

**APPROVED MINUTES** of the Regular  
Meeting of the City Council of the City of Rye held in  
City Hall on December 7, 2005 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 7:00 P.M. Councilman Fahey made a motion, seconded by Councilman Cypher and unanimously carried, to adjourn to executive session at 7:01 P.M. to discuss negotiations on real estate and a recommendation of legal counsel related to cable franchise negotiations. Councilman Chu made a motion, seconded by Councilwoman Larr and unanimously carried, to close the executive session at 8:09 P.M. No decisions were made. The regular meeting reconvened at 8:10 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

*Henry King, 76 Coolidge Avenue*, called the Council's attention to an article in the Journal News on December 2, 2005 concerning a gentleman in Patterson who is being charged with damaging wetlands.

*Norm McMaster, 6 Langeloh Court*, addressed the Council on the quality of life and parking. He said parking as "free" is an illusion; that before the meters there was no parking. Now there is, so there is more quality of life and, in addition, there is revenue. The Council should keep the best interests of all Rye citizens in mind. He said the merchants who say the meters are driving customers away might ask what that says about the quality of their

merchandise? If people are driving 5 miles to save a quarter the solution is for the merchants to offer sufficient value to keep shoppers here. He said the City Comptroller should give everyone a recap of what we have learned from the meters; that there has been no formal analysis since September and the public needs to know more. The Mayor said there has been some information given out; that there has been discussion and there will be more and we will see where we come out; that more debate will lead to more information which will lead to a more informed decision. Councilman Seitz said as a direct result of information learned, he would be recommending that some parking on Purchase Street be changed to 15 minute parking. Councilman Hennes said the installation of the pay stations is not an issue of being either for, or not for, our merchants and it is certainly not about putting our merchants out of business - it is all about trying to make things better in the Central Business District and he wants to get to the truth about what is best.

*Sis D'Angelo, Wappanocca Avenue*, said the pay stations are a wonder, but need to be revamped to better help the handicapped. *Jeanne Sinnott* said she is handicapped and recommends more meters. Ms. D'Angelo also commented that she is appalled at the tenor of the meetings; that she would like to see the Planning Commission meetings televised; and downtown Rye is filthy.

*Peggy Peters, 85 Ridge Street*, urged more respect from everyone addressing the City Council saying she was distressed at the way they were spoken to at the last meeting. As for parking, she feels the pay stations help the parking situation. She agrees there needs to be more spaces for the handicapped, but said there are things that can be changed after a year. She asked the Council to work together and not to sell the system short. Councilman Seitz said the problem is that there is no plan for the Central Business District and he is convinced the A&P, Moraios and Feinsods did not go out of business because of lack of parking. They have not been well replaced because there is no plan. He said the Planning Commission has begun the process of planning and they need input from everyone as everyone needs to pull together so that special interest groups don't have to speak independently. He also said the City was facing serious cash needs and parking (as well as the proposal for the hotel occupancy tax and the real estate transfer tax) were part of a solution to meet our needs without raising property taxes.

4. Public hearing on the proposed 2006 Budget

Mayor Otis opened the public hearing on the proposed 2006 Budget. City Manager Paul Shew thanked the Council for their helpful input in making it a useful process. Before turning the podium over to City Comptroller, Michael Genito, he said the City had worked out a plan to keep the tax increase at below 5% including \$7500 to the Rye Free Reading Room (RFRR), a small increase for Emergency Services (EMS) and \$430,000 for the new fire truck. He said deferring the Smith Street reconstruction and changing parking revenue assumptions would have no impact on the tax rate. Funding Theall Road reconstruction, as well as other capital projects could be considered and approved at a later date. Mr. Genito said he had revised his interest earnings estimate from 3 ½% to 4 ¾% resulting in additional revenue of \$80,000. Adding in the items mentioned by Mr. Shew, the tax rate would now be 4.8% for FY2006.

Councilman Seitz thanked Mssrs. Shew and Genito and staff for a terrific job, saying the complete document is wonderful. Councilwoman Larr concurred saying it was amazing that the

City had found ways to bring the tax down below 5%. Councilman Chu asked if there were any other changes in revenue estimates such as the sales tax, gross utility receipt tax and mortgage tax? No, but indications are that the national rate on the mortgage tax is slowing down so the 2006 budget has assumed a 25% decrease. The Council reviewed that the procedure for using any part of the \$95,000 for surveys and planning would be based on individual proposals during the year.

Various representatives from the RFRR made a plea for additional funding. *Julia Burke, Co-President of the Auxiliary*, reported on all the great things her organization has done to raise funds to improve the RFRR collections. They hope to raise \$203,500 in 2005 and are aiming for \$255,000 in 2006 from private funds. *Florence Kraut, President of the Board*, thanked the Council for the additional funds, but in order to maintain services it is important to maintain open hours and this amount is still not enough to avoid cuts. She said City funding has increased 42%, but private funding is up 64% so they are keeping pace. The upcoming labor negotiations will be done by a member of the board who will be looking at doing the best, but mindful of staying competitive with other libraries in the area. After research, it has been determined that the City cannot provide cleaning services for less than what is being spent now. The suggestion to use volunteers was again made, but *Betty Teoman, Library Director*, said there is a real cost to recruiting and training qualified volunteers and nothing could be done in 2006.

*Betsy Robertson, Rye Historical Society (RHS) Board Member*, and *Kristina Bicher, Director*, reported on the expansion of RHS programs and services; their role as a repository for some of the City's archives; and a destination for nationwide and international visitors. They thanked the City for its vital support, pointing out that this was additive in the Society's successful quest for re-accreditation (only 5% of museums in the country are accredited).

*Councilman-elect George Pratt, 2 Clark Lane*, asked if there was a timeline in the ongoing suit against the City by the General Contractor and if there would be an impact on the 2006 budget should the judgment be adverse. Mr. Genito said the City cannot use the funds from the Damiano Bonds unless the judgment is due to an accident on the property due to a problem with the contract. He confirmed that at the moment, from a tax perspective, we have a negative arbitrage situation and that interest on whatever amount of the settlement (if there is one) has been accruing at 9% starting from the date the Council voted not to accept the bids for Damiano.

Mayor Otis raised the issue of including 12 months of revenue from the parking meters in the Central Business District, knowing there will be discussion about whether or not to keep them before the end of the year. He would like to have all the 2006 revenue be returned to the Parking Fund (which funded the installation of the pay stations) and would like to include revenue only through April. Councilman Hennes asked how the Mayor proposed to offset this loss of revenue and proposed that discussion about the future of the parking system begin in August so that, should they be removed, the loss of revenue would not create too big an impact. Should they stay, he would like to see some percentage (50%, perhaps) be returned to the Parking Fund or to something else which would be good for the merchants. He said he would continue to be open minded; that he wants to see merchants succeed; and wants more time to assess the impact of the pay stations. Councilman Fahey asserted the system is not killing downtown. Councilman Chu concurred, saying the demise of small businesses might better be

linked to rent, mix of services, and national trends, so while it is easy to be emotional, the installation of the pay stations cannot be blamed on the success or failure of some of Rye's businesses. Councilwoman Larr said it is a pleasure to now be able to find a space when she comes to town (the Mayor said it was because people are shopping elsewhere). She said the Council made the decision to install the meters, so just see how it goes. *Councilman-elect Andy Ball, 18 Fenton Street* said the Council needs to be part of the process to restore the CBD and while the meters may not be the sole reason things are not going well, they are perhaps additive and he looks forward to learning more about the situation before making up his mind about whether they should stay. He did suggest that leaving a full year of revenue in the budget might present an artificial barrier to the discussion of whether or not to keep them. Councilman Cypher said the responsible thing to do would be to include no revenues after August 1. Norm McMaster again urged more facts so that the discussion could be based on fact rather than opinions.

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

**RESOLVED**, that 2006 Revenue from the parking pay stations be allocated to the Parking Fund.

ROLL CALL:

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

Mayor Otis made a motion to include 2006 revenue from the pay stations in the general fund only until April 1 with additional revenues allocated to the Parking Fund. There was no second.

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

**RESOLVED**, that 2006 Revenue from the parking pay stations be allocated to the General Fund until August 1<sup>st</sup> with additional revenues allocated to the Parking Fund.

ROLL CALL

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

Councilman Fahey made a motion, seconded by Mayor Otis and unanimously approved (except for Councilman Cypher who felt it was too much to ask), to adopt the following resolution:

**RESOLVED**, that the Council receive a report from the City Manager on parking habits, enforcement and revenue stream on an ongoing basis.

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

**RESOLVED**, that the donation to the Rye Free Reading Room be increased by an additional \$7,500 for a total of \$1,082,395, the donation to Emergency Medical Services (EMS) be increased by \$6,450 or a total of \$206,400, the charge for fireworks display be increased from \$250 to \$500, and the anticipated revenue from interest be increased from 3 ½% to 4 ¾% or an additional \$80,000 for a total of \$520,000, bringing the tax rate for the Proposed 2006 Budget down to 4.78%.

**ROLL CALL:**

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

NAYS: None

ABSENT: None

Additional discussion about the RFRR took place after Councilman Seitz said it was too bad they couldn't find additional revenue to give it more. Councilman Fahey concurred. Councilman Chu said, although it couldn't be done in time for the budget, perhaps the parking fines could be raised by \$5 and the RFRR could reap the benefit. Mr. Genito suggested raising the fee might result in less compliance and that changing this law could take more time than one would think. The Mayor pointed out it was probably not a good idea to raise fines for anything specific. He reminded the Council the RFRR really wants 100% of their operating costs covered, regardless of their budget. Councilman Hennes suggested another challenge grant opportunity – that the Council could contribute half the short fall if the other half was raised privately. Councilman Chu urged staff to try and find more funds for the RFRR.

Mayor Otis closed the public hearing.

5. Authorization for City Manager to fill two existing but vacant positions in the Department of Public Works.

City Manager Paul Shew said filling two existing, but vacant positions in the Department of Public Works would not increase the budgeted headcount and the payroll would remain roughly flat. He said the department is lean already and each position is vital to the smooth running of the City.

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

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the City Manager to fill two existing but vacant positions in the Department of Public Works.

**ROLL CALL:**

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

6. Acceptance of Grant Award from Governor's Traffic Safety Committee in the amount of \$8,944 for participation in the "Buckle Up New York" program

City Manager Paul Shew said the Police Department had once again received a grant Award from the Governor's Traffic Safety Committee for participating in the "Buckle Up New York Program.

Councilman Cypher 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 \$8,944 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

7. Appeal of denial of FOIL requests made to Rye Police Department

Corporation Council reported that a F.O.I.L. request had been made on November 10, 2005 for certain documents which are protected under State and Federal Law. The requests were denied by Police Lt. Verille and the denial is being appealed to the City Council. It is the recommendation of Corporation Council that the appeal be denied.

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

**RESOLVED**, that the Council of the City of Rye hereby denies the appeal of denial of two F.O.I.L. requests (dated November 10, 2005) filed by James M. Timko, Esq. to obtain “disciplinary reports, civilian complaints, disciplinary charges, internal affairs investigations, results, reports and/or findings, and all file notes, documents and/or memoranda regarding the same...” for two City Police Officers on the basis that the requested information is exempt from disclosure under F.O.I.L.

8. Discussion of Resolution in connection with disclosure of resolutions passed by previous City Councils

Councilman Seitz presented a resolution proposing that all City Council members be informed of prior resolutions that would affect the way in which Council members conduct themselves. His proposal stemmed from the fact that certain members of the Council were caucusing according to state law while local law prohibits such practice. The Mayor contended that everyone should have known about this law but he, personally, had not raised the issue, and it is time to put issues raised during the prior election behind them. He said, however, it was not a bad idea to provide guidelines for future councils. *Joe Latwin, former Councilmember* suggested a better approach would be to ask (the Clerk, the Corporation Counsel, prior Council Members) before you do something.

Councilman Hennes made a motion, seconded by Councilman Fahey, that a resolution presented by Councilman Seitz be adopted as amended by the Council:

**WHEREAS**, it is in the best interest of the City to remove all barriers which might adversely effect one’s willingness to serve on the City Council; and

**WHEREAS**, prior City Councils have, from time to time, passed resolutions which imposed restrictions on the City Council or its members which are different from or greater than those set forth in Federal law, the laws of the State of New York and the laws and regulations of the City of Rye, which resolutions are, in many instances, unknown to subsequent Councils; now, therefore, be it

**RESOLVED**, that no resolution modifying or affecting or imposing burdens on any Council or any of its members in addition to, different from or greater than those imposed by Federal or state statute or laws or regulations of the City of Rye will bind any subsequent Council or its members unless such resolution shall be contained in the orientation package given to new and existing Council members.

ROLL CALL:

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

9. Discussion of referring revised proposal for real property transfer tax to the Finance Committee for additional review

Councilman Seitz said he was proposing the Finance Committee review his proposal to institute a real property transfer tax as he feels this will become a popular way of raising revenue in the future and would be good revenue for the City of Rye. The Finance Committee has reviewed the proposal and some analysis by City Comptroller Michael Genito, and, while they found the idea to be conceptually interesting, they had many questions that they would like to have answered by staff and Corporation Counsel (who would need to review existing legislation and other related issues). *George Pratt, 2 Clark Lane* and a *Member of the Finance Committee* said the committee needs direction from the City Council in order to proceed with their deliberations. Councilman Hennes said he would like to hear more about it, but he is concerned about how such a tax would affect home values. The Mayor said he is always in favor if seeking alternatives to raising property taxes, but cautioned that such legislation is very difficult to pass, especially if it does not use “boilerplate” wording; does not have a well defined use; and real need is not demonstrated.

The Council asked the City Manager to refer the matter to the Corporation Counsel and appropriate staff.

10. Miscellaneous communications and reports

There were no miscellaneous communications and reports to be discussed.

11. Old Business

There was no old business to be discussed.

12. New Business

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

**RESOLVED**, that the City Council grant the request of the Rye Merchant's Association to have free parking in the Central Business District between December 18-25; that donations may be made into the pay stations in support of Rye's 911 Fund; but that the enforcement rules will remain in effect.

ROLL CALL:

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

13. Adjournment

There being no minutes to approve and no further business to discuss, Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to adjourn the meeting at 11:25 P.M.

Respectfully submitted,

Susan A. Morison  
City Clerk