

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on October 19, 2005 at 8:00 P.M.

PRESENT:

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

ABSENT:

STEVEN OTIS, Mayor

1. Pledge of Allegiance (to be led by Cub Scout Pack #2, Den 19).

Deputy Mayor Larr called the meeting to order and invited Cub Scout Pack #2, Den 19 to lead the Council in the Pledge of Allegiance. She thanked each member individually for participating at the meeting.

2. Roll Call

Deputy Mayor Larr 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 be heard.

4. 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

Councilman Seitz opened the discussion by recommending that the proposed amendment to Chapter 197 (Zoning) of the City of Rye, New York with respect to bank regulations in the B-1 Business District be referred back to the Planning Commission for a more definitive opinion. In response to an inquiry from Councilman Chu about the Planning Commission's view, he said some members opposed amending the law; that the first law was properly studied; and the City should stick with the existing law, rather than rushing to address a specific issue. Councilman Cypher disagreed, saying no one wants more banks anywhere and the amendment, which extends the "no banks" area, should be passed as it is better for the City. Corporation Counsel advised that the hearing had been noticed so it would need to take place. He advised the Council they could extend

the “no bank” area now to achieve a short-term goal and could revisit the law later if they needed to take a longer-term view.

Deputy Mayor Larr opened the public hearing.

Councilman Hennes asked the City Planner, Christian Miller about the original district. He said the original law allows banks on side streets off Purchase, including Elm Place, Smith Street and Purdy Ave.; they will not be able to go in the area under consideration, but extending the area will not necessarily keep more banks from coming in to Rye, nor will it increase the chances of having banks move into the City. He said this is a land use issue with no clear right or wrong. Councilman Fahey said he would like to learn more about what the Planning Commission thinks; Councilman Hennes said he was concerned about the law of unintended consequences. Will extending the prohibition area solve the problem? Councilman Seitz reiterated his position that the Planning Commission should be asked again; Councilman Cypher said to pass the law now and reconsider it later; Councilman Chu said the extension seemed logical. Mr. Miller said there is a provision in the Zoning Code that implements a de facto moratorium on banks in the area included in the proposed local law; that no banks can be approved during the moratorium, but it doesn't prevent applications and will not affect the number of banks that might apply to be on other side streets.

Nick Everett, member of the Planning Commission, said the Commission had looked carefully at banks. He acknowledged they were not good for retail stores, but are good for the City's infrastructure. He said this proposed extension, which was considered for the first law, is not in the Central Business District so if a bank did come in it might be good for the City. He recommended not approving the proposed amendment. Bob Byrne, 72 Wappanocca Ave., urged the Council not to tinker with economics; that the banks will shake out and the number will shrink as market forces come into play.

Deputy Mayor Larr closed the public hearing. Councilman Cypher made a motion to adopt the proposed local law to amend Chapter 197 (Zoning) of the City of Rye with respect to bank regulations in the B-1 Business District. There was no second.

Councilman Hennes made a motion, seconded by Councilman Fahey, to refer the matter back to the Planning Commission with a request for a more concrete set of opinions and a new map of the “no bank” locations and to discuss the matter again and to adopt the following resolution:

WHEREAS, the Council wishes to amend Chapter 197(Zoning) of the City of Rye, New York with respect to bank regulations in the B-1 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 November 30, 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 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 30th day of November, 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 25, 2005

ROLL CALL:

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

5. 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 American Yacht Club's (AYC) petition to rezone two properties from the R-1 One-Family District to MC Membership Club District has been thoroughly discussed, that a letter had been received from Shenorock Shore Club indicating they do not, at this time, wish to add their R-1 properties to the petition, and that it would be appropriate to now set a public hearing. When asked by Councilman Cypher what AYC had in mind for the property, Jonathan Kraut, Counsel for AYC, said at present there was no plan to change the use, but in the long term they might wish to move some of their smaller vessels closer to shore. He said this would require approvals from the Planning Commission.

Councilman Chu made a motion, seconded by Councilman Seitz and unanimously carried, to adopt the following resolution and to request the City Planner to obtain the appropriate County approvals to move forward with the adoption of the local law:

WHEREAS, the Council wishes to rezone two of American Yacht Club's 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; 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 November 30, 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 to rezone two of American Yacht Club's 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

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 30th day of November, 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 rezone two of American Yacht Club's 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.

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

Susan A. Morison
City Clerk

Dated: October 24, 2005

6. Consideration of setting a public hearing to amend Chapter 198, Trees, Article IV, Trees on Private Property, Section 187-11, Removal of trees, of the code of the City of Rye, New York with respect to obtaining a tree removal permit

City Manager Shew explained that the proposed changes in Chapter 198, Trees were to shift responsibility for accepting the fees from the Clerk's Office to the Department of Public Works in an effort to simplify the administrative process and make things easier for citizens wishing to obtain various permits. Councilman Hennes applauded any effort toward efficiency.

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

WHEREAS, the Council wishes to amend Chapter 187, Trees, Article III, Planting of trees and shrubs on Public Property, and Article IV, Removal of Trees on Private Property of the code of the City of Rye, New York; 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 November 30, 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 to amend Chapter 187, Trees, Article III,
Planting of trees and shrubs on Public Property, and Article IV, Removal of
Trees on Private Property, of the Code of the City of Rye, New York**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 30th day of November, 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 187, Trees, Article III, Planting of trees and shrubs on Public Property, and Article IV, Removal of Trees on Private Property, of the Code of the City of Rye, New York.

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

Dated: October 24, 2005

Susan A. Morison
City Clerk

7. Resolution to declare certain equipment as surplus

City Manager Paul Shew said there is a large number of obsolete office equipment that needs to be declared surplus by the Council before it can be sold or otherwise given away.

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

WHEREAS, the City Comptroller has determined that the following equipment is obsolete or otherwise no longer useful to the City:

Friden Neopost Postage Machine Model SM52 Serial No. W027567;
Premier Rapid Fold Folding Machine Model P7200 Serial No. 55982
Monroe Systems Calculator Model 4140 Serial No. AC206183;
Sharp Fax Machine Model FO-1450 Serial No. 7710511;
Xerox Photocopier Model XD-130DF Serial No. 005387;
3M Overhead Projector Model 429 Serial No. 501128; now, therefore, be it

RESOLVED, that the aforementioned equipment be declared surplus and disposed in a manner determined by the City comptroller to be in the best interests of the City.

ROLL CALL:

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

NAYS: None

ABSENT: Mayor Otis

8. Resolution to accept award of Child Passenger Safety Program Grant

City Manager Paul Shew reported on the receipt of a Child Passenger Safety Program Grant in the amount of \$5700 to the Police Department, saying it was similar to the one received last year. The Council thanked Commissioner Connors for applying for the grant.

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

WHEREAS, the City of Rye has been awarded a New York State grant in the amount of \$5,700 for participation in the statewide fiscal 2005/2006 "Child Passenger Safety" program; now, therefore, be it

RESOLVED, that the City of Rye accepts the aforementioned grant.

ROLL CALL:

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

NAYS: None

ABSENT: Mayor Otis

9. Authorization for Corporation Counsel and Thacher Proffitt & Wood to defend the Planning Commission in Article 78 proceeding commenced by APPO Associates, LLC

City Manager Paul Shew reported that the Planning Commission has been served with an Article 78 Petition seeking to annul and set aside a resolution adopted by the Planning Commission concerning a proposed two-lot subdivision at 3 Martin Road and authorization from the Council is needed for Corporation Counsel Kevin Plunkett to defend the Commission in this matter.

Councilman Cypher made a motion, seconded by Councilman Chu 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 and Thacher Proffitt & Wood to defend the Planning Commission in Article 78 proceeding commenced by APPO Associates, LLC.

10. Request of Rye Merchants Association to close a portion of Purchase Street on November 27, 2005 from 12:00 p.m. to 3:00 p.m. to mark the beginning of the annual holiday shopping

City Manager Shew reported on a request from the Rye Merchants Association to hold their annual holiday shopping event during Thanksgiving weekend. The event is a good one and has been held for the past couple of years.

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

RESOLVED, that the Council of the City of Rye hereby approves the request by the Rye Merchants Association for use of City streets and to close a portion of Purchase Street on November 27, 2005 from 12:00 to 3:00 P.M.

11. Miscellaneous communications and reports

Councilman Chu said he had heard a rumor that drugs were being sold on the corner of Apawamis Avenue and Milton Road and asked if it were true, if anything could be done. The City Manager said he would investigate.

Councilman Chu said it was a bad mosquito season and asked if we control them with larvacide. City Manager Shew said this was usually done and he would make sure it was on the schedule. (Note: spraying is done by the County in the spring.)

Deputy Mayor Larr said there had been a scare at the railroad station because of a mysterious flare on the track. Many thanks to the Fire Department for their response and to the Department of Public Works for cleaning things up.

Councilman Fahey congratulated the staff for keeping the Indian Village residents so well informed on the level of the dam during the deluge of rain.

12. Old Business

Councilman Cypher asked again about having no signs in the windows of stores in the Central Business District. Isn't it a violation of the first amendment to deny the signs? Has anyone ever been taken to court on this 1999 legislation? The City Manager said it is an aesthetic issue and a law that is periodically enforced. He suggested perhaps the Council should review the law.

Councilman Chu commented that the neighbors of the Black Bass Grill building were happy to hear there has been progress. City Manager Shew pointed out that the citation by the Building Inspector had been made in May and the Court date had already been set, but the neighbors were unaware of the City's actions.

Councilman Chu asked about the status of the Rye Golf course. The bacterial infection is getting under control; additional environmental treatments are being tried out.

Councilman Seitz inquired about the status of the Occupancy Tax Bill as anticipated revenues would have to be in the budget. There was no update available.

13. New Business

Councilman Fahey noted the number of electioneering signs in the City's right-of-way and asked if fines can be imposed. The City Manager said he and his staff simply remove illegal signs whenever they are spotted and put them in the dumpster.

Councilman Seitz asked if the Board of Architectural Review shouldn't institute a system of notification of neighbors when there are drainage issues.

14. Draft unapproved minutes of the regular meeting of the City Council held October 5, 2005

Councilman Hennes made a motion to approve the minutes of the regular meeting of the City Council held October 5, 2005 as amended.

15. Adjournment

There being no further business to discuss, Councilman Cypher made a motion, seconded by Councilman Hennes and unanimously carried, to adjourn the meeting at 9:30 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk