

MEETING HELD MARCH 15, 2016

A regular monthly meeting of the Town Board of the Town of Rye, New York, was held on Tuesday, March 15, 2016 at 7:30P.M. at the Village of Port Chester Courtroom, 350 North Main Street, Port Chester, New York with Supervisor Gary J. Zuckerman presiding.

PRESENT: in addition to Supervisor Zuckerman were Councilpersons William Villanova, Thomas Nardi, Anthony Baxter and Town Clerk Hope B. Vespia.

ALSO

PRESENT: were Receiver of Taxes Nicholas C. Mecca, Town Attorney Paul Noto, Town Assessor Denise Knauer and Chief of Staff and Confidential Secretary to the Supervisor Deborah Reisner.

ABSENT: were Councilperson Lindsay Anne Jackson and Superintendent of Highways John DeCrescenzo

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Senator George Latimer led those present in the Pledge of Allegiance and Deputy Supervisor Villanova read the opening prayer. A video recorder and an audio recorder were in use during the proceedings.

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Supervisor Zuckerman called the meeting to order at 8:20 P.M. and asked Town Clerk Vespia to call the roll.

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The Eagle Scout Project was approved at the meeting held on February 16, 2016, however a subsequent resolution was required to approve the volunteers would be insured and covered under the NYMIR General Liability Policy.

On motion of Councilperson Villanova, seconded by Councilperson Baxter, the following Resolution was adopted:

WHEREAS, Dean Larkin of 231 Madison Street, Mamaroneck, New York has requested permission to do an Eagle Scout Project for Rye Troop 2 at Crawford Park in the Town of Rye, said project hereinafter referred to as "Wilton Road Pedestrian Entrance," and

WHEREAS, said project includes improvements to the entrance of Crawford Park as well as the donation of certain bushes, trees, a park entrance sign and a commercial bench in support of this project; and

WHEREAS, Dean Larkin would be the project coordinator and work with other volunteers and members of Rye Troop 2 to install landscaping and other items in accordance with a design plan presented to the Rye Town Board on February 16, 2016, and

WHEREAS, this project requires the approval of the Town of Rye.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Rye hereby grants Dean Larkin permission to undertake the Eagle Scout Project known as Wilton Road Pedestrian Entrance at Crawford Park, and

BE IT FURTHER RESOLVED, that Dean Larkin as well as any volunteers who facilitate the project known as the Wilton Road Pedestrian Entrance, shall be deemed a volunteer for the Town of Rye during the course of the project and is therefore insured under the Town NYMIR General Liability Policy, and

BE IT FURTHER RESOLVED, that any changes to the design plan will be made in coordination with the Town of Rye Confidential Secretary to the Supervisor and Chief of Staff.

ROLL CALL

AYES: Councilpersons Nardi, Baxter, Villanova and Supervisor Zuckerman

NOES: None

ABSENT: Councilperson Jackson

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On motion of Councilperson Nardi, seconded by Councilperson Baxter, the following Resolution was adopted:

WHEREAS, the Town Clerk is continuing on a valuable project to convert the Town's records into the digital format in order to provide greater access and increase the capacity of staff to research records and serve the public, and

WHEREAS, the Town Clerk has determined that the Town would be eligible to apply for funding from the 2016 Local Government Records Management Improvement Fund (LGRMIF) to help fund this project;

BE IT RESOLVED, that the Town Board of the Town of Rye authorizes the Town Clerk to submit an application for funding from the Local Records Management Improvement Fund, and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Rye supports the Town Clerk's submission of this project for funding due to its value to the Town, its citizens and the community at large.

ROLL CALL

- AYES: Councilpersons Nardi, Baxter, Villanova and Supervisor Carvin
- NOES: None
- ABSENT: Councilperson Jackson

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On motion of Councilperson Villanova, seconded by Councilperson Nardi, the following Resolution was adopted:

WHEREAS, Sullivan Data Management, 1520B Front Street, Yorktown Heights, New York 10598, provides information technology support to the Town of Rye, and

WHEREAS, the contract with said Sullivan Data Management expires on March 31, 2016, and

WHEREAS, the Town of Rye wishes to renew the contract for another year commencing on April 1, 2016 through March 31, 2017 at a cost of eighteen thousand dollars (\$18,000.00) per year.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Rye hereby authorizes Supervisor Gary J. Zuckerman to execute and sign on behalf of the Town of Rye, the attached renewal contract with said Sullivan Data Management for information technology services to be provided to the Town of Rye for the period running from April 1, 2016 through March 31, 2017, and

BE IT FURTHER RESOLVED, that Supervisor Gary J. Zuckerman is authorized to sign any additional documentation necessary to implement said contract with Sullivan Data Management.

ROLL CALL

- AYES: Councilpersons Nardi, Baxter, Villanova and Supervisor Zuckerman
- NOES: None
- ABSENT: Councilperson Jackson

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Supervisor Zuckerman asked for comments from the public. There were none.

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On motion of Councilperson Villanova, seconded by Councilperson Nardi, the minutes for the meeting held February 16, 2016 were unanimously approved.

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On motion of Councilperson Villanova, seconded by Councilperson Nardi, the following Resolution was adopted:

WHEREAS, the Town of Rye initiated a foreclosure action under Index No. 2920/15 against Nino Tripicchio and Pasqualina Tripicchio for the premises known as 626 Halstead Avenue, Mamaroneck, New York, Property identification 154.34-2-24 for non-payment of property taxes due and owing the Town of Rye, and

WHEREAS, Bonita West filed a Verified Answer to said action preserving its right under the In Rem action by virtue of the fact that Bonita West is the holder of two (2) Village of Mamaroneck tax liens, one filed in 2013 and one filed in 2014 which total approximately sixteen thousand dollars (\$16,000.00), and

WHEREAS, Bonita West alleged in its Answer that the tax liens are either superior to or on par with the Town of Rye taxes sought to be foreclosed in the In Rem action, and

WHEREAS, the Town of Rye filed a Notice of Motion for Summary Judgment in the In Rem proceeding and included in that notice the defendants Nino Trippcchio and Pasqualina Tripicchio, owners of the property known as 626 Halstead Avenue, Mamaroneck, New York for taxes that remain unpaid as of the date of Stipulation, and

WHEREAS, the Town of Rye and Bonita West have agreed that in the event the Town of Rye takes title to said property and sells said property, the Town of Rye will pay off the 2013 and 2014 Mamaroneck Village Tax liens owned by Bonita West LLC.

NOW, THEREFORE, BE IT RESOLVED, that Paul J. Noto, Town Attorney, is hereby authorized to execute a Stipulation with Bonita West LLC incorporating the terms of this Resolution and thereby agreeing that in the event the Town of Rye obtains title to the property and sells the property known as 626 Halstead Avenue, Mamaroneck, New York, the Town of Rye will pay off the two (2) liens owned by Bonita West in return for which Bonita West LLC will not oppose the Town of Rye's motion for Summary Judgment.

ROLL CALL

AYES: Councilpersons Nardi, Baxter, Villanova and Supervisor Zuckerman

NOES: None

ABSENT: Councilperson Jackson

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Concerning Sharing the Costs for Appraisal Services with the Town of Rye Concerning Sharing the Costs for Appraisal Services with the Town of Rye, Village of Rye Brook and the Port Chester School District Relating to Assessment Challenges Made by the Property Owners of the Westchester Hilton

On motion of Councilperson Villanova, seconded by Councilperson Baxter, the following Resolution was adopted:

WHEREAS, MK LCP RYE LLC has challenged the assessments for the property known as the "Westchester Hilton" located at 699 Westchester Avenue (135.74-1-8) for tax years 2011 through 2015 for taxing jurisdictions that include the Town of Rye, the Village of Rye Brook, and the Port Chester School District; and

WHEREAS, the Town of Rye intends to hire Daniel H. Lesser, MAI, FRICS, CRE, of LW Hospitality Advisors LLC, a professional appraiser with extensive hotel appraisal experience to perform appraisal services relating to the filing of these tax challenges made by the owners of the "Westchester Hilton" property in accordance with the following fee schedule:

Phase One: *Restricted Report (Fieldwork, Analysis, Summary of Conclusions - \$5,000 for the first assessment year plus \$2,500 for each additional assessment year, payable within 14 days of submission of our Phase One findings.*

Phase Two: *Written Appraisal Report - An additional \$5,000 for the first assessment year plus \$2,500 for each additional assessment year, payable within 14 days of submission of our Phase Two findings.*

This fee schedule equates to a minimum of:

	Hospitality Advisors Apprsl Fees Phase I	LW Hospitality Advisors Apprsl Fees Phase II
2011	\$ 5,000	\$ 5,000
2012	\$ 2,500	\$ 2,500
2013	\$ 2,500	\$ 2,500
2014	\$ 2,500	\$ 2,500
2015	\$ 2,500	\$ 2,500
	\$ 15,000	\$ 15,000
	Grand Total	\$ 30,000

WHEREAS, The Village of Rye Brook Board of Trustees passed a resolution regarding said matter on February 23, 2016.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Rye in regular session duly convened that the Board hereby agrees to provide up to \$10,000 to equally share with the Village of Rye Brook and the Port Chester School District the total cost for hiring said professional appraiser for services relating to the assessment challenges of the "Westchester Hilton" property for tax years 2011 through 2015.

ROLL CALL

AYES: Councilpersons Nardi, Baxter, Villanova and Supervisor Zuckerman

NOES: None

ABSENT: Councilperson Jackson

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CONSIDERING A RESOLUTION EXPRESSING CONCERNS WITH WESTCHESTER COUNTY'S PROPOSED LEGISLATIVE CHANGES TO THE AIRPORT'S TERMINAL USE AGREEMENT

On motion of Councilperson Villanova, seconded by Councilperson Baxter, the following resolution was adopted:

WHEREAS, prior Westchester County Executives and Boards of Legislators have historically maintained a firm policy position of *No Expansion at the Westchester County Airport* and went so far as to adopt resolutions to this effect dating back to at least 2003 to protect the County residents that are impacted by Airport activities; and

WHEREAS, despite the long-standing policy position of *No Expansion at the Westchester County Airport*, the County Executive has sent the Board of Legislators proposed legislation modifying the Terminal Use Agreement at the Westchester County Airport (the "Airport") which would drastically increase the long-standing limit on the number of commercial flight passengers allowed to enplane and deplane at the Airport from 240 passengers per half hour to 11,520 passengers per day; and

WHEREAS, the proposed legislation has been re-introduced to the Board of Legislators and it has been referred to the committees on Legislation, Infrastructure, and Environment; and

WHEREAS, the Town of Rye encompasses the Village of Rye Brook, the Village of Port Chester and the Rye Neck section of the Village of Mamaroneck and this proposed legislation is of significant concern to all of the residents of the Town of Rye and the County of Westchester who would be impacted by this airport expansion; and

WHEREAS, the net effect of this legislative change is to remove a legislatively-imposed policy of a half-hour passenger restriction and instead provide additional flexibility to the commercial airlines and the private Airport management company that contracts with the County in order to maximize and substantially increase their ability to add daily flights and increase the number of passengers as much as the market desires while utilizing the current four (4) gates within the current runway restrictions; and

WHEREAS, the County's position that 240 passengers per half hour simply equals 11,520 per day (240/half hour x 48) and impacts are minimal due to other restrictions at the Airport and terminal is seriously flawed based upon the following items:

1. The 11,520 passenger limit per day *surprisingly* includes an allocation of 3,120 passengers for the hours between 12:00 midnight and 6:30 A.M. when the County has previously instituted a *voluntary* curfew period and has made the policy decision not to encourage flights during that curfew period. This non-mandatory curfew is routinely already violated by airlines (171 times in November 2015, including 57 times by one airline);
2. Many more private planes and their passengers already use the airport. If this legislation is approved, this change will further dilute one of the few protections against additional flights and airport expansion. Commercial flights represent about 20% of the total flights at the Airport, and the Terminal Use Agreement already factors in approximately 65 “holiday” days when there are no restrictions on passenger limits. The airlines already have unrestricted limits on passengers approximately 18% of the year. The remaining “non-holiday” days simply place reasonable restrictions that spreads passengers throughout the days in order to limit the impacts on the County residents affected by the Airport traffic;
3. The Airport and terminal do not have the capacity to handle the number of passengers and flights they are seeking to add. For instance, in 2014 there were 1.4M passengers that utilized the Airport. 11,520 passengers per day would total 4.2M passengers in a year. At its peak (+/- 2008), the Airport had between 2.0- 2.5M passengers and there were serious impacts to traffic and parking;
4. The County is requesting the flexibility to have 11,520 passengers per day, yet at the same time, they state that they do not anticipate having 11,520 passengers per day because airlines prefer certain “prime” travel periods. The result is that the flexibility and control of the number of passengers and flights is placed solely in the hands of the airlines and the private airport management company that has a contract with the County in order to increase flights by utilizing all of the gates during any travel times that the market dictates there is interest in flying. If the proposed legislation is approved, the 11,520 passenger limit may likely become a largely irrelevant restriction;
5. Over the years the County has made improvements at the Airport terminal and gates, but has stated the improvements were not Airport expansions, and the construction was for necessary security enhancements and added modern convenience for the passengers. At the time of these projects it was often stated to local municipalities that the best protection against expansion is the passenger limit of 240 per half hour, the runway design, weight restrictions, and the number of gates (4). Now, the County is reversing the argument in their favor, stating that the facility has expanded to 40,000 sf since the time the 240 passenger limit was put in place, so the provision is superfluous and outdated;
6. The only significant additional parking to handle an increase in flights that has been added to the Airport is the off-site facility at the Purchase Park-to-Fly, the long-term viability of which, to our knowledge, is not determined by Westchester County;
7. The County has stated that another significant protection against expansion is the limit of four (4) gates, but if this is a self-imposed limit there is nothing prohibiting additional gates to be considered by the County at a later date;
8. Another significant protection for the municipalities in the region is the limits on the length of the runways and the airplane weight restrictions which limit the size of the planes and the distance they can travel. The County has stated that increasing the runway length is one of the items being *considered* for potential inclusion in an upcoming Airport Master Plan update anticipated by mid-year 2016;
9. Any discussion or consideration of changes to the passenger restrictions, runways, gates or other significant items should be reviewed in the context of the updated Airport Master Plan anticipated later this year in order to avoid any segmentation concerns with regard to SEQRA, and to review each modification in the context of the long-term goals of the local residents, the County and the Airport; and

WHEREAS, pursuant to Chapter 694 of the Laws of Westchester County , The County Board of the County of Westchester has found that certain areas within the boundaries of Westchester County have exceptional and unique characteristics which necessitate their designation as critical environmental areas, and

WHEREAS, Westchester County Airport and areas contiguous thereto, including the Town of Rye, have been so designated as a Critical Environmental Area (CEA), and

WHEREAS, the said Chapter 694 of the Laws of Westchester County also provide that “*any actions taking place wholly or partially within or substantially contiguous to such areas will be considered as Type I actions under the New York State Environmental Quality Review Act, thereby increasing the likelihood that environmental impact statements will have to be prepared for projects and/or actions commenced therein,*” and

WHEREAS, the SEQR Handbook of the NYS Department of Environmental Conservation provides that a full Environmental Assessment Form (EAF) must be submitted to the lead agency for all Type I actions and that a “short” EAF may never be used for Type I actions, and

WHEREAS, the current Environmental Resolution before the Board of Legislators

- a. classifies the action as an Unlisted Action contrary to the provisions of the Laws of Westchester County;
- b. contains a “short” Environmental Assessment Form (EAF) contrary to the regulations of the Department of Environmental Conservation;
- c. directs the Clerk of the Board of Legislators to issue a “Negative Declaration” determining that there is “no significant adverse impact on the environment” although its own attached narrative states that “environmental resources that may potentially be affected include air, traffic and noise which may also impact neighboring land uses” and
- d. contains no documentation or reasoning whatsoever to support any of the aforesaid.

NOW THEREFORE BE IT RESOLVED, that the Town of Rye firmly believes that Westchester County is not in a position to consider a Negative Declaration under SEQRA for this proposed legislation until such time that it has fully evaluated all of the environmental impacts that additional flights and passengers will bring to the Airport and surrounding region including the following items:

1. Impacts to the availability of on-site and off-site parking from the increase in passengers and flights;
2. Impacts of an increase in on-site and off-site traffic including on I-684, King Street, and Anderson Hill Road, especially during peak commuting hours;
3. Impacts on the water quality of the Blind Brook and Rye Lake/Kensico Reservoir as a result of the additional flights;
4. Impacts of additional de-icing fluid that would be utilized at the Airport and would enter the Blind Brook, which continues to be a significant problem for residents downstream from the Airport property as far south as Westchester Avenue;
5. Additional noise impacts and a reduction in air quality as a result of the additional flights;
6. Since the Airport has been designated by the County as a Critical Environmental Area (CEA), the potential impact of any Type I or Unlisted Action on the environmental characteristics of the CEA is a relevant area of environmental concern and must be evaluated in the determination of significance under SEQR;
7. Impacts to the FAA Z instrument overlay zones that radiate out from the airport as a result of any increase in flights, noise and/or types of aircraft at the Airport as a result of this legislation. These zones also affect development in the surrounding municipalities, in that they limit the type of development that may be located within these zones;
8. Other impacts of the additional flights, especially considering that in 2014 there were 1.4M passengers at the Airport and at the proposed limit of 11,520 passengers per day there would be 4.2M passengers per year not including the potential for additional passengers on the unrestricted +/- 65 holiday day periods. The potential for these passenger totals to far exceed any actual prior peak years ever experienced at the Airport is high, and as such, these impacts need to be fully evaluated;
9. Whether any of the identified considerations and impacts would trigger the need for an Environmental Impact Statement to be prepared to fully address any significant impacts of the proposed legislation; and

BE IT FURTHER RESOLVED, that while the Rye Town Council acknowledges that the Westchester County Airport serves a very important purpose for the residents and corporations in Westchester County and the surrounding region who depend upon the convenience of this regional airport, they are equally concerned about the impacts of the additional flights and number of passengers that would occur as a result of the proposed legislative changes to the Terminal Use Agreement; and

BE IT FURTHER RESOLVED, that the proposed legislation has far reaching impacts that require further environmental study and evaluation that should not be expedited and should instead be reviewed in the context of the update to the Airport Master Plan anticipated later in 2016; and

BE IT FURTHER RESOLVED, that the proposed legislative changes provide far too much flexibility for the airlines and the private airport management company that contracts with the County and have the potential to seriously impact the residents in the surrounding region; and

BE IT FURTHER RESOLVED, that prior to making any changes to the Terminal Use Agreement, the County should seek a written legal opinion from their counsel regarding whether making significant changes to the Terminal Use Agreement impacts any existing grandfathered protections included in this Agreement; and

BE IT FURTHER RESOLVED, that the Town Council is eager to continue to work with the County Executive, the Board of Legislators, the airline representatives and any other impacted municipalities to seek alternative ways of addressing problems currently experienced by the airlines and the airport management staff in a way that would seek to both support the Airport and limit impacts to the residents in the region; and

BE IT FURTHER RESOLVED, that a copy of this resolution be provided to the County Executive, the Board of Legislators, the Westchester County Airport Advisory Board, and other municipalities in the region urging them to consider the impacts of this proposed legislation on the residents and property owners within their jurisdictions.

ROLL CALL

AYES: Councilpersons Nardi, Baxter, Villanova and Supervisor Zuckerman

NOES: None

ABSENT: Councilperson Jackson

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On motion of Councilperson Villanova, seconded by Councilperson Nardi, the following Resolution was adopted:

WHEREAS, the Town of Rye is in need of accounting services, and

WHEREAS, the Town of Rye had publicized a Request for Qualifications ("RFQ") for accounting services in the Fall of 2015, received several responses and interviewed some respondents, and

WHEREAS, the MGroup Consulting LLC, 222 Bloomingdale Road, White Plains, New York 10605 was deemed to be the most qualified to perform accounting services which will be detailed in a forthcoming agreement

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor of the Town of Rye Gary J. Zuckerman be and he hereby is authorized to execute any agreement(s) with said M Group Consulting, LLC, and

BE IT FURTHER RESOLVED, that the Town of Rye shall pay said MGroup Consulting LLC fifty-nine thousand, six hundred forty dollars (\$59,640.00) per year or (four thousand, nine hundred seventy dollars (\$4,970.00) per month for said accounting services, and

BE IT FURTHER RESOLVED, that either party may terminate the agreement(s) upon thirty days written notice.

BE IT FURTHER RESOLVED that Town Supervisor, Gary Zuckerman is hereby authorized to execute any agreements with MGroup Consulting LLC to effectuate this Resolution.

ROLL CALL

AYES: Councilpersons Nardi, Baxter, Villanova and Supervisor Zuckerman

NOES: None

ABSENT: Councilperson Jackson

Councilperson Villanova lead the discussion of the Flood Mitigation Study which involves four separate governmental agencies; the Town of Rye, Village of Rye Brook, the Port Chester School District and the County of Westchester. Councilperson Villanova explained the flooding conditions of the Port Chester Middle School ball field and the lower level of the Rye Brook Condominiums formerly known as Avon Circle where the water was ten feet high. The committee made up of representatives from each agency agreed to hire an engineer in three phases. Phase one and two would cost approximately ninety-five thousand dollars (\$95,000.00). The County of Westchester would be responsible for fifty percent, the Village of Rye Brook twenty-five percent and the Town of Rye and the Port Chester School District, twelve and one half percent each.

The third phase would be to approve the scope of work, and then the committee would go forward and select the contractors to perform the flood mitigation. From there, the committee would bring the proposals to Westchester County who takes the lead because they are the coordinating agency and they will be responsible for preparing the Inter-municipal Agreement (IMA). Hopefully, going forward, the committee could request and obtain funding from the State and Federal governments.

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The following Departmental Reports were received and ordered filed:

TOWN CLERK HOPE B. VESPIA, for the month of February, 2016	
Total submitted to the Supervisor.....	\$2,065.00
RECEIVER OF TAXES NICHOLAS C. MECCA, for the month of February, 2016	
Deposited to Supervisor, Town of Rye.....	\$15,101,433.18
Deposited to Treasurer, Village of Port Chester.....	\$131,811.74
Deposited to Treasurer, Village of Rye Brook.....	\$3,939,086.45
Total.....	\$19,172,331.37

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There being no further business, on motion of Councilperson Villanova, seconded by Councilperson Nardi, and unanimously approved, the meeting was adjourned 9:10 P.M.

Respectfully submitted,

Hope B. Vespia
Town Clerk