

APPROVED MINUTES of the Regular
Meeting of the City Council of the City of Rye held in
City Hall on August 6, 2012 at 7:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
LAURA BRETT (arrived at 7:10 p.m.)
PETER JOVANOVIĆH
JULIE KILLIAN
CATHERINE F. PARKER (arrived at 7:45 p.m.)
JOSEPH A. SACK
Councilmembers

ABSENT: RICHARD FILIPPI, Councilman

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.

Presentation of 2013-2017 Capital Improvement Plan (CIP)

City Planner Christian Miller made the annual CIP presentation, as required by the City Charter, which identifies major projects and acquisitions expected over the next five years or more. Projects are identified and prioritized and funding sources are identified. The current CIP identifies 58 projects for approximately \$28 million, broken down in the following categories: \$17.6 million for transportation projects; \$5.6 million for recreation projects; \$4.3 million for vehicles and equipment; \$2.5 million for building projects; \$1.7 million for sewer projects; and, \$.8 million for drainage projects. The funding sources identified include: 19% from general revenue; one-third from debt; and 48% from grants and aid. There is greater reliance on debt to fund the projects in this CIP than on general revenue. The five year breakdown is: 2013 - \$7.7 million; 2014 - \$3.6 million; 2015 - \$6.4 million; 2016 - \$6.1 million; and 2017 - \$4.4 million. In the past, capital, building and vehicle acquisitions have been made from Fund Balance. In 2007, \$3.2 million of Fund Balance was used to fund capital improvements. This amount has dropped every year since then until the current year when \$0 is budgeted for capital projects. Funding for capital projects is affected by the Tax Cap and debt limits in the City Charter; therefore, a Bond Referendum is being considered to restore funding for the capital improvement program. This CIP continues to defer projects, which is not a sustainable process. The current CIP does not include flood mitigation projects. It is expected that new flood projects will be

identified over the coming years. There are many projects which have been identified in past CIPs, but there are also new needs and priorities identified based on the work of the Shared Roadways Committee. The CIP also identifies other entities outside the City that have a bearing on the City's funding and capital project needs. Mr. Miller concluded by saying that no matter how good the City's Capital Improvement Plan is, there is no Capital Improvement Program without funding to do the projects. The CIP will be posted on the City website.

Councilwoman Brett made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the CIP presentation at 7:50 p.m. The regular meeting began at 8:07 p.m.

3. General Announcements

This item includes announcements made concerning items not on the agenda that may be of interest to the community.

4. Approval of the election of two new members to the Rye Fire Department

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

RESOLVED, that the City Council of the City of Rye hereby approves the election of Andrew Dapolite to the Poningoe Engine and Hose Company and Lester Milman to the Fire Police Patrol, as approved by the Board of Fire Wardens at their July 26, 2012 meeting.

5. Consideration to set a Public Hearing for September 12, 2012 to amend Chapter 98, "Fire Prevention" of the Code of the City of Rye by amending §98-4 "Board of Fire Wardens; Fire Inspector" regarding the Fire Inspector/Supervisor position for the Rye Fire Department

City Manager Pickup said that this proposed local law is a continuation of the discussions with the Fire Department and with County Civil Service to reflect changes in the position of Fire Inspector. It is hoped that County Civil Service will certify a list by fall so the City can begin the process of interviewing candidates.

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

WHEREAS, the Council wishes to amend Chapter 98 “Fire Prevention” of the Code of the City of Rye by amending §98-4 “Board of Fire Wardens: Fire Inspector”; 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 September 12, 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 98 “Fire Prevention” by amending
§98-4“Board of Fire Wardens; Fire Inspector” of the
Rye City Code**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 12th day of September 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 98, “Fire Prevention” by amending §98-4 “Board of Fire Wardens; Fire Inspector” of the Rye City Code.

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

Dawn F. Nodarse
City Clerk
Dated: August 31, 2012

Councilman Jovanovich made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the regular meeting of the City Council held on July 11, 2012, as submitted.

7. Mayor's Management Report

- Update on Bridge projects

Central Avenue Bridge – City Engineer Ryan Coyne received the Certification and Notice to Proceed on this project from the NYS Department of Transportation (DOT). The bid package is out and the bids are due by the end of the month. The DOT must review the bids and, hopefully, an award can be made at the September meeting.

Old Post Road Bridge – The Con Edison replacement work is completed. They are currently doing restoration work. The County Department of Public Works will finish the paving portion of the bridge in order for it to be open with two-way traffic prior to the opening of school.

NY Thruway Bridge over Central Avenue – This project should, hopefully, be completed shortly after Labor Day.

- Update on Forest Avenue Sharrows project

City Engineer Coyne will be meeting with the painting contractor in the field to mark the project in the street. Greg Howells of the YMCA said that the money for the project came from the Centers for Disease Control (CDC) and it must be completed by August 31st. Steve Cadenhead of the Shared Roadways Committee has written an informational press release regarding the project.

- Legal update

Corporation Counsel Kristen Wilson reported on the following matters:

- *Butler v. Mathisson, et al* – Both the Mathissons and the Planning Commission have filed notices of appeal. The Mathissons have already submitted a Joint Record on Appeal.
- *Panetta v. Planning Commission* – An Opposition Brief has been filed by the City. The matter is fully submitted before the Appellate Division, Second Department. Oral arguments will probably be later in the fall.

- Tappan Zee Bridge Project

Mayor French and City Manager Pickup attended a meeting a SUNY Purchase regarding the Tappan Zee Bridge Project. Three bids have been received on the project. The City's role in the review of the Final Environmental Impact Statement (FEIS) will be how the project will impact down I-287 with rapid bus transit into Port Chester. The FEIS is available in City Hall for review by the public.

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

The public hearing remained open from the last meeting. Two members of the Finance Committee, Paula Schaefer and Fred Dunn provided input from the Committee on financing for capital projects. Interest rates make it an ideal time to bond, but even though it is a great time to issue debt, this does not mean that the City should do it. The Finance Committee thinks that the current bonding authority in the Code is appropriate and is not prepared to opine on the proposed projects. There is concern that a referendum that would add additional debt service to the budget would necessitate overriding the tax cap. A primary concern of the Committee is that the City does not have a Five-year Revenue and Expense Projection Plan that would provide the ability to project tax increases incurred as a result of borrowing money. There was a discussion among the members of the Council regarding the necessity and reliability of Five-year Plans.

The discussion then turned to the proposed projects. City Planner Miller said that as a result of Council discussions, some projects have been removed from the list of potential projects and adjustments have been made to others. An additional \$50,000 has been added to the proposed costs for the Purchase/Purdy/Theodore Fremd Intersection project; a second alternative to the Boston Post Road wall project extending the sidewalk to Holly Lane that increases the cost of the project by \$300,000 has been included; and the amount budgeted for pedestrian improvements has been increased to \$250,000. This brings the range of the proposed bond to \$3.9 to \$4.2 million. City Manager Pickup said that the plans for the Police/Court renovation have been submitted to an architect in the Office of Court Administration (OCA) and, based on an initial review the City seems to be moving in the correct direction. The City has asked to receive comments from the OCA prior to the next meeting. Mr. Pickup said that he and the Engineer will be meeting on site with the new president of the Loudon Woods Association regarding the Post Road Wall project and updated right-of-way information.

The Council discussed the importance of a “marketing plan” for the referendum in order to obtain voter support. The suggestion was made that it would be helpful to have a volunteer “Public Information Coordinator” to handle communication with the public. There was also a discussion about how specific the wording in a Bond Resolution must be regarding the projects.

The public hearing will remain open.

9. Public Hearing to adopt bond resolutions for the November, 2012 Referendum for capital projects

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

The discussion on this agenda item will be deferred.

Councilwoman Brett made a motion, seconded by Councilwoman Parker and unanimously carried, to hold the public hearing on bond resolutions for a November 2012 referendum open until the September 5th Council meeting.

10. Update and Discussion of the proposals for the property located at 1037 Boston Post Road:
- Purchase and Sale Agreement between the City of Rye and Lester's of Rye, LLC for the right of first refusal
 - Broker agreement between the City of Rye and CBRE to market the property

City Manager Pickup said that since the last meeting, additional information has been received on the mortgage contingency and a short-term lease extension request from Lester's. There has also been additional information received from a commercial broker regarding marketing the property. There will be a special Council meeting on September 5th in order to make decisions on the proposed Purchase and Sale Agreement; the proposed Broker agreement; and, the requested lease extension.

Ted Carroll of Forest Avenue asked the Council their opinions on the proposed options. Mayor French and Councilmembers Brett and Jovanovich thought the building should be sold and were leaning toward using a broker. Councilman Sack said he did not think the building should be sold at this time and should be put to other use. Councilwoman Killian said she was also leaning toward selling the building. Councilwoman Parker said that she believed the property should go out to market with an asking price of \$5 million.

11. Resolution to approve a Memorandum of Agreement between the City of Rye and the Rye CSEA Local 1000 Clerical Unit
Roll Call.

City Manager Pickup said this was the first expired contract to come to the Council for approval. The agreement was reached under mediation with a state mediator and includes a wage freeze until July 2013 and a modification to health insurance contributions. It has been ratified by the Clerical Unit.

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

WHEREAS, the City of Rye and the Rye CSEA Local 1000 Clerical Unit have negotiated a new Memorandum of Agreement which will replace the agreement which expired on December 31, 2010; and

WHEREAS, the CSEA Clerical Unit ratified the proposed terms of the MOA, now therefore be it;

RESOLVED, that the City Council approve the two year contract MOA between the Rye CSEA Local 1000 Clerical Unit for the contract period of 01/01/2011 to 12/31/2013.

ROLL CALL:

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

NAYS: None
ABSENT: Councilman Filippi

The Resolution was adopted by a 6-0 vote.

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

Kent Iarocci of Charlotte Street offered suggestions about three matters:

- Police/Court Upgrade – A. below ground parking area should be built on the side of the building in the area where police vehicles currently park and an addition to the building could be built above that parking area.
- Bowman Avenue – A series of large walls should be built in the area to cure flooding.
- Increase sales revenue for local merchants – A corporation should be encouraged to move their headquarters into Car Park 4 and build two or three tiered parking, one tier of which would be reserved for City use.

Jordan Glass, Esq., representing *HealtheHarbor.com*, and *Ray Tartaglione* both spoke about West Nile Virus and mosquitoes on Hen Island and urged the Council to take action to prevent mosquitoes from breeding. City Manager Pickup said that as of this date the County has not notified the City of the presence of mosquitoes with West Nile Virus in Rye. A lengthy discussion of the issue ensued.

Doug Carey invited everyone to attend Summerfest at Rye Recreation Park on Sunday, September 2nd.

13. Adoption of the 2012/2013 tax levy and tax rate for the Rye Neck Union Free School District Roll Call.

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

WHEREAS, the Rye Neck Union Free School District (District) has certified to the City of Rye Comptroller taxes in the amount of \$10,238,462 to be raised on property within the District located in the City of Rye, with established tax rates of \$737.534792 per \$1,000 of taxable assessed value on homestead property and \$941.168803 per \$1,000 taxable assessed value on non-homestead property, for the fiscal year beginning July 1, 2012 and ending June 30, 2013, now, therefore, be it

RESOLVED, that in accordance with the provisions of the City Charter, the City Comptroller is commanded to levy and collect taxes, subject to any further amendments or approvals required by the Rye Neck Union Free School District.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

14. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department

This agenda item was deferred.

15. Resolution cancelling the regular meeting of the City Council scheduled for August 8, 2012

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

RESOLVED, the City Council of the City of Rye hereby approves the cancellation of the regular meeting of the City Council scheduled for August 8, 2012.

16. Consideration of request for permission to close a section of Purchase Street for the 60th annual celebration of the Halloween Window Painting Contest

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

RESOLVED, the City Council hereby approves the request of the Recreation Department for permission to close a section of Purchase Street for the 60th Annual Halloween Window Painting Contest on Sunday October 21, 2012 (rain date October 28) from 8:00 A.M. to 3:00 P.M.

17. Resolution to grant permission to the Rye Free Reading Room to hold a free public concert on the Village Green on Sunday, October 14, 2012 at 2 p.m.

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

RESOLVED, that the City Council hereby approves the request of the Rye Free Reading Room for use of the Village Green from 12:00 p.m. to 5:00

p.m. on Sunday, October 14, 2012 to hold a free public concert.

18. Miscellaneous Communications and Reports

There was nothing discussed under this agenda item.

19. Old Business

- Discussion regarding Andrew Dapolite's letter to the Board of Ethics

Councilman Sack summarized the history of allegations brought by Andrew Dapolite against City Manager Pickup and its referral to the Board of Ethics. Mr. Sack said that he believed the Council should conduct an investigation and determine if any action should be taken. Other members of the Council said that it was time to move on. It was suggested that going forward there should be a better, and initially more private, way of addressing complaints that might arise against City employees. It was also suggested that the Corporation Counsel could possibly act as an independent investigator in employee matters and report back to the Council.

20. New Business

Councilwoman Killian suggested that when an agenda item is carried over to another meeting, the Council does not need to receive paper copies of the backup again.

21. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn the meeting at 11:02 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk