. The Sanitation Sub-Committee considered several cost reduction options including: curbside pickup; once a week pickup; the impact of those options; compensation adjustment; and utilizing a private carting service and possibly sharing those services with another municipality. Curbside pickup would eliminate one truck and reduce the labor force by two, yielding an annual savings of \$212,000. Once a week pickup would reduce pickups from 10,000 per week to 5,000 per week, require two fewer trucks and yield a \$424,000 annual savings. Regarding compensation adjustments, it was noted that the median household income for the City of Rye for 2006 to 2010 was \$146,000 as compared to the \$106,000 sanitation worker compensation. Utilizing a private carting service would save \$1.2 million on six trucks that would not have to be replaced and \$2.1 million on compensation for the 20 workers. This option would have to be studied to determine if there was real competition in the private carting industry.

City Manager Pickup said that the average useful life of a garbage truck is about seven years and all the City's trucks were purchased at the same time. A decision will have to be made in about two years to replace the fleet. He also said that everyone must be sensitive to employee issues as well as the concerns of residents when considering options for sanitation collection.

- Presentation of the City of Rye Stormwater Management Program 2011 Annual Report

City Engineer Ryan Coyne presented the Annual Report on the City's Stormwater Management Program for 2011. In 2003 the Department of Environmental Conservation (DEC) came out with Phase II Stormwater Regulations which required the City to develop a new Stormwater Management Plan containing six categories that measure goals that must be reported annually. The six categories are meant to educate the public and bring everyone in line with stormwater quality issues. They are: Public Education and Outreach; Public Involvement; Illicit Discharge Detection and Elimination; Construction Stormwater Management which includes

erosion controls during construction; Inventory, Inspection and Maintenance of Stormwater Management Facilities after construction; and Municipal Operations where City staff measure and continue to implement stormwater measures such as inspecting, cleaning out and fixing catch basins annually, and sweeping streets and parking lots. The City is in line with the goals. This presentation is part of the Public Education and Outreach and Public Involvement requirements. The City has been audited twice by the EPA and DEC in the last few years and received good reports. City Manager Pickup added that the County would like the City to look at adopting their Model Ordinance as part of the IMA for the Bowman Avenue Project. It is being looked at by the City Engineer and City Planner and will come back to the Council with their recommendation.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

- *Caspi v. City of Rye* – depositions have been taking place this week and will continue through the beginning of June.
- *Panetta v. Planning Commission* – The appeal of the Article 78 portion of this matter has been perfected and is pending in the Appellate Division, Second Department. The Declaratory Judgment action is back before Judge Colangelo in Supreme Court Westchester County.
- *Black Bass Grill Property (2 Central Avenue)* – The building should be demolished next week and the proposed Stipulation in Rye City Court to resolve the outstanding violations should be finished and the matter closed.

6. Consideration to set a Public Hearing to amend local law Chapter 180, “Taxicabs”, Section 14, Payment of Fares, of the Code of the City of Rye to increase taxi fares

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

WHEREAS, the Council wishes to amend Chapter 180 “Taxicabs” 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 June 13, 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 180 “Taxicabs” of the City Code of the City of Rye by amending §180-6, “Form of License: Badge; §180-7, “Renewal of driver’s license”; and §180-14, “Payment of fares”.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 13th day of June, 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 180 “Taxicabs” of the City Code of the City of Rye by amending §180-6, “Form of License: Badge; §180-7, “Renewal of driver’s license”; and §180-14, “Payment of fares”.

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

Dawn F. Nodarse
City Clerk
Dated: June 1, 2012

7. Presentation of candidates for the open seat on the Rye City Council to be appointed on June 13, 2012

Mayor French said that people who have expressed an interest in serving in the Council seat vacated by Councilwoman Keith have been asked to come to this meeting to educate the Council and the public on their background and why they would like to serve.

Julie Killian said that she has lived in Rye for over 20 years and has degrees in Chemical Engineering and Finance. She served on the Finance Committee in 1996 and was recently reappointed to that Committee. She has also been involved in local organizations such as the TWIG, the Rye Library, the Rye Historical Society, the Rye Arts Center and the local schools. Outside of the City she has served on the Boards of Part of The Solution (POTS), School of the Holy Child and New Yorkers for Growth (NYFG). She was appointed to the Westchester County Charter Revision Commission and serves on the Budget and Finance Committee and Local Government/County Government Relationship Committee and has begun working with Best4NY, an organization focused on mandate relief. Ms. Killian said that she would bring to the Council her love of Rye; her long tenure in the community and involvement in causes and

issues that would allow her to be a bridge between Rye and the School Board, the County and the State; her background in finance; and her desire to educate the citizens of Rye on the importance of mandate relief.

Bob Zahm, 8 Ridgewood Drive said that the Council did not have to fill the slot at this time and that he believed making an appointment is undemocratic.

There was a discussion among the members of the Council regarding the need to fill the open seat at this time. Opinions offered in favor of making an appointment included: the possibility of not having sufficient votes for a majority; the big issues and large amount of work before the Council; the benefit to the Council of a person with a “fresh set of eyes”; and the Rye tradition of making interim appointments in similar circumstances. Opinions offered against making the appointment included the fact that there is a learning curve to being on the Council and with the issues facing the Council it cannot afford to deal with a learning curve twice; and it is important for the voters to make the selection.

Charmain Neary, said she did not believe it was in the best interest of the City to appoint someone, rather than to elect someone to the vacant seat and offered to serve in the seat on an interim basis and would only run for election depending on the will of the people. She said that she has 30 years experience in working with government including working for former Governor Mario Cuomo; working at the State Department of Transportation; and, working for New York City Mayors Koch and Giuliani. She said that she has knowledge regarding public bonding and ETPA as well as bridges, landmarking and zoning and has worked in Consumer Affairs, in the State Legislature, for Police Unions and with the Rye School District. Ms. Neary also noted that she has lived in Rye for 10 years and said that she works with Holy Rosary Church and with Port Chester High School students on college applications and as an advocate for autistic children.

Matt Thomas, 151 Purchase Street, said that the Council has a fiduciary responsibility to bring orderly government to the City and that filling the seat was part of that responsibility.

Agenda Item 10 was taken out of order.

8. Presentation on City Financials by Scott Oling of the auditing firm of O’Connor, Davies, Munns & Dobbins, LLP

Scott Oling, representing O’Connor, Davies, Munns & Dobbins, presented the results of the City’s annual external audit for the year 2011. He said the City opts to participate in a federal program called the Comprehensive Annual Financial Report Program sponsored by the Government Finance Officer’s Association (GFOA) and submits a Comprehensive Annual Financial Report (CAFR) that is more than what New York State requires of municipalities. The report is submitted to GFOA for grading and the City has received an award for excellence in financial reporting. The Auditors Opinion prepared by his firm issued a “Clean” or “Unqualified Opinion” on the City’s finances, which says they believe the financial statements fairly present the City’s results. The General Fund is the primary operating fund of the City. For 2011 the City adopted a budget of \$29.4 million in revenues. Revenues came in at \$30.2 million or \$780,000 better than budget. On the expenditures side, the City spent \$4.7 million in the General

Government support category on administrative functions, which is an increase over the previous year due to the settlement of the Osborn tax certiorari case that was settled for \$1.3 million. Without the Osborn settlement, it would have essentially been a break even year for the General Fund. The Fund Balance which started the year at \$10.4 million was reduced to \$9.2 million at the end of the year. There was a new presentation required by GFOA for Fund Balance this year which required changing classifications. The categories are: Non-spendable Fund Balance; Restricted Fund Balance; Assigned Fund Balance; Designated Fund Balance; and Unassigned Fund Balance. The Unassigned Fund Balance is about 12% of the 2012 Budget and is designated for use at the City's discretion. The City is in a good position heading into 2012 even though it must deal with issues such as rising pension and health care costs; expired labor contracts; the issue of the 1037 Boston Post Road property; and the tax cap.

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

Mayor French said the public hearing was still open from the last meeting.

Kitty Little, Director of the Rye Free Reading Room, made an additional presentation urging the Council to include infrastructure needs of the library regarding public safety and public access that they wish to have included in a Bond Referendum. She said the Library has a responsibility to protect the public, the library employees, the building, the library's collection and equipment. The three projects suggested as being consistent with the bond requirements are: fire sprinklers and fire alarm systems for the 1913 section of the building; flood mitigation and ADA access; and the installation of 12 security cameras.

City Manager Pickup suggested that since the June 13th agenda is already filled, a special meeting could be held on June 20th for presentations with additional information on projects to be considered for bonding and still allow time to have Bond Resolutions prepared for a vote in July.

10. Public Hearing to amend Chapter 187, "Trees" of the City Code regarding the legislation of trees

Mayor French said there has been much discussion over the last several years about the City's Tree Ordinance and it is time to have a public discussion.

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

People who spoke in favor of the proposed local law included: *Henry Townley*, 7 George Langeloh Court; *Jason Klein*, representing the Federated Conservationists of Westchester County; *Tracy Stora*, 3 Fairlawn Court; *Jim Nash*, 31 Centre Street; *Melissa Grieco*, 6 Fenton Street; *Carolyn Cunningham*, 18 Soundview Avenue; and *Bill Lawyer*, 15 Hillside Place. They spoke of the benefits of trees to a community and the environment; said that the law would remove a loophole in the current law and prevent the unnecessary removal of trees; that the new law would bring Rye more in line with what other communities are doing; that it only enhances

the law that is currently in effect; and although it is difficult to write perfect legislation this is a good law for this time.

People speaking against the proposed law included: *Matt Thomas*, 131 Purchase Street; *Matt Fahey*, 36 Franklin Avenue; *Ted Dunn*; 6 Pine Island Road; *Matt Dora*, 5 Beary Court; *Patrick McCarthy*, 60 Summit Avenue; and *Leo Napier, Esq.*, representing the owner of Central Tree Service. They expressed concerns that the rights of property owners were being taken away; that there was no real need for the new law; that the Council had not consulted with non-environmental groups in the drafting of the law; that the proposed law was too restrictive; that the Council is not the better judge of what someone can do with their own property; there may be unintended consequences of the law in terms of costs and time for homeowners; and there is no standard review for the grounds to deny a permit and the appellate procedures are not spelled out.

Council discussion touched on the following: it would be helpful to have standards for denial and clarification of the appeals process; there are competing interests – property rights vs. environmental benefits; there is no compelling interest to act; it is within the power of the legislative body to regulate property use and appearance; throughout Rye’s history Councils have weighed in on property rights to determine the best interests of the community; a compelling case has been made for more regulation of trees than is currently done; and the public hearing should be kept open for further discussion in order to get the law right.

Councilwoman Parker made a motion, seconded by Councilman Jovanovich and unanimously carried, to keep the public hearing open until the June 13th meeting.

11. Consideration to set a Public Hearing for June 13, 2012 to establish the 2013 Budgeted Fees and Charges

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

WHEREAS, the City Council wishes to establish the 2013 Budgeted Fees and Charges; and

WHEREAS, it is now desired to call a public hearing on the proposed 2013 budgeted fees and charges, 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 June 13, 2011 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 2013 fees and charges.

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

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing to establish the 2013 Budgeted Fees and Charges.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 13th day of June, 2011 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 the proposed 2013 Budgeted Fees and Charges.

Copies of said proposed fees and charges may be obtained from the office of the City Clerk.

Dawn F. Nodarse
City Clerk
Dated: June 1, 2011

12. Report and recommendation to the Council on the Fire Inspector/Supervisor position for the Rye Fire Department

City Manager Pickup said that he is still working with Westchester County for approval of a job description and duties that will reflect the position that the City will be recruiting for. The City must be sensitive to existing Civil Service lists and titles and must be careful that there are no misunderstandings going forward with the positions with regard to expectations in connection to supervisory duties and inspection duties. Approval by the County will impact timing but it is hoped that the City will be able to recruit for the position by mid to late summer.

Fire Warden Richard Barber said that he had drawn up the description that was sent to the County, which was approved by the paid men and Board of Wardens, but had not seen it since it was submitted to the County. He submitted a proposed change to the City Code in reference to the position of Fire Inspector and suggested it should be adopted before any recruitment was done for the position. City Manager Pickup said until he receives feedback from the County on the proposed position, which combines the positions of Fire Lieutenant and Fire Inspector, it might be better to wait on the proposed change to the Code. Mr. Barber said that the Board of Wardens should be involved in the interviewing process for the new position

There was also a discussion about whether the responsibilities of the new position would include supervision of volunteers. City Manager Pickup said that the only time this person

would supervise volunteers would be for daytime response at a fire if there was no Chief available at the fire scene.

13. Discussion of request to landmark the Rye Smoke Shop located at 53 Purchase Street

Mayor French said that based on community feedback he would like to move the issue of landmarking the Smoke Shop to the Landmarks Advisory Committee for review. Corporation Counsel Wilson noted that City Code Chapter 117 requires the owner's consent to move forward unless the property is on the National Register of Historic Places. The property does not fit the criteria.

Lindsey Russell, 131 Purchase Street and *Owen and Amber Nee*, 701 Forest Avenue spoke in favor of landmarking the Smoke Shop. A copy of the petition was sent to the owner of the building after the last Council meeting. There are currently over 1,800 signatures on the petition. Mr. Nee said that sites that are listed on the National Register of Historic Places or recommended to be placed on the National Register can be designated by the City Council on its own action. Councilwoman Brett said that she believed the National Register requirements also required the consent of the owner. *Heather Patterson*, a local artist, said that she was working with the owners of the Smoke Shop to produce a line of merchandise with images of the Smoke Shop on it that could be sold in the store with the profits going to the Smoke Shop in the event their rent is raised.

Jack Zahringer, Chair of the Landmarks Advisory Committee, said that he will approach John Fareri, the owner/developer of the building with a possible tax break for agreeing to landmark the building and would also speak with the Chamber of Commerce about making the Central Business District a "Historic District."

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

RESOLVED, that the City Council hereby refers the petitions to landmark the Smoke Shop to the Landmarks Advisory Committee for the Committee to review and take the necessary steps to determine if the store, or any part of the it, can or should be landmarked.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote

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

Jim Amico, 350 Midland Avenue, said that he was happy about the installation of the temporary stops signs and Palisade Road and Midland Avenue but asked the City to authorize sufficient Police manpower to monitor the site during the first two weeks.

15. Resolution ratifying the appointment of one member to the Emergency Medical Services Committee for a three-year term ending June 30, 2015

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

RESOLVED, that the City Council of the City of Rye hereby approves the reappointment of Michael Borelli, the Village of Rye Brook Community Representative, to the Emergency Medical Services Committee for a three-year term ending June 30, 2015.

16. Considerations of a request by Colin Leslie for the use of City streets for the 7th Annual Colin Leslie Walk for Celiac Disease on Sunday, September 30, 2012 from 9:00 a.m. to 2:00 p.m.

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

RESOLVED, that the City Council of the City of Rye hereby approves the request of Colin Leslie for use of City streets on September 30, 2012 from 9:00 a.m. to 2:00 p.m. for the 7th Annual Colin Leslie Walk for Celiac Disease.

17. Miscellaneous Communications and Reports

Mayor French said that the annual Rec Tour was held and attended by all the user groups. He said that the Rec Department has lost several positions that need to be filled.

18. Old Business

Councilwoman Parker spoke about ADA (Americans with Disabilities Act) lawsuits that have been commenced against businesses in Rye. She said that Assemblyman Latimer is sponsoring legislation that would allow a business that is not ADA compliant a period of time to “cure” the defect before a lawsuit can be filed. She also spoke about her request for a Council workshop on the Golf Club and said it should include two issues: a financial analysis and a dialogue between the Golf Commission and the membership. City Manager Pickup suggested June 27th as a possible date. Ms. Parker also said she heard that Kip Koenigsberg is going back before the Rye Brook Planning Commission with a slightly different proposal.

Councilwoman Brett asked for an update on the sluice gate project. City Manager Pickup said the project was on target for September completion and he will have an update meeting with WSP Sells on a construction schedule. She also asked for an update on the cleanup of the former Durland property. Corporation Council Wilson said that the owners have another week to take down the wall above the foundation and two weeks to take fill out of the wetland buffer and put up the proper stormwater retention equipment.

Councilman Filippi asked for an update on the Central Avenue Bridge. City Manager Pickup said the City is waiting on one Utility Agreement issue with Con Edison and the City Engineer will submit the package before the end of the week addressing all of the comments that came out of the joint meeting with the DOT.

Mayor French asked for an update on the open house at the proposed hotel site at Old Post Road and Playland Access Drive. City Manager Pickup said that he had attended. There were some handouts given to people who came but noted that it did not appear to be well attended. The next step will be the continuation of the public hearing before the Planning Commission on June 5th.

19. New Business

There was no new business discussed.

20. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the meeting at 12:25 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk