

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on February 13, 2013 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
LAURA BRETT  
RICHARD FILIPPI (Left at 10:05 p.m.)  
PETER JOVANOVICH  
JULIE KILLIAN  
CATHERINE F. PARKER (Arrived at 10:15 p.m.)  
JOSEPH A. SACK  
Councilmembers

ABSENT: None

The Council convened at 7:00 p.m. Councilman Jovanovich made a motion, seconded by Councilman Sack and unanimously carried to immediately adjourn into executive session to discuss real estate matters related to 1037 Boston Post Road. Mayor French arrived at 7:30 p.m. Councilman Jovanovich made a motion, seconded by Councilwoman Killian and unanimously carried, to adjourn the executive session at 8:40 p.m. The regular meeting convened at 8:45 p.m.

1. Pledge of Allegiance

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

2. Roll Call

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

3. General Announcements

There were no announcements made.

4. Draft unapproved minutes of the regular meeting of the City Council held January 23, 2013

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the regular meeting of the City Council held on January 23, 2013, as amended.

In connection with a question raised at the January 23rd meeting regarding Agenda Item 8, Corporation Counsel Wilson confirmed that the City employee who was a principal in a company bidding on the Police Uniform contract is no longer affiliated with that company.

5. Mayor's Management Report  
● School Public Safety Update

City Manager Pickup said that there are two pieces to this topic that are interdependent. The primary one is the potential for an additional enhanced presence during the 180 school calendar days. One option being considered is a Civil Service title called "Community Service Worker", that is a current County Civil Service title. If it is an appropriate title, a plan for deployment will come back to the Council. There is also an ongoing discussion with the Traffic and Pedestrian Safety Committee regarding the Midland School crossing areas. When a final proposal is made, it will go back to the School District for consideration and then come back to the Council as a recommendation. There was a discussion among the Council about what the School District is actually looking for regarding police presence at the schools vs. the Community Service Worker title that is being proposed. City Manager Pickup said that an additional benefit to hiring people with the new title is that they could also be used as crossing guards and parking enforcement officers. They will also free up police patrols. Staff is trying to put together a program to bring to the joint meeting of the Council and School Board in April for implementation during the current school year. He added that the School District is not interested in having the City involved in on-campus security.

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At this point Mayor French announced that the Council would be going into Executive Session.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn into executive session to discuss a real estate matter related to 1037 Boston Post Road at 9:30 p.m. Councilman Filippi made a motion, seconded by Councilwoman Brett and unanimously carried, to adjourn the executive session at 9:46 p.m. The regular meeting reconvened at 9:50 p.m.

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● Capital Projects Update

City Manager Pickup said that the Sluice Gate was still in the acceptance testing phase and has not yet been accepted by the City. The City Engineer is working with the consultants and the contractor. Discussions are beginning regarding design elements and potential issues for the upcoming Central Business District and Locust Avenue projects.

- Legal Update

Corporation Counsel Wilson reported on the following matter:

- *Panetta v. Planning Commission* - in the Article 78 portion of the case, the oral argument for the appeal has been scheduled for February 21<sup>st</sup> in the Appellate Division in Brooklyn.

This agenda item was taken out of order.

6. Presentation on the Central Avenue Bridge Construction Project: anticipated construction process and schedule

Kenneth Jacques and Nicholas Cavaluzzi from Ammann & Whitney Consulting Engineers, the project managers for the Central Avenue Bridge project, made a presentation regarding the basic construction and schedule issues. The project is broken down into three construction stages. The first stage, which will last about four months, will involve work on the substructures and abutments. The second stage, which will last about a month, will involve the superstructure and include installation of the bridge deck. The final stage, which will last about a month and will overlap with part of stage two, will include work on the roadway. The expected date of completion is August 18<sup>th</sup>.

Questions were asked regarding logistics of the project and how it will impact the neighborhood; communications with residents; safety precautions; and work hours. City Engineer Ryan Coyne said that the City has created a link on the website for the Central Avenue Bridge Project where residents can register for a listserve that will provide timely updates on the project. Mr. Jacques said that the contractor will construct fencing around the project area. The contractor will not work on Sunday, but as it gets closer to deadline, may work on Saturday. The work hours will be between 7:30 and 5:00. City Manager Pickup said that either he or the City Engineer will be contact points for the City in connection with the project. Additionally, it was noted that the elevation of Central Avenue has dropped and the installation of new curbs and sidewalks should be considered. A suggestion was also made to construct a walkway to allow residents on the opposite side of Blink Brook to have access to the Post Road during the construction period.

Councilman Filippi asked the City Manager about removing the Lowenstein Bridge. Mr. Pickup said that the City could look into this while the contractor is on site.

7. Resolution to transfer additional funds from the Contingency account to fund legal services for a Council investigation pursuant to Article 6, Section C6-3 of the City Charter entitled "Investigations"  
Roll Call.

City Manager Pickup said that the money requested would pay the bills for the investigation into the Golf Club through the end of January. Corporation Counsel Wilson was asked if she could find out what the costs would be for the remainder of the investigation.

Councilman Sack made a motion, seconded by Councilman Filippi, to authorize the transfer of \$77,000 from the Contingency account to fund legal services for a Council investigation pursuant to Article 6, Section C6-3 of the City Charter entitled "Investigations".

Prior to the completion of the vote on this Resolution, a suggestion was made that the Council wait until the next meeting to authorize transfer of funds in order for the Council to get a better idea of how much additional money will be needed for the investigation.

Councilman Filippi withdrew his second of Councilman Sack's motion and the motion did not go forward.

8. Resolution to appropriate indemnification funding for legal services for City personnel who have been requested to participate in the Council investigation of the Rye Golf Club pursuant to Article 6, Section C6-3 of the City Charter entitled "Investigations"  
Roll Call.

Corporation Counsel Wilson said that a request has been received from City staff to pay for attorney's fees that might be incurred by them during the Golf Club investigation. The Council does not have an obligation under state law or City Code to pay for these types of fees since there is no pending litigation. She said the Council could do this if they wanted to, but she recommended that if they choose to do so, it should only be done according to a limited scope that only pertains to City Council led investigations when there is a request by a City employee who is a "fact" witness and not the subject of the investigation. Ms. Wilson said there is no prohibition under state law that would prevent the Council from doing this for City staff who are cooperating with a City Council investigation. When an employee is the target of an investigation there are certain steps based on employment classification to protect their rights, but payment of attorney's fees is not required. It was the consensus of the Council not to adopt a Resolution at this time and no vote was taken.

9. Discussion and Update on the Draft Financial Disclosure Form

Corporation Counsel Wilson said that the discussion on a Financial Disclosure Form began last fall. The City Council expressed a desire to adopt some type of Financial Disclosure Policy and she prepared a draft that was "middle of the road" to begin the discussion that included the range of employees or officials that have decisions making authority over contracts or any type of financial transaction. There are various types of forms in use over the County and there are many ways the Council can address the issue. If the Council adopts a Financial Disclosure Policy, the Ethics Code would also need to be amended. Ms. Wilson said it would be helpful to get input from the Board of Ethics and also City staff since they are the ones who will be most impacted. There was a discussion among the Council about the purpose of the policy; should it be called a "Financial Disclosure" or "Conflict of Interest Disclosure"; who should be included; how broad it should be; or if it was a "solution in search of a problem". A suggestion

was made to include three areas in any draft: material interests, gifts and employment. Corporation Counsel Wilson will bring a draft back to the Council that will include the City Council, Department Heads and members of standing Boards and Commissions.

10. Discussion of the City of Rye's FOIL procedures

The Council discussion focused primarily on two aspects: who should respond to appeals to FOIL, and if statutory costs should be charged relative to providing information under a FOIL. It was noted that the Corporation Counsel advises City staff regarding FOIL responses and also serves as the FOIL officer and there was a question as to the legality of the dual roles. Corporation Counsel Wilson said that she has spoken with Bob Freeman, Head of the Committee on Open Government about this and that he said this issue does come up in small communities where there are only a certain number of people who can do certain jobs. The discussion touched on the advisability of the Corporation Counsel no longer serving in the role of Appeal's Officer and the Council again serving as the appellate body in order to separate the functions of FOIL access officer from FOIL appeals officer. There was disagreement about whether fees for time spent in preparing documents responsive to a FOIL request should ever be charged or if it should be enforced no matter who it is. It was also noted that changes were being made to centralize all FOIL requests through the Clerk's office and staff is working on implementing a program to track FOIL request. A suggestion was made that money be allocated for the people needed to do the work necessary to respond to FOIL requests. City Manager Pickup said that staff will redraft the City's FOIL regulations and bring it back to the Council for additional discussion.

Leon Sculti also spoke about the role of a Records Access Officer vs. a FOIL Appeal officer and charging for records.

11. Authorization for City Manager to execute an Assumption Agreement transferring Control of franchise agreement between City of Rye and NEON Optica, Inc. to LTS Buyer LLC

Corporation Counsel Wilson said that NEON Optica has transferred majority and minority ownerships throughout the past ten or twelve year and each time the City Manager has signed an Assumption Agreement.

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

**RESOLVED**, that the City Manager is hereby authorized to execute an Assumption Agreement transferring control of the Franchise Agreement between the City of Rye and NEON Optica, Inc. to LTS Buyer LLC.

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.

12. Consideration of referral to the Board of Architectural Review and City Consultant, the Special Permit Application submitted by Sprint for modifications to its existing wireless telecommunications facility located at 66 Milton Road

City Manager Pickup said this is an existing location but there are proposals to change the current array on top of the building. Even though there has been prior approval, it must go through a referral and review process, the first step of which is to refer the application to the Board of Architectural Review.

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

**RESOLVED**, that the Special Permit Application submitted by Sprint for modifications to its existing wireless telecommunications facility located at 66 Milton Road is hereby referred to the Board of Architectural Review and City Consultant in order for them to provide a written assessment to the Council.

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

*Bertrand De Frondville, 19 Hook Road* asked if the City still had a citizen Financial Advisory Committee because, if so, he would like to be on it. He also spoke about an investigation that had previously been done by the Citizen's Financial Advisory Committee into the Golf Club that he had chaired.

*Richard Slack, Grace Church Street* spoke about the Andrew Dapolite matter and urged the Council to conduct an independent review of the issue.

*Sis D'Angelo, 110 Wappanocca Avenue* said people come to the Council because they have been lied to; that nobody in Rye trusts the Council and people want the truth.

*Leon Sculti, 10 Bulkley Avenue* thanked those who defended him at the last Council meeting and read a prepared statement about "freedom".

*John Duffy, member of Golf Commission*, thanked the Council for doing the proper job in the Golf Club investigation, even though it has cost more than expected. Councilman Jovanovich said that the City Manager would be holding weekly meetings with a representative from the Golf Commission to keep them up to date with activities.

14. Authorization for Rye Recreation to enter into a license agreement with Post Consumer Textile Waste (PCTW) for the placement of clothing collection/donation containers  
Roll Call.

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

**RESOLVED**, that that Recreation Department is hereby authorized to enter into an Agreement with Post consumer textile Waste (PCTW) for the placement of clothing collection/donation containers at Recreation Park and Nursery Field.

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.

15. Authorize payment of the balance of the 2012/2013 Rye Neck Union Free School District taxes collected by the City to the School District  
Roll Call.

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

**RESOLVED** that the City Council of the City of Rye hereby authorizes that payment of the balance of \$287,511.94 of unpaid Rye Neck U.F.S.D taxes, on property within the City of Rye as of December 31, 2012, be made to the Treasurer of the Rye Neck UFSD.

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.

16. One appointment to the Planning Commission for a three-year term expiring on January 1, 2016, by the Mayor with Council approval

Mayor French made a motion, seconded by Councilwoman Brett and unanimously carried, to appoint Peter Olsen to the Planning Commission for a three-year term expiring on January 1, 2016.

17. One appointment to the Finance Committee for a three-year term expiring on January 1, 2016, by the Mayor with Council approval

Councilman Jovanovich made a motion, seconded by Councilwoman Killian and unanimously carried, to appoint David Mullane to the Finance Committee for a three-year term expiring on January 1, 2016.

18. Two appointments to the Rye Town Park Advisory Committee for a three-year term expiring on January 1, 2016, by the Mayor with Council approval

Mayor French made a motion, seconded by Councilman Jovanovich and unanimously carried, to appoint Ann Moller to the Rye Town Park Advisory Committee for a three-year term expiring on January 1, 2016.

Mayor French made a motion, seconded by Councilwoman Brett and unanimously carried, to appoint Stephen P. Kovacs to the Rye Town Park Advisory Committee for a three-year term expiring on January 1, 2016.

19. Miscellaneous Communications and Reports

Councilwoman Parker reported that earlier in the evening she had attended a Public Forum on Playland at the County Center held by the County Board of Legislators. She said that each of the four proposals had a table with a presentation on their vision for Playland. There was a large turnout from Rye supporting the Sustainable Playland option. Written questions were taken and will be posted online. The Board of Legislators will be holding public hearings going forward to allow for more public input.

City Manager Pickup showed the Council letters received from Mrs. Simpson's fourth grade class regarding the health of the Blind Brook. He will respond back to the class on behalf of the Council.

20. Old Business

There was nothing discussed under this item.

21. New Business

Mayor French said that a Land Use Workshop would be held at 7:00 p.m. prior to the February 27<sup>th</sup> Council meeting and asked if City Planner Miller could help run the meeting. He said he hoped each Board could describe their role followed by a discussion of recommendations of sections of the law that the Council should review.

22. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Mayor French and unanimously carried, to adjourn the meeting at 11:42 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk