

APPROVED MINUTES of the Regular
Meeting of the City Council of the City of Rye held in
City Hall on May 18, 2005 at 8:00 P.M.

PRESENT:

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

ABSENT: ROSAMOND LARR

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 congratulated the Rye Free Reading Room on their successful Butterfield Picnic held Sunday, May 15, 2005.

Mayor Otis also congratulated the many people who participated in the very successful Pride in Rye day held Saturday, May 14, 2005. Councilman Hennes supplied a partial list of those participating. With apologies to the many who participated but are not mentioned, the following groups contributed to the success of the day: Garden Clubs (Rye and Little), Real Estate Companies (Julia B. Fee, Merritt, Realty 3, Henningsen, Houlihan Lawrence); Schools (Midland, Holy Child, Osborn); Civic groups (Rye Free Reading Room, Rye Nature Center, Rye Historical Society, Rye Youth Council, Rye Rotary, Friends of the Quaker Meeting House); Rye businesses (Blush, Ruby's, Webster Bank), the Rye Record, members of the City Council, many families and many individuals. DPW picked up many, many bags of garbage and Ginny Hutton created the artwork. The event was organized by Sally Wright, Chantal Detlefs, Peggy Peters and Connie Macleod.

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

Otto Spaeth, 6 Kirby Lane North, asked the Council to reconsider the decision not to include a slate roof on the Locust Avenue Firehouse. He said he believes there is a substantial majority of people in our community who would prefer the slate roof instead of the asphalt and would support the added quality. The extra cost would be only 2.3% of the total project that would still be within the bonding authorization. He asked the Council to consider again that the Board of Architectural Review, as well as the Landmarks Advisory Committee, both recommended the slate and the Y and Library both honored the Village Green by agreeing to slate. He said he feels the roof is very visible and a strong architectural feature of the building. He urged the Council to go look at the Port Chester Firehouse at Grace Church Street to see how the asphalt roof will appear. Councilman Seitz said he felt Mr. Spaeth had made a good point, saying he personally was in favor of slate and the annual cost would add only \$7000 per year to the total budget. Councilman Hennes said he would be happy to look at the matter again and maybe, if people feel strongly enough, they might be willing to contribute toward the extra cost.

4. Public Hearing on a proposed Local Law Amending Section 191-6 B, One-way streets, of Chapter 191, Vehicles and traffic, of the City Code to change the direction and hours of traffic on Hewlett Avenue during the hours it is one-way

Mayor Otis opened the public hearing. He said the Board of Education had requested that the direction and hours of traffic on Hewlett Avenue be changed to go one way from Forest Avenue to Milton Road rather than from Milton to Forest while the renovations to Milton School are being made. They also requested that the one-way hours be extended. The School had indicated that the neighbors had been consulted and there were no objections, but other than the public notice, there had been no written communication on the proposed change. Police Commissioner Connors said his department had no objection to the change. The Mayor closed the public hearing.

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

RESOLVED, that Section 191-6 B, One-way streets, of Chapter 191, Vehicles and Traffic, of the Code of the City of Rye be changed to amend the direction on Hewlett Avenue to West from Forest Avenue to Milton Road during the hours it is one-way (when school is in session from 8:00 a.m. to 9:00 a.m. and 2:15 p.m. to 3:15 p.m.).

ROLL CALL:

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

5. Consideration of setting a public hearing on a local law to amend Chapter 197 (Zoning) of the City of Rye, New York with respect to dwelling units on the second floor over nonresidential main uses in the B-1 Neighborhood Business District

City Planner Christian Miller said the Council had received a memorandum from the Planning Commission supporting a proposed text amendment and a proposed local law amending chapter 197 (Zoning) with respect to dwelling units over nonresidential main uses in the B-1 Neighborhood Business District. The Council has also received a completed Full Environmental Assessment form (EAF) and the LWRP Coastal Assessment Form. Among other things, the proposed local law clarifies parking regulations, offering relief if there are two dwelling units, and defines “common area.” Mr. Miller noted that the recommendations are consistent with the recommendations of the January 2005 Neighborhood Business District Study. The Mayor asked if the City could expect a building boom in these districts. Mr. Miller said the law could be applied to 162 properties, but only if a nonresidential use exists on the first floor. He said the concept was good and supportive of neighborhood business districts.

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

WHEREAS, the Council wishes to amend Chapter 197, Zoning, of the Code of the City of Rye with respect to dwelling units on the second floor over nonresidential main uses in the B-1 Neighborhood Business District; and

WHEREAS, it is now desired to call a public hearing on such proposed amendment to the law, 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 June 15, 2005 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 proposed local law.

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

**PUBLIC NOTICE
CITY OF RYE**

**Notice of Public Hearing on a proposed local law amending
Chapter 197, Zoning, of the Code of the City of Rye with
respect to dwelling units on the second floor over
nonresidential main uses in the B-1 Neighborhood Business
District**

Notice is hereby given that a Public Hearing will be held by the City Council of the City of Rye on the 15th day of June, 2005 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposed local law amending Chapter 197, Zoning, of the Code of the City of Rye with respect to dwelling units on the second floor over nonresidential main uses in the B-1 Neighborhood Business District.

Copies of said local law may be obtained from the office of the City Clerk.

Susan A. Morison
City Clerk

Dated: May 26, 2005

6. Presentation of the City of Rye Storm Water Management Program 2004 Annual Report

City Planner Christian Miller presented a draft of the Storm Water Management Program 2004 Annual Report, due June 1, 2005, for consideration by the Council. He reported that Rye has continued to advance a storm water plan which requires that the City carry out a 6 part minimum measure program (Public Education and Outreach in Storm Water Impacts; Public Involvement/Participation; Illicit Discharge Detection and Elimination; Construction Site Storm Water Runoff Control; Implementation of Best Management Practices; and Post-Construction Storm Water Management). Highlights of 2004 include water quality reports to builders and residents; sponsoring clean-up events; maintaining outfalls in terms of mapping and data; evaluating how laws need to be amended; continuing education; continuing past practices such as cleaning catch basins and streets; and increasing enforcement of sediment control. He said the report is consistent with the City's five-year plan and we continue to move forward to the satisfaction of the Department of Environmental Conservation (DEC). In response to an inquiry from Councilman Chu, he said it is still too early to determine the future costs of this mandate to the City; that so far the City is doing what is required with existing personnel, but there will be additional costs, such as in more environmentally sensitive materials, going forward. Mayor Otis pointed out that the DEC appears to be supportive of our actions to date and suggested the report might include other environmental projects such as participation in the Long Island Sound Watershed Intermunicipal Council (LISWIC) Harbor Festival and the purchase of LISWIC storm drain decals; the Beaver Swamp Brook restoration project; and the Rye Town Park Duck Pond Restoration.

7. Authorization for the City Manager to enter into a Prisoner Transportation Agreement with Westchester County for the period of January 1, 2005 through December 31, 2006

Acting City Manager Michael Genito said a Prisoner Transportation Agreement must be renewed every two years in order for the City to be reimbursed at current rates.

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

RESOLVED, that the City Manager is hereby authorized to enter into a Prisoner Transportation Agreement with Westchester County for the period of January 1, 2005 through December 31, 2006.

ROLL CALL:

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

NAYS: None

ABSENT Councilwoman Larr

8. Authorization for Police Department to acquire title to a 2001 Ford Windstar, which was seized in the course of an arrest

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

WHEREAS, the City of Rye has been offered a 2001 Ford Windstar, Vehicle Identification Number #2FMZA51421BA13573, as forfeiture of crime proceeds; and

WHEREAS, the City of Rye Police Commissioner recommends that the City accept the vehicle as forfeiture of crime proceeds; now, therefore, be it

RESOLVED, that the City of Rye hereby accepts a 2001 Ford Windstar, Vehicle Identification Number #2FMZA51421BA13573, as forfeiture of crime proceeds for the use of the City of Rye Police Department

ROLL CALL:

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

NAYS: None

ABSENT Councilwoman Larr

9. Authorization to pay up to \$450 to reimburse plaintiff's expenses in connection with a survey of polling places to determine handicapped accessibility in connection with Handicapped lawsuit

City Clerk Susan Morison said a request to spend up to \$450 is being made in connection with a lawsuit brought against the City Clerk by Disabled on the Move, Inc., so that a survey of polling places can be taken to identify all non-conforming situations in hopes that minor issues can easily be solved and all polling sites for Rye can be deemed totally acceptable.

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 payment of up to \$450 to reimburse plaintiff's expenses in connection with a survey of polling places to determine handicapped accessibility in connection with a lawsuit brought against the City Clerk by Disabled on the Move, Inc.

ROLL CALL:

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

10. Resolution to transfer \$30,000 from Contingent Account to Assessor's budget

Acting City Manager Michael Genito reported that the Town of Rye had applied for a segment rate adjustment and Assessor Noreen Whitty is recommending that the City hire outside counsel and a consultant to assist the City in defending its position. He said the Contingent Account would be reduced to \$216,000.

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

WHEREAS, the City of Rye is responding to a Town of Rye segment rate request for use in apportioning Rye Neck Union Free School district property tax levies; and

WHEREAS, the City Assessor has determined that the cost to the City of Rye in defending its response to said request will require special legal and consulting services; and

WHEREAS, the funds required for such services were not anticipated with the adopting of the 2005 budget; and

WHEREAS, sufficient funds exist in the General Fund Contingent Account; now, therefore, be it

RESOLVED, that the City Comptroller is authorized to transfer \$15,000 from the General Fund Contingent Account to the Assessor's Legal Services budget and an additional \$15,000 from the General Fund Contingent Account to the Assessor's Consulting Services budget.

ROLL CALL:

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

11. Resolution authorizing the City of Rye to enter into an Agreement with the County of Westchester for the purpose of undertaking a Community Development Program

Acting City Manager Michael Genito said by entering into the proposed Agreement with the County of Westchester, the City would become part of a consortium of smaller communities and thereby strengthen its position to become eligible for CDBG funding for programs.

Councilman Seitz made a motion, seconded by Councilman Fahey, to adopt the following resolution authorizing the City Manager of the City of Rye to enter into a Cooperation Agreement with the County of Westchester for the purpose of undertaking a Community Development Program.

WHEREAS, the Secretary of Housing and Urban Development of the United States is authorized, under Title I of the Housing and Community Development Act of 1974 as amended, and Title II of the National Affordable Housing Act of 1990, as amended, to make grants to states and other units of general local government to help finance community Development Programs; and

WHEREAS, Section 99-h of the General Municipal Law of the State of New York grants to any municipal corporation the power, either individually or jointly with one or more municipal corporations, to apply for, accept and expend funds made available by the federal government, either directly or through the State, pursuant to the provisions of any Federal law which is not inconsistent with the statutes or constitution of this State, in order to administer, conduct or participate with the Federal government in programs relating to the general welfare of the inhabitants of such municipal corporation; and

WHEREAS, the Community Development Act of 1974 as amended, Title II of the National Affordable Housing Act of 1990, as amended, and any "Eligible Activities" thereunder are not inconsistent with the statutes or Constitution of the State; and

WHEREAS, a number of municipalities have requested Westchester's participation, and the County of Westchester has determined that it is desirable and in the public interest that it make application for Community Development Block Grant funds and HOME funds as an Urban County; and

WHEREAS, participation by the County of Westchester as an Urban County in the Community Development Program requires that the City of Rye and the County of Westchester cooperate in undertaking, or assisting in undertaking, essential community development and housing activities, specifically those activities authorized by statutes enacted pursuant to Article 18 of the New York State Constitution; and

WHEREAS, this Board deems it to be in the public interest for the City of Rye to enter into a Cooperation Agreement with the County of Westchester for the aforesaid purposes,

NOW, THEREFORE, BE IT

RESOLVED, that City Manager, O. Paul Shew be and hereby is authorized to execute a Cooperation Agreement between the City of Rye and the County of Westchester for the purposes of undertaking a Community Development Program pursuant to the Housing and Housing Act of 1990, as amended.

The foregoing resolution was adopted upon roll call as follows

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

11A. Consideration of a Home Rule Message to amend the tax law, in relation to the imposition of an occupancy tax in the City of Rye

Mayor Otis reported that a new version of the proposed law to impose an occupancy tax in the City of Rye was ready to be considered by the State legislature. He said the new version (S5387 and A8015a) has new language (the standard definition of “hotel room”; a standard Sunset provision of three years; and a provision to allow the funds to be placed in Rye’s General Fund rather than be limited to Tourism); a better format; and more consistency with other hotel tax bills. He said it was necessary to adopt a Home Rule Message before the process could continue. He said there might be additional changes, but it is positive that Rye is a City, rather than a Town or Village, which do not normally have this kind of tax.

Mayor Otis made a motion, seconded by Councilman Seitz and unanimously carried, to adopt a Home Rule Message.

12. One appointment to the Board of Ethics to fill a term expiring on January 1, 2006

Mayor Otis made a motion, unanimously approved by the Council, to appoint Ted Dunn to the Board of Ethics to fill a term expiring on January 1, 2006.

13. One appointment to the Conservation Commission/Advisory Council to fill a term expiring on January 1, 2006

Mayor Otis made a motion, unanimously approved by the Council, to appoint Anne Cochran to the Conservation Commission/Advisory Council to fill a term expiring on January 1, 2006.

14. Miscellaneous communications and reports

Mayor Otis reported that he and Councilman Seitz had attended a presentation at Rye Country Day School of a 3-D simulated walk-through of Rye's Central Business District created by Andrew Nathanson, an 8th Grader. He said it was extraordinary and an excellent planning tool for the City of Rye and suggested that Andrew be invited to the June 15th City Council meeting to present his program to the full Council.

Councilman Chu reported that Verizon is talking with the Public Service Commission to come up with a plan to offer cable services, but they do appear willing to consider paying franchise fees. He said they want to be ready by 2006. The Mayor said they had been meeting with representatives from the Governor's office and the City must continue to be vigilant. He pointed out that most Verizon franchise fees would be derived from customers lured away from Cablevision so there would not be great amounts of extra franchise fees for the City and by law, those fees would be applied to the Cable TV fund. Acting City Manager Michael Genito pointed out that focus groups were going on to consider the future of cable needs and future franchise fees.

15. Old Business

Councilman Seitz inquired about the status of new noise legislation. The Mayor said it might be ready for consideration at the June council meeting.

Councilman Fahey reported he and the Mayor had received the general fund reports at the last Rye Town Park Commission meeting and there was nothing major to report, especially as there were no comparative figures from last year. He said Town Manager Morabito expects more detailed accounting going forward and the Commission is looking forward to getting a status report on implications and practices this summer.

16. New Business

Councilman Hennes referred to a letter commenting on the spraying of public green spaces and wondered what the City uses. The matter was referred to the City Manager, City Naturalist and the Conservation Commission/Advisory Council.

Councilman Cypher referred to a proposal from Rye Youth Soccer to turf Sterling Field, the "stepchild" of the City's fields that is most difficult to maintain. He said they also want to expand it and raise the funds to cover the cost. Acting City Manager Genito said the proposal was already being considered by the City Engineer and the Recreation Department. Councilman Fahey suggested the Council discuss the possibility of installing lights sometime in the future as part of the current discussion.

Mayor Otis referred to a letter from County Commissioner Spano suggesting review of the Alternative Minimum Tax law. He said in light of how many people this tax is effecting and how much it is undoing the benefits of any tax cuts, the Council might wish to write a letter in support of Mr. Spano's position. The Council agreed to consider such a letter.

17. Draft unapproved minutes of the informal minutes of the Joint Meeting of the City Council and the Board of Education held on April 30, 2005 and the regular meeting of the City Council held May 4, 2005

Councilman Hennes made a motion, seconded by Councilman Seitz and unanimously carried, to adopt the informal minutes of the Joint Meeting of the City Council and the Board of Education held on April 30, 2005.

Councilman Hennes made a motion, seconded by Councilman Seitz and unanimously carried, to adopt the minutes of the regular meeting of the City Council held May 4, 2005 as amended.

18. 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 9:30 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk