

APPROVED MINUTES of the Regular
Meeting of the City Council of the City of Rye held in
City Hall on June 13, 2012 at 8:00 P.M.

PRESENT:

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

ABSENT: None

The Council convened at 7:33 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 and attorney/client matters. Councilwoman Brett arrived at 7:35 p.m. Councilman Filippi made a motion, seconded by Councilwoman Brett and unanimously carried to adjourn the executive session at 8:07 p.m. The regular session began at 8:13 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. Unveiling and dedication of the portrait of former Mayor Steven Otis

Mayor French said that it was a night to celebrate the City's form of government and volunteerism to the community. He said that former Mayor Steve Otis had volunteered and provided public service for 12 years and had touched the City in many ways. The current Mayor then unveiled the portrait of the former Mayor and Mr. Otis hung it on the wall. Mr. Otis said this was a very special tradition going back to when City Hall was in the Square House. He said every community has its special character and all the volunteers work to keep Rye's special character going. Mr. Otis said that it was a great honor to serve Rye for 12 years and that he greatly enjoyed the work and working with the people of the City over those years.

Councilmembers Sack and Parker, who served with former Mayor Otis, offered comments. Councilman Sack acknowledged the presence of former Councilmembers Andy Ball, Mack Cunningham, Beth Griffin Matthews, Arthur Stampleman and Carolyn Cunningham as well as former City Manager Frank Culross and said it was a testament to Mr. Otis that people came back to honor him at this ceremony. He offered Mr. Otis his thanks and wished him luck in his future endeavors. Councilwoman Parker said it was an honor to have served with former Mayor Otis. She said she learned a lot from him and was impressed with his depth of knowledge on many levels of government.

4. General Announcements

- The Rye Chamber of Commerce honored the men and women of DPW at their annual luncheon for all they do to keep the downtown looking terrific.
- Congratulations to Dr. Edward Shine on his career in Rye and best wishes on his retirement from the Rye City School District.
- Congratulations and best of luck to former Comptroller Jean Gribbins who has left to take another position and thanks for her extraordinary career in her three years in Rye.

5. Approval of the election of three new members to the Rye Fire Department

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 election of Clyde Pitts and Zach Thain to the Poningoe Hook and Ladder Company and Liam McGuire to the Poningoe Engine and Hose Company, as approved at the May 14, 2012 meeting of the Fire Wardens.

6. Draft unapproved minutes of the regular meeting of the City Council held May 23, 2012

Councilman Filippi made a motion, seconded by Councilman Jovanovich and unanimously carried, to approve the minutes of the regular meeting of the City Council held on May 23, 2012, as amended, subject to the City Clerk reviewing the tape to verify a proposed change to the discussion on the Fire Inspector/Supervisor position for the Fire Department.

A brief discussion was held about a meeting of the Fire Department in connection with the proposed position of Fire Inspector/ Supervisor for the department. Councilwoman Parker said there was an issue with the percentage of fire inspection duties in the job description and the chain of command for supervision. She said it was clarified and the volunteers agreed with the clarification because the real job description will come with the interview process. Fire Warden Richard Barber said the Wardens will work with the City Manager on this issue and will get something to the Council that is agreeable to both.

7. Mayor's Management Report

- Legal Update

Corporation Counsel Wilson reported on the following items:

- *Black Bass Grill (2 Central Avenue)* – the property has been demolished and the City Court proceeding should be resolved this week.
- *Westchester Joint Water Works v. City of Rye* – a tax certiorari action was filed several years ago. At the request of the Judge, the City briefed a couple of issues and the motions have been fully submitted. A decision is awaited from Judge LaCava.
- *Butler v. Matthison, et al* – The City was successful in defending the original Article 78 proceeding but petitioners re-moved to renew and reargue. The Judge granted that motion based on new evidence and found in favor of the Butlers. There is no action for the Planning Commission at this time but there is another related proceeding on appeal, which will probably dictate the next steps to be taken by the Planning Commission.

City Manager Pickup reported on the following items:

- Central Avenue Bridge – The City has spoken with the Engineer in charge of Department of Transportation (DOT) Region 8 and they have the full submission. As of today a Notice to Proceed has not been received, but it is still anticipated that the DOT will meet their July timeframe. The City will then begin the bid process and be on target for a bid award in September.
- Sluice Gate – All of the contracts and insurances are in and the gate is being manufactured. The actual field work will probably begin in the next week to ten days. The project is still on schedule for a September 12th acceptance date.
- Staffing Issues –
 - Police Commissioner - June 29th is the closing date for the existing recruitment for Police Commissioner as required by the Section 211 waiver procedure. Ads have been placed in several locations and the process will continue with review of the initial candidates. Later in the meeting Councilman Sack asked the City Manager to expand on his explanation. Mr. Pickup said that State Civil Service issued a limited 211 Waiver but asked the City to do a full recruitment. The position has been advertised and the first phase closes June 29th. If the current Commissioner is selected the 211 Waiver would be extended. If another candidate is selected who does not need a waiver, the process would no longer be necessary.
 - Fire Inspector – The City and County are in discussions on the LJ3 filed with them. It is hoped the issues will be resolved. The City wants to make sure that all existing and new requirements are expressly approved in writing so candidates being interview will have a full understanding of what the expectations are for the inspection portion of the position.
 - City Comptroller – Deputy Comptroller Joe Fazzino is serving as Interim Comptroller. The City will begin the process of advertising the position and hope to have it filled quickly.

- Rye Recreation – There are two confirmations that must go through pre-employment physicals and some other issues. If successful, they may be able to start as early as next week.

8. Appointment of a Council Member to fill the third year, ending January 1, 2013, of the City Council Term expiring January 1, 2014

Before beginning the discussion, Mayor French quoted from a Proclamation issued for former Councilwoman Suzanna Keith. The Mayor wished Ms. Keith and her family good luck in Houston and said she would be missed.

Mayor French said that a number of people came forward and spoke with the Council about their interest in serving and he wished to make an appointment at this meeting based on the Council's obligation to govern as a Board of seven people. He said he would move to appoint Julie Killian.

Councilwoman Parker said that in a perfect world a former Councilmember would have come forward to fill the position until an election could be held, but since that was not the case she would like to make a motion in favor of keeping the seat vacant until it can be filled in an election. There was no second to the motion.

Councilwoman Brett said she believed it was the Council's responsibility to fill the seat to avoid putting the Council in a position where it could not reach a consensus. She added that she did not pre-decide on a candidate; that she believed the process had been open and fair, and encouraged the others who came forward to run for the City Council. Councilman Sack offered his thanks to everyone who came forward, saying they were all capable people with unique backgrounds who could have done the job. Councilman Filippi said that it was in the City's best interest to fill the position because of the large amount of work the Council has to do, especially a decision on a bond. Councilman Jovanovich thanked all the candidates for taking the time to meet with him individually.

Mayor French made a motion, seconded by Councilman Sack to adopt the following Resolution:

RESOLVED that the City Council of the City of Rye hereby appoints Julie Killian to serve on the City Council to fill out the third year of the unexpired term of Suzanna Keith, expiring on January 1, 2013, with a separate election to be held in November 2012 to fill out the remainder of the term expiring on January 1, 2014.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich and Sack

NAYS: None
ABSENT: None
ABSTAIN: Councilwoman Parker

The resolution was adopted by 5 votes in favor and one abstention.

Ms. Killian will be sworn in before a special meeting of the Council on June 20, 2012.

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

City Manager Pickup said there will be a special meeting on June 20th to review specifics on several projects including: (1) the Bowman Avenue upper pond resizing project; (2) Police Station renovations; (3) Rye Free Reading Room Projects; (4) Central Business District and Post Road Wall projects; and (5) Pedestrian safety projects recommended by the Shared Roadways Committee that are being reviewed by the Traffic and Pedestrian Safety Committee.

Councilman Sack said he wanted to focus on the suggestion that the Council would need to take action to override the tax cap legislation in order to pay for the debt incurred by a Bond Referendum and asked for information on how much debt service would be incorporated into the 2013 budget. Councilman Filippi asked that the Interim Comptroller look into interest rates paid by communities with a Aaa bond rating. Councilwoman Brett said that the Flood Advisory Committee has learned that the amount of mitigation that would be obtained from the expansion of the Bowman Avenue Upper Pond was not sufficient to recommend including this project in a Bond Referendum.

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

The public hearing remained open from the previous meeting. Mayor French said that based on public comment on both sides of the issue, it was his preference that the draft law be sent back for new language and further discussion.

Members of the public commenting on the draft law included *Ted Dunn, Carolyn Cunningham, Joe Murphy, Robert Vanderwater, Paul Mackie, Daniel Gretto, Curtis Spacavento and Robin Jovanovich*. Their comments included:

- It would be a good idea to get more information on the disputed issues in order to resolve the differences.
- It is good to see all the nuances of the subject but there is more alarm than necessary because the current law already requires a permit to remove a tree.
- Trees clean the air, prevent flooding and filter water.
- Regulating trees has a positive effect and the issue is more than about privacy.
- Who would be liable if a permit to take down a tree was denied and the tree falls and causes damage?
- A tree coming down is an Act of God unless someone has been put on notice.

- The additional permitting requirements of the proposed law above the current law are onerous.
- The problem of “clear cutting” is being blown out of proportion. The proposed law is a regulation in search of a problem.
- There are not many subdivisions left in Rye.
- People usually replace trees when they take them down.
- This law would affect almost every landowner in the City and most people don’t know about it.
- Many trees are taken down before applications come before the Board of Architectural Review. There is some urgency to adopting this law.

Council comment included:

- The City has the power to regulate trees but the law must be crafted correctly and the public must be educated to the issues.
- Issues related to possible lawsuits should be addressed.
- Just because the City can regulate, doesn’t mean it should regulate. This is not the right law for the City now.
- Language changes should be made before a vote is taken.
- The Council should take action soon.
- The law as drafted is more restrictive than it needs to be.
- The issues raised involve more than “tweaks” to the proposed law.

Corporation Counsel Wilson recommended closing the public hearing and re-noticing the proposed local law when changes are made.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to close the public hearing and re-notice it at a later date.

11. Public Hearing to establish the 2013 Budgeted Fees and Charges

City Manager Pickup said the department heads look at all of the budget line items and this year some significant changes have been made in order to clean up and eliminate charges on the schedule that no longer exist. There are proposed increases in building department and land use fees; an increase in the rates for 12 hour meters; merchant parking permits; day camp fees; and new fees for rental of cable television equipment. The fees and charges related to the Enterprise Funds are not included because they are in the middle of their seasons and must be recommended by their boards.

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

There was no one from the public who wished to speak.

The City Manager was asked to provide the Council with the rationale behind the increase for the 7 to 15 fees where increases are suggested and to look into why there are no fee increases suggested for certain areas where the fee has not been changed in several years.

Councilwoman Brett made a motion, seconded by Councilman Filippi and unanimously carried to hold the public hearing open until the July 11, 2012 City Council meeting.

12. Update on existing parking technology and meters within the City

City Manager Pickup reported on the parking meters in the Central Business District (CBD) that were installed in 2006. The highest year for transactions was 2006 when there were 300,000 and the lowest year was 257,000 transactions in 2008. In 2011 there were 286,000 transactions. The revenue has fluctuated. The amount of money invested in the meters included: the initial investment of about \$140,000; \$40,000 on the shelters; and \$30,000 in controller upgrades for a total of about \$210,000. There were minor modifications made with the fee change that went into effect in April, including the generation of a receipt only when requested. There are issues due to wet weather and a significant issue relative to the parts and supply system. Parts can only be obtained from a regional supplier and many times the parts received don't work. The useful life of the machines is about seven years, so it is coming to the point where the Council will have to make a decision about reordering these machines or look at alternative machines due to the changes in parking technology in the last several years.

It was noted that the City was missing out on revenue because the machines function so poorly and that they are a detriment to the business community; and, that the primary reason for the meters was to improve parking circulation in the CBD so people coming to Rye can find a parking space.

City Manager Pickup said that the parking meter system involves many departments in the City and this will be part of any proposal that comes back to the Council.

13. 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

Mayor French summarized the various fee increases that have been requested by the local taxi companies, as well as a request to limit the number of companies authorized to work in the City and a request that three additional spaces at the train station be allocated to taxicab use. He noted that the Taxi companies had indicated they would offer a \$1.00 discount to seniors.

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

Council discussion centered on the proposed \$3.00 increase for the three zones in the City and the request to limit the number of taxi companies to six. There was a disagreement about the fairness of restricting the number of companies as being possible restraint of trade but it was also noted that the City already limits the number of banks that can operate in the downtown and not restricting taxi companies could be considered unfair to the companies

already operating. There were also differing positions on the amount of the fee increase. It was pointed out that the rate increase was reasonable because people from Rye who utilize the Harrison train station already pay higher rates than those proposed. Alternative positions included that there is a bigger burden to raising taxi rates in Rye because there is not sufficient parking at the train station; the amount requested would put the City's rates above other municipalities in Westchester; and that it was especially unfair to the residents of the Milton Point zone who have recently lost bus service. There was also a suggestion that the taxi companies should invest in small busses to make taxi runs from the Milton Point area.

Public comment:

David Candamil, a taxi driver for Rye Cab Company, urged the Council to grant the requested \$3.00 increase. He said that amount requested was needed; that it is expensive to do business in Rye and that a lower fare increase could affect service levels. He added that the request to limit the number of companies was because the six companies already in Rye are barely making it with the amount of business available in Rye.

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

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

CITY OF RYE

LOCAL LAW NO. 4 2012

**A local law to amend Chapter 180, Taxicabs, §180-6, "Form of License; Badge", §180-7, "Renewal of driver's license", and §180-14, "Payment of fares"
of the Code of the City of Rye**

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

Section 1: Chapter 180, Taxicabs

§180-1. Definitions.

Unless otherwise expressly stated, whenever used in this chapter the following words shall have the meaning given to them by this section:

DRIVER'S LICENSE

Any permission granted to any person to drive a licensed taxicab upon the streets of the city.

OPERATOR

Any person owning or having control of the use of one or more taxicabs used for hire upon the streets of the City or engaged in the business of operating a taxicab.

TAXICAB

Any motor vehicle engaged in the business of carrying persons for hire, whether the same be operated from a street stand or subject to calls from a garage or otherwise operated for hire, except vehicles subject to the provisions of the Transportation Corporations Law or used by undertakers in carrying on their business.

TAXICAB DRIVER

Any person who drives a taxicab, whether such person be the owner of such taxicab or employed by a taxicab owner or operator.

TAXICAB LICENSE

Any permission granted to any person to operate or keep for hire any taxicab in the city.

TAXICAB STAND

Any place alongside the curb of a street or elsewhere which is exclusively reserved for the use of taxicabs.

§180-2. General license requirements.

It shall be unlawful for any person to drive, operate or keep for hire or pay within the City any taxicab without first having obtained and paid for a license to drive or a license for operating or keeping for pay or hire, or both.

§180-3. Driver's license required.

No person shall drive a taxicab and no person shall permit anyone to drive a taxicab within the City without a driver's license.

§180-4. Application for driver's license.

[Amended 10-14-1981 by L.L. No. 5-1981]

An application for a driver's license must be made on a blank form furnished by the Police Department. The original application, which must have the approval of the Commissioner of Police endorsed thereon, shall be filed with the Clerk, who shall issue a license as provided herein. The applicant must file a copy of said application with the Commissioner of Police and comply with the following to the satisfaction of the Commissioner of Police:

- A.** First have obtained a chauffeur's license.

- B.** Be of sound physique with good eyesight and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him or her unfit for the safe operation of a public vehicle.
- C.** Be clean in dress and person and not addicted to the use of intoxicating liquors or drugs.
- D.** Be familiar with the provisions of this chapter, the vehicle and traffic and highway laws of the state and the traffic regulations and geography of the city.
- E.** Produce on forms to be provided by the Police Department:
 - (1) A testimonial affidavit from his or her employer.
 - (2) Affidavits of good character from two responsible persons who have known him or her personally and have observed his or her conduct for at least one year next preceding the date of his or her application.
 - (3) An affidavit by the applicant, giving such additional information as may be required.

§180-5. Photograph of driver.

Each applicant for a driver's license must file with his or her application three unmounted, unretouched photographs of himself or herself, in such position and in such size as the Commissioner of Police may direct, taken within the 30 days preceding the filing of his or her application; photographs shall be of a size which may be easily attached to his or her license, one of which shall be attached to the license when issued, one shall be filed with the Clerk and one shall be filed with the copy of the application filed with the Commissioner of Police.

§180-6. Form of license.

Upon satisfactory fulfillment of the foregoing requirements, the Clerk shall issue to the applicant a license, which shall be in such form as to contain the photograph and signature of the licensee, with his or her license number thereon, which must be constantly and conspicuously displayed on the outside of the driver's outer garment when he or she is engaged in his or her employment. All licenses shall be displayed in a conspicuous place in the taxicab which is in the charge of the licensee.

§180-7. Renewal of driver's license.

A driver, in applying for a renewal of his or her license, shall make such application not less than 60 days next preceding its expiration upon a blank form to be furnished by the Police Department. A copy of said application for renewal must be filed with the Commissioner of Police. The original renewal application, which must have the approval of the Commissioner of Police endorsed thereon, shall be filed with the Clerk, who shall thereupon issue a license as provided herein.

§180-8. Fee for driver's license.

An annual license fee shall be set annually by resolution of the City Council before adoption of the budget for the following year for a driver's license or renewal thereof; no allowance shall be made for any part of a year.

§180-9. Record of driver's license.

The Commissioner of Police shall keep a complete record of each license issued to a driver and of all renewals, suspensions and revocations thereof.

§180-10. Application for license for vehicle.

It shall be unlawful for any person to operate or permit to be operated a taxicab upon the streets of the City without first having obtained therefor a taxicab license. An application for a taxicab license shall be made by the owner on a blank form to be furnished by the Police Department, and a copy of said application shall be filed with the Commissioner of Police. The original application, which must have the approval of the Commissioner of Police endorsed thereon, shall be filed with the Clerk, who shall issue a license as provided herein.

§180-11. Inspection of vehicles before licensing.

No vehicle shall be licensed until it has been thoroughly and carefully inspected and examined by the Commissioner of Police and found to be in a thoroughly safe condition for the transportation of passengers. If, upon inspection, a taxicab is found to be of lawful construction and in proper condition in accordance with the provisions of this chapter, the Commissioner of Police shall endorse his or her approval on the application to be filed with the Clerk. Each vehicle shall be inspected each year by the Commissioner of Police.

§180-12. Vehicle license fees.

Each taxicab licensed under this chapter shall pay an annual license fee set annually by resolution of the City Council before adoption of the budget for the following year as follows:

- A. Taxicabs seating up to seven passengers.
- B. Coach or bus seating over seven passengers.

§180-13. Register of licensed taxicabs.

The Commissioner of Police shall keep a register of the name of each person owning or operating a taxicab licensed under this chapter, together with the license number and the description and make of such vehicle, with the date and complete record of inspections made of it. Such record shall be open to the inspection of the public at all reasonable times. If a taxicab shall be disabled, disqualified for service or sold, the Commissioner of Police may, in his or her discretion, permit the license granted for such taxicab to be used

in connection with the taxicab purchased in its place. Should the state license number of a taxicab be changed during the term of the taxicab license, such change and number shall be immediately reported by the licensee to the Commissioner of Police and the Clerk.

§180-14. Payment of fares.

- A.** Taxicab zones. The following taxicab Zones A to C are hereby established as shown on the annexed map which is made a part hereof: *Editor's Note: The Taxi Fare Zones Map is included at the end of this chapter.*

| Zone | Fare |
|------|--------|
| A | \$6.00 |
| B | \$7.00 |
| C | \$7.50 |

- B.** Maximum fares to or from railroad station. The maximum fares for taxicabs between the railroad station and points within the taxicab zones shall be as follows:

| Route | Maximum Fare |
|--|--------------|
| Between railroad station and points in Zone A | \$6.00 |
| Between railroad station and points in Zone B | \$7.00 |
| Between railroad station and points in Zone C | \$7.50 |

- C.** Maximum fares between points other than to or from railroad station. The maximum fare between points within Zone A other than the railroad station shall be the regular fare of Zone A, plus \$0.50, and between points within other zones or between other zones shall be the regular fare of the highest zone involved, plus \$0.50.
- D.** Minimum fare. The minimum fare on Saturdays, Sundays and holidays shall be \$6.00 and on other days between 12:00 midnight and 6:00 a.m. it shall be \$9.00
- E.** Additional passengers. Each additional passenger coming from the same location as the passenger first engaging the taxicab and going to the same destination shall pay \$3.00

- F. Single passengers. Any single passenger who shall insist upon riding alone to the exclusion of other passengers waiting at the point of origin may be charged two whole fares.
- G. Children. Children under six years, when accompanied by an adult, shall not be charged.
- H. Rates per hour shall be as follows:

| Service | Fee |
|---|------------|
| Waiting time, shopping within the city, touring | \$45 |

- I. Rate card and Taxi Fare Zone Map. A card on which the above taxi fare rates are plainly printed and a copy of the Taxi Fare Zone Map shall be fastened and maintained in a conspicuous place in the taxicab so as to be conveniently read by passengers.

§180-15. Prepayment of fare.

Every driver of a taxicab shall have the right to demand payment of the legal fare in advance and may refuse employment unless so prepaid, but no driver of a taxicab shall otherwise refuse or neglect to convey any orderly person or persons upon request anywhere in the City unless previously engaged or unable to do so.

§180-16. Disputed fares.

All disputes as to fares shall be determined by the officer in charge at the police station, and failure to comply with such determination shall be a violation of this chapter and punishable as hereinafter provided. Whenever a passenger asks for a receipt, it shall be given to him by the driver. Such receipt shall state the name of the driver, the name of the owner of the taxicab, the number of the taxicab, the time when the trip began and ended and the amount of fare collected.

§180-17. Overcharging.

No person shall charge or attempt to charge any person a greater rate of fare than that to which the taxicab is entitled under the provisions of this chapter.

§180-18. Cruising and soliciting.

No vehicle offered to the public for hire, while waiting employment by passengers, shall stand on any public street or place other than a taxicab stand designated in accordance with the rules and ordinances of the city; nor shall any driver of such vehicle seek employment by repeatedly and persistently driving his vehicle to and from in a short space before, or by otherwise interfering with the proper and orderly access to or egress from, any theater, hall, hotel, public resort, railway or ferry station or other place of public gathering; but any such driver may solicit employment by driving through any public street or place without stops, other than those due to obstruction of traffic, and at

such speed as not to interfere with or impede traffic, and may pass and repass before any theater, hall, hotel, public resort, railway or ferry station or other place of public gathering; provided that after passing such public places he shall not turn and repass until he shall have gone a distance of at least 500 feet upon the streets and highways of the city; and no person shall solicit passengers for a public vehicle as aforesaid, upon the public streets of the city, except the driver thereof, when sitting upon the driver's seat of his vehicle.

§180-19. Articles found in taxicabs.

Every driver of a taxicab, immediately after the termination of any hiring or employment, must carefully search such taxicab for any property lost or left therein, and any property, unless sooner claimed or delivered to the owner, must be taken to the police station and deposited with the officer in charge within 24 hours after the finding thereof.

Section 2: This local law will take effect immediately upon filing with the Secretary of State

ROLL CALL:

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

* Councilman Sack originally voted against the local law but changed his vote when his Motion (see below) to adopt the local law as originally submitted with a \$3.00 fare increase and section restricting the number of taxi companies in Rye to six was defeated.

The local law was adopted by a 6-0 vote.

Councilman Sack made a motion, seconded by Councilman Jovanovich, to adopt the local law amending Chapter 180 Taxis as originally submitted.

ROLL CALL:

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

The Resolution was defeated by 4 votes to 1 and 1 abstention

Agenda Item 19 was taken out of order.

14. Discussion of a Purchase and Sale Agreement 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
Roll Call.

Mayor French said that the City has received an offer on the building at 1037 Boston Post Road for \$3.6 million. City Manager Pickup said the Council has been discussing the long-term ownership of the 1037 Boston Post Road property and when a decision was made that the site would not accommodate an expansion of the Police or Court facility, it was necessary to investigate other alternatives. There are two tracts: (1) a Purchase Agreement that includes a Right of First Refusal; and (2) pursuing a broker who will look into other alternatives. The Council is now looking for community input. No action will be taken at this meeting.

Ted Carroll, Forest Avenue, asked why the Council would consider an offer at such a loss? (The offer is within the range of the appraisal done on the property and the Right of First Refusal allows for a period of time to entertain higher offers), and, why they would consider selling the property in the current real estate market? (The Council has discussed waiting for a higher offer and the risks involved in doing so. There have also been discussions about how long the City can hold the property without a public purpose for the building.) Corporation Counsel Wilson noted that the current lease with Lester's ends at the end of February and they are not interested in a long-term lease. She is concerned that the City purchased the building for a public purpose that no longer seems viable and the City should not hold on to the property without using it for a public purpose. Mr. Carroll said there would be a significant loss associated with the proposed options and suggested the Council should consider broader marketing of the property. There were Council suggestions that it would make sense to further market the building and that prices on commercial properties would never come back to what they had been.

15. Authorization for Landman, Corsi, Ballaine & Ford, P.C. to represent the City on the Article 78 proceeding *Dapolite v. City Manager*
Roll Call.

Corporation Counsel Wilson said that an Article 78 proceeding has been commenced against the City Manager by Andrew Dapolite, which has been discussed by the Council in Executive Session. Since the action is outside the Corporation Counsel's Retainer Agreement and involves outside counsel, it requires Council approval. There was a discussion of whether the same attorney should represent the City and the City Manager. Corporation Counsel Wilson said the action would be similar to the Council authorizing an attorney to represent a City Board where the City is not a separate defendant.

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

RESOLVED that the City Council of the City of Rye hereby authorizes the firm of Landman, Corsi, Ballaine & Ford, P.C. to represent the City Manager in the Article 78 proceeding *Dapolite v. City Manager* at the rate of \$275.00 per hour and not to exceed a total of \$15,000.00.

ROLL CALL:

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

The Resolution was adopted by a 5-1 vote.

Corporation Counsel Wilson said that Louis Corsi, Esq. has met with the attorney for the petitioner in order to ascertain if the matter could be resolved outside of litigating it in the courts. She referred to a proposed resolution to the Article 78 Proceeding that had been circulated to the Council. The only action required by the City Council is to authorize the Corporation Counsel to execute a General Release on behalf of the Council. The City Manager and the petitioner have also agreed to sign General Releases. The settlement includes Mr. Dapolite sending a letter to the City Council and letters being removed from his personnel file. There is no financial consideration involved in the settlement.

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

RESOLVED that the City Council of the City of Rye hereby authorizes Corporation Counsel Kristen Wilson to execute a General Release in connection with the settlement of the Article 78 proceeding *Dapolite v. City Manager*.

ROLL CALL:

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

The Resolution was adopted by a 5-1 vote.

Mayor French noted that the matter had been suspended by the Board of Ethics pending resolution of the Article 78 proceeding. He said he hoped they would now proceed with their deliberations. Corporation Counsel Wilson said that she would advise the Chair of the Board of Ethics.

16. Authorization for Harris Beach, PLLC to represent the City on pre-trial motions and settlement discussions in the legal proceedings *Panetta v. Planning Commission* and *St. Ives Condo v. Rye*
Roll Call.

Mayor French said that these are items that are beyond what is covered in the Agreement with the Corporation Counsel. Corporation Counsel Wilson explained that there were three items involved in the authorization. Two items involve the action *Panetta v. Planning*

Commission, including the appellate brief and oral argument for the appeal of the Article 78 portion of the matter, and the Declaratory Judgment portion of the action which alleges a taking of Mr. Panetta's property. The City is awaiting a coverage determination from its insurance carrier regarding the takings action. The remaining action, *St. Ives Condominium Association v. City of Rye*, stems from a 2007 foreclosure proceeding handled by special counsel, wherein the City foreclosed on a property for non payment of taxes. The Condominium Association has commenced a lawsuit saying they were never notified of that proceeding. A coverage opinion from the insurance carrier is also pending in this matter.

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

RESOLVED that the City Council of the City of Rye hereby authorizes the firm of Harris Beach, PLLC to represent the City in pre-trial motions and settlement discussions in the legal proceedings *Panetta v. Planning Commission* (appeal of Article 78 decision and Declaratory Judgment/Takings claim) and *St. Ives Condominium Association v. City of Rye*, at the rate of \$215.00 per hour.

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

17. Discussion of a resolution amending the voting procedures for the Rye Golf Club Commission

City Manager Pickup said as a result of conversations between the City Council and Rye Golf Club Commission regarding the Council's desire to expand the participation of the club membership in the nominating and voting procedures, the commission would like to replace the paper ballot system of voting with online voting. He said he believe this could be discussed at the workshop with the Golf Commission scheduled for June 27th because the Commission would like to settle on a procedure before the upcoming elections.

18. Discussion of entering into an Agreement with Malcolm Pirnie, the Water Division of ARCADIS, to assist in preparing a Stormwater Reconnaissance Plan for the lower Long Island Sound Drainage Basin in consideration of future funding for watershed projects

City Manger Pickup said that when the County passed its current Stormwater update, which includes the City, new drainage areas were created and, in order to determine cost

effective projects and prioritize projects, included in the legislation was a “Reconnaissance Plan” to allow for participation in funding opportunities with the County. The City is a member of LISWIC and there are funds left over from previous work, which would be utilized to have the firm of Malcolm Pirnie begin to prepare the submission, which would enable the City to be in line to receive funding that may become available in future County budgets. Any necessary action would come back to the Council for approval but there is no residential charge involved.

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

Michael Kenny, 19 Everett Street, representing the Rye Police Association, spoke about Police Department manpower issues. He said that manpower was down significantly and the Department is at a “bare bones minimum” that does not allow it to meet the standards that should be set for the community. He asked the Council to review the staffing levels and look at the manpower issues. Members of the Council expressed their gratitude for the good job done by the members of the Police Department. Councilwoman Parker said that covering positions with overtime that could be a promotion within the department was a mistake. Councilman Jovanovich inquired about the decline in speeding enforcement figures during the time when the department was at full force. Officer Kenny said he did not have an answer to that question because there were many factors that could have contributed to a decline.

Arthur Stampleman, 720 Milton Road, spoke about the issue of bus service to the Milton Point area. He noted that a public hearing had been held in the City by the County where large numbers of people had indicated they wanted bus service extended to Milton Point. In May the Department of Transportation approved a Liberty Lines bus that comes to Rye but not to the Milton Point area. He urged the Council to ask the County to restore the service. *Ted Carroll* said that the County Executive had canceled bus service to Milton Point without notice and respect to the City. Councilwoman Parker read a draft Resolution that she had prepared calling for the County Executive to restore bus service to Milton Point at times that are convenient for commuters. There was a discussion among the members of the Council about the need for a Resolution at this time; the language in the proposed Resolution, and whether several paragraphs should be eliminated.

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

WHEREAS there are commuters, senior citizens, and other Rye residents, and their employees and contractors serving Rye residents, who have utilized bus service south of Playland Parkway in the past and need it restored;

WHEREAS transportation was identified by a Westchester County commission on Senior Citizens as the most pressing need;

WHEREAS public transportation is an accepted aspect of modern life and in any network system, some points have less activity but are needed to feed the network; and

WHEREAS a public hearing in Rye called for restoration of bus service below Playland Parkway and to go back to a schedule that services the needs of commuters;

BE IT RESOLVED that:

We, the Rye City Council, respectfully call upon County Executive Astorino to restore public transportation in Rye south of Playland Parkway and to Milton Point, covering commuter service and heavily used time periods and bus stops.

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.

20. Consideration of a request by the Rye Chamber of Commerce for the use of City streets for the Annual Sidewalk Sale to be held on Thursday, July 26, 2012 through Saturday, July 28, 2012 from 9:00 a.m. to 5:00 p.m.

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

RESOLVED, that the City Council of the City of Rye hereby approves the request made by the Rye Chamber of Commerce for use of City streets for the Annual Sidewalk Sale to be held on Thursday, July 26 through Saturday July 28, 2012 from 9:00 a.m. to 5:00 p.m.

21. Resolution to declare certain equipment as surplus
Roll Call.

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

WHEREAS, the City has been provided with a letter from the Fire Department identifying six (6) Scott packs as being surplus; and

WHEREAS, the Fire Department 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: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Parker and Sack
NAYS: None
ABSENT: None

The Resolution was adopted by a 6-0 vote

22. Miscellaneous Communications and Reports

Councilwoman Brett said that she has received complaints from residents regarding noise from the Tiki Bar at Playland. She asked if the Police Department has received an increased number of noise complaints over last year. Mayor French noted that the County had asked the City to notify them regarding noise issues when the lease was expanded. Councilwoman Parker suggested that residents with complaints about Playland could either call her or Playland Advisory Committee Chair Charles Dorn.

23. Old Business

Councilman Sack asked for an update on the Seaside Johnnies and Tiki Bar tax certiorari litigation. Corporation Counsel Wilson reported that both entities commenced Article 7 Tax Certiorari proceedings last year. The Town of Rye and Rye Town Park Commission filed a Motion for Summary Judgment a few weeks ago in connection with the Seaside Johnnies portion. There has been no new activity on behalf of the Tiki Bar and it is going through the normal tax certiorari process.

24. New Business

There was nothing discussed under this agenda item.

25. 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 12:07 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk

