

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on October 23, 2013 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor (Arrived at 9:05 p.m.)
LAURA BRETT
RICHARD FILIPPI
PETER JOVANOVIK
JULIE KILLIAN
CATHERINE F. PARKER (Arrived at 8:10 p.m.)
JOSEPH A. SACK
Councilmembers

ABSENT: None

The Council convened at 7:08 p.m. Councilman Jovanovich made a motion, seconded by Councilwoman Killian and unanimously carried, to immediately adjourn into executive session to discuss labor relations and personnel. Mayor French and Councilmembers Brett and Sack were also present. Councilman Jovanovich made a motion, seconded by Councilwoman Brett and unanimously carried, to adjourn the executive session at 8:00 p.m. The regular meeting began at 8:08 p.m.

1. Pledge of Allegiance

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

2. Roll Call

Deputy Mayor Jovanovich 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 topics that may be of interest to residents.

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

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 election of Charles Little to the Milton Engine and Hose Company, as approved at the October 1st meeting of the Board of Fire Wardens.

5. Draft unapproved minutes of the regular meeting of the City Council held October 9, 2013

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 9, 2013.

6. Mayor's Management Report

- Capital Projects Update
- Legal Update

This agenda item was deferred.

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

Deputy City Comptroller Joseph Fazzino reported on the 3rd quarter results for 2013. General Fund Revenues are up roughly 1.4 Million Dollars or 5.1% resulting from \$537,000 in additional property tax revenue, \$386,000 in additional building permit revenue, and \$262,000 in first half mortgage tax revenue. The City received FEMA aid in the amount of \$493,000. Although the sale of 1037 Boston Post Road results in a loss of rental income of \$115,000 it is offset by the decrease in property tax expenses for the property. Revenue from fines and forfeitures are down \$97,000, largely due to a \$75,000 decrease in parking fine revenue. Overall expenditures are up \$1.5 million or 7.6% but are in line with what was budgeted for. Salaries and wages are up 236,000; Materials and Supplies are up \$365,000, primarily due to \$254,000 for several large commercial property Tax Certiorari settlements; and, salt costs for snow removal increased by \$54,000. Transfers to other funds are up \$195,000 as budgeted, but, there had been no transfers to fund any capital projects or vehicle acquisitions in 2012. Employee benefits and taxes are up \$559,000; Workers Compensation costs are up \$189,000 which reflects the first full year of the City's premium being adjusted due to a large claim in 2011; and Health Insurance costs are up \$335,000 over the same period last year.

8. Continuation of Public Hearing for October 9, 2013 to amend local law Chapter 197, Zoning, of the Rye City Code, Section §197-1, "Definitions and Usage", to amend the definition of "STORY, HALF", and Section §197-43.2, Subsection B, "Attics" to amend the Calculation of Attics in Gross Floor Area

The Public hearing remained open from the last meeting. Several members of the public commented on the proposed local law. *John May Smith and Emily Hurd* urged the Council to pass the law as proposed. *Paul Benowitz, Leo Napior, David Turiano, Mark Mustacato and Jonathan Kraut* urged the Council to provide exemptions in the law; look into legislation that

other communities have adopted; appoint a subcommittee to study the issue; consider the impacts on property values and assessments; and to refer the proposed legislation to the Zoning Board for their comment. City Planner Christian Miller said he would look at the idea of granting exceptions to some properties; look into how additional communities deal with the issue of bulk and mass, and try to put together a working group.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the public hearing to the November 20th City Council meeting.

Agenda Item 18 was taken out of order at this time.

9. Continuation of Public Hearing for October 9, 2013 to: 1) adopt a local law amending Chapter 53, Architectural Review, of the Rye City Code, Section §53-1, "Definitions" to amend the definition of "Small Project", and 2) adopt a local law to amend Chapter 197 Article IV "Use Regulations" and Article VI "Appeals" to establish regulations regarding outdoor fire pits and outdoor kitchens

Corporation Counsel Wilson summarized the changes in the proposed local laws. The proposed change in Chapter 53 would reduce what a small project is in order to exempt some projects from consideration by the Board of Architectural Review. The proposed change in Chapter 197 would set regulations regarding outdoor fireplaces and kitchens.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to keep the public hearing on Chapter 197 Article IV "Use Regulations" open until the November 6th City Council Meeting in order to receive feedback from the Fire Department and Building Department on the safety issues.

Councilman Jovanovich made a motion, seconded by Councilwoman Brett, and unanimously carried, to close the public hearing on Chapter 53, Architectural Review, §51-3, "Definitions".

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

**CITY OF RYE
LOCAL LAW NO. 3 2013**

**A Local Law to amend Chapter 53 "Architectural Review"
Section 1 "Legislative findings; definitions" of the Rye City
Code**

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

**Section 1: Chapter 53 Architectural Review; Section
1 “Legislative findings; definitions”**

§ 53-1. Legislative findings; definitions.

SMALL PROJECT

Any addition to or alteration or modification of an existing single- or two-family residence structure:

- (1) For which valid certificate of occupancy exists for all structures on the property;
- (2) Upon which property there are no open building permits and no building permit or certificate of occupancy was issued within the immediate past 12 months;
- (3) That does not change the appearance visible from the street of any front or side facade or roof.

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, and Sack
NAYS: None
ABSENT: None
ABSTAIN: Councilwoman Parker

The local law was adopted by 6 votes in favor and 1 abstention.

10. Consideration of setting a Public Hearing for November 20, 2013 to add a new article to the Rye City Code to provide tax exemptions for improvements to historic properties

This Agenda item was postponed to the November 6th Council meeting.

11. Presentation by Peter Marshall, Chair of the Rye Golf Club Strategic Committee, on the proposal to seek and RFP for the Whitby Castle and Outdoor Café/Snack Bar operation at Rye Golf Club

City Manager Pickup said that the City is in a window where an RFP could be implemented and a new vendor could be in place for the 2014 season. Peter Marshall and Angela Sposato presented on behalf of the Rye Golf Club Strategic Committee. The Golf Club is forecasted to deliver close to budget in 2013 but the challenge is the food and beverage operation which is projected to post a significant deficit. The Strategic Committee has provided a draft RFP, which the Golf Commission voted unanimously to support. The Commission also voted to contribute money towards hiring a food and beverage expert to assist the effort. Several experts surveyed have indicated they believe the RFP should generate a positive response. They would like to release the RFP by October 25th in order to get someone in for the 2014 season that would run the organization and get the City out of the food and beverage operation. They suggest that the City Council, Rye Golf Club Commission, Strategic Committee and City Manager collaborate on the RFP in order to have everyone's interests represented. City Manager Pickup said there were issues related to the City currently holding the liquor license for the facility that were being worked on.

Agenda Item 12 was taken prior to Agenda Item 11.

12. Presentation on Smart 911 technology

Former Councilman Matt Fahey, a member of the Rye Community Emergency Response Team (Rye CERT) said that the City should urge the County to adopt the Smart 911 Program and that the City should also adopt the Smart Prepare program. Adam Eisman, a representative of Rave Mobile Safety, provided an overview of the two programs that he said would enhance public safety. Smart 911 is a free service program to citizens that allows them to create a safety profile that includes information they choose to provide such as family member information, photos, medical conditions, etc., which will automatically come up if they call 911. The information is updated on a regular basis to make sure the profile information is current. Smart Prepare is a program that would aid credentialed members in the City in locating people based on certain criteria. It would be an aid to first responders in emergency situations. The data in the systems is encrypted and there has never been a breach in security. Mr. Fahey suggested that the program be passed to the City Manager for further consideration and discussion during the budget process.

13. Resolution to establish a "Complete Streets" Policy for the City of Rye

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

RESOLUTION OF THE CITY OF RYE
ESTABLISHING A COMPLETE STREETS POLICY

WHEREAS the City of Rye is committed to improving the safety of pedestrians and cyclists, especially children and elderly who are at greater risk due to their dependence on non-motorized facilities; and,

WHEREAS the presence of walkers and cyclists in a community is an indication of a vibrant and healthy community; and,

WHEREAS walkable neighborhoods increase community interaction and create sense of community pride; and,

WHEREAS the City of Rye is committed to encouraging healthy lifestyles for all by promoting active living; and,

WHEREAS the City of Rye is committed to reducing both dependence on fossil fuels as well as the air and noise pollution associated with automobile use; and,

WHEREAS the City of Rye is committed to providing viable transportation alternatives to the automobile; and,

WHEREAS, if a roadway is not reasonably meeting the needs of the types of users who would logically benefit from traveling along that route, it is not considered to be complete; and,

WHEREAS a street is considered complete when it is designed and operated to safely accommodate all users including motorists, pedestrians, bicyclists, transit riders and people of all ages and abilities; and,

WHEREAS streets that support and invite multiple uses, including safe space for pedestrians, bicycles and public transportation, are more conducive to the efficient and safe movement of people than streets designed primarily to move automobiles and trucks; and

WHEREAS Complete Streets result in safe routes for children to walk and bicycle to school; and,

WHEREAS when roads are better designed for bicycling, walking and transit, more people do walk and bike; and,

WHEREAS more children are likely to walk or bike to school when sidewalks or footpaths are present and there are safe street crossings; and,

WHEREAS designing roads with all users in mind from the beginning saves costly retrofits; and

WHEREAS a Complete Streets concept recognizes the need for flexibility, that all streets are different, that user needs should be balanced, and that the roadway design must fit in with the context of the community.

NOW, THEREFORE, BE IT RESOLVED that the City of Rye commits to a Complete Streets Policy which provides as follows:

1. Vision

It is envisioned that these actions will result in a greater number of individuals freely choosing alternative transportation modes (walking, bicycling, mass transit, etc.), which will lead to healthier lifestyles, improved air and water quality, and a safer, more suitable transportation system.

2. Definitions

The term “Complete Streets Policy” means a transportation policy that ensures the consideration in all phases of project planning and development, of the needs of all users of the transportation system including pedestrians, bicyclists, public transit users, children, older individuals, individuals with disabilities, as well as those of motorists including buses, trucks, and emergency vehicles.

3. Purpose

The purpose of this Policy is to promote the design of surface transportation corridors that balance the needs of all users of the network while incorporating community values as well as qualities of environmental stewardship; scenic, aesthetic, historic and natural resource preservation; safety; security; mobility and individual freedom.

4. Directives

- a. The City of Rye will seek to enhance the safety, access, convenience and comfort of all users of all ages and abilities, including pedestrians, people requiring mobility aids, bicyclists, transit users and motorists, through the design, operation and maintenance of the transportation network so as to create a connected network of facilities accommodating each mode of travel that is consistent with and supportive of the local community, recognizing that all streets are different and that the needs of various users will need to be balanced in a flexible manner.
- b. Early consideration of all modes for all users will be important to the success of this Policy. Those planning and designing street projects will give due consideration to bicyclists and pedestrians, from the very start of planning and design work. This will apply to all roadway projects, including those involving new construction, reconstruction, repaving, or changes in the allocation of pavement space on an existing roadway.
- c. In addition to design elements such as bike lanes, street treatments that are used to make streets more complete include, but are not limited to: sidewalks, frequent and safe crossing opportunities, median islands, accessible pedestrian signals, curb extensions, narrower travel lanes, and roundabouts.

- d. The City will seek to carry out projects that eliminate identified gaps in the sidewalk and key corridor networks. The project development process should include identification of gaps or deficiencies in the network for various user groups that could be addressed by the project, and an assessment of the tradeoffs to balance the needs of all users. Factors that should be addressed when making that assessment include the following:
 - i. Whether the corridor provides a primary access to a significant destination such as a community or regional park or recreational area, a school, a shopping/commercial area, or an employment center;
 - ii. Whether the corridor is in an area where a relatively high number of users of non-motorized transportation modes can be anticipated during the expected life of the project;
 - iii. Whether a road corridor provides important continuity or connectivity links for an existing trail or path network; or
 - iv. Whether nearby routes that provide a similar level of convenience and connectivity already exist.
- e. The needs of bicyclist and pedestrian transportation users shall be incorporated into all roadway projects except under one or more of the following conditions:
 - i. A project involves only ordinary maintenance activities designed to keep assets in serviceable condition, such as mowing, cleaning, sweeping, spot repair, concrete joint repair, or pothole filling.
 - ii. The cost of establishing a bikeway, walkway or other transit enhancement is excessive and disproportionate.
 - iii. The construction is not practically feasible because of significant or adverse impacts on neighboring land uses or the environment.
 - iv. There is a clear absence of both current and expected future bicycling and pedestrian use.
- f. Any exception to the application of this Complete Streets Policy to a specific roadway project must be approved by the City Council.

BE IT FURTHER RESOLVED, that the Traffic and Pedestrian Safety Committee, Charter Article 20A, Section § C20A-3. (“Purpose and duties”) be amended to include the monitoring of the Directives set forth herein.

BE IT FURTHER RESOLVED that the City Council commits to including this Complete Streets policy and its principles in all future City Plans.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the Governor of the State of New York, State Senator George Latimer, State Assemblyman Steven Otis, Westchester County Legislator Judy Myers, the New York State Department of Transportation, and the Westchester County Planning Department.

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.

14. Discussion of the next phase of the Central Business District Improvements

City Planner Christian Miller provided a brief update on Bond projects that were approved last year relating to improvements in the Central Business District (CBD) at Purchase Street and Smith Street and Elm Place. A CBD Working Group has been meeting since May to discuss the projects. Any improvements made will have a lifespan of 50 to 60 years so it is important to do it right. Mr. Miller said that the Working Group has looked at many issues in the CBD such as pedestrian conflicts, parking issues, streetscape ideas and must consider the subsurface issues relating to sewer lines. Two scenarios have been considered: the parking plan that maximizes parking but includes pedestrian enhancements and, the pedestrian plan which enhances sidewalk improvements. A balanced plan would mimic what was done at Locust Avenue and Elm Place. Consideration is also being given to how any proposed improvements would fit into future improvements. The possibility of making Smith Street one-way has also been considered. The City may conduct traffic trials of different scenarios in order to determine what the effect would be on the CBD if implemented.

15. Authorization for the City Manager to enter into an agreement with Stephen Zagor & Associates for an amount not to exceed \$10,000 for professional consulting services for the selection of a new leasehold operator at Rye Golf Club

Roll Call

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

RESOLVED that the City Council of the City of Rye hereby authorizes the City Manager to enter into an agreement with Stephen Zagor & Associates for an amount not to exceed \$10,000, for professional consulting services for the selection of a new leasehold operator at Rye Golf Club.

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.

16. Authorization for the City Manager to enter into an agreement with Denehy – Club Thinking Partners, LLC for an amount not to exceed \$15,000 for professional consulting services to conduct an Executive Search for a General Manager for the Rye Golf Club

City Manager Pickup said that the initial \$15,000 would cover the first two of four steps which would include the development of a candidate profile for the position of General Manager. There was a brief discussion among the Council about the advisability of entering into a contract with a consultant to conduct a search for a General Manager for the Rye Golf Club prior to receiving back the RFP for Whitby Castle and Snack Bar operation. It was noted that the consulting firm would be exploring two tracks in their search in order to find candidates for General Manager who would best meet the needs of the Club based on the outcome of the RFP process.

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 the City Manager to enter into an agreement with Denehy – Club Thinking Partners, LLC for an amount not to exceed \$15,000, for professional consulting services to conduct Steps 1 and 2 and a double track Executive Search for a General Manager for the Rye Golf Club.

ROLL CALL:

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

The Resolution was adopted by a 6-1 vote.

17. Authorization for the City Manager to enter into an agreement with the Friends of the Rye Nature Center for the use of the second floor at the Nature Center building

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

RESOLVED that the City Council of the City of Rye hereby authorizes the City Manager to enter into an agreement with the Friends of the Rye Nature Center for the use of the second floor at the Nature Center building.

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.

This Agenda item was taken after Agenda Item 8.

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

Many residents turned out to discuss the Sustainable Playland Inc. (SPI) proposal for Playland, especially the plan for the proposed field house. Mayor French said the City must get a legal opinion regarding what the City's rights are in connection with the County doing work at Playland; it is the Council's responsibility to defend the rights of the community; and that all the parties should be brought together to get all the information out to the public. Councilwoman Parker said that now that the plan has been submitted to the County it was time to open the discussion to the public. She suggested that the County Government Operations Committee should hold a meeting in Rye to discuss the issue. Ms. Parker also read a fact sheet issued by SPI that touched on issues related to the field house including: height and location of the building; lighting; housing values; noise; traffic and parking; replacing asphalt with fields; Art Deco style; and financing. She added that the City had received approximately 70 emails in favor of the SPI proposal. Corporation Counsel Wilson said the proposal is an inter-governmental land use application with the City as the host community. The law is not clear as to whether the City's zoning laws would apply. However, there is a nine-factor balancing test that may apply to the application. Ms. Wilson will look at what has been posted and provide an analysis of how the City's laws might apply to the application. She said that the City would also be involved in the SEQRA process that the plan would be subject to.

Members of the public who spoke on the issue included: *Kenneth Ball, George Szczerba, Les Barnes, Michael Visci, Jason Mehler, John Grieco, Joseph Latwin, Mack Cunningham, Peter Davies, Deirdre Curran and Ralph Vallone.* They urged the Council to establish a committee made up of area residents in order to gain their insight; questioned the accuracy of the SPI fact sheet regarding the proposed field house and property values; asked if an Environmental Impact Study had been done; asked if a Con Ed grid study been done to determine if the grid would be able to handle the addition of the field house; questioned the ability of SPI to handle public safety and emergency care; raised issues regarding flooding; questioned the findings of the traffic report regarding issues of traffic and parking; and noted that a petition that was being circulated had more than 70 signatures against the proposal.

Members of the Council said that the City believes they have planning approval over the project; SPI should have to answer questions raised by residents; the Council needs to get information out to the public; the proposed SPI plan went before the County Board of Legislators in October and County meetings will come to Rye; the plan as originally submitted has changed and the Council needs to examine the changes; and what happens in one area of Rye affects all areas of Rye.

19. Appeal of denial of FOIL requests by Timothy Chittenden

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

RESOLVED that the City Council of the City of Rye hereby denies the FOIL appeal of Timothy Chittenden for “Copies of all disciplinary, command disciplines and letters of reprimand received by Police Officer Incalcatera and Compagnone during their careers”, pursuant to § 87(2)(a) of the New York State Public Officers Law and § 50-a of the New York State Civil Rights Law.

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.

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

RESOLVED that the City Council of the City of Rye hereby denies the FOIL appeal of

Timothy Chittenden for “Copies of all civilian complaints filed against Police Officer Incalcaterra and Compagnone during their careers”, pursuant to § 87(2)(a) of the New York State Public Officers Law and § 50-a of the New York State Civil Rights Law.

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.

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

RESOLVED that the City Council of the City of Rye hereby denies the FOIL appeal of Timothy Chittenden for “Copies of all performance evaluations performed on Police Officer Incalcaterra and Compagnone in their careers”, pursuant to § 87(2)(a) of the New York State Public Officers Law and § 50-a of the New York State Civil Rights Law.

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.

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

RESOLVED, that the City Council of the City of Rye hereby denies the FOIL appeal of Timothy Chittenden for “Copies of all Activity Reports for Police Incalcaterra and Compagnone from January 1, 2010 thru September 19, 2013”, pursuant to § 87 (2)(f) of the New York State Public Officer Law.

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.

20. Miscellaneous Communications and Reports

Councilwoman Parker said that the Senior Advocacy Committee wants to expand and is looking for people who are willing to be advocates for senior issues before groups such as the School District, Rye Recreation, Rye Golf Club or City Council.

Councilman Filippi said that the second phase of the Pace Law School Land Use event will be held on October 25th.

21. Old Business

Councilwoman Brett asked the City Manager about setting up a flood meeting with the County.

Mayor French said he understood that there would be an Arbitration Award issued this week in connection with the Police Contract. He said he hoped both parties would get back to the table to negotiate.

Councilman Filippi asked if talks could be scheduled with the MTA in connection with the parking lot. City Manager Pickup suggested that prior to that, the Council should meet and determine their goals and objectives.

22. New Business

There was nothing discussed under this Agenda item.

23. Adjournment

There being no further business to discuss Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn the meeting at 12:51 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk