

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on October 24, 2012 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
LAURA BRETT
RICHARD FILIPPI (left at approximately 12:15 a.m.)
PETER JOVANOVIĆH
JULIE KILLIAN (arrived at approximately 8:05 p.m.)
CATHERINE F. PARKER
JOSEPH A. SACK
Councilmembers

ABSENT: None

1. Pledge of Allegiance

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

2. Roll Call

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

3. General Announcements

Announcements were made regarding various events occurring in the community.

4. Approval of the election of one new member to the Rye Fire Department

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

RESOLVED, that the City Council of the City of Rye hereby approves the election of Kyle Fabio Famalho-Rodrigues to the Poningoe Engine and Hose Company as approved by the Board of Fire Wardens at their October meeting.

5. Draft unapproved minutes of the regular meeting of the City Council held October 10, 2012, the Special Meeting held October 13, 2012, the Special Meeting held October 16, 2012, and the Special Meeting held October 18, 2012

Councilwoman Brett made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the regular meeting of the City Council held on October 10, 2012, as submitted.

Councilwoman Brett made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the special meeting of the City Council held on October 13, 2012, as amended.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the special meeting of the City Council held on October 16, 2012, as submitted.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the special meeting of the City Council held on October 18, 2012, as submitted.

6. Mayor's Management Report
- Update on the Boat Basin and Rye Golf Club

City Manager Pickup said preliminary discussions have been held regarding concerns about the Boat Basin and the use of City property and other affiliated uses. Information may be provided to the Council by the end of next week. Based on the information gathered, a determination will be made on how to move forward. The Boat Basin is functioning. A boat protection plan will be put into effect if the predicted storm hits. Councilman Sack said that the Council should engage separate counsel to conduct the investigation into the Boat Basin.

Members of the public who commented on the Boat Basin investigation and suspension of the Boat Basin Supervisor included *Barry Dolich, John Carolin, Ted Carroll, Jim Amico, Ray Tartaglione, and Golf Commission Member Greg Gavlik.*

The Council took a short recess at this time.

Mayor French said there were several aspects to the Golf Club Investigation:

- The City's policy regarding conflict of interest. Corporation Counsel Wilson said it is hoped that a conflict of interest policy can be in place by the beginning of the year.
- Interim management of the business. City Manager Pickup said that the Golf Commission is working on issues and alternative plans for operation if things continue beyond the 30-day administrative leave period.
- The Committee that will develop a "go forward" strategy. Appointments will be made to this Temporary Committee later in the meeting to develop an RFP by mid-December, if possible.

Mayor French also noted that in both the Boat Basin and Golf Club investigations there is no innocence or guilt of the parties involved at this time, just administrative leave based on allegations that the City Council is looking into.

John Duffy, the new Chair of the Golf Commission, asked that the Council consider appointing the candidate who received the next highest amount of votes at the last election to fill the vacancy currently on the Commission. *Pat Geoghegan*, Golf Commission Member, said that the Commission would like to have a full board

Councilman Sack made a motion to amend the Nominations, Elections and Voting Eligibility procedures of the Rye Golf Club to allow for the filling of a vacancy when the Commission falls below nine members. Corporation Counsel Wilson said that the steps that would be necessary would be worked out to be on the agenda for the November 7th meeting. There was no second to the motion.

Members of the public who spoke about the Golf Club Investigation and how it was being handled by the Council and the City included *Ted Carroll*, *Leon Sculti* and *Pat Geoghegan*.

- Capital Projects Update: Bond Referendum, Central Avenue Bridge, Sluice Gate
- *Central Avenue Bridge*. City Manager Pickup said that general information has been posted on the website and it is hoped that people will be on site within the next week to ten days. Work should continue into next summer.
- *Sluice Gate*. Testing is being done on site. There are issues related to the generator but the gate is operational. The actuators are being tested. The gate can be raised in a storm event.

Sis D'Angelo asked if the Sluice Gate would be ready to protect downtown Rye in the predicted Hurricane. City Manager Pickup said that the gate is installed and being tested. The City does not have 100% ownership of it yet. He added that a coastal storm may not have any impact on the Sluice Gate.

- *Black Bass site (2 Central Avenue)*. Corporation Counsel Wilson said everything for the redevelopment of the site has been approved but she does not know the construction timing.
- *Bond Referendum*. A fact sheet has been put together and sent to the media and a video was completed and should be posted on YouTube. Council members have been encouraged to speak with various community groups.

Residents commenting about the proposed Bond Referendum included *Ted Carroll*. There was also a discussion about the purchase of 1037 Boston Post Road and the reasons why a Bond Referendum was not held in connection with that purchase.

- Update on the Midland Avenue Stop Sign

The Traffic and Transportation Committee has recommended that the stop signs at Midland Avenue and Palisade Road should become permanent. City Manager Pickup said there was some neighborhood concern that on busy days people are cutting through the side streets and the City will monitor this issue. *Jim Amico* thanked the City for making the signs permanent and said that impact on the surrounding streets is exaggerated.

- Update on outstanding union contracts

City Manager Pickup said the City is still in arbitration with the Police Association. There is a meeting scheduled for December 13th. He hopes that both sides of the case can be completely presented to the panel by that date. The contract expired in 2008. The maximum that can be awarded under arbitration is three years, which would only get a contract through 2011. There have been no negotiations with the Fire Fighters yet. Their contract expired in 2009. The CSEA DPW does not have the right to binding arbitration, but there are no additional talks scheduled. The last offer was rejected and they may file for mediation.

- Legal Update

Corporation Counsel Wilson reported on the *Bassett v. City of Rye* case. The appeal has been fully submitted and the date for oral argument is awaited.

7. Presentation by Sustainable Playland Inc. on the agreement signed with Westchester County for *Reinventing Playland for the 21st Century*

Mayor French noted that when the County announced they were going to “reinvent Playland” the City created a Strategic Playland Committee in order to provide a voice for the City of Rye in the process. The values that came from the Committee were incorporated into the County RFP. Dhruv Narain, the President of Sustainable Playland, Inc., presented an overview of the organization’s plan for Playland. He said that the plan is for the property to remain County-owned in order to preserve public access to the water. The Amusement Park will remain the centerpiece of the Park, with approximately 70% of the rides remaining. The pool will be converted to a shallow water deck with slides; there will be an indoor Field House and outdoor ball fields; the equivalent of the Great Lawn in Central Park near the water; a cluster of restaurants and cafes in differing price ranges; and a multi-event space. The hope is to attract families from all over. There will be six or seven different For-Profit businesses operating the different elements of the park in conjunction with public areas. In the event that any one of the businesses fails, the entire park will not fail. The historical buildings will be preserved. It is hoped that contracts with the County will be signed by the end of the year in order to be in partial operation for the 2013 season with complete operation by 2014.

Members of the Council expressed their appreciation to the Sustainable Playland organization for their plan for Playland. The group was urged to perform a thorough traffic analysis and look into noise, lighting, proximity and parking issues relative to the neighborhoods near Playland. It was also suggested that they work with the Playland Advisory Committee to

deal with any issues that might arise, and to utilize the Resolution adopted by the City Council outlining important values as a guide.

Jim Amico, Dave Heller, Steve Vasco, and Mack Cunningham commented about the Sustainable Playland proposal, expressing opinions both pro and con.

8. Financial Update by the City Comptroller providing 3rd quarter results

Acting City Comptroller Joseph Fazzino reported on the City's third quarter results for 2012. General Fund Revenues are up \$1.4 million compared to 2011 revenues at the same point. Property taxes, are up \$574,000; building permits are up \$351,000; \$297,000 was received from FEMA for Hurricane Irene reimbursement; mortgage tax for the first half of the year is up about \$78,000 and estimates for the entire year are that mortgage tax revenues will be about \$25,000 over the 2012 budget; and sales tax for the first two quarters are up slightly over 2011. Interest income continues to fall and is about \$12,000 less than last year. On the expenditure side, excluding The Osborn settlement from last year which accounted for \$1.3 million, overall expenditures are down \$600,000 but nothing has been paid to New York State Retirement yet. Salaries and wages are down \$450,000 through September; materials and supplies are down about \$250,000; tax certiorari payments are down about \$121,000 but should equal 2011 figures by the end of the year. Interfund transfers are down because no capital or building and vehicle projects were budgeted for 2012. Health insurance costs are increasing and there was a large worker's compensation claim that has caused cost increases for this year. Overall, the projection through the end of 2012 is that the City's revenues will be higher than expenditures.

9. Presentation by the Finance Committee on Rye Recreation

Laura Leach, representing the Finance Committee ("the Committee"), presented a report focusing on Finance Committee suggestions for the Recreation Department ("the Department"). The Department was asked to increase revenues as a percent of expenses to 50%. In 2011 the Department achieved 48% up from 38% in 2008. Expense growth has been controlled over the past through years by job eliminations. It is expected that expenses will increase by 5% over the next several years. The Committee believes that the Department must increase its user fees in order to maintain the 50% recovery target. Several "areas of opportunity" were suggested: (1) revise the approach of pricing programs to set fees based on a combination of direct costs and overhead costs to the program; (2) change the pricing philosophy for programs such as the Senior's Program and the Camp Program; (3) the fields need capital funds and there should be a specific capital plan for them and surcharges related to field programs should be reserved for fields only; and (4) maybe it is time for Recreation Programs to be closer to the Rye Golf model of recouping all costs.

Mayor French thanked Ms. Leach for her presentation and said that the Council could look at the facts presented in order to make philosophical and business decisions regarding the Department. The Council can explore the recommendations more in budget season.

Lisa Dempsey, representing the Recreation Commission ("the Commission"), presented a response on behalf of the Commission. The Committee's report highlights areas where the

Department should raise fees or contemplate other ways to raise revenue. The Council must resolve the question of what portion of recreational costs and services the City is willing to shoulder in order to guide the Commission on amending its mission statement to focus on revenue generation instead of providing quality and affordable leisure services to all residents. To recoup all costs the Department would have to increase its fees across the board to all users in excess of 100%.

10. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department: (a) approval of General Orders revised as part of a comprehensive review of the Department Manual and (b) approval of revisions to General Order #103.10 "Deployment of Electro-muscular Disruption Device (Taser)"

Councilman Jovanovich 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 revisions to the following sections of the Rules and Regulations of the City of Rye Police Department as proposed:

General Order #101.2 Mission Statement
General Order #101.4 Goals and Objectives
General Order #102.2 Order of Rank
General Order #102.3 Authority and Command
General Order #102.4 Job Classifications
General Order #103.2 Legislative Restrictions/Off Duty Employment
General Order #104.2 P.B.A. Bulletin Board
General Order #104.3 Uniform Classifications
General Order #104.4 Annual Inspection of Uniforms and Equipment
General Order #111.04 Processing of Recovered Firearms: "Crime Guns"
General Order #113.19 Confrontation Situations
General Order #113.29 Hate Crimes
General Order #114.3 Emergency Mobilization
General Order #114.8 Mutual Aid
General Order #116.2 Promotions and Appointments
General Order #116.9 Procedure for Determining Claims Pursuant to General
Municipal Law §207-c
General Order #120.7 Disciplinary Matters
General Order #121.2 Awards and Recognition
General Order #103.8 Use of Mobile Notebook Computers
General Order #118.1 Department Records
General Order #118.9 Employee Personal History Form
General Order #119.4 Guardian Calling Program

Councilwoman Brett 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 proposed revision of the Rules and Regulation of the City of Rye Police Department: General Order #103.10, "Deployment of Electro-muscular Disruption Device (Taser)."

11. Public Hearing to amend local law Chapter 31, "Police Pension Fund", Section 9, Accrual and Payment of Pensions, to increase the payment amount for the sole recipient of the fund

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

There was no one from the public who wished to speak on the proposed local law.

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

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

**CITY OF RYE
LOCAL LAW NO. 06 OF 2012**

A Local Law to amend Chapter 31 "Police Pension Fund", Section 31-7 "Payments from fund" of the City Code of the City of Rye to increase the annual sum to a widow by the cost of living adjustment

Be it enacted by the Rye City Council as follows:

Section 1. Chapter 31 "Payments from fund"

§ 31-7. Payments from fund.

A.

(2) To the widow of any member who has died or who shall hereafter die after 10 years of service in the Police Department of the village/city, which a member of such force, or who shall have died having retired upon a pension, if there be no child or children under 18 years of age of any such member, a sum of \$2,841 plus the cost of living adjustment per year beginning in the year 2012 per annum, but if there be such child or children of such member under the age aforesaid, then such sum may be divided between such widow, child or children in such proportions and in such manner as the Trustees may direct; provided, however, that if such widow did not become the lawful wedded wife of such member prior to the attainment of his

50th birthday and was not cohabiting with him at the time of his death, said pension shall be payable in the discretion of the Trustees of the fund. Any widow who shall qualify for this payment after January 1, 2012 shall be paid the sum of \$2,841 plus the annual cost of living adjustments each year after January 1, 2012.

Section 2. This local law will take effect immediately upon 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

12. Resolution to establish a temporary Committee to develop an RFP for the operation of Whitby Castle

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

WHEREAS, the Rye City Council has decided to appoint an independent, seven-member temporary Committee to develop a Request for Proposal (RFP) on operating the restaurant and catering facility at Whitby Castle; and

WHEREAS, it is expected that the Committee will report back to the City Manager and City Council by December 15, 2012; and

WHEREAS, the Committee will develop strategic recommendations for the long-term use and operation of Rye Golf Club for review by members, residents, Mayor and Council;

NOW, THEREFORE, BE IT RESOLVED, that the City of Rye Temporary Committee to develop an RFP for the operation of Whitby Castle is hereby established; and be it further

RESOLVED, that the Committee is temporary in nature and shall function and report to the Council independently; and be it further

RESOLVED, that the members of the Temporary Committee shall be appointed by the Mayor with approval of the City Council.

Dean Neeley, Albert Brunner, Charles Dorn, Doug Mello, and Al Vitiello are appointed to serve on the Temporary Committee, with Dean Neeley serving as the Chairman. The Committee members were appointed subject to confirmation that they do

not have a financial or other appearance of a conflict of interest with the Golf Club. The remaining two members are yet to be determined.

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

13. One appointment to the Rye Senior Advocacy Committee for a three-year term expiring January 1, 2015, by the Mayor with Council approval

Councilwoman Parker made a motion, seconded by Councilman Filippi and unanimously carried, to appoint Joseph Murphy to the Rye Senior Advisory Committee for a three-year term expiring on January 1, 2015.

14. Designation of the Chair of the Rye Senior Advocacy Committee by the Mayor

Mayor French designated Joseph Murphy as Chair of the Rye Senior Advocacy Committee.

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

Ron Fisher spoke about flooding issues on Hewlett Avenue. He said the storm drains in the Hewlett/Forest Avenue area were not able to deal with flooding and said the Council should give serious consideration to fixing this situation in the upcoming budget discussions.

Bob Zahm asked about work being done on City streets in the evenings and suggested that the City issue a statement regarding it. City Manager Pickup said the work was being done by Con Edison. *Mr. Zahm* also suggested that the City bring in temporary staff to deal with filling FOIL requests in order to get caught up on outstanding requests.

Ray Tartaglione read a statement about a recent article in the *Rye Record* regarding the Boat Basin investigation that referred to him, and to the investigation of the Boat Basin.

16. Miscellaneous Communications and Reports

There was nothing discussed under this agenda item.

17. Old Business

Councilwoman Brett asked for an update on when all the requested documents on Rye Golf Club will be available. City Manager Pickup said that the payroll records are being reviewed in order to redact privacy information. It is a very large file and each year will be posted instead of the entire file and it is hoped the records will be posted by the end of the week.

Ms. Brett said that City staff is reaching a breaking point regarding the number of FOIL requests received and their ability to respond on time. She suggested that complaints regarding response time should be with the Council, not staff. She suggested a log be kept regarding receipt and response of requests and that staff keep track of time spent on FOILs for the Council to use in order to consider possibly adding staff to deal with them. Corporation Counsel Wilson clarified when the law allows a municipality to charge for time spent in connection with responding to a FOIL request. City Manager Pickup said that FOIL requests being received are increasingly broad and complicated, which makes them more time consuming to satisfy. It was suggested that the City post FOILs.

18. New Business

There was nothing discussed under this agenda item.

19. Adjournment

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

Respectfully submitted,

Dawn F. Nodarse
City Clerk