

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on September 12, 2012 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
LAURA BRETT
RICHARD FILIPPI (left at approximately 12:00 a.m.)
PETER JOVANOVICH
JULIE KILLIAN
CATHERINE F. PARKER (arrived at 8:10 p.m.)
JOSEPH A. SACK
Councilmembers

ABSENT: None

1. Pledge of Allegiance

Mayor French called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor French asked the City Clerk to call the roll; a quorum was present to conduct official city business.

3. General Announcements

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

4. Draft unapproved minutes of the regular meeting of the City Council held August 6, 2012 and the special meeting of the City Council held September 5, 2012

Councilwoman Parker made a motion, seconded by Councilman Jovanovich and unanimously carried, to approve the minutes of the regular meeting of the City Council held on August 6, 2012, as amended.

Councilwoman Brett made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the special meeting of the City Council held on September 5, 2012, as submitted.

5. Bid Award for the Central Avenue Bridge reconstruction project (Contract #2012-03)

Roll Call.

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

RESOLVED that Contract #2012-03 for the Replacement of the Central Avenue Bridge over Blind Brook is hereby awarded to ELQ Industries, Inc., the lowest responsible bidder, in the amount of \$1,330,890.00.

ROLL CALL:

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

NAYS: None

ABSENT: None

The Resolution was adopted by a 7-0 vote

CONTRACT 2012-03
CENTRAL AVENUE BRIDGE REPLACEMENT OVER BLIND BROOK

BID TAB

Position	Contractor	Contractor's Bid
1	ELQ Industries, Inc.	\$1,330,890.00
2	McNamee Construction	\$1,563,635.00
3	PCI Industries, Inc.	\$1,749,201.00
4	Arben Group, LLC	\$2,086,956.50
5	Harrison & Burrows Bridge	\$2,159,215.92
6	GC Com Construction	\$3,397,798.90

Ken Weissberg and Arnold Lewis, both residents of Loewen Court, thanked the Council, the City Manager and all who worked behind the scenes for their commitment to rebuilding the bridge.

6. Acceptance of donation to the Rye Fire Department from the Blitz family in the amount of two thousand (\$2,000.00) dollars

Roll Call.

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

WHEREAS, the Blitz family desires to donate two thousand (\$2,000.00) dollars to the Rye Fire Department; and

WHEREAS, the fiscal 2012 General Fund budget did not anticipate this donation; now, therefore be it

RESOLVED, that the City Council of the City of Rye accepts the aforementioned donation; and be it further

RESOLVED, that the City Comptroller is authorized to amend the fiscal 2012 General Fund budget as follows:

Increase Revenues – Fire Department Donations \$2,000.00

ROLL CALL:

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

NAYS: None

ABSENT: None

The Resolution was adopted by a 7-0 vote.

7. Mayor's Management Report

- Update on outstanding union contracts - This item was tabled.

- Update on the Respect Manual by Rye Merchants President Sally Wright

Sally Wright, representing the Rye Merchant's Association, and Police Commissioner William Connors made a presentation on the updating of the Respect Manual. Ms. Wright said that in 1965 a "Rye Guide" was put together by the Youth Counsel and Parents' Advisory Committee that dealt with many of the same issues faced today. In 2004 the first Respect Manual was developed as a collaborative effort in order to deal with some issues in the community. A system was developed with the Police Department and the Rye City Schools to go into the ninth grade classrooms to discuss the issues contained in the manual. New issues that have developed since 2004 have been included in the current update. The Manual will continue to change as children change. The intent is to go back into the schools with this version. Youth Advocates from the Rye Youth Council have developed a letter regarding hazing that will be inserted into the booklet. 3,500 copies of the Manual were printed and it will also be available on-line.

- Legal Update - This item was tabled.

Agenda item 8 was discussed after Agenda item 9

8. Authorization for the City Manager to enter into a 30-day consultant agreement between the City of Rye and CBRE to market the property located at 1037 Boston Post Road
Roll Call.

During the discussions of Agenda item 9 that proceeded this item, some members of the Council indicated they were not interested in the proposed 30-day consultant agreement with CBRE because the intent of the Council was to market the property, which will take more than 30 days. The discussion focused on whether the City should enter into the proposed 30-day consultant agreement or the previously offered brokerage agreement with CBRE that had been on the agenda at the September 5th meeting, to market the property for long-term lease or sale. Corporation Counsel Wilson said that the Council could vote on the brokerage agreement instead of the 30-day consultant agreement at this meeting if they choose to. Ms. Wilson advised that if the Council ultimately looks to enter into a long-term lease for the property that it should be put into an LDC (Local Development Corporation) or LDC-type entity because entering into a long-term lease with the current tenant is not holding the property for a public purpose.

Ted Carroll suggested that the City keep a portion of the building for its own use in order to satisfy the public purpose requirement. Bernard Goldstein said that entering into a long-term lease would not necessarily increase the value of the building and that an agreement containing a right-of first-refusal clause would discourage other interested parties.

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

RESOLVED, that the City Manager is hereby authorized to enter into a final brokerage agreement between the City of Rye and CBRE to market the property located at 1037 Boston Post Road.

ROLL CALL:

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

The Resolution was adopted by a 7-0 vote.

Agenda item was 9 discussed prior to Agenda item 8.

9. Authorization for the City Manager to enter into an Amendment to extend the Lease Agreement with Lester's of Rye, LLC
Roll Call.

Mayor French said that the current lease with Lester's expires at the end of March 2013. There was a discussion about authorizing the City Manager to negotiate a nine-month lease extension with Lester's so there will be something in place prior to budget season in order to avoid a budget gap of \$200,000 in the 2013 budget. Corporation Counsel Wilson said that the draft under consideration simply extends what is currently in place until the end of 2013. Many members of the Council felt that it would be better to engage a professional broker to negotiate the extension. It was pointed out that the potential broker CBRE had indicated that a short-term

extension would not impact long-term lease or sale negotiations and that they are interested in negotiating a sale or long-term lease and have not offered a proposal to negotiate a short-term lease. If authorized to proceed, the City Manager should consult with the broker who has expertise outside the City Manager's scope in order to negotiate better lease terms and protect the City's interests going forward. It was also suggested that the City should increase the amount of the security deposit it currently holds so the tenant doesn't decide to leave as soon as the extension is negotiated and that the deal should be modeled after private sector deals. It was noted that it is better to market a building that has a tenant than an empty building.

Ted Carroll said that the tenant will stay if treated respectfully by the Council. Bernard Goldstein, a resident who said he was interested in buying the building, said that a lease is a contract that obligates parties for the term of the lease. Robin Jovanovich said the discussion on 1037 needs to move forward.

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

RESOLVED, that the City Manager is hereby authorized to enter into a lease extension with Lester's of Rye LLC for the property at 1037 Boston Post Road for a period of up to nine-months or until December 31, 2013.

ROLL CALL:

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

The Resolution was adopted by a 5-2 vote.

10. 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 previous meeting.

City Manager Pickup said that the Council has before them a proposed listing of projects with costs. The potential impact on the tax rate from issuance of debt for this entire \$3.6 million list would be about a 1.35% tax rate increase.

Public Comment:

John Alfano said that he thought a bond referendum was premature and that the City's priority should be set on raising more revenue. *Jim Amico* said that an engineer that he knows had reviewed the survey for Loudon Woods provided to him by the City Manager and he was told that the entire wall is on private property; therefore, the owners should be forced to fix the wall and pay for it, not the City. City Manager Pickup said that the City Engineer's opinion is

different from Mr. Amico's friend. The survey is not consistent across the properties and at some locations the face of the wall is the boundary. The project has been phased in order to deal with ownership issues. *Francis Rodilosso*, President of the Board of the Rye Free Reading Room, urged the Council to include the projects relating to the library in the bond referendum because the library is a public use building. *Ted Carroll* said a bond referendum should include safety items with a shown need and advised that the Council should ask for less, build trust and come back and ask for more at a future date. He also said he believed the Council should have bonded to pay for 1037 Boston Post Road. *Robin Jovanovich* encouraged the Council to include the Purdy/Purchase/Theodore Fremd project and to offer an explanation of what will be included in the sidewalk and pedestrian safety projects.

Corporation Counsel Wilson said that she had spoken with the attorney at the Office of Court Administration (OCA) who oversees Court facility improvements regarding the proposed renovations to the Rye City Court facility. Under the Judiciary Law, court facilities have to be suitable and sufficient at a time based on population in the community, police force and the types and amounts of filings the court receives. If the Council authorizes this project in the resolution and it is approved by the public, the project will be reviewed by the Court Facility Capital Review Board for approval. What has been proposed in scope is suitable and sufficient as far as the attorney and the chief architect are concerned and Judge Sheinkman (Chief Judge of the Ninth Judicial District) as well as Judges Latwin and Runes are pleased with the plans.

The Council held a lengthy discussion where each member stated the projects they would be in favor of including in a bond referendum.

- Mayor French: sprinklers and ADA improvements for the Library; Smith Street Reconstruction; Smith/Purchase/Elm Intersection improvements; Locust Avenue Siphon replacement; Phase I of the Boston Post Road Wall reconstruction; and the sidewalk and pedestrian safety repairs.
- Councilman Jovanovich: concurred with Mayor French's suggested projects but added the Purdy/Purchase/Theodore Fremd Intersection project.
- Councilwoman Parker: Smith Street Reconstruction; Smith/Purchase/Elm Intersection improvements; Purdy/Purchase/Theodore Fremd Intersection; Locust Avenue Siphon replacement; Phase I of Boston Post Road Wall reconstruction; sidewalk and pedestrian safety improvements; Library sprinklers and ADA flood improvements; and Police/Court facility improvements.
- Councilwoman Brett: Smith Street Reconstruction; Smith/Purchase/Elm Intersection improvements; Purdy/Purchase/Theodore Fremd Intersection; Locust Avenue Siphon replacement; Phase I of Boston Post Road Wall reconstruction; sidewalk and pedestrian safety improvements; and Library sprinklers and ADA flood improvements.
- Councilwoman Killian: Smith Street Reconstruction; Smith/Purchase/Elm Intersection improvements; Locust Avenue Siphon replacement; Phase I of Boston Post Road Wall reconstruction; sidewalk and pedestrian safety improvements; and Library sprinklers and ADA flood improvements.
- Councilman Sack (although not sure if it should be done this year): Smith Street Reconstruction; Locust Avenue Siphon; Phase I of Boston Post Road Wall reconstruction; and Library sprinklers.

- Councilman Filippi: Purdy/Purchase/Theodore Fremd Reconstruction; Smith Street Reconstruction; Smith/Elm/Purchase Intersection improvements; Locust Avenue Siphon; Phase I Boston Post Road Wall reconstruction; sidewalk and pedestrian safety; Library sprinklers and ADA/flood improvements; Police/Court facility renovations.

Since passage of a bond resolution requires a super majority vote, the following projects were deemed to have the support of at least five members of the Council:

- Locust Avenue Siphon Replacement;
- Phase I of Boston Post Road Wall;
- Smith Street Reconstruction;
- Smith/Elm/Purchase Intersection improvements;
- Sidewalk and pedestrian safety improvements;
- Sprinklers and ADA/flood improvements for the Library.

There was a discussion regarding the possibility of including all of the projects into one bond resolution. Corporation Counsel Wilson said that there are currently two bond resolutions, one for public buildings and one for street improvements. She added that the language can be changed to be more specific as to projects but it is up to the Council to decide how specific they want it to be.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to close the public hearing on potential capital projects to be included in a November 2012 Bond Referendum as well as the public hearing to adopt bond resolutions for a November 2012 Bond Referendum.

11. Continuation of Public Hearing to adopt bond resolutions for the November, 2012 Referendum for capital projects

See discussion under Agenda Item 10.

12. Resolution to adopt bond resolutions for the November, 2012 Referendum:
a) Resolution to adopt a bond resolution to finance the acquisition, construction and reconstruction of the Police/Courthouse building and the Rye Free Reading Room in and for the City
Roll Call.

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

BOND RESOLUTION, DATED SEPTEMBER 12, 2012, AUTHORIZING THE ISSUANCE OF UP TO \$176,000 AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS OF THE CITY OF RYE, NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, TO FINANCE THE INSTALLATION OF SPRINKLERS, FLOOD CONTROL

**IMPROVEMENTS, AND IMPROVEMENTS TO COMPLY WITH THE
AMERICANS WITH DISABILITIES ACT FOR THE RYE FREE
READING ROOM IN AND FOR THE CITY.**

WHEREAS, the City Council of the City of Rye (the “City”), located in County of Westchester, in the State of New York (the “State”), has determined that it is in the public interest of the City to finance the costs of the acquisition, construction and reconstruction of public buildings, as set forth hereinabove, at a cost of up to \$176,000, including preliminary costs, all in accordance with the Local Finance Law; and

WHEREAS, the City Council has determined that it is in the public interest of the City to require the operation of this bond resolution to be approved by the qualified electors of the City, notwithstanding any other the legal requirements of the Local Finance Law;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rye, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the City in the aggregate principal amount of up to \$176,000, pursuant to the Local Finance Law, in order to finance the cost of the specific object or purpose hereinafter described.

Section 2. The specific object or purpose to be financed by the issuance of such serial bonds is the acquisition, construction and reconstruction of public buildings, including applicable preliminary and incidental costs in connection therewith (the “Project”).

Section 3. The City Council of the City has ascertained and hereby states that (a) the estimated maximum cost of the Project is not to exceed \$176,000, (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project; (c) the City Council of the City plans to finance the costs of the Project from the \$176,000 proceeds of the serial bonds or bond anticipation notes authorized herein, and (d) the maturity of the obligations authorized herein will be in excess of five (5) years.

Section 4. It is hereby determined that the Project referred to in Section 2 hereof is a specific object or purpose described in paragraph 12(a)(1) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the Project is twenty-five (25) years. The serial bonds in the principal amount of up to \$176,000 authorized herein shall have a maximum maturity of twenty-five (25) years computed from the earlier of (a) the date of such serial bonds, or (b) the date of the first bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 5. Subject to the terms and conditions of this Resolution and the Local Finance Law, and pursuant to the provisions of Sections 21.00, 30.00, 50.00, 56.00 and 60.00, inclusive, of the Local Finance Law, the power to authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this Resolution and the renewal of such bond anticipation notes and the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes authorized by this Resolution, and the power to issue, sell and deliver such serial bonds and bond anticipation notes are hereby delegated to the City Comptroller (or Acting City Comptroller), as the chief fiscal officer of the City. The City Comptroller is hereby authorized to execute on behalf of the City all serial bonds issued pursuant to this Resolution and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the City Clerk is hereby authorized to affix the seal of the City to all such serial bonds and all such bond anticipation notes and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the facsimile signature of the City Comptroller.

Section 6. The faith and credit of the City is hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized and issued pursuant to this Resolution as the same shall become due.

Section 7. When and if this Resolution takes effect following the approval thereof by the qualified voters of the City at the next general City election to be held on November 6, 2012, the City Clerk shall cause the same to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in the, a newspaper having a general circulation in the City. The validity of the serial bonds authorized by this Resolution and of bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or the provisions of law which should be complied with as of the date of the publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State.

Section 8. Prior to the issuance of obligations authorized to be issued by this bond resolution, the City Council of the City shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the "environmental compliance proceedings"). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the City Council of the City will re-adopt, amend or modify this bond resolution prior to the issuance of obligations authorized to be issued herein upon the advice of bond

counsel. It is hereby determined by the City Council of the City that the Project will not have a significant effect on the environment.

Section 9. The City hereby declares its intention to issue the obligations authorized herein to finance the cost of the Project. The City covenants for the benefit of the holders of the obligations authorized herein that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations or any other funds of the City, and will not make any use of the facilities financed with the proceeds of such obligations which would cause the interest on such obligations to become subject to Federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code"), (except for the alternative minimum tax imposed on corporations by section 55 of the Code and except for the environmental tax imposed on corporations by section 59A of the Code) or subject the City to any penalties under section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or any facilities financed thereby if such action or omission would cause the interest on such obligations to become subject to Federal income taxation under the Code (except for the alternative minimum tax imposed on corporations by section 55 of the Code and except for the environmental tax imposed on corporations by section 59A of the Code) or subject the City to any penalties under section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the bonds or any other provisions hereof until the date which is 60 days after the final maturity date or earlier prior redemption date thereof.

Section 10. For the benefit of the holders and beneficial owners from time to time of the bonds and bond anticipation notes authorized pursuant to this Resolution (the "obligations"), the City agrees, in accordance with and as an obligated person with respect to the obligations, under Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the "Rule"), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of the Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller is authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the "Commitment") to be placed on file with the City Clerk, which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the obligations in accordance with the Rule, with any changes or amendments that are not inconsistent with this resolution and not substantially adverse to the City and that are approved by the City Comptroller on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed, collectively, by this paragraph and the Commitment, shall be the City's continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform

thereunder. The City Comptroller is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Comptroller shall consult with, as appropriate, the Corporation Council and bond counsel or other qualified independent special counsel to the City. The City Comptroller acting in the name and on behalf of the City, shall be entitled to rely upon any legal advice provided by the Corporation Council or such bond counsel or other special counsel in determining whether a filing should be made.

Section 11. The City by motion of the City Council, notwithstanding any provision of the City Charter, hereby submits this Resolution for approval by the qualified electors of the City at the next general election City election to be held on November 6, 2012.

Section 12. The following shall constitute the language of the ballot proposition and the City Clerk is hereby authorized and directed to provide in a timely manner a certified copy of such ballot proposition to the Westchester County Board of Elections pursuant to the applicable provisions of the Election Law to insure that such proposition is placed on the ballot for such electors of the City at such general City election:

PROPOSITION

“SHALL THE QUALIFIED ELECTORS OF THE CITY OF RYE, WESTCHESTER COUNTY, APPROVE A BOND RESOLUTION ADOPTED BY THE CITY COUNCIL OF SAID CITY ON SEPTEMBER 12, 2012 AUTHORIZING THE ISSUANCE OF \$176,000 SERIAL BONDS OF THE CITY OF RYE TO FINANCE THE INSTALLATION OF SPRINKLERS, FLOOD CONTROL IMPROVEMENTS, AND IMPROVEMENTS TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT FOR THE RYE FREE READING ROOM IN AND FOR THE CITY?”

Section 13. The effectiveness of this Resolution is subject to the approval by the qualified electors of the City at the next general City election.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RYE, NEW YORK, SUBMITTING THE APPROVAL OF A BOND RESOLUTION TO THE QUALIFIED VOTERS OF SAID CITY, APPROVING THE FORM OF BALLOT PROPOSITION, AND DIRECTING THE CLERK OF SAID CITY TO PROVIDE A CERTIFIED COPY OF SAID PROPOSITION TO THE BOARD OF ELECTIONS.

WHEREAS, the City council of the City of Rye, New York (herein, the “City Council” and the “City”), located in the County of Westchester, State of New York, on September 12, 2012 adopted a serial bond resolution in the manner required by Section 33.00 of the Local Finance Law which authorizes \$176,000 of the City’s general obligations serial bonds and bond anticipation notes to be issued to finance the installation of sprinklers, flood control improvements, and improvements to comply with the Americans with Disabilities Act for the Rye Free Reading Room in and for the City of Rye (the “Resolution”); and

WHEREAS, the effectiveness of the Resolution was made subject to a mandatory referendum pursuant, where applicable, to the provisions of the City Charter; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rye, as follows:

1. An election of the qualified voters of the City shall be held on the date of the next general election (November 6, 2012).

2. The form of the ballot proposition shall be the following language:

“SHALL THE QUALIFIED ELECTORS OF THE CITY OF RYE, WESTCHESTER COUNTY, APPROVE A BOND RESOLUTION ADOPTED BY THE CITY COUNCIL OF SAID CITY ON SEPTEMBER 12, 2012 AUTHORIZING THE ISSUANCE OF \$176,000 SERIAL BONDS OF THE CITY OF RYE TO FINANCE THE INSTNALLATION OF SPRINKLERS, FLOOD CONTROL IMPROVEMENTS, AND IMPROVEMENTS TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT FOR THE RYE FREE READING ROOM IN AND FOR THE CITY OF RYE?”

3. The City Clerk is hereby authorized and directed to provide in a timely manner, but in event later than October 1, 2012, a certified copy of the foregoing ballot proposition and abstract thereof to the Westchester County Board of Elections pursuant to the applicable provisions of the Election Law to insure that such proposition is placed on the ballot for such electors of the City at such general election.

4. This resolution shall take effect immediately upon its adoption by the City Council.

ROLL CALL:

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

NAYS: None

ABSENT: None

The Resolution was adopted by a 7-0 vote.

b) Resolution to adopt a bond resolution for the construction, reconstruction and improvements to City streets, sidewalks and other roadway infrastructure
Roll Call.

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

BOND RESOLUTION, DATED SEPTEMBER 12, 2012, AUTHORIZING THE ISSUANCE OF UP TO \$1,680,000 AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS OF THE CITY OF RYE, NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, TO FINANCE THE CONSTRUCTION, RECONSTRUCTION AND IMPROVEMENTS TO CITY STREETS.

WHEREAS, the City Council of the City of Rye (the “City”), located in County of Westchester, in the State of New York (the “State”), has determined that it is in the public interest of the City to finance the costs of the construction, reconstruction and improvements to City streets, as set forth hereinabove, at a cost of up to \$1,680,000, including preliminary costs, all in accordance with the Local Finance Law; and

WHEREAS, the City Council has determined that it is in the public interest of the City to require the operation of this bond resolution to be approved by the qualified electors of the City, notwithstanding any other the legal requirements of the Local Finance Law;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rye, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the City in the aggregate principal amount of up to \$1,680,000, pursuant to the Local Finance Law, in order to finance the cost of the specific object or purpose hereinafter described.

Section 2. The specific object or purpose to be financed by the issuance of such serial bonds is the construction, reconstruction and improvements to City streets, including applicable preliminary and incidental costs in connection therewith (the “Project”).

Section 3. The City Council of the City has ascertained and hereby states that (a) the estimated maximum cost of the Project is not to exceed \$1,680,000, (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project; (c) the City Council of the City plans to finance the costs of the Project from the \$1,680,000 proceeds of the serial bonds or bond anticipation notes

authorized herein, and (d) the maturity of the obligations authorized herein will be in excess of five (5) years.

Section 4. It is hereby determined that the Project referred to in Section 2 hereof is a specific object or purpose described in paragraph 20 of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the Project is fifteen (15) years. The serial bonds in the principal amount of up to \$1,680,000 authorized herein shall have a maximum maturity of fifteen (15) years computed from the earlier of (a) the date of such serial bonds, or (b) the date of the first bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 5. Subject to the terms and conditions of this Resolution and the Local Finance Law, and pursuant to the provisions of Sections 21.00, 30.00, 50.00, 56.00 and 60.00, inclusive, of the Local Finance Law, the power to authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this Resolution and the renewal of such bond anticipation notes and the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes authorized by this Resolution, and the power to issue, sell and deliver such serial bonds and bond anticipation notes are hereby delegated to the City Comptroller (or Acting City Comptroller), as the chief fiscal officer of the City. The City Comptroller is hereby authorized to execute on behalf of the City all serial bonds issued pursuant to this Resolution and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the City Clerk is hereby authorized to affix the seal of the City to all such serial bonds and all such bond anticipation notes and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the facsimile signature of the City Comptroller.

Section 6. The faith and credit of the City is hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized and issued pursuant to this Resolution as the same shall become due.

Section 7. When and if this Resolution takes effect following the approval thereof by the qualified voters of the City at the next general City election to be held on November 6, 2012, the City Clerk shall cause the same to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in the, a newspaper having a general circulation in the City. The validity of the serial bonds authorized by this Resolution and of bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or the provisions of law which should be complied with as of the date of the publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State.

Section 8. Prior to the issuance of obligations authorized to be issued by this bond resolution, the City Council of the City shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the “environmental compliance proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the City Council of the City will re-adopt, amend or modify this bond resolution prior to the issuance of obligations authorized to be issued herein upon the advice of bond counsel. It is hereby determined by the City Council of the City that the Project will not have a significant effect on the environment.

Section 9. The City hereby declares its intention to issue the obligations authorized herein to finance the cost of the Project. The City covenants for the benefit of the holders of the obligations authorized herein that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations or any other funds of the City, and will not make any use of the facilities financed with the proceeds of such obligations which would cause the interest on such obligations to become subject to Federal income taxation under the Internal Revenue Code of 1986, as amended (the “Code”), (except for the alternative minimum tax imposed on corporations by section 55 of the Code and except for the environmental tax imposed on corporations by section 59A of the Code) or subject the City to any penalties under section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or any facilities financed thereby if such action or omission would cause the interest on such obligations to become subject to Federal income taxation under the Code (except for the alternative minimum tax imposed on corporations by section 55 of the Code and except for the environmental tax imposed on corporations by section 59A of the Code) or subject the City to any penalties under section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the bonds or any other provisions hereof until the date which is 60 days after the final maturity date or earlier prior redemption date thereof.

Section 10. For the benefit of the holders and beneficial owners from time to time of the bonds and bond anticipation notes authorized pursuant to this Resolution (the “obligations”), the City agrees, in accordance with and as an obligated person with respect to the obligations, under Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of the Rule. In order to describe and specify certain terms of the City’s continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller is authorized and directed to sign and deliver, in the name and on

behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the "Commitment") to be placed on file with the City Clerk, which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the obligations in accordance with the Rule, with any changes or amendments that are not inconsistent with this resolution and not substantially adverse to the City and that are approved by the City Comptroller on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed, collectively, by this paragraph and the Commitment, shall be the City's continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The City Comptroller is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Comptroller shall consult with, as appropriate, the Corporation Council and bond counsel or other qualified independent special counsel to the City. The City Comptroller acting in the name and on behalf of the City, shall be entitled to rely upon any legal advice provided by the Corporation Council or such bond counsel or other special counsel in determining whether a filing should be made.

Section 11. The City by motion of the City Council, notwithstanding any provision of the City Charter, hereby submits this Resolution, for approval by the qualified electors of the City at the next general City election to be held on November 6, 2012.

Section 12. The following shall constitute the language of the ballot proposition and the City Clerk is hereby authorized and directed to provide in a timely manner a certified copy of such ballot proposition to the Westchester County Board of Elections pursuant to the applicable provisions of the Election Law to insure that such proposition is placed on the ballot for such electors of the City at such general City election:

PROPOSITION

"SHALL THE QUALIFIED ELECTORS OF THE CITY OF RYE, WESTCHESTER COUNTY, APPROVE A BOND RESOLUTION ADOPTED BY THE CITY COUNCIL OF SAID CITY ON SEPTEMBER 12, 2012 AUTHORIZING THE ISSUANCE OF \$1,680,000 SERIAL BONDS OF THE CITY OF RYE TO FINANCE THE CONSTRUCTION, RECONSTRUCTION AND IMPROVEMENTS TO CITY STREETS IN AND FOR THE CITY?"

Section 13. The effectiveness of this Resolution is subject to the approval by the qualified electors of the City at the next general City election.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RYE, NEW YORK, SUBMITTING THE APPROVAL OF A BOND RESOLUTION TO THE QUALIFIED VOTERS OF SAID CITY, APPROVING THE FORM OF BALOT PROPOSITION, AND DIRECTING THE CLERK OF SAID CITY TO PROVIDE A CERTIFIED COPY OF SAID PROPOSITION TO THE BOARD OF ELECTIONS.

WHEREAS, the City Council of the City of Rye, New York (herein, the "City Council" and the "City"), located in the County of Westchester, State of New York, on September 12, 2012 adopted a serial bond resolution in the manner required by Section 33.00 of the Local Finance Law which authorizes \$1,680,000 of the City's general obligation serial bonds and bond anticipation notes to be issued to finance the construction, reconstruction and improvements to City streets in and for the City (the "Resolution"); and

WHEREAS, the effectiveness of the Resolution was made subject to a mandatory referendum, where applicable, pursuant to the provisions of the City Charter; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rye, as follows:

1. An election of the qualified voters of the City shall be held on the date of the next general election (November 6, 2012).

2. The form of the ballot proposition shall be in the following language:

"SHALL THE QUALIFIED ELECTORS OF THE CITY OF RYE, WESTCHESTER COUNTY, APPROVE A BOND RESOLUTION ADOPTED BY THE CITY COUNCIL OF SAID CITY ON SEPTEMBER 12, 2012 AUTHORIZING THE ISSUANCE OF \$1,680,000 SERIAL BONDS OF THE CITY OF RYE TO FINANCE THE CONSTRUCTION, RECONSTRUCTION AND IMPROVEMENTS TO CITY STREETS IN AND FOR THE CITY?"

3. The City Clerk is hereby authorized and directed to provide in a timely manner, but in event later than October 1, 2012, a certified copy of the foregoing ballot proposition and abstract thereof to the Westchester County Board of Elections pursuant to the applicable provisions of the Election Law to insure that such proposition is placed on the ballot for such elector of the City at such general election.

4. This resolution shall take effect immediately upon its adoption by the City Council.

ROLL CALL:

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

The Resolution was adopted by a 6-1 vote.

This agenda item was taken out of order after agenda item 6.

13. Public Hearing 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.

Fire Warden Richard Barber said that the proposed local law conforms the City Code to state law.

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

There were no members of the public who wished to comment on the proposed local law.

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

Councilman Jovanovich made a motion, seconded by Councilwoman Parker, to adopt the following local law:

CITY OF RYE
LOCAL LAW NO. 5 2012

**A Local Law to amend Chapter 98 § 4 “Fire Prevention –
Board of Fire Wardens; Fire Inspector” to create a Bureau of
Fire Protection the Board of Wardens of the City of Rye Fire
Department to report directly to the City Manager**

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

Section 1: Chapter 98 Fire Prevention

§ 98-4. Board of Fire Wardens; Fire Lieutenant.

It shall be the responsibility of the Board of Fire Wardens in conjunction with the City Manager to administer and enforce the provision of this chapter. There is hereby created in and for the City of Rye the Bureau of Fire Protection, the head of which shall be a Lieutenant, whose duties, among other things, shall include the responsibility for fire inspections within the City. Such office shall be subject to the supervision and direction of the Board of Fire Wardens in conjunction with the City Manager. Subject to the Civil Service Law and Rules and Regulations, the Board of Fire Wardens in conjunction with the City Manager, and with the approval of the Council, shall appoint such Lieutenant. Such person so appointed shall be qualified to assume the duties and responsibilities of such office or shall, within the time prescribed by law, qualify to do so. Such appointee or appointees shall receive such annual salary as the Council shall fix and determine.

Section 2: Severability.

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 3: Effective date.

This local law will take effect immediately on filing in the office of the Secretary of State.

ROLL CALL:

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

The Local Law was adopted by a 7-0 vote.

14. Update on the Sluice Gate project and Flood Mitigation Stormwater analysis

City Manager Pickup said there have been some issues with the project regarding support from the engineers and going forward City Engineer Ryan Coyne and City Planner Christian Miller will be taking over a larger portion of the construction management. A credit arrangement will be worked out with WSP Sells in terms of their oversight of the construction project. The same approach is being taken regarding the hydrology reports. The City will undertake additional third party reviews.

Lawrence Lehman, Rye resident and professional engineer, expressed his concerns with the Sluice Gate project. He said he got involved with the project when former City Engineer

George Mottarella retired. When he reviewed the plans for the Sluice Gate project he noted errors. The main purpose of the project is to have electronic control over the gate and the controls will not be available until October. The contractor has asked for an extension of time to complete the project. Mr. Lehman met with the City Manager and City Engineer regarding getting consultants to do a peer review of the project and he found two companies who indicated they would respond to an RFP. He suggested an RFP be written quickly and sent out to the two companies. He believes the project will run over the amount of the awarded bid. Councilwoman Brett, the liaison for the Flood Committee, said that the Committee had asked for a peer review of the WSP Sells report with the hydrology study. It was her understanding that the RFP would go out at the end of September with the review to be done in October and the Sluice Gate installed in November. Mr. Lehman disagreed with that timeframe, saying the electronic controls of the Sluice Gate cannot be calibrated until after the peer review is completed, which cannot be done until a final report is issued from the engineers. Mr. Pickup said there are issues that must be resolved with the Sells company first regarding the final report.

15. Authorization for the City Manager to enter into an Intermunicipal Agreement with the Town of Scarsdale for the Board of Assessment Review of the City of Rye to hear a Tax Assessment Grievance for a property located in Scarsdale.
Roll Call.

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

RESOLVED, that the City Manager is hereby authorized to enter into an Agreement with the Town/Village of Scarsdale in order for the Board of Assessment Review of the City of Rye to hear a Tax Assessment Grievance for a property located at 62 Woods Lane in Scarsdale.

ROLL CALL:

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

The Resolution was adopted by a 5-0 vote.

16. Authorization for additional funding for Landman, Corsi, Ballaine & Ford, P.C. for representation of the City on the Article 78 proceeding *Dapolite v. City Manager*
Roll Call.

Corporation Counsel Wilson reported that the Council had previously authorized \$15,000 for representation in this case, but due to lengthy negotiations with petitioner's attorney to resolve the matter, the bills came in for an additional \$6,510.40. Two votes were taken in connection with this matter.

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

RESOLVED, that the City Council hereby authorizes that additional funding in the amount of \$6,510.40, at the rate of \$275 per hour, be paid to the firm Landman, Corsi, Ballaine & Ford, P.C. as final payment for representation of the City in the Article 78 Proceeding *Dapolite v. City Manager*.

ROLL CALL:

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

The motion failed.

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

RESOLVED, that the City Council hereby authorizes that additional funding in the amount of \$6,510.40, at the rate of \$275 per hour, be paid to the firm Landman, Corsi, Ballaine & Ford, P.C. as final payment for representation of the City in the Article 78 Proceeding *Dapolite v. City Manager*.

ROLL CALL:

AYES: Mayor French, Councilmembers, Brett, Jovanovich and Killian,
NAYS: Councilmembers Parker and Sack
ABSENT: Councilman Filippi

The Resolution passed by a 4-2 vote.

17. Authorization for City Manager to enter into an Agreement with the County of Westchester to accept electronically filed Small Claims Assessment Review (SCAR) petitions via the New York State Courts Electronic Filing (NYSCEF) System
Roll Call.

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

RESOLVED, that the City Manager is hereby authorized to enter into an Agreement with

the County of Westchester to accept electronically filed Small Claims Assessment Review (SCAR) petitions via the New York State Courts Electronic Filing (NYSCEF) System.

18. Consideration of Resolution of support for Safe Routes to School (SRTS) grant application

City Manager Pickup said that a Council Resolution in support of the Safe Routes to School grant application was needed to complete the application process.

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

WHEREAS, the City of Rye has partnered with the Rye YMCA through its national program “Activate America – Pioneering Healthier Communities, “ to develop safer walking and biking routes to schools as a way to promote physical activity and decrease health risks associated with automobile traffic; and

WHEREAS, the City of Rye has implemented several traffic and pedestrian safety projects, including the Boston Post Road Diet, by providing engineering, infrastructure and physical improvements in and around the school campus sites; and

WHEREAS, the City of Rye appointed a multi-disciplinary Temporary Trails and Traffic Safety Committee in 2007, which prioritized specific pedestrian improvements and programs and led to the creation of the Shared Roadways Committee, a citizen’s committee that studied local roadway, sidewalk and intersection conditions and developed site-specific recommendations to enhance pedestrian safety; and,

WHEREAS, the City of Rye has worked with community advocates on Complete Streets initiatives, most recently the Forest Avenue project, which involved painting “sharrows” on the road; re-striping the travel lanes to 10’ in either direction; and improving crosswalk visibility, making this heavily traveled roadway safer for pedestrians and cyclists of all ages; and

WHEREAS, all of these community efforts have contributed to the submission of a request for funding through the federal Safe Routes to School program; now therefore be it

RESOLVED, that the City Council does, herein, support the efforts of the City of Rye and its affiliated partners who have contributed to this initiative; and be it

FURTHER RESOLVED, that the projects submitted for funding will enable our community to move forward in achieving the goals of providing safe roadways for school children, reducing traffic to promote a healthier environment and encouraging physical activity by walking and biking to school.

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

Jim Amico, 350 Midland Avenue referred to a letter in the Rye Record calling for the installation of stop signs at the intersection of Forest Avenue and Manursing Avenue and said that he was in favor of the idea. He also asked why the stop signs at the intersection of Midland Avenue and Palisade Road had not been finalized yet since the speed studies were completed over a month ago. City Manager Pickup said that both issues would be discussed at the September Traffic and Pedestrian Safety Committee meeting and noted that the committee does not meet over the summer. Mr. Amico also expressed his belief that there should be a crossing guard stationed at the Middle School/High School in the afternoon.

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

Since members of the Council had questions and comments about the proposed revisions, they were asked to submit their comments to the City Manager to be forwarded to the Police Commissioner. The agenda item was deferred.

21. Two appointments to the Boat Basin Commission, by the Council, for two-year terms expiring January 1, 2015 and the designation of one member to the Boat Basin Nominating Committee.

Councilwoman Brett made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the appointments of Richard Dempsey and Greg Gavlik to the Boat Basin Commission for two-year terms expiring on January 1, 2015.

Councilwoman Brett made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the appointment of Ford Winters to the 2013 Boat Basin Nominating Committee for a one-year term expiring on January 1, 2014.

22. One appointment to the Finance Committee for a three-year term expiring January 1, 2015, by the Mayor with Council approval

Mayor French made a motion, seconded by Councilwoman Killian and unanimously carried, to appoint Dean Neely to the Finance Committee for a three-year term expiring on January 1, 2015.

23. Consideration of request by the Recreation Department to hold their annual Turkey Run on Thanksgiving Weekend.

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

RESOLVED, that the City Council hereby approves the request of the Recreation Department to hold their annual Turkey Run on Saturday, November 24, 2012.

24. Miscellaneous Communications and Reports

There was nothing discussed under this agenda item.

25. Old Business

There was nothing discussed under this agenda item.

26. New Business

Mayor French said that his recommendation about landmarking the “Milestones” was to wait to hear back from the Landmarks Committee regarding their strategy for implementation of the project prior to making a Council decision. City Manager Pickup said that there are other organizations that would like to have input in this project and a meeting has been scheduled with these organizations to discuss a plan for proceeding.

27. 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 12:45 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk