

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on December 15, 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

The Council convened at 7:35 P.M. The full Council was present. Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to adjourn to executive session at 7:37 P.M. to discuss the pending Osborn litigation. Councilman Hennes made a motion, seconded by Councilwoman Larr and unanimously carried, to close the executive session at 8:18 P.M. The regular meeting reconvened at 8:22 P.M.

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.

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

John Vassos, 31 Thorne Place, addressed the Council about losing his parking permit at the railroad station, saying he missed the deadline by two weeks but was surprised to learn that the consequences of being late meant that he went to the bottom of the list. He said this rule is too harsh and needs to be changed as it is a felony penalty for a misdemeanor offense. He said he was both amazed and hurt by the penalty as he feels it is not fair and changing it is not going to hurt anyone. He would be happy to talk to anyone about how to make it better. Mayor Otis said everyone is concerned, but they have to be fair to those on the waitlist and also to adhere to the procedures Metro North expects us to follow. He said hearing from those who have lost their permit are the worst calls he gets and he promised some changes next year. Councilman Chu

said he would be interested in Mr. Vassos' ideas; Mr. Hennes said he was supportive of having a second chance with a penalty; Councilman Fahey reminded everyone there are other constituencies to listen to. City Clerk, Susan Morison, confirmed it is a painful process, particularly for her office and the entire staff make every possible effort to be fair to everyone. She acknowledged that this year it seems particularly difficult for those who missed the deadline to accept the long-standing consequences and she would welcome any suggestion that might make it easier for everyone to comply so the situation can be avoided. She said next year she would try and place reminder calls to those who had failed to renew by the last day and the renewals would be mailed earlier so that two Con Edison bills (a copy is required for proof of residency) could be received during the renewal period. Arthur Stampleman said he had heard Metro North, which owns the station, might be interested in selling and suggested perhaps the City should buy the lot.

4. Public hearing on a proposed local law amending the City Charter section on Bond Resolutions (C21-9) by amending subsection D and creating a new subsection E

Mayor Otis opened the public hearing on a proposed local law amending the City Charter section on Bond Resolutions and invited comments. There being none, the Mayor closed the public hearing.

Councilman Chu made a motion, seconded by Councilman Cypher, to adopt the following local law:

**PROPOSED LOCAL LAW
CITY OF RYE
LOCAL LAW NO. 4-2004**

**A Proposed Local Law Amending
Subsection D and creating a new
Subsection E of Section C21-9,
Bond Resolutions, of the Charter
of the City of Rye**

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

Section 1. Section C21-9 of the Charter of the City of Rye is hereby amended to read as follows:

- D. The provisions of this section shall not apply to bond resolutions authorizing the issuance of bonds for the payment of judgments, or compromised or settled claims against the City, or awards or sums payable by the City pursuant to a determination by a court, or an officer, body or agency in an administrative or quasi-judicial capacity, or any capital improvement or equipment proposed to be constructed or acquired where the expense thereof, other than operation and maintenance, is to be borne

by local assessment upon the several lots and parcels of land which the Council shall determine and specify to be especially benefited thereby, or capital improvements or equipment to be constructed or acquired which have been determined by resolution of the Council to be required to implement a Federal, State or County of Westchester mandate failure of which to comply with could, in the judgment of the Council expressed in a resolution, result in the imposition of a fine or penalty, or authorizing the issuance of obligations to be sold to the New York State Environmental Facilities Corporation or any successor thereto.

- E. The provisions of this section shall not apply to bond resolutions authorizing the issuance of bonds for the payment of capital improvements or equipment proposed to be constructed or acquired for purposes determined by resolution of the Council to be required for public safety purposes requiring urgent action, in an amount not exceeding \$1,000,000 in the aggregate in any fiscal year, and provided that on the date of adoption of said bond resolution, the Council determines that the aggregate of the proposed bond authorization and the outstanding principal amount of obligations previously issued for public safety purposes requiring urgent action in reliance on this paragraph E does not exceed \$2,500,000. In making such determination, the Council shall disregard certain such outstanding obligations to the extent provided below. Such determination shall be conclusive for all purposes of this paragraph E, irrespective of whether through inadvertence or otherwise such determination is later found to be inaccurate. In the event that the Council determines that the aggregate of the proposed bond authorization and the outstanding obligations issued for public safety purposes requiring urgent action exceeds \$2,500,000, the Council may authorize a mandatory public referendum on the question whether such bond authorization shall become effective. In the event of approval of such authorization at a referendum, such authorization shall become effective and i) the obligations issued or to be issued in reliance on such bond authorization, and ii) the outstanding amount of obligations previously issued or authorized for public safety purposes requiring urgent action in reliance on this paragraph E on the date of adoption of such bond authorization, shall be thereafter disregarded for all purposes of this paragraph E.

Section 2. This local law shall take effect immediately on filing in the office of the Secretary of State.

New language is underlined.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes, Larr and Seitz
NAYS: None
ABSENT: None

5. Public hearing on a proposed local law amending Chapter 191, Vehicle and Traffic, of the Code of the City of Rye for the purpose of designating the City's Car Parks as Parking Meter Zones and Modifying the Fees for Existing Parking Meters

City Manager Paul Shew said the proposed local law was necessary in order to proceed with the implementation of the parking meter plan. Mayor Otis said it was time to get input from the Council and public and opened the public hearing.

Councilwoman Larr said she would like to see one area of town where the time is longer than two hours. Councilman Hennes said he now has an objection of extending the meter time from 6 P.M. to 9 P.M. saying it is too long and the parking enforcement officers won't be working at that hour so it will be impossible to enforce and a shorter period would be more palatable to the merchants and restaurant owners. The Mayor said he had heard that street traffic was already down and the new banks were reducing the commercial mix so installing meters will hurt even more. City Planner Christian Miller said the law had been drafted based on prior assumptions by the Council but it can be revised and many parts of the law remain unchanged, as there will be no change in the restrictions. The Mayor asked if there was any logic to leaving the decision on the new law until a later meeting but was informed by Mr. Miller that the Council will need to move forward at this meeting in order to meet the schedule they have indicated they would like to have.

Debby Barnwell, owner of *Panache* for the past twenty years questioned why the installation of meters is going to help the parking situation as the real problem is lack of parking spaces, not turnover. She said she does not care about turnover and is concerned that funds are being taken out of the Fee-in-Lieu-of Parking fund to finance the meter system and that nothing is being put back in so that additional parking can be created. She said 80% of her business is Rye residents and asks what will happen if the residents really don't like this and don't come to the CBD? She also feels that the small business owner will be hurt the most and will have to close. She asked how the Council will know if it is successful. Councilman Hennes said taking the first \$125,000 into general revenue will help all citizens, who deserve a break, by keeping taxes lower; that turnover is an issue and this will help; that enforcement will be easier and revenues will be able to be put back into the fund and they will be able to create more spaces. He also said the Central Business District has changed from when he was a child and he thinks that most people (60%) are not from Rye and should be asked to pay their share to help keep taxes low for Rye residents. Councilwoman Larr said they would measure the turnover and listen to residents to measure the success of the experiment.

Anne Cochran, president of the *League of Women Voters (LWV)*, thanked those who participated in the parking forum, attended by about thirty people, and reported on some of the highlights. She said all agreed that merchant permits are not being purchased and that merchants are basically using up good parking spaces; that there are questions about how the continued two-hour restriction will help turnover; that there is interest in having a lot with longer time (four hours, perhaps); that 9-9 and Saturdays is too much; that most people had no problem with installing meters, but questioned the timing feeling it would be better if it started at the same time as new spaces were created; that criteria of success should be stated; and everything above \$125,000 should be put back into the parking fund. She personally feels there should be a plan

on improving the whole Central Business District before meters are installed, as people aren't coming to the CBD because they can't park.

Catherine Parker, owner of *Parkers*, agreed merchant parking is a problem and concurred that they would like people to stay more than two hours. She said the merchants are already supporting the citizens who already pay sales tax and support the revenue stream by paying parking tickets. The Mayor, who agrees he would like to see more parking; and more enforcement of merchant permits, asked if we could get smarter meters, which can be extended. Mr. Miller said he would look into it.

Councilman Cypher said he had decided not to vote in favor of the parking proposal saying meters will change the character of the City. He said he had found no one who likes the idea and senses that the plan is far more permanent than experimental and he feels it needs more thought. He asked if the price of enforcing the law is worth it? Councilman Fahey said he felt the character of the City was already changing and he thinks the experiment will work.

Susan Anderson, a 4 year resident of *12 Haywood Place*, thanked Councilman Cypher and concurred that she would not like to see the character of Rye changed. While she is a proponent of change, she recoils at the idea that it is inevitable that the business district has to completely change. Her husband *Bill Anderson* suggested there should be more opportunity to obtain feedback.

Steve Meyers, *Roger Sherman Place*, reiterated his belief that it would be best to return all revenue to the Parking Fund but hoped the Council will commit to the return of funds over and above the \$125,000 to the funds.

There being no further comments from the Council or members of the public, Mayor Otis closed the public hearing.

Councilman Hennes made a motion, seconded by Councilman Seitz, to adopt the following local law:

**PROPOSED LOCAL LAW
CITY OF RYE
LOCAL LAW NO. 5-2004**

**A Proposed Local Law Amending
Chapter 191, Vehicles and Traffic, of the
Code of the City of Rye for the Purpose of
Designating the City's Car Parks as Parking Meter Zones and
Modifying the Fees for Existing City Parking Meters**

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

Section 1. Section 191-36 of Chapter 191 of the Code of the City of Rye is hereby amended by creating a new subsection C that reads as follows:

- C. Off-street parking areas maintained by the City of Rye on City-owned lands known as Car Park No. 1, Car Park No. 2, Car Park No. 3, Car Park No. 4 and Car Park No. 5.

Section 2. Current Section 191-37 of Chapter 191 of the Code of the City of Rye is hereby replaced to read as follows:

§ 191-37. Installation of meters.

~~In such~~ Parking meters shall be installed in all parking meter zones; parking meters shall be installed within, facing or alongside of such spaces as may be designated therefor by the Police Department as individual metered parking spaces for vehicles. Such meters shall be so set as to operate upon a deposit therein of one twenty five cent coin of the United States of America, for the period of time prescribed as parking time limits in § 191-39. Each such meter shall be so designed that upon the expiration of such parking time it will indicate that the lawful parking time has expired. The parking meter fee and time limits of meter operation shall be posted on each meter as prescribed in § 191-39.

Section 3. Current Section 191-38 of Chapter 191 of the Code of the City of Rye is hereby replaced to read as follows:

§ 191-38. Parking in metered zones.

When any vehicle shall be parked in a space regulated by a parking meter, the operator thereof shall, upon entering such space, park such vehicle within the lines marked on the street, curb or parking area and, if the time is between the hours of 7:00 a.m. and 7:00 p.m. or between the hours of 9:00 a.m. or 6:00 p.m. in the off-street parking areas maintained by the City of Rye on City-owned lands known as Car Park No. 1, Car Park No. 2, Car Park No. 3, Car Park No. 4 and Car Park No. 5 on any day except Sunday, immediately deposit one twenty five cent coin of the United States of America the parking meter fee in the parking meter regulating such space and actuate the mechanism of such meter as required by the directions thereon.

Section 4. Current Section 191-38.1A of Chapter 191 of the Code of the City of Rye is hereby replaced to read as follows:

- A. No person shall be permitted to park an automobile or other vehicle or shall permit an automobile or other vehicle to remain in or upon the public parking places on land owned and controlled by the City of Rye and shown and designated on the Tax Map of the City of Rye as Sheet 146.07,

Block 1, Lot 64, between the hours of 9:30 a.m. and 7:00 p.m. each day, except Sundays and legal holidays, unless the owner of such vehicle shall have a tag or license for resident meter parking and shall, upon entering such space, park such vehicle within the lines marked and immediately deposit ~~one twenty five cent coin of the United States of America~~ the parking meter fee in the parking meter regulating such space and activate the mechanism of such meter as required by the directions therein.

Section 5. Current Section 191-39 of Chapter 191 of the Code of the City of Rye is hereby replaced to read as follows:

§ 191-39. Parking time limits and fee.

The permitted parking time in a parking meter zone shall, except in the off-street parking areas maintained by the City of Rye on City-owned lands known as Car Park No. 1, Car Park No. 2, Car Park No. 3, Car Park No. 4 and Car Park No. 5 or as otherwise provided, be ~~1 1/2 hours for each twenty five cent coin of the United States of America~~ 1 hour for each twenty-five cents of the United States of America deposited in the meter. The permitted parking time in the off-street parking areas maintained by the City of Rye on City-owned lands known as Car Park No. 1, Car Park No. 2, Car Park No. 3, Car Park No. 4 and Car Park No. 5 shall be 1 hour for each fifty cents of the United States of America deposited in the meter. Upon the expiration of the permitted parking time with respect to any vehicle in such designated parking space, the operator shall forthwith remove such vehicle from such parking space.

Section 6. Current Section 191-40 of Chapter 191 of the Code of the City of Rye is hereby replaced to read as follows:

§ 191-40. Presumption of unlawful parking.

The fact that, at any time during any period in which the deposit of ~~a coin~~ the parking meter fee in any parking meter is required to permit parking in the parking space regulated thereby, the timing device on such parking meter indicates no unexpired time shall be presumptive evidence, as to a parked vehicle then found in such parking space, that the operator of such vehicle failed to deposit or to cause to be deposited the required ~~coin~~ parking meter fee in such meter or failed to remove such vehicle from such parking space upon the expiration of the lawful parking time with respect thereto.

Section 7. Current Section 191-41 of Chapter 191 of the Code of the City of Rye is hereby replaced to read as follows:

§ 191-41. Misuse of meters.

It shall be unlawful for any person willfully to deface, injure, tamper with, break, destroy or impair the usefulness of or open without lawful authority any parking meter installed in any parking meter zone or deposit or cause to be deposited in any such parking meter any slug, device or substitute for a ~~twenty five cent coin of the United States of America~~ the parking meter fee.

Section 8. Current Section 191-44 of Chapter 191 of the Code of the City of Rye is hereby replaced to read as follows:

§ 191-44. Penalties for offenses.

Violation of § 191-41 shall be punishable by a fine not exceeding \$100 \$300.

Section 9. This local law shall take effect immediately on filing in the office of the Secretary of State.

Deleted language is in ~~strikethrough~~ and new language is underlined.

ROLL CALL:

AYES: Councilmen Chu, Fahey, Hennes, Larr and Seitz
NAYS: Mayor Otis and Councilman Cypher
ABSENT: None

6. Resolution authorizing City Manager to issue RFP for installation of multi-space parking meters in the Central Business District

City Manager Shew requested the Council authorize him to issue an RFP for installation of the new parking meter system so the bids can come back by February. It was agreed that the Council would be able to review the completed RFP before it was distributed, with the awareness that if the parking plan does not go through, the 2005 budget would be \$125,000 short on the revenue side.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to issue an RFP for installation of multi-space parking meters in the Central Business District.

ROLL CALL:

AYES: Councilmen Chu, Fahey, Hennes, Larr and Seitz
NAYS: Mayor Otis and Councilman Cypher
ABSENT: None

6A. Resolution in connection with School Street parking lot proposal

Mayor Otis asked the Council to approve a resolution affirming their intent to build a parking deck in parking lot #5 (by the A&P) using funds in excess of the \$125,000 being allocated to the 2005 General Fund. He said the resolution would have no impact on the 2005 tax rate, that a feasibility study would be necessary, but it would be an olive branch to the merchants. He said he feels a certain sense of urgency to demonstrate to the merchants they would be getting something in the future, perhaps ameliorating the fact that the character of the community is changing. *Catherine Parker* said it would be insincere for the Council not to commit to a new parking deck, further suggesting they should use the Mortgage Tax funds to finance it. *Steve Meyers* concurred with this idea and urged approval of the resolution.

Councilman Hennes applauded the Mayor's ideas and efforts and agreed with the idea of using funds in excess of \$125,000 to improve parking, but was unwilling to commit any undesignated fund balances until he saw the feasibility study and how it works out specifically. Councilman Cypher said there was not enough time to absorb the resolution; he is not convinced multi-tiered parking is what everyone wants; and, in addition, we don't know if the parking experiment will work. Councilman Seitz asked the same question and Councilmen Chu and Fahey concurred with the idea of taking more time before committing to a specific plan or using any funds from undesignated fund balance.

Councilman Seitz made a motion, seconded by Mayor Otis, to adopt the following resolution:

RESOLVED, that any revenue from parking meters above \$125,000 received in 2005 be returned to the Fee-in-Lieu-of Parking Fund.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cypher, Hennes, Larr and Seitz
NAYS: Councilmen Chu and Fahey
ABSENT: None

7. Resolution to adopt the 2005 Budget and establish the 2005 tax levy and the 2005 tax rate

City Manager Paul Shew said the 2005 Budget reflected lots of work and effort on everyone's part, particularly the Finance Department and the Council. It was noted that the City of Rye has once again received a Certificate of Achievement for Excellent in Financial Reporting

from the Government Finance Officers Association (GFOA) and that City Comptroller Michael A. Genito has once again received an individual award from GFOA. He said the proposed resolution incorporates what the Council has previously authorized and noted that the traffic signal at Oakland Beach Avenue and Milton Road is now being done with 2004 funds and the staff is looking into rental possibilities for the Police Impound Facility.

Mayor Otis, while applauding the lowered tax rate, reiterated his concerns about what he sees as warning signs in the 2005 budget that may lead to higher expenses in 2006. More specifically, he is concerned about the timing for borrowing for the Locust Avenue Firehouse project, suggesting the Finance Committee should look further into a procedure Darien, Ct. followed in locking in an option at a low rate. He is also concerned that moving \$100,000 from the Building and Vehicle Budget will leave a hole in that budget; that the Council is taking a chance with speculating on parking revenue; that some of the equipment purchases being made from undesignated fund balance are too short and the rules are getting looser; that there are virtually no capital projects in the budget and the costs of such projects as Theall Road just continue to go up; and, finally, that the tax rate is 1% below the CPI for this area while labor and salary costs are rising by a rate above the CPI. He said the City might be making the same mistake it did in the 1990's.

Councilman Hennes said he was convinced this budget was conservative and safe and, when considered as a whole, the rate is not too low. He reiterated his belief that no funds should ever be borrowed until they are needed, that the Comptroller should make the decisions and that the City should not be in the business of predicting interest rates. Councilman Fahey pointed out Connecticut may be different from New York and concurred that the Council needs to make some hard decisions and not be constantly referring items to the Finance Committee. Councilman Seitz said he was satisfied that they had done what they had promised when they were elected - controlled expenses and identified new sources of revenue. Councilman Chu pointed out services are being maintained.

Mayor Otis said an additional resolution including the authorization of a raise for the City Manager should be added to the document submitted to the Council.

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

WHEREAS, on November 3, 2004 the 2005 Tentative Budget was presented to the City Council; and

WHEREAS, since November 3, 2004 the City Council has adopted several amendments to the 2005 Tentative Budget; and

WHEREAS, the City Council now desires to adopt the 2005 Tentative Budget as amended; now, therefore it is

RESOLVED, that the tentative budgets as amended and fee schedules for 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, are hereby adopted for the fiscal year ending December 31, 2005; and be it further

RESOLVED, that the City Council does hereby certify to the City Comptroller the 2005 City of Rye tax rate of \$116.80 per \$1000 taxable assessed valuation and the 2005 City of Rye tax levy of \$15,870,280; and be it further

RESOLVED, that the City Council increase the compensation of the City Manager to \$152,000 as of his August 2004 anniversary date and to be next reviewed in December 2005; and be it further

RESOLVED, that the City Council does hereby direct the City Comptroller to apportion and extend against each taxable property listed upon the assessment roll at the tax rate certified in this resolution to produce the tax levy certified in this resolution, and to render tax notices for, and receive and collect, the several sums so computed and determined, with interest as provided by law, and any special assessments heretofore authorized and approved.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes, Larr and Seitz
NAYS: None
ABSENT: None

8. Resolution authorizing the City Comptroller to make the necessary year-end closing transfers

Councilman Cypher made a motion, seconded by Councilman Hennes, to adopt the following resolution:

RESOLVED, that the City Comptroller is hereby authorized to make the necessary 2004 fiscal year-end budget transfers in city accounts, provided a list of such transfers is furnished to the City Council after completion of such transfers.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes, Larr and Seitz
NAYS: None
ABSENT: None

9. Resolution authorizing acceptance of donations by the City Comptroller

City Manager Paul Shew said the proposed resolution authorizing acceptance of smaller donations by the City Comptroller without specific approval of the Council was being proposed in order to reduce the cost of the paperwork, often more than the amount of the donation. Councilwoman Larr suggested a list of these donations be included in the Project Update report each month so that the Council can be aware of the donations.

Councilman Cypher made a motion, seconded by Councilman Hennes, to adopt the following resolution:

WHEREAS, all donations received by the City of Rye must currently be presented to the City Council for acceptance; and

WHEREAS, such donations are often in small dollar amounts; and

WHEREAS, the costs associated with preparing, distributing, reviewing, and approving the information to be presented to the City Council for their consideration in accepting such donations often exceeds the amount of the donation; now, therefore, be it

RESOLVED, that the City Comptroller is authorized to accept donations made to the City of Rye having a dollar value of less than one thousand (\$1,000) dollars, provided that such donations do not obligate the City of Rye in any way other than specifying the use of the donations.

ROLL CALL

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

NAYS: None

ABSENT: None

10. City Council declaration of intent to be Lead Agency and referral to the Rye City Planning Commission for Advisory LWRP Coastal Consistency and Wetland Permit Approval in connection with the Kirby Lane North Sanitary Sewer Special Assessment District

City Planner Christian Miller informed the Council declaring intent to be Lead Agency is one of a series of necessary procedural matters needed to proceed with the Kirby Lane North Sanitary Sewer Special Assessment District.

Councilman Cypher made a motion, seconded by Councilman Hennes and unanimously carried, to adopt the following resolution:

RESOLVED, that the City Council of the City of Rye declares its intent to be Lead Agency and hereby refers to the Rye City Planning Commission for Advisory Local Waterfront Revitalization Program (LWRP) Coastal Consistency and Wetland Permit Approval in connection with the Kirby Lane North Sanitary Sewer Special Assessment District.

11. Resolution fixing January 5, 2005 as the first regular meeting and the organizational meeting of the City Council for 2005

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

RESOLVED, that January 5, 2005 is hereby fixed as the first regular and the organizational meeting of the Rye City Council.

12. Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2005

Councilman Chu made a motion, seconded by Councilman Hennes, to adopt the following resolution:

RESOLVED, that the Mayor be and hereby is authorized to execute an agreement with the Rye Free Reading Room to furnish library services for 2005, in the amount of \$1,030,580.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes, Larr and Seitz
NAYS: None
ABSENT: None

13. Resolution authorizing per diem meal allowances

City Manager Shew said the resolution authorizing per diem meal allowances were an effort to make the City run more like a business. He said the procedure of putting a cap on daily expenditures, rather than requiring a pile of receipts (which people may use if they wish), was more cost efficient and would streamline the process. The procedure also applies to volunteer firemen if appropriate.

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

WHEREAS, General Municipal Law §77-c authorizes a municipality by resolution to reimburse its officers, employees, or the volunteer members or officers of the fire department of the municipality, a reasonable per diem allowance for meals associated with travel on official business in lieu of such actual and necessary expenses, provided that such allowance does not exceed the standard meal allowance for business-related travel adopted or prescribed for federal income tax purposes; and

WHEREAS, the City Manager has determined that the adoption of such resolution will result in cost efficiencies in the reduction of record keeping and paperwork; now, therefore, be it

RESOLVED, that the City of Rye will reimburse its officers, employees, or the volunteer members or officers of the fire department a reasonable per diem allowance for meals associated with travel on official business in lieu of such actual and necessary expenses, provided that such allowance does not exceed the standard meal allowance for business-related travel adopted or prescribed for federal income tax purposes.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes, Larr and Seitz
NAYS: None
ABSENT: None

14. Authorization for City Manager to execute Inter-Municipal Agreement with County of Westchester for 2005 Stop-DWI Patrol Project Reimbursement

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to execute an Inter-Municipal Agreement with the County of Westchester for the 2005 Stop-DWI Patrol Project Reimbursement.

15. Acceptance of Grant Award from Governor's Traffic Safety Committee in the amount of \$8,000 for participation in "Buckle Up New York" program

City Manager Paul Shew said the goal of the "Buckle Up New York" program is to increase the use of seat belts thereby reducing serious injury and deaths that result from vehicle accidents. He said this was the second year a grant has been awarded to the Rye Police Department.

Mayor Otis made a motion, seconded by Councilman Hennes, to adopt the following resolution:

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to accept a grant award from the Governor's Traffic Safety Committee in the amount of \$8,000 for participation in the "Buckle Up New York" program.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes, Larr and Seitz
NAYS: None
ABSENT: None

16. Acceptance of a donation to the Rye Police Department from the Birny Mason, Jr. Foundation in the amount of Two Hundred Fifty (\$250.00) dollars

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

WHEREAS, the Birny Mason Jr. Foundation desires to donate Two Hundred Fifty Dollars (\$250) to the Rye Police Department for the benefit of Patrol Officers; and

WHEREAS, the General Fund 2004 budget did not anticipate this donation; now, therefore, be it

RESOLVED, that the City Council of the City of Rye accepts the aforementioned donation.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes, Larr and Seitz
NAYS: None
ABSENT: None

17. Acceptance of a donation to the Rye Police Department from Michelina Ruzzo-Bonner to the Child Safety Seat Inspection Program in the amount of Twenty (\$20.00) dollars

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

WHEREAS, the City of Rye is in receipt of a donation in the amount of \$20 from Michelina Ruzzo-Bonner, specifically for expenditures related to the City's child safety seat inspection program; and

WHEREAS, the General Fund 2004 adopted budget did not provide for the receipt of such revenues or the related expenditures; now, therefore, be it

RESOLVED, that the fiscal 2004 General fund budget be amended as follows:

Increase Police Patrol Estimated Revenues – Donations \$20
Increase Police Patrol Appropriations – Patrol Equipment \$20

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes, Larr and Seitz
NAYS: None
ABSENT: None

18. Authorization for Corporation Counsel to commence an action against Gulf Insurance Company as surety for M.A.T. Marine, Inc. for recovery of performance bond

City Manager Shew informed the Council M.A.T. Marine, Inc. had failed to complete the dredging program for which they had contracted and the City wants to recover the performance bond.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City's Corporation Counsel to commence an action against Gulf Insurance Company, as Surety for M.A.T. Marine, Inc. for recovery of a performance bond #AE6262155.

19. Authorization for Corporation Counsel to withdraw action against Gertrude Thomaschewsky

City Manager Shew said the action against Ms. Thomaschewsky was to clean up the abandoned gas station at the corner of Purchase Street and Wappanocca Avenue and now that she is deceased and the court appointed public administrator is working with the City there is no need to continue the court action and its resultant costs.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City's Corporation Counsel to withdraw a lawsuit against Gertrude Thomaschewsky, deceased owner of the abandoned gas station on the corner of Purchase Street and Wappanocca Avenue.

20. Authorization for the City Manager to fill the position of automotive mechanic in the Department of Public Works

City Manager Shew said an automotive mechanic is leaving City employment and it is essential to replace him so that all vehicles can continue to be maintained. He said the Public Works Department is already short-staffed and not replacing this position could lead to serious downtime for inoperative vehicles. He said there might be a pay differential, but it is a union position and the pay scale will depend on the County's list of interested and available candidates.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to fill the position of automotive mechanic in the Department of Public Works.

21. Bids for rehabilitation of traffic signals

City Manager Shew reported two bids had been submitted for rehabilitation of traffic signals at Theodore Fremd Ave./Central Ave., Theodore Fremd Ave./Elm Pl., and Grace Church St./Forest Ave. He said the estimate was such that the City can include the rehabilitation of the signal at Oakland Beach Avenue at Milton Road (with the left-hand turn signal going north) as part of this package, thereby eliminating this project from the 2005 capital projects. He recommended granting the contract to Phoenix Signal, Inc. as recommended by the City Engineer. The bid tab is as follows:

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CONTRACTOR			Phoenix Signal Corp.		Verde Electric Corp.	
Item #	Items of Work	Quantities	Unit	Amount Bid	Unit	Amount Bid
203.02	Unclassified Excavation and Disposal	20 CY	\$20.00	\$400.00	\$100.00	\$2,000.00
206.03	Conduit Excavation and Backfill	315 LF	\$18.00	\$5,670.00	\$18.00	\$5,670.00
8520.5014	Saw Cutting Asphalt Pavement, Concrete Pavement	70 LF	\$3.00	\$210.00	\$3.00	\$210.00
586.01	Drilling & Grouting Reinforcing Bars	30 LF	\$25.00	\$750.00	\$10.00	\$300.00
608.0101	Concrete Sidewalk and Driveway	10 CY	\$400.00	\$4,000.00	\$500.00	\$5,000.00
609.04	Concrete Curb (Type BB)	110 LF	\$30.00	\$3,300.00	\$25.00	\$2,750.00
619.01	Maintenance & Protection of Traffic	1 LS	\$1,500.00	\$1,500.00	\$3,500.00	\$3,500.00
634.01	Survey & Stakeout	1 LS	\$500.00	\$500.00	\$1,000.00	\$1,000.00
635.0103	Cleaning and Prep Pavmnt Surface Lines	3600 LF	\$0.60	\$2,160.00	\$0.60	\$2,160.00
635.0303	Cleaning and Prep of Surface Letters	1 EA	\$100.00	\$100.00	\$40.00	\$40.00
8648.5002	Probe Exploration	30 LF	\$16.00	\$480.00	\$20.00	\$600.00
680.5001	Pole Excavation & Concrete Foundation	22 CY	\$900.00	\$19,800.00	\$975.00	\$21,450.00
8680.5001	Non-Rippable Material Excavation for Pole Foundation	2 CY	\$360.00	\$720.00	\$1,000.00	\$2,000.00
680.510501	Pullbox - Rect 26" X 18", Reinf concrete	6 EA	\$650.00	\$3,900.00	\$700.00	\$4,200.00
680.520106	Conduit, Metal Steel, Zinc Coated, 2" Dia	350 LF	\$9.00	\$3,150.00	\$14.00	\$4,900.00
680.600326	Furnish & Install Traffic Signal, Pole Spanwire (3k lbs, 26 ft)	4 EA	\$3,400.00	\$13,600.00	\$3,100.00	\$12,400.00
8680.62051	Traffic Signal Pole 16' MTG. HT, 33' Arm Length	1 EA	\$12,700.00	\$12,700.00	\$11,750.00	\$11,750.00
680.6824	Furnish & Install Traffic Signal Pole Bracket Mount (8 Feet)	5 EA	\$900.00	\$4,500.00	\$995.00	\$4,975.00
680.7001	Signal Span Wire Assembly	2 EA	\$900.00	\$1,800.00	\$850.00	\$1,700.00
680.7004	Messenger Assembly	60 LF	\$2.50	\$150.00	\$4.50	\$270.00
680.700606	Riser Assesmbly, 2" Dia.	2 EA	\$750.00	\$1,500.00	\$500.00	\$1,000.00
680.730514	Signal Cable, 05 Conductors, No 14 AWG	750 LF	\$3.20	\$2,400.00	\$2.00	\$1,500.00
680.730714	Signal Cable, 7 Conductors, 14 AWG	50 LF	\$4.00	\$200.00	\$2.50	\$125.00
680.730714	Signal Cable, 10 Conductors, No 14 AWG	400 LF	\$4.50	\$1,800.00	\$3.00	\$1,200.00

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680.731914	Sig Cable, 19 Cndtrs, No. 14AWG	600 LF	\$5.10	\$3,060.00	\$5.00	\$3,000.00
680.7901	Remove Traffic Signal Equipment	1 LS	\$3,000.00	\$3,000.00	\$3,500.00	\$3,500.00
15680.803R	Traffic Controller	2 EA	\$6,500.00	\$13,000.00	\$1,950.00	\$3,900.00
15680.8032	Install Microcomputer Cabinet	2 EA	\$2,500.00	\$5,000.00	\$6,900.00	\$13,800.00
680.810101	Traffic Sig Sec 12" Red Ball, L.E.D.	15 EA	\$200.00	\$3,000.00	\$220.00	\$3,300.00
680.810103	Traffic Signal Module, 12" Yellow Ball, LED	15 EA	\$240.00	\$3,600.00	\$225.00	\$3,375.00
680.810105	Traffic Signal Module 12 inch Green Ball L.E.D. Type 1, 12 Inch	15 EA	\$410.00	\$6,150.00	\$235.00	\$3,525.00
680.810107	Traffic Sig Sec Type 1, 12"	45 EA	\$110.00	\$4,950.00	\$105.00	\$4,725.00
680.810301	Traffic Signal Moduole, 8", Red Ball, LED	6 EA	\$190.00	\$1,140.00	\$188.00	\$1,128.00
680.810303	Traffic Signal Module 8" Yellow Ball, LED	6 EA	\$200.00	\$1,200.00	\$190.00	\$1,140.00
680.810305	Traffic Signal Module 8", Green Ball, LED	6 EA	\$250.00	\$1,500.00	\$200.00	\$1,200.00
680.810307	Traffic Signal Module Type 1, 8"	18 EA	\$95.00	\$1,710.00	\$100.00	\$1,800.00
8680.8111	Traffic Sig Bracket Assembly 1 Way	3 EA	\$250.00	\$750.00	\$165.00	\$495.00
680.8112	Traffic Sig. Bracket Assembly 2 Way	2 EA	\$350.00	\$700.00	\$180.00	\$360.00
680.8113	Traffic Sig. Bracket Assembly 3 Way	2 EA	\$425.00	\$850.00	\$250.00	\$500.00
680.8114	Traffic Sig Bracket Assembly 4 Way	2 EA	\$525.00	\$1,050.00	\$450.00	\$900.00
680.812	Traffic Signal Disconnect Hanger	6 EA	\$150.00	\$900.00	\$280.00	\$1,680.00
680.813103	Pedestrian Signal Type 1- 12 inch	8 EA	\$160.00	\$1,280.00	\$182.00	\$1,456.00
680.813105	Pedest. Sig. Bi-Mod Man/Hand LED	8 EA	\$380.00	\$3,040.00	\$300.00	\$2,400.00
680.8141	Pedest. Sig. Bracket Mount Assembly	8 EA	\$150.00	\$1,200.00	\$175.00	\$1,400.00
8680.94	Traffic Signal Service Entrance	2 EA	\$725.00	\$1,450.00	\$500.00	\$1,000.00
5680.9502	Service Cable, 02 Cndctr, No. 8 AWG	140 LF	\$2.00	\$280.00	\$5.00	\$700.00
687.0101	White Thermoplastic Reflectorized Pavement Stripes	3600 LF	\$1.20	\$4,320.00	\$0.75	\$2,700.00
688.04	White Epoxy Reflectorized Pavement Symbols	1 EA	\$180.00	\$180.00	\$150.00	\$150.00

699.04	Mobilization	1 LS	\$4,000.00	\$4,000.00	\$5,953.00	\$5,953.00
Total Price Bid			\$152,600.00		\$154,787.00	
Position			1		2	
% Above Low Bidder			0%		1.43%	

The Contractor bid \$5953.36, however, in writing bid \$5953.00. As per our contract documents, any discrepancy in value will be determined by the amount in written words

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

RESOLVED, that the bid for Contract 2004-07 – Rehabilitation of Traffic Signals from Phoenix Signal, Inc. in the amount of \$152,600, being the low bidder, be accepted.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Hennes, Larr and Seitz
 NAYS: None
 ABSENT: None

22. Miscellaneous communications and reports

Councilman Chu said he had been at an interesting meeting with a member of the Real Tax Services Department from the State who was discussing Homesteading the tax rates which, in essence offers the option to tax commercial properties higher than residential properties. This is an option for the Rye Neck School District because Rye Town has just completed a revaluation of all property. The effect, if adopted, would lower that tax rate of homeowners which is good for the residents of that section of Rye.

Councilman Fahey reported that the Playland forum, conducted by the Playland Master Plan consultants on Monday, December 6 was well attended and offered a chance to voice concerns. Mayor Otis concurred, reporting that the consultants were happy with the input and glad they had come to Rye.

Councilwoman Larr reported that the first meeting of the Deer Committee had been civilized and that a survey will be going out to at least a portion of Rye residents for additional input. She said Greenwich had increased deer hunting beyond their nature center preserve. The next meeting of this committee will be in February.

Mayor Otis said he had attended the Westchester Municipal Officials Meeting concerning Verizon and their efforts to enter into the cable business. He said everyone is concerned about placing the large white boxes so low to the ground, but as Verizon will be breaking the monopoly for cable users there will, in addition to creating more competition, be franchising revenue opportunities for the City.

23. Old Business.

Councilman Chu said the new Commerce Bank on the site of the old Crab Shanty (corner of Brevoort Lane and the Boston Post Road) would open Saturday, December 18th. He said a “no left turn” signal onto Brevoort Lane is still needed, but noted now that the bank is built, people seem to actually like it.

Pat Amendola, who missed the budget discussion and vote, said he was still worried about the cost of membership at the Rye Golf Club and urged the Council not to just rubber stamp the recommendations of the Golf Commission; that it is not a private club and needs to be affordable to everyone in Rye, including Veterans of Foreign Wars, Senior Citizens and young families trying to make ends meet. Mayor Otis said he had heard from several people about the rates and had spoken to the Commission, but it is hard because there are so many seniors who wish to be members.

In response to an inquiry from Councilman Seitz, Mayor Otis said the legislation authorizing the occupancy tax has not been passed so it will have to be reintroduced next year. He said the City should add a sunset clause to conform to others applying for occupancy tax legislation.

24. New Business

Councilwoman Larr said there has been more than one case where a person has come to apply for a small alteration to a home and has then proceeded to level the structure and rebuild a “MacMansion.” She said the financial gain is enormous but the penalty is only \$1000, making a mockery of those who follow the rules. She suggested the City find a way to make the punishment more severe, perhaps charging a percentage of the financial gain. Other suggestions could be to not issue a Certificate of Occupancy or even to make the builder remove the new structure. Staff will look into the matter and report back.

25. Draft unapproved minutes of the regular meeting held on December 1, 2004 and special meeting held on December 3, 2004

Councilman Fahey made a motion, seconded by Councilman Hennes and unanimously carried, to adopt the minutes of the regular meeting of the City Council held December 1, 2004.

Councilman Fahey made a motion, seconded by Councilman Hennes and unanimously carried, to adopt the minutes of a special meeting of the City Council held December 3, 2004 as amended.

26. Adjournment

There is no further business to discuss, Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to adjourn the meeting at 11.59 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk