

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 9, 2005 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
FRANKLIN J. CHU (arrived at 8:45 P.M.)
ROBERT S. CYPHER (departed at 8:50 P.M.)
MATTHEW FAHEY
DUNCAN HENNES
ROSAMOND LARR
HOWARD G. SEITZ (arrived at 8:10 P.M.)
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.

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

There were no residents wishing to address the Council.

4. Presentation by the Commission on Human Rights of the City of Rye Housing Needs Survey Report

Pat McGunagle, Chairman of the Rye Commission on Human Rights, presented the final report, dated March 2005, of the City of Rye Housing Needs Survey prepared with assistance from the Housing Action Council in Tarrytown. The survey was initiated by the Rye Commission on Human Rights (CHR) with Council support in 2003 and conducted during the summer of 2004 to ascertain existing and projected affordable housing needs for residents and those who serve the Rye community. The survey, funded by a County Grant, was sent to 2,700 school employees, municipal employees, private sector employees and residents age 60+. Three interrelated factors were considered: expressed need, income eligibility (the Westchester County guideline of 80% of the median Westchester County income level was used); and realism (is there a realistic opportunity to meet demands).

The overall response rate was 30%. Of the groups surveyed, the highest rate of return was from school employees (52%). Of the senior citizens who responded, 91% were satisfied; of the 10% not satisfied, most were either not eligible or had unrealistic expectations. The greatest demand for affordable housing is from City employees, then volunteer firefighters, then public and private school employees. The full survey is on file in the City Clerk's Office.

Mr. McGunagle said the questions of how to meet the need for affordable housing in the City of Rye cannot and should not be answered at this meeting but he asked the Council to take action on the following recommendations from the CHR, based on the results of the survey:

- 1) Charge the Planning Commission to specifically address the needs of City employees, volunteer firefighters and public and private school employees.
- 2) Pass a resolution reiterating the City of Rye's unequivocal interest in the Theodore Fremd site that could accommodate 24 affordable housing units, urging the County to develop a complete and quick remediation plan.
- 3) Charge the City Manager to urge the State Department of Environmental Conservation (DEC) to move meaningfully on the decontamination of the Theodore Fremd site.

Mayor Otis thanked Mr. McGunagle for his presentation and thanked all those, including CHR member Peter Larr as well as Sally Wright, Joe Murphy and Councilwoman Larr for their help in compiling the survey. He mentioned there is a limitation on what the City can do given the pressure of taxes and the rising costs of houses and land in the City. He asked what other communities do who have a high price placed on limited amount of land. Mr. McGunagle said other than new units the City should consider other land use options/devises such as accessory apartments, creative adaptive reuse of commercial buildings, density bonuses and zoning incentives. The Mayor said the County has been told Rye wants the land for affordable housing and has opposed a number of commercial developments proposed over the years. He noted affordable housing is a countywide problem. Councilman Cypher said he hoped some consideration would be given to public servants who might exceed the County income level, but whose families have a long history of service.

Councilwoman Larr made a motion, seconded by Councilman Seitz and unanimously carried to ask the staff to prepare a resolution based on the three recommendations from the Rye Commission on Human Rights for consideration at the March 30, 2005 meeting.

5. Resolution to authorize additional EFC debt for sewer projects

City Manager Shew said the Comptroller was requesting that the amount to be bonded for the Kirby Lane North sewer project be raised by an additional \$200,000, which would be repaid by the beneficiaries of the sewer project. He said the City would only borrow the exact amount necessary, based on firm bids, but it was important to have an adequate figure in the resolution.

Should any resident of Kirby Lane North elect to pre-pay the assessment, the amount to be borrowed would be adjusted downward.

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

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$200,000 SERIAL BONDS OF THE CITY OF RYE, WESTCHESTER COUNTY, NEW YORK, TO PAY ADDITIONAL COSTS OF THE CONSTRUCTION OF SANITARY SEWERS LOCATED THROUGHOUT AND IN AND FOR SAID CITY.

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, by bond resolution dated January 22, 2003, the City Council of the City of Rye, Westchester County, New York, authorized the issuance of \$1,220,500 serial bonds of said City to pay the cost of the construction of sanitary sewers located throughout and in and for the City of Rye, Westchester County, New York, including the purchase and installation of original equipment, machinery and apparatus, and incidental improvements and expenses in connection therefor, in and for the City of Rye, Westchester County, New York, and

WHEREAS, by bond resolution dated April 30, 2003, the City Council of the City of Rye, Westchester County, New York, authorized the issuance of \$579,500 serial bonds of said City to finance additional costs of said class of objects or purposes, and

WHEREAS, it is now desired to authorize the issuance of \$200,000 serial bonds of said City to finance additional costs of said class of objects or purposes; now, therefore, be it

RESOLVED, by the City Council of the City of Rye, Westchester County, New York, as follows:

Section 1. For the class of objects or purposes of paying additional costs of the construction of sanitary sewers located throughout and in and for the City of Rye, Westchester County, New York, including the purchase and installation of original equipment, machinery and apparatus, and incidental improvements and expenses in connection therefor, in and for the City of Rye, Westchester County, New York, there are hereby authorized to be issued an additional \$200,000 serial bonds of said City pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid class of objects or purposes is \$2,000,000 and that the plan for the financing thereof is as follows:

- (a) by the issuance of the \$1,220,500 serial bonds of said City authorized to be issued pursuant to bond resolution dated January 22, 2003; and

(b) by the issuance of the \$579,500 serial bonds of said City authorized to be issued pursuant to bond resolution dated April 30, 2003; and

(c) by the issuance of the additional \$200,000 serial bonds of said City authorized to be issued pursuant to this bond resolution;

Section 3. It is hereby further determined that the period of probable usefulness of the aforesaid class of objects or purposes is forty (40) years, pursuant to subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said City of Rye, Westchester County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not available from other sources, there shall annually be levied on all the taxable real property in said City a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the City of Rye, Westchester County, New York, by the manual or facsimile signature of the City Comptroller and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the City Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the City Comptroller, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of the City; including but not limited to, the power to sell said serial bonds to the New York State Environmental Facilities Corporation, provided, however, that in the exercise of these delegated powers, he shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the City Comptroller shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the City by the facsimile signature of the

City Comptroller, providing for the manual countersignature of a fiscal agent or of a designated official of the City), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the City Comptroller. It is hereby determined that it is to the financial advantage of the City not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Comptroller shall determine.

Section 9. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the City Comptroller. Such notes shall be of such terms, form and contents as may be prescribed by said City Comptroller consistent with the provisions of the Local Finance Law.

Section 10. The City Comptroller is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the class of objects or purposes described in Section 1 hereof, or a portion thereof, by a serial bond, and, or note issue of said City in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 11. The intent of this resolution is to give the City Comptroller sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds and, or notes without resorting to further action of this City Council.

Section 12. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. This resolution shall be published in full in the Journal News, the official newspaper, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 15. This resolution shall take effect immediately in accordance with paragraph D of Section C21-9 of the City of Rye Charter.

ROLL CALL:

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

The resolution passed by a vote of 6-0.

6. Resolution to authorize acceptance of donations by the City Comptroller

This agenda item was deferred in deference to a comment from Councilman Seitz suggesting that the resolution be amended to insure that no donation be accepted automatically if it might be used for an inappropriate purpose. The City Comptroller will review the resolution and resubmit it to the Council.

7. Authorization to fill vacancy in Police Department

City Manager Shew requested that the hiring freeze be lifted so that the Police Department can fill a position for a police officer made available because Officer McCabe retired on disability. He said the replacement would likely be at a more junior level and therefore at a lower salary. The Council noted Officer McCabe was well known and respected in the community and had served it well.

Councilwoman Larr made a motion, seconded by Councilman Cypher and unanimously carried, to lift the hiring freeze to fill the vacant position in the Police Department.

8. Miscellaneous communications and reports

The City Manager and the Mayor reported that the NYCOM Legislative Meeting had been interesting, especially as related to volunteer firefighter services. The City Manager said he would send this particular information out to the Council.

Councilman Fahey reported on his first Rye Town Park Commission meeting saying he was awaiting a report from Chris Cohen on the finances of the Duck Pond project. Councilman Hennes said he was awaiting 1099's from the Friends of Rye Town Park. Councilman Seitz said he had no concern about Rye's election to subsidize the park, but expressed interest in getting more data concerning the use of the park by non-residents (i.e. people from Larchmont, Mamaroneck, etc.) and agreed with Councilman Fahey that more information is necessary so informed suggestions and decisions can be made. Councilman Hennes suggested the

Commission either raise the revenue or reduce expenses to lower the suggested contribution of \$94,000. It was agreed that Councilman Fahey would continue as a member of the Commission through the next meeting. Mayor Otis stated that all budget proposals made by members of the City Council would be presented to the Rye Town Park commission for consideration. He also indicated that all budget information available from the Town of Rye has been provided the City Council including a memorandum from the Town's new accountant analyzing Councilman Seitz's memo.

9. Old Business

In response to a question from Councilman Seitz, Mayor Otis reported that other communities have expressed interest in having an Occupancy Tax and the Finance Committees of both houses are working on the drafts. He said it is possible such a bill could be applied countywide. Councilman Seitz said that, should it go through, he would suggest using a certain amount (\$150,000) toward retirement of debt service giving the City the ability to do projects like Theall Road. The Mayor said the City has that ability today.

Councilman Seitz asked about the status of the noise ordinance. City Manager Shew said it was not forgotten and discussions are on-going, but the City is still in litigation so it is better to hold off on finalizing any actual ordinance.

Councilwoman Larr reported that the deer population is multiplying faster than was previously thought; that Greenwich has taken an active role in hunting deer, but there is much more space; and next month she will have more information. (Hunting Season begins October 1 and lasts through the end of the year.)

10. New Business

Councilman Chu said he had seen in a memo from the Mayor that Rye Neck was interested in having a new Cable channel and asked when this might be possible. He was informed that the Rye Neck School Superintendent should put his needs and requests in writing and forward it to the City. The Mayor said we want to receive as much as we can from our Cable Franchise and, as we have the bandwidth to have additional channels, we should add them as needed. He deferred the decision to the Rye Cable Committee and City Staff.

Councilman Chu brought up an issue with an old, rundown home in Greenhaven owned by the Nigerian Embassy and asked what the City can do to clean up the property. The City Manager reported that we have treated the Embassy just like any other owner, but they have property rights. They may also have diplomatic rights as a foreign country, which could be an issue but he would check into the matter.

Councilman Seitz said the Planning Commission was considering a subdivision on the former Diefenbach property on the Boston Post Road. He reported there was heavy opposition with lots of concerns about traffic and suggested the Council revisit the idea of a traffic signal at the intersection of Barlow Lane and the Post Road.

11. Draft unapproved minutes of regular meeting of the City Council held on February 16, 2005

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to approve the minutes of the regular meeting of the City Council held on February 16, 2005 as amended.

12. 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 9:30 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk