

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on October 5, 2005 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor  
FRANKLIN J. CHU  
ROBERT S. CYPHER (not present at Executive Session)  
MATTHEW FAHEY  
DUNCAN HENNES  
ROSAMOND LARR  
Councilmen

ABSENT:

HOWARD G. SEITZ

The Council convened at 7:35 P.M. Councilwoman Larr made a motion, seconded by Councilman Fahey and unanimously carried, to adjourn to executive session at 7:38 P.M. to discuss a potential real estate acquisition. Councilman Hennes made a motion, seconded by Councilwoman Larr and unanimously carried, to close the executive session at 7:58 P.M. No decisions were made. The regular meeting reconvened at 8:00 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

*Mitchell Schaffler, 11 Central Avenue*, speaking on behalf of many area residents, addressed the Council on the condition of the former Black Bass Grill, questioning why the condition of the building continues to be appalling. He said the neighbors have been patient, but the situation has continued to deteriorate since last summer when it appeared the property was being cleaned up. He reported that since that time there has been a dumpster filled with asbestos (he assumes), debris and rodents and the area has not only been a mess, but has become a hangout for local teenagers – all at a school crossing. He said they had been told the owners had been cited, but it is unclear who actually owns the building and he has found the City's response to their requests unacceptable. The Mayor said everyone was upset at the condition of the building; that he would direct the City Manager to look into the situation and he thanked Mr.

Schaffler for bringing it to the Council's attention. Councilman Cypher remarked a situation such as this should not happen in any neighborhood.

4. Presentation by Andrew Nathanson: computer visualization of Rye Central Business District

City Planner Christian Miller introduced *Andrew Nathanson*, a ninth grader at Rye Country Day School, who had created a visual computerized tool for future planning. He said Andrew, a bright and talented young man, had first come to him last spring and has continued to work with him as a continuation of his 8<sup>th</sup> grade independent work study program on ideas for the future of the Central Business District (such as a concept for new sidewalks, traffic signals and lamp posts). Andrew presented his "Travel Down Purchase Street" and thanked his advisor, Lori Bartel. The Council thanked him profusely, saying he deserves a lot of praise and that they hoped he would keep working on the project and come back often.

5. Consideration of adopting a local law to amend Chapter 117 (Landmarks Preservation) to reflect designation of structures on Boston Post Road and Morris Court at September 7, 2005 meeting

City Manager Paul Shew said the Council had made the local landmarks designation for the structures at 235 Boston Post Road and it was now necessary to adopt a local law reflecting that designation.

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

**LOCAL LAW  
CITY OF RYE  
LOCAL LAW NO. 3-2005**

**A local law to amend Chapter 117, Landmarks Preservation,  
of the code of the City of Rye, New York  
to Designate as a Landmark Property and Structures  
on the Boston Post Road and Morris Court**

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

**Section 1.** Section 117-5.E of the Code of the City of Rye, New York is hereby amended to add subsection (7) to read as follows:

- (7) Protected site and structure. 235 Boston Post Road, Rye, New York also known as Sheet 153.05, Block 1, Lot 74.1 on the Tax map of the City of Rye. Specifically designated as protected is:

- (a) The Stillman Residence. The entire site and the exterior of the main residence.

**Section 2.** Section 117-5.E of the Code of the City of Rye, New York is hereby amended to add subsection (8) to read as follows:

- (8) Protected structure. 5 Morris Court, Rye, New York, also known as Sheet 153.05, Block 1, Lot 74.3 on the Tax Map of the City of Rye. Specifically designated as protected is:
  - (a) The exterior of the one-story stone garage including the chimney. The attached greenhouse type structure shall be deemed to be excluded.

**Section 3.** Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

**Section 4.** Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

ROLL CALL:

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

- 6. Consideration of setting a public hearing in connection with the American Yacht Club petition to rezone two of its properties located on Stuyvesant Avenue from the R-1 One-Family District to MC Membership Club District and to amend the text of the MC District

City Manager Shew said the proposal to rezone two properties owned by the American Yacht Club (AYC) located on Stuyvesant Avenue from the R-1 One-Family District to MC membership Club district and to amend the text of the MC District had been on the table for over two years and tonight's meeting was a time for all interested parties (other clubs, individual homeowners) to discuss the proposal.

Councilman Hennes revealed that he was a member of AYC and he had been advised by Corporation Counsel that as long as there was no direct financial interest involved and he had made proper disclosure, he would not be required to recuse himself from the discussion or vote.

He pledged impartiality. Councilwoman Larr and Councilman Fahey similarly revealed they were members of AYC and echoed Councilman Hennes' comments.

Jonathan Kraut, attorney for AYC reviewed the history of the petition to have the property rezoned, stating the Council had declared itself Lead Agency in June of 2005, that the Planning Commission had subsequently agreed to the proposal, but had suggested that Shenorock Shore Club (SSC), the neighboring club, should be involved. He said the purpose of tonight's meeting was to further discuss the proposal with a goal of setting a public hearing and moving the process forward. Councilman Cypher said he was not opposed, but thought it was important to proceed carefully to make sure there were no unforeseen consequences of changing the zoning. He asked why AYC wanted to do this? What changes will occur if it happens? The Mayor asked if we were doing enough to protect the coastline? Should we be looking at a broader picture and think about including Playland and Rye Town Park (currently zoned as WR – Waterfront Recreation, but with the possibility of having a commission set up which could change the rules at any time)?

*Annie Gaillard*, representing the Wainwright House, said that property was a great asset and the Council should be careful not to make any change that would allow it to be sold and subdivided. She questioned how the change would affect both Wainwright House and Durland Scout Center? *Serge Nivelles*, representing SSC, said he was here to listen and to try and understand better why AYC wanted to make this change? What will be the subsequent use? Will access to the Rye Town Dock be maintained? *Gibb Kane*, 350 Stuyvesant Avenue which abuts SSC property, wondered why only this area was being considered? Would the next plan be to make the MC district all the way up the point? *Helen Linz*, 230 Stuyvesant Avenue, said if the purpose of the change was to lead to more Club activity it was a bad idea as the traffic is already terrible.

City Planner Christian Miller said changing from R-1 to MC would still allow a property owner to build a single family home, but any residential subdivision would have to be clustered to provide more open space. He said there was concern that so much of our waterfront is being taken up by single-family homes and the MC zoning is more inclusive. He said seven and a half acres is the minimal lot acre required in an MC district.. He said he thought it was reasonable to include SSC parcels in the change. Mr. Kraut assured everyone there was no intention to use the new zoning status to either increase membership or build anything at this time.

In an effort to bring the proposal to fruition, it was proposed that AYC and SSC sit down with Mr. Miller to see if the two clubs could get together on the proposal. The timetable would be to develop a specific proposal which may, or may not include SSC for the October 19, 2005 meeting at which time the Council could consider setting a public hearing for the November 30, 2005 meeting. Mr. Nivelles said the full SSC board was not meeting until after October 19, but he would urge the SSC Executive Committee to consider the proposal at an earlier date.

6A. 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 bank regulations in the B-1 and B-2 Business Districts

Mayor Otis said the new law with respect to bank regulations in the B-1 and B-2 Business Districts, adopted in July 2005 should be further amended to embrace a broader area where additional banks would be similarly detrimental. The Council concurred.

Mayor Otis made a motion, seconded by Councilman Hennes and unanimously carried, 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 bank regulations in the B-1 and B-2 Business Districts passed in July, 2005; 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 October 19, 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 to amend Chapter 197 (Zoning) of the City of Rye, New York with respect to bank regulations in the B-1 Business District**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 19th day of October, 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 to amend Chapter 197 (Zoning) of the City of Rye, New York with respect to bank regulations in the B-1 Business District.

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

Susan A. Morison  
City Clerk

Dated: October 10, 2005

7. Resolution to pursue formal policy regarding implementation of automated external defibrillators (AEDs) in the City of Rye

Assistant City Manager Scott Pickup reported he had been approached by the Golf Club and the Recreation Department about the possibility of having automatic external defibrillators (AED's) in the City of Rye and he asked the Council for approval to move ahead on developing a proposal and a policy. He said no new personnel would be necessary but there is an extra liability issue if we have them and they aren't in working order. He said NY State is considering a mandate to have such equipment on site. The cost would be between \$1500 and \$3000 per unit and the training is a simple process. Grant money could perhaps be available.

Councilman Hennes 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 Staff to pursue a formal policy regarding implementation of automated external defibrillators (AED's) in the City of Rye.

8. Approval of the election of new member to the Rye Fire Department

Mayor Otis made a motion, seconded by Councilman Hennes and unanimously carried, to approve the election of *James H. Cooper, Mead Place*, to the Poningoe Hook and Ladder Company at the September 12, 2005 meeting of the Board of Fire Wardens.

9. Authorization for City Manager to fill a vacant position in the City Clerk's Office

The Mayor said the City is operating under a hiring freeze so each time there is an opening the Council is asked to consider the merits of replacing retiring personnel as no position is filled automatically and each is individually evaluated in terms of need. City Manager Shew said the City Clerk has recommended that a position left vacant by the resignation of the Vital Statistics Clerk be filled in order to maintain quality of services. Councilman Hennes requested that all such requests be accompanied by a statement of the financial impact to the City.

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

**RESOLVED**, that the City Council hereby authorizes the City Manager to fill the vacant position in the City Clerk's Office.

ROLL CALL:

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

10. Resolution to transfer \$100,000 from Contingent Account for road salt and motor fuel

Comptroller, Michael Genito, said the cost of fuel and salt is expected to be much higher than budgeted and requested approval to transfer money from the Contingent Account to cover these anticipated extra expenses. Councilman Chu noted only \$16,000 would be left in the fund after the transfer. Mr. Genito said should more transfers be necessary funds could be found elsewhere or taken from the fund balance, which has an extra balance because of lower than anticipated pension costs. Councilman Hennes suggested if there were extra funds they should be “squirreled away” for Capital Improvements.

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

**WHEREAS**, the City Engineer by memorandum dated September 19, 2005 has advised that due to unforeseen price increases, insufficient funds exist in the General Fund for road salt, and in the Building and Vehicle Fund for gasoline and diesel; and

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

**RESOLVED**, that the City Comptroller is authorized to amend the 2005 budget by:

Decreasing General Fund Contingent Account and increasing General Fund Snow Removal budget in the amount of \$55,000;  
Decreasing General Fund Contingent Account and increasing General Fund Transfers Out to Building and Vehicle Fund in the amount of \$45,000;  
Increasing Building and Vehicle Fund Transfers In from General Fund in the amount of \$45,000;  
Increasing Building and Vehicle Fund Appropriations in the amount of \$45,000.

ROLL CALL:

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

11. Resolution to transfer \$42,340 from the building and Vehicle Fund to the General Fund

Comptroller Michael Genito explained that a transfer was requested from the Building and Vehicle Fund to the General Fund to more accurately reflect actual tax bills received from other municipalities (such as for the Bowman Dam parcel of land).

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

**WHEREAS**, the 2005 adopted budget provided for the payment of real property taxes on city-owned property to be paid from the Building and Vehicle Fund: and,

**.WHEREAS**, an audit of the parcels representing the real property tax payments are properties accounted for in the General Fund; now therefore

**BE IT RESOLVED** that the City Comptroller is authorized to amend the 2005 budget by:

Decreasing Building and Vehicle Fund appropriations for the payment of real property taxes in the amount of \$42,340;

Increasing Building and Vehicle Fund Transfers Out to the General Fund in the amount of \$42,340;

Increasing General Fund Transfers in from the Building and Vehicle Fund in the amount of \$42,340;

Increasing General Fund appropriations for the payment of real property taxes in the amount of \$42,340.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Seitz

12. Bids for annual sidewalk program

City Manager Shew said the sidewalk repair program would begin next spring so he does not yet have the list of sidewalks to be repaired. He said the City had purchased a grinder which can grind down sidewalks to prevent tripping and this procedure can take the place, in some cases of having to replace the sidewalk. He said most homeowners, who are responsible for 100% of the replacement costs, usually choose to join in the City's contract arrangement. Councilman Chu inquired about how to best get the sidewalks along the Boston Post Road in the Historical District repaired. As many of them belong to Westchester County, it was suggested he write a letter articulating his worries.

Mr. Shew said the City Engineer is recommending the Council accept the second lowest bid for next spring's sidewalk repairs as the lowest bidder discovered an error and asked that their bid be withdrawn. The bid tabulation appears on the following page.

Name of Bidder			ELQ Industries		Bilotta Construction		John Barreto Cons		Contech Construction	
#	Items	Quantity	Unit	Total	Unit	Total	Unit	Total	Unit	Total
C 105	Concrete Sidewalk	700 S.Y.	\$61.00	\$42,700.00	\$85.50	\$59,850.00	\$90.00	\$63,000.00	\$76.05	\$53,235.00
C 105 D	Conc. Driveway Aprons	100 S.Y.	\$51.00	\$5,100.00	\$94.50	\$9,450.00	\$95.00	\$9,500.00	\$83.25	\$8,325.00
C 105 SR	Conc. Sidewalk Ramp	10 Each	\$700.00	\$7,000.00	\$525.00	\$5,250.00	\$1,000.00	\$10,000.00	\$2,500.00	\$25,000.00
A-97	Conc. Curb	300 LF	\$25.00	\$7,500.00	\$35.00	\$10,500.00	\$28.00	\$8,400.00	\$32.00	\$9,600.00
Contractor's Total			\$62,300.00		\$85,050.00		\$90,900.00		\$96,160.00	
<b>Engineer's Total</b>			<b>\$62,300.00</b>		<b>\$85,050.00</b>		<b>\$90,900.00</b>		<b>\$96,160.00</b>	
Position			1		2		3		4	
% Above Low Bidder			0.00%		36.52%		45.91%		54.35%	

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

**RESOLVED**, that Contract #2005-12, Annual Sidewalk Repairs be awarded to Bilotta Construction, Inc., the second low bidder meeting specifications (the lowest bidder having withdrawn), in the amount of \$85,050.

ROLL CALL:

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

13. Rejection of bid #2-05 for Custom Pumper for Milton Point Engine & Hose Co.

City Manager Shew said the City had received only one bid, from Seagrave Fire Apparatus, represented by Excelsior Fire Equipment Sales, for the Custom Pumper for the Milton Point Engine & Hose Co. and he recommended that the Council reject this bid and re-bid the project in hopes of receiving a more competitive bid. He said the Chiefs were sensitive to the monetary concerns and would work to get the specifications out to more companies. Councilman Cypher said he thought the Chiefs found this bid to be quite competitive and recommends accepting it as there is no guarantee the next bids would come in lower. Mr. Shew said he felt it was more fiscally responsible to go out to bid again.

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

**RESOLVED**, that Bid #2-05, for (1) Custom Pumper for Milton Point Engine & Hose Company, from Seagrave Fire Apparatus, L.L.C. being the sole bidder in the amount of \$4,528,000 be rejected and that the specifications for the pumper be revised and the job be re-bid.

ROLL CALL:

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

14. One appointment to the Board of Assessment Review for a five-year term expiring September 30, 2010

Mayor Otis made a motion, unanimously approved by the Council, to appoint Robert Byrne to the Board of Assessment Review for a five-year term expiring September 30, 2010.

15. Miscellaneous communications and reports.

Councilman Chu, following up on the project to obtain Cable coverage for the Rye Neck Union Free School District, said the technology is available to automatically switch between the two school districts and he wondered if Cablevision could do this? The Mayor said it is a possible solution, but it is a bit more complicated than it sounds and he is concerned about having to switch back and forth. He said he still prefers the four channel solution.

Councilwoman Larr displayed pictures of the Damiano Center as it appears today, in progress. She said it is a very impressive building with lots of room for Seniors and she urged others to go see it. City Manager Shew said the estimated completion date is early 2006.

16. Old Business.

Councilwoman Larr inquired on several items as follows:

- At the request of the Human Rights Commission she asked about the status on the Theodore Fremd Property as potential affordable housing. Mr. Shew said the County had decided to reconsider the location (a good step, as they had taken it off the list of sites to be considered).
- Can the sign at Milton Road and Playland Parkway be changed to a “No Turn on Red.”
- Can there be a steeper fine put in the budget for houses which are torn down when all that was asked for was a permit for an addition?
- Can we review the Code and see if we should add something to protect neighbors from landscape lighting?
- How can the City make companies who cut and patch our roads more responsible (specifically, the patch left in the middle of Purchase Street by the Water Company).

Mayor Otis reported on the following:

- The Westchester Municipal Officials Association will be meeting with our US Senators and Representatives concerning the growing issue with the telecommunications industry and their desire to be less responsive to municipalities.
- He asked the Council’s opinion about County Executive Spano’s suggestion to temporarily rescind the tax on fuel expenses. Councilman Hennes said he was in favor of rescinding any tax and Councilman Cypher said it would be good to help homeowners this winter, but Comptroller Genito asked how the City would make up the revenue, especially as we don’t know how much of a decrease it would be. Would it have to be

made up by raising property taxes? The Council concurred that more information was needed and only if the County can provide real numbers would they consider the suggestion.

Councilman Cypher said he understood the City was cracking down on what kinds of signs could be in our store windows on Purchase Street. He understands the Building Inspector is enforcing the 1999 Ordinance that prohibits such signs, but wonders if discouraging information about civic activity is appropriate. He said perhaps the Staff should take a look at the ordinance.

Mayor Otis expressed condolences to Nicole Levitsky (who was in the Cable Studio recording the meeting) on the loss of her mother, saying it is not an easy time and the Council appreciates all she does for the City of Rye.

17. New Business

Councilman Chu said the Finance Committee was developing a sequel to the Citizen's Simplified Budget that would be a resource for the layman. He also suggested the Council might want to sign off on any memoranda which go out relating to bonding. The Mayor agreed the City should disclose our debt and annual interest; that there are guidelines from the State and that the subject would be better discussed after more information is available.

Councilwoman Larr announced that the newly re-formed Twig Organization had voted to support our Emergency Medical Services (EMS) and this was very good news for this organization and for providing medical service to Rye.

18. Draft unapproved minutes of the regular meeting of the City Council held September 7, 2005

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to adopt the minutes of the regular meeting of the City Council held September 7, 2005 as submitted.

4. 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 10:59 P.M.

Respectfully submitted,

Susan A. Morison  
City Clerk