

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on November 17, 2004 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
FRANKLIN J. CHU
ROBERT S. CYPHER
MATTHEW FAHEY
DUNCAN HENNES
ROSAMOND LARR
HOWARD G. SEITZ
Councilmen

ABSENT: None

1. Pledge of Allegiance

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

2. Roll Call

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

Announcements

Mayor Otis announced that the Westchester County Clerk's office would be sending their Mobile Outreach Office to Rye on Tuesday, November 23 from 10 a.m. – 2 p.m. It will be on the Boston Post Road in front of the Village Green. Residents will be able to process passports, obtain information on hunting and fishing licenses, pistol permits, filing new business registrations, military discharges, and obtain deed and mortgage filing information. Notary applications will also be available. Senior citizens can have their passport photo taken at a 30% discount.

The Mayor reported on the successes of various Rye teams. The Rye Country Day School field hockey team is the State Champions of the NYS Independent School Association League. The Rye High School field hockey team is on its way to Syracuse for the championship weekend and the High School football team will play in the semi-final round in Kingston over Thanksgiving weekend.

3. Residents may be heard who have matters to discuss that do not appear on the agenda

Larry Lehman, 10 Chester Drive, a consulting engineer who worked with the New York State Thruway Authority (TA) to design the interchange on the Post Road recently mentioned as a site for potential parking or for a playing field, gave his opinion on these concepts. He said the land is about 11 acres, but if you had parking it would be an 1800 ft. walk to the station (longer to the Central Business District) and the traffic signal at Cedar Street and the Boston Post Road, even if redesigned, would not be able to handle the left-hand turns. He said the field idea might work, but would most likely need a pedestrian overpass. He said he had not spoken with the TA about any of this.

Mr. Lehman mentioned Rye has home rule over our section of the Boston Post Road. He said he didn't know why the City wanted this in the past but, in his opinion, the City can no longer afford this luxury. He said that a representative of the Thruway Authority had indicated unofficially that if the Council passed a resolution offering the State the opportunity to take back the road, the proposal would be given considerable thought.

Anne Cochran, 1 Waldon Lane, representing the League of Women Voters, invited Council members and the public to a forum on December 7, 2004 at 7 P.M. at the Rye Recreation Center where the topic of parking in the Central Business District would be discussed.

4. Public hearing on application of AT&T Wireless PCS, LLC and Cellular Telephone Co. d/b/a AT&T Wireless to co-locate a wireless telecommunication facility at 66 Milton Road, Rye, New York

Mayor Otis opened the public hearing on the application (TC010) of AT&T Wireless to co-locate a wireless telecommunication facility at 66 Milton Road, Rye, New York. Christopher B. Fisher, Esq. from Cuddy and Feder, LLP, legal counsel for AT&T Wireless, said the application has been carefully crafted with the help of City Planner Christian Miller. The plan calls for three antennae 88 feet above ground with three AT&T cabinets and an extra 911 emergency cabinet. He said they had provided all information as required; that the plan had been reviewed and approved by the Board of Architectural Review; that no existing antennae will need to be moved; and installation is expected to take about four weeks. Mayor Otis said this application met the City's priority in that it is a co-location using an existing structure. To Mr. Fisher's surprise, Lisa Easton, a member of Blind Brook Lodge's Board (66 Milton Road), said their residents had not been notified about the public hearing and that the Board has not made a definitive decision as to where the facility is to be located. Mr. Fisher said he has a signed lease, but will certainly work with the Board to make sure the location is acceptable. The Mayor recommended that the Council approve the application as it meets the City's criteria, but with the assumption that the lessee and lessor can come to an agreement acceptable to the City Planner and if there is a significant change they will have to return to the City Council.

Mayor Otis made a motion, seconded by Councilwoman Larr and unanimously carried, to adopt the following resolution:

RESOLVED, that the application of AT&T Wireless PCS, LLC and Cellular Telephone Co. d/b/a AT&T Wireless (TC009) to co-locate a wireless telecommunication facility at 66 Milton Road, Rye, New York be approved.

5. Citizen and Organization Comment and Council discussion of the 2005 Tentative Budget

Mayor Otis announced that the Council had had two workshops and that they would be setting the official public hearing for Wednesday, December 1, 2004. He turned the floor over to the City Manager who said the workshops had been productive and the Council had been working diligently to keep the City tax rate down. City Comptroller Michael Genito summarized the decisions made at the budget workshops as follows:

- 1) Defer issuance of the Locust Avenue Firehouse bonds from 2004 to 2006 (approximately \$328,000)
- 2) Finance General Fund equipment purchases (see [P 3-7] from available fund balance (approximately \$320,000)
- 3) Defease a portion of the Damiano Center bonds for an increase in interest earnings of approximately \$30,000.
- 4) Personnel attrition (mandatory retirement of a firefighter to be replaced by a firefighter at a lower salary level) <approximately \$37,000> (Note: this is an amendment made by the Comptroller down from the original \$45,000 estimated amount.)
- 5) Appropriate \$100,000 of the Building and Vehicle (B&V) Fund reserves for 2005 costs. (Note: the original resolution was classified as a \$100,000 transfer from the B&V Fund to the General Fund.)
- 6) Assume additional revenue from the proposed parking meters system of \$125,000. Councilman Chu estimated \$150,000 as a safe figure. A compromise of \$125,000 was reached.
- 7) Defer some major projects (including \$150,000 for the reconstruction of Smith Street, \$200,000 for widening the Peck Avenue and Midland Avenue intersection, and \$50,000 for rebuilding the School Street parking lot wall).

He said the net result of these decisions is to reduce the tax rate down to \$117.12 per \$1000 of taxable assessed value, or a 3.27% tax rate increase over the 2004 tax rate. By deferring the major projects the undesignated fund balance would increase to 9.82% of revenues. He assured everyone that delaying the issuance of the Locust Avenue Firehouse bonds would have no effect on the timetable for the renovation of the firehouse.

Mayor Otis said everyone has the shared goals of lowering the tax rate as much as possible, maintaining the undesignated fund balance, and at the same time maintaining quality services. Councilman Hennes said he was pleased to bring the tax rate down as it is time for homeowners to have a break while at the same time raising the undesignated fund balance (which he hopes can be raised more as they look at other areas). Councilman Chu pointed out

the three-year trend of rising expenses versus flat or lowered revenues and said the challenge is what to do about it. Re expenses: focus on what we can control so we should maintain the hiring freeze (the staff has demonstrated they can do more with less). We have to continue to find new streams of revenue wherever possible (e.g. parking meters, the occupancy tax). We need to look at other ways to privatize government functions if possible. He recognizes that not all operations can be sustaining entities like the Enterprise Funds (Boat Basin and Golf Club), but we should strive to increase this approach if areas of government operations can be done better privately (like the Rye Nature Center). Councilman Cypher reminded everyone of the City's mission statement that says the City should provide a certain level of services in a fiscally responsible manner and cautioned everyone to remember we are in the service business. Councilman Fahey concurred, but noted that fees are voluntary whereas taxes are not. He pointed to the Recreation Department as an example of striking the right balance between providing service and charging fees.

The Council also had specific comments and questions. Councilman Seitz wondered if the original contingency figure had been lowered to be 1% of the new total and if total licenses and permits and fines and forfeitures shouldn't be looked at again to see if actual figures were now higher than estimates done in September, perhaps raising the undesignated fund balance closer to 10%. Mr. Genito said he would review the revenue estimates, but that while an update may show that some revenue estimates may be increased, it may also show a decrease in other revenue estimates. The Mayor, while pleased they had been able to cut the tax rate, voiced some concerns. 1) He wondered if the idea of deferring the Locust Avenue Firehouse bonds and using bond anticipation notes will cost more in the long run. He wondered if there was a way to lock in a rate now and defer the first debt service payment until 2006. (Councilmen Hennes and Fahey said it was imprudent to issue debt until we are ready to build and it is hard to predict rates. They said locking in rates early comes with additional costs.) 2) He said it is not accepted municipal budget practice to budget revenue from an unimplemented program so he is not in favor of budgeting \$125,000 in parking meter revenue. 3) He feels it is important not to use \$100,000 from the Building & Vehicle Fund, as it is important to keep those funds available in case of emergencies. 4) He said it was acceptable to defer capital projects but cautioned against pushing off so many projects that there will come a year when the City has to play catch-up and have to levy a large tax in order to do so. Maybe a steadier flow is better; maybe we can find more funds so we can do more this year. He said he would like the Finance Committee to review these concerns and report back to the Council.

Comments from organizations and individuals were as follows:

John Fullerton, Chairman of the Rye Free Reading Room (RFRR), reiterated his belief that the private/public partnership with the City was good and feels their new addition in essence is an annual gift to the City of \$250,000 per year. He says they raise about \$250,000 for books, programs and capital improvements, but he doesn't believe their donors will contribute to operating and maintenance costs. The RFRR would like the City to contribute 100% of the operating costs and the amount in the budget leaves a gap that they would like the City to close. Last year he said the RFRR raised the City's awareness of what he termed the City's "abysmal" support and it was appreciated, but this year's 3% is not enough – they need more just to keep from sliding backwards. He passed out charts showing Rye's support compared to five other communities (Chappaqua, Scarsdale, Larchmont, Mamaroneck, and Darien, Connecticut) whose libraries are either municipally owned or are part of an individual taxing district. Of those five,

only Darien provides a level of support lower than the support provided by Rye. Aside from asking for additional funds this year (an extra \$15,000), he asked that everyone sit down early in the next year to hash out a framework for a formal commitment from the City for future budgets. Mayor Otis said that last year was a big step and agrees a meeting would be good. Councilmen Chu and Hennes concurred. Councilman Seitz favored sitting down, but not just to agree to the proposal from the RFRR.

The City Manager will set up a meeting with the RFRR for January or February to discuss the ideas further.

Maggie Roche, 56 Cedar Place, asked the Council to keep funds in the budget to redo the roads in her neighborhood which is half commercial, has a lot of traffic, has many people parking cars along the street, has no curbs and needs a lot of work. She said the City had done some sidewalk work, but had not finished and there were serious drainage issues. Everyone agreed the area was in bad shape, but pointed out that the solution would require lowering the road. They agreed they needed to sit down with Engineer George Mottarella and look at the situation again.

The City Manager will schedule a meeting in early 2005 between the City Engineer and residents of the Goldwin/Cedar Place neighborhood to discuss possible street improvements and the impact on residential and commercial property owners in the neighborhood.

Steven Meyers, 10 Roger Sherman Place, congratulated the City on the excellent budget. He asked how \$125,000 in parking meter revenue could be included without having a firm plan. He said this approach was more speculative than the usual conservative approach. He feels deferring the issuance of Locust Avenue Firehouse bonds could have an adverse affect on the City and wonders if the cost of issuing anticipation notes had been factored in. He agrees the Finance Committee should review these issues.

Sid Burke, Chair of the Landmarks Advisory Committee, urged the Council to keep enough funds in the budget to keep the Friends Meeting House heated for the year. He said thanks to a great effort of City Historian, Dan Kelly and Committee member, Lisa Eastman, the building has been listed on the National Register of State and Local Historic Sites. This will help them apply for grant money and be able to contribute funds in the future. He said if some money could be spent on the building it would attract tenants so it can be used. *Lisa Eastman, Friends of the Friends Meeting House*, said they are now an official 501(C)3 organization and they hope to begin fund raising in the spring as well as applying for grants for an historic structures report and a needs assessment review from the New York Trust for Historic Preservation and the National Endowment for the Arts. She said their long-term goal is to keep the building open for the public and thanked the Council for keeping the dialogue going.

Catherine Parker, Rye Merchant, is glad to see the feasibility study for the parking deck in the budget. She has questions about how the projected \$125,000 in parking revenue was derived, asking if operating expenses had been calculated into the equation and whether or not the Fee-in-Lieu-of-Parking Fund is to be paid back. The answer is no, operating expenses were not included in the calculation, and that they haven't committed to a repayment of the fund at

this time. Councilman Hennes said they are committed to improving parking and are confident the new metering system will increase turnover, make enforcement easier and provide funds for a future parking deck so it is not just revenue that is attractive, but the chance to improve the situation. Councilman Seitz suggested the fund was created to improve parking and if the meter revenue accomplishes this goal, perhaps the fund does not have to be replaced. He also said the alternative to not budgeting the \$125,000 would be to raise taxes by another 1%.

The Council confirmed that the Finance Committee was scheduled to meet on Monday, November 22nd to discuss, among other issues, including parking meter revenue in the 2005 budget. The Council continued to discuss the budget in more specific detail.

Councilman Hennes commented on the \$86,000 in the budget for *Rye Town Park* (RTP) (a figure based on what we last paid, which was the 2002 bill). He said it is outrageous that we have to pay these bills with such poor financial reporting from RTP, and can't understand why it doesn't run on a breakeven basis. Councilman Fahey said not to budget so much until RTP gets their records in order; Councilman Seitz asked why put it in at all; Mr. Genito said the City is obligated to contribute; that whether or not we decide to actually pay the bill when received we have to have the funds in the budget and available. The Mayor reminded everyone that RTP has a new finance person and new auditors so the lag time will disappear and the accounting will be clearer. He also said the City should expect a bill for our portion of the Duck Pond restoration sometime in the future. He said Mr. Morabito, Rye Town Supervisor and Chair of the RTP Commission, feels Rye Town "fronts" the money and he would like to see Rye pay when expenditures are incurred. The Mayor pointed out almost \$2 million has been raised with outside funds from Seaside Johnnie's and with grants; that self-sufficiency is dependent on rates; and he reiterated that Rye needs, and should have, more representation on the Commission. Councilman Hennes would like to set up a formal meeting with Mr. Morabito, who is willing to do so, but is under the impression it would be less formal and smaller. The Mayor pointed out that there is no longer any good will or trust between Rye and the Commission; we need to rebuild a relationship as we look at all the issues; and it is important to have mutual respect and trust with our neighbors. He said he would report on Rye's desire to have a formal meeting and hoped everyone would keep the comments positive and constructive. He urged everyone to attend any RTP meeting they would like.

Councilman Hennes asked about the *police impound facility* and whether it would be acceptable to have a parking lot with a chain link fence instead of a covered space. The Mayor would like to see a memo on the needs from the police point of view and whether there is any space we can rent. Re: the *traffic signal on Oakland Beach and Milton*, is it really necessary to replace? There is the State mandate that all signals have redundancy to avoid liability in case of a bulb burnout; that the City has been working steadily toward compliance; and it might increase our liability if we weren't able to provide evidence of progress. Councilman Hennes said the elimination of either of these projects could move the undesignated fund balance above 10%. The Mayor said it is important to remember the City can't totally shut off maintenance of the infrastructure.

Joe Murphy wanted to make sure the *Damiano Center* was still in the budget and was assured that it was on track; that the Council was waiting for final figures before going ahead with the specs and the bids.

Mayor Otis inquired about the *Golf Club fee schedule* and the rationale behind the increases. Councilman Fahey, Golf Club liaison, said the Commission had deliberated long and hard to try and eliminate internal inequities within the Club to make all fees more consistent. A report from the Commission will be provided.

6. Resolution scheduling a public hearing on the tentative 2005 budget

Mayor Otis made a motion, seconded by Councilman Fahey and unanimously carried, to adopt the 2005 Tentative Budget as the 2005 Preliminary Budget and to adopt the following resolution setting the public hearing on December 1, 2004.

WHEREAS, it is now desired to call a public hearing on the proposed 2005 budget, now, therefore, be it

RESOLVED, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on December 1, 2004 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such budget.

Section 2. Such notice of public hearing shall be in substantially the following form:

**CITY OF RYE
PUBLIC NOTICE**

PLEASE TAKE NOTICE that a public hearing will be held by the Council of the City of Rye on Monday, the 1st day of December, 2004, at 8:00 p.m. at City Hall, 1051 Boston Post Road, in said City, on the Proposed Budgets of the General Fund, Cable TV Special Revenue Fund, K.T. Woods Permanent Fund, Debt Service Fund, Capital Projects Fund, Boat Basin Enterprise Fund, Golf Club Enterprise Fund, Risk Retention Internal Service Fund, and Building and Vehicle Maintenance Internal Service Fund of the City of Rye for the ensuing fiscal year, January 1, 2005 through December 31, 2005, and at such time and place any person interested in said Proposed Budgets will be given an opportunity to provide written and oral comments on any and all of the aforementioned budgets.

CITY OF RYE SUMMARY OF PROPOSED BUDGETS

<u>Fund/Program</u>	<u>Proposed Budgets</u>
General Fund	<u>25,233,998</u>
Rye Cable TV Special Revenue Fund <u>214,169</u>	
K.T. Woods Permanent Fund	<u>4,000</u>
Debt Service Fund	<u>138,367</u>
Capital Projects Fund	<u>550,000</u>
Boat Basin Enterprise Fund:	
Operating	483,023
Capital	789,531
Total - Boat Basin Fund	<u>1,272,554</u>
Rye Golf Club Enterprise Fund:	
Operating	4,427,243
Capital	330,000
Total - Golf Club Fund	<u>4,757,243</u>
Risk Retention Internal Service Fund	<u>632,630</u>
Building and Vehicle Maintenance	
Internal Service Fund	
Operating	2,727,576
Capital	2,048,300
Total - Building and Vehicle Maintenance Fund	<u>4,775,876</u>
TOTAL - All Funds	\$ <u>37,578,837</u>

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes,
Larr and Seitz

NAYS: None

ABSENT: None

7. Appointment of a student representative to the Commission on Human Rights for the 2004-2005 school year

Mayor Otis made a motion, seconded by Councilman Hennes and unanimously carried, to approve the appointment of Sophie Hasse from Rye Neck High School as the student representative to the Commission on Human Rights for the 2004-05 school year.

8. Resolution to amend 2004 budget to reflect COPS 2004 Technology Grant

Councilman Seitz made a motion, seconded by Councilwoman Larr, to adopt the following resolution:

WHEREAS, the City of Rye has been awarded a COPS 2004 Technology Grant in the amount of \$33,444 from the US Department of Justice; and

WHEREAS, the 2004 budget did not anticipate the receipt or use of such funds; now, therefore, be it

RESOLVED, that the City Comptroller is authorized to amend the fiscal 2004 General Fund Police Patrol budget as follows:

Increase Revenues–Federal Aid COPS 2004 Technology Grant - \$33,444
Increase Appropriations–Police Patrol Technology Equipment - \$33,444

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes,
Larr and Seitz

NAYS: None

ABSENT: None

9. Announcement of new schedule for District One Special Assessment District Project (Kirby Lane North)

City Manager Paul Shew announced that the public hearing to consider the District One Special Assessment District Project (Kirby Lane North) would not be held on December 1 because certain procedures under the State Environmental Quality Review Act (SEQRA) need to take place prior to holding a public hearing. He said everyone would be informed when the new date can be set.

Councilman Seitz made a motion, seconded by Councilwoman Larr and unanimously carried, to rescind the Council's prior resolution establishing a public hearing on December 1, 2004.

10. Appeal of denial of FOIL requests submitted to the Rye Police Department

Corporation Counsel Kevin Plunkett said the Council had before them an appeal for four individual requests from one individual questioning a procedure followed by the staff that Freedom of Information Law (F.O.I.L) requests completed by staff need to be paid for prior to completing subsequent requests. The request to have the F.O.I.L. requests completed has been denied by the Council. He recommends that the appeal of this denial be denied based on his

recommendation that an opinion of the former Corporation Counsel relative to payment for prior F.O.I.L. requests be followed.

Councilwoman Larr made a motion, seconded by Councilman Seitz and unanimously carried to adopt the following resolution:

RESOLVED, the appeal of the denial of F.O.I.L. requests submitted to the Rye Police Department is denied.

11. Miscellaneous communications and reports

Councilwoman Larr reported she had three people who definitely want to serve on the “deer” committee and two seriously considering it. All are in favor of controlled hunts.

12. Old Business

There was no old business discussed.

13. New Business

There was no new business discussed.

14. Draft unapproved minutes of the regular meeting of the City Council held November 3, 2004, as attached, and the City Council Budget Workshop held on November 9, 2004, to be e-mailed Monday, November 15, 2004

Mayor Otis made a motion, seconded by Councilman Hennes and unanimously carried, to approve the minutes of the regular meeting of the City Council held November 3, 2004 as amended.

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to approve the minutes of the City Council Budget Workshop held on November 9, 2004 as amended.

Mayor Otis made a motion, seconded by Councilman Fahey and unanimously carried, to adjourn to Executive Session at 11:06 P.M. to discuss a Personnel matter.

Councilman Cypher made a motion, seconded by Councilman Chu, to close the Executive Session and return to the regular meeting at 11:07 P.M.

15. Adjournment

There being no further business to discuss, Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to adjourn the meeting at 11:08 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk