

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 22, 2006 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
ANDREW C. BALL
MACK CUNNINGHAM
MATTHEW FAHEY
DUNCAN HENNES
GEORGE S. PRATT
HOWARD G. SEITZ
Councilmen

ABSENT: None

The Council convened at 7:30 P.M. Councilman Fahey made a motion, seconded by Councilman Ball and unanimously carried, to adjourn to executive session at 7:31 P.M. to discuss a potential real estate purchase. Councilman Hennes made a motion, seconded by Councilman Pratt and unanimously carried, to close the executive session at 8:15 P.M. No decisions were made. The regular meeting reconvened at 8:17 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

Liz Dow, Woods Lane, urged the Council not to de-map or privatize Theall Road saying such a move would vastly increase the traffic on Osborn Road, especially around the school.

4. Authorization for the City Manager and Corporation Counsel to enter into negotiations for purchase of 1037 Boston Post Road

City Manager Paul Shew discussed the possibility of having the City acquire the property at 1037 Boston Post Road, formerly occupied by CVS Pharmacy. He said 14 years ago, when the property was last available, the City decided not to purchase it, but now there is another opportunity. He asked the Council for permission to enter into an agreement to negotiate a

contract. He said swift action by the Council is necessary in order to keep the dialogue with the owner open and to have the chance to enter into negotiations. Once there is an agreement there would be a full public hearing so the public could have input. Mayor Otis said no decisions have been made about the ultimate use for the building but this proposed action keeps the City's option open for future planning with the voters having the final decision. He said if the Council fails to act now there are other buyers waiting in the wings. Councilman Hennes concurred. Peter Jovanovich, 647 Milton Road, asked about the cost; about how this purchase would affect fixing Rye's infrastructure; and if the City has adequate bonding capacity. The Mayor, who indicated he was not ready to discuss actual figures, said the plan is to buy the building on an installment basis for the first four years with the costs offset by potential rent and use those four years to determine if there is a good City use for the property. Councilman Pratt said the City has a large bonding capacity and the Finance Committee will be looking at the total needs picture; Councilman Ball said this was an attractive opportunity for the City; Councilman Fahey said it was important for the City to keep its options open.

Councilman Pratt made a motion, seconded by Councilman Ball, to adopt the following resolution:

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager and the Corporation Counsel to negotiate a contract to purchase the property located at 1037 Boston Post Road.

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,
Pratt and Seitz

NAYS: None

ABSENT: None

5. Consideration of setting a public hearing of a draft local law amending Chapter 197 (Zoning) of the City of Rye, New York with respect to permitting restaurants in the B-1 Neighborhood Business District

City Manager Shew said the Council was being asked to set a public hearing of a draft local law amending Chapter 197 (Zoning) of the City of Rye with respect to permitting restaurants in the B-1 Neighborhood Business District. More specifically the proposal is a result of a request from the "On the Way Café" to allow restaurants in the B-1 District located at the intersection of Playland Parkway and Forest Avenue. Joseph Latwin, Esq. attorney for the petitioner, said he was here tonight to ask the Council to set a public hearing. He said he would like to begin the environmental work and suggested that the public hearing be set after comments had been received from the County. City Planner Christian Miller said this proposal is a zoning text change which will affect four properties in this particular B-1 district. The proposed change in the law would allow restaurants on any of these four properties, but that opening such establishments would be improbable on these properties since they would likely not meet the minimum off-street parking requirements. The City Planner noted that the text amendment

would allow the On the Way Café to operate beyond it's current hours of operation, but would still be non-conforming with respect to the off-street parking requirements of the City Zoning Code. The Café is asking to stay open until 9 P.M. Playland Market stays open until 11 P.M so it would not be extending night hours in the area beyond existing practice. Mr. Miller stated that a zoning amendment does not require neighbor notification, but that if the Council desired such notification he suggested that the notice be sent to all those within 750' feet of the area which is consistent with the requirements for site plan applications within business districts.

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

RESOLVED, that the City Council declare itself lead agency for SEQR.

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

WHEREAS, the Council wishes to amend Chapter 197 (Zoning) of the Code of the City of Rye, New York with respect to permitting restaurants 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 May 3, 2006 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 Code of the City of Rye, New York with respect to permitting restaurants 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 3rd day of May, 2006 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 proposal to amend Chapter 197 (Zoning) of

the Code of the City of Rye, New York with respect to permitting restaurants in the B-1 Neighborhood Business District.

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

Dated: April 24, 2006

Susan A. Morison
City Clerk

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Fahey, Hennes, Pratt and Seitz
NAYS: None
ABSENT: None
ABSTAIN: Councilman Cunningham

6. Consideration of setting a public hearing on proposal to reduce maximum permitted time on 9 parking spaces from west side of Purchase Street just South of HSBC around Elm Place to Haviland Lane

Councilman Seitz said he was proposing reducing the maximum permitted time on 9 parking spaces on Purchase Street around the corner to Elm Place in recognition of the different uses by various businesses. He said it was just an idea and he thinks it would be good to get people out to talk about it. *Jim Finneran, owner of the Pub at Elm Place* spoke in opposition to the idea saying it would divide the neighborhood and pit the pizza shop and the framing store against the coffee shop and the smoke shop. The Mayor said it was better to encourage people to park longer and shop more and he felt the merchants were also opposed to the idea. Councilman Hennes asked if this wasn't a bit prejudicial – why only this part of Purchase Street? Councilman Ball applauded the premise but, along with others on the Council, questioned how it would be enforced? Councilman Cunningham said he was still waiting for reaction from staff and the Rye Merchant's Association.

The Mayor suggested continuing the conversation without setting a public hearing, but Councilman Seitz made a motion, seconded by Councilman Hennes, to adopt the following resolution:

WHEREAS, the Council wishes to amend Section 191-20-C of the Rye City Code, Parking time limited, to create a Fifteen-Minute Parking Only zone on the west side of Elm Place beginning at the exit from Car Park #2 to Purchase Street and north on the west side of Purchase Street approximately 100 feet for a maximum of nine spaces; 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 April 5, 2006 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 Section 191-20-C of the Rye City Code, Parking time limited, to create a Fifteen-Minute Parking Only zone on the west side of Elm Place beginning at the exit from Car Park #2 to Purchase Street and north on the west side of Purchase Street approximately 100 feet for a maximum of nine spaces.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 5th day of April, 2006 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 proposal to amend Section 191-20-C of the rye City code, Parking time limited, to create a Fifteen-Minute Parking Only zone on the west side of Elm Place beginning at the exit from Car Park #2 to Purchase Street and north on the west side of Purchase Street approximately 100 feet for a maximum of nine spaces.

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

Dated: March 28, 2006

Susan A. Morison
City Clerk

ROLL CALL:

AYES: Councilmen Cunningham, Fahey, Hennes, Pratt and Seitz
NAYS: Mayor Otis, Councilman Ball
ABSENT: None

7. Consideration of recertification for special use permit for wireless telecommunications facility at 66 Milton Road

This agenda item was deferred to a future meeting.

8. Consideration of recertification for special use permit for wireless telecommunications facility at 178 Theodore Fremd Avenue

This agenda item was deferred to a future meeting.

9. Consideration of Home Rule Messages for S5387A and A8015-B to amend the tax law, in relation to the imposition of an occupancy tax in the City of Rye

Mayor Otis reported that the Council needs to file new Home Rule Messages for S5387A and A8015-B to amend the tax law in relation to the imposition of an occupancy tax in the City of Rye. He said everything is exactly the same as when the last messages were filed, but the forms had to be filled out again in recognition of the new legislative session. Hopefully it will pass this year, but there is nothing else the City can do to move it along any faster.

Councilman Pratt made a motion, seconded by Councilman Hennes and unanimously carried, to re-adopt a Home Rule Message.

10. Resolution authorizing bonding for reconstruction of City-owned buildings

City Manager Paul Shew said the proposed resolution authorizing bonding for reconstruction of City-owned buildings will provide funds for immediate and essential repairs to the existing police facility. These repairs will bring the building up to acceptable safety codes and will provide the necessary capability for the building to be used as an emergency command center, but it will provide only the bare basics necessary to keep the building in working order. It will provide no new space. City Comptroller Michael Genito said the Council can adopt this resolution subject to permissive referendum (acceptable only if less than 10% of the public petition against the expenditure within 45 days).

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

**A BOND RESOLUTION, DATED MARCH 22, 2006, AUTHORIZING THE
ISSUANCE OF UP TO \$600,000 AGGREGATE PRINCIPAL AMOUNT
SERIAL BONDS OF THE CITY OF RYE, COUNTY OF WESTCHESTER,
STATE OF NEW YORK, TO FINANCE THE COSTS OF THE
RECONSTRUCTION OF VARIOUS CITY-OWNED BUILDINGS,
PURSUANT TO THE LOCAL FINANCE LAW.**

WHEREAS, the City Council of the City of Rye (the "City"), a municipal corporation of the State of New York, located in the County of Westchester, hereby determines that it is in the public interest of the City to authorize the financing of the costs of the reconstruction of various City-owned buildings, including the acquisition of any applicable equipment, machinery, apparatus, land and rights-in-land necessary therefor and any preliminary and incidental costs related thereto, at a

total estimated cost not to exceed \$600,000, in accordance with the Local Finance Law;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rye, in the County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the City, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, in the aggregate principal amount not to exceed \$600,000, pursuant to the Local Finance Law, in order to finance the costs of the reconstruction of various City-owned buildings (the "Project").

Section 2. The City Council of the City has ascertained and hereby states that (a) the estimated maximum cost of the Project will not exceed \$600,000; (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project; (c) the City Council of the City plans to finance the costs of the Project from the proceeds of the serial bonds as authorized herein, and/or of bond anticipation notes issued in anticipation of the issuance of such serial bonds; and (d) the maturity of the serial bonds authorized herein shall be in excess of five (5) years.

Section 3. It is hereby determined that the Project is of a class of object or purpose as described in subdivision 12(a)(1) of paragraph a of Section 11.00 of the Local Finance Law and that the period of probable usefulness of the Project is twenty-five (25) years (such buildings being of "Class A" construction as that term is defined in Section 11.00 of the Local Finance Law). The serial bonds authorized herein shall have a maximum maturity of the twenty-five (25) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize the serial bonds authorized herein, and bond anticipation notes issued in anticipation of the issuance of such serial bonds, including renewals thereof, and the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes, are hereby delegated to the City Comptroller, as chief fiscal officer of the City. The City Comptroller is hereby authorized to execute by manual or facsimile signature on behalf of the City, all serial bonds authorized herein and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the City Clerk is hereby authorized to impress the seal of the City (or have imprinted a facsimile thereof) on all such serial bonds and all such bond anticipation notes, and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the manual or facsimile signature of the City Comptroller. In the absence of the City Comptroller, the Deputy City Comptroller is hereby authorized to exercise the powers delegated to the City Comptroller by this bond resolution.

Section 5. When this bond resolution takes effect, the City Clerk shall cause the same, or a summary thereof, to be published, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, in The Journal News, a newspaper having a general circulation in the City and, as a result, the validity of such serial bonds authorized herein, and of bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be contested only if such obligations are authorized for an object or purpose, or a class of object or purpose, for which the City is not authorized to expend money, or the provisions of law, which should have been complied with at the date of the publication of this bond resolution, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 6. The faith and credit of the City are hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized herein as the same shall become due.

Section 7. The City hereby declares its intention to issue serial bonds as authorized herein, and or bond anticipation notes issued in anticipation of the issuance of such serial bonds (collectively, the “obligations”), to finance the costs of the Project. The City covenants for the benefit of the holders of such obligations that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations, or any other funds of the City, and will not make any use of the Project which would cause the interest on such obligations to become subject to federal income taxation under the Internal Revenue Code of 1986, as amended (the “Code”) (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or the Project financed thereby, if such action or omission would cause the interest on such obligations to become subject to federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the serial bonds authorized herein or any other provisions hereof until the date which is sixty (60) days after the final maturity date of such serial bonds or an earlier prior redemption date thereof. The proceeds of the serial bonds authorized herein, and any bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be applied to reimburse expenditures or commitments made with regard to the Project on or after a date which is not more than sixty (60) days prior to the adoption date of this bond resolution by the City. The City may expend general funds or other available moneys for the Project which shall be reimbursed from the proceeds of such obligations.

Section 8. Prior to the issuance of the serial bonds authorized herein, or of bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City Council of the City shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the “environmental compliance proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the City Council of the City covenants that it will re-adopt, amend or modify this bond resolution prior to the issuance of any obligations authorized issued herein upon the advice of bond counsel. It is hereby determined by the City Council of the City that the Project will not have a significant impact or effect on the environment.

Section 9. For the benefit of the holders and beneficial owners from time to time of the serial bonds authorized herein, or bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City agrees, in accordance with and as an obligated person with respect to the obligations under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner as may be required for purposes of the Rule. In order to describe and specify certain terms of the City’s continuing disclosure agreement for that purpose, and thereby implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller is authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”), to be placed on file with the City Clerk and which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the obligations authorized herein in accordance with the Rule, with any changes or amendments that are not inconsistent with this bond resolution and not substantially adverse to the City and that are approved by the City Comptroller on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed collectively by this paragraph and the Commitment shall be the City’s continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The City Comptroller is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Comptroller shall consult with, as appropriate, its Corporation Counsel and bond counsel or other qualified independent special counsel to the City and shall be entitled to rely upon any legal advice provided by its Corporation Counsel or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This bond resolution is subject to a permissive referendum in accordance with paragraph B of Section C21-9 of the City Charter and will take effect upon its adoption by the City Council of the City and the expiration of the period prescribed in the City Charter during which petitions for a permissive referendum may be submitted and filed with the City Clerk.

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,
Pratt and Seitz

NAYS: None

ABSENT: None

11. Resolution authorizing bonding for the reconstruction of City streets and roads

The Council considered the resolution authorizing bonding for the reconstruction of City streets and roads, specifically the improvements to the intersection of Peck and Midland Avenues and the repaving of the Boston Post Road from the Rye Golf Club to the Mamaroneck border. Although both areas are gateways to the City, there was concern about making the Peck Avenue improvements prior to the reconstruction of I-95 (the “Last Mile” project) and concern about the need to pave this area of the Boston Post Road at this time. The Council agreed to defer consideration of this resolution.

11A. Resolution to authorize bonding for fire-fighting vehicles

City Manager Shew said the City was fortunate to enjoy an excellent Fire Department with two locations and it is important that each location have the proper fire fighting equipment. He pointed out that the bond to purchase a new ladder truck could be authorized within the public safety exemption as provided in the City’s Charter. There were questions from the Council concerning the need for this new vehicle and what was included in the specifications. Peter Donahue, Assistant Fire Chief, advocated for the purchase of the truck citing the age of the old one (part of which was purchased during the Eisenhower administration); the safety advantages of having a new one; the ability to provide mutual aid to neighboring communities; and the need to have it for training purposes. He said the price quoted provided all the necessary accoutrements. He stated that with this purchase, and the completion of the Locust Avenue Fire House, additional major capital needs for the Fire Department would not be necessary for a decade.

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

**BOND RESOLUTION, DATED MARCH 22, 2006 AUTHORIZING THE
ISSUANCE OF \$630,000 AGGREGATE PRINCIPAL AMOUNT SERIAL
BONDS OF THE CITY OF RYE, COUNTY OF WESTCHESTER, STATE
OF NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, TO
FINANCE THE COST OF THE ACQUISITION OF FIRE-FIGHTING
VEHICLES AND APPARATUS FOR THE CITY.**

WHEREAS, the City Council of the City of Rye (the “City”), a municipal corporation of the State of New York, located in the County of Westchester, hereby determines that it is in the public interest of the City to authorize the financing of the cost of the acquisition of fire-fighting vehicles and apparatus, including any preliminary and incidental costs related thereto, at a cost not a exceed \$630,000; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RYE, COUNTY OF WESTCHESTER, STATE OF NEW YORK as follows:

Section 1. There is hereby authorized to be issued serial bonds of the City, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, in the aggregate principal amount not to exceed \$630,000, pursuant to the Local Finance Law, in order to finance the cost of the acquisition of fire-fighting vehicles and apparatus for the City, including any preliminary and incidental costs related thereto (the “Project”).

Section 2. The City Council of the City has ascertained and hereby states that (a) the estimated maximum cost of the Project will not exceed \$630,000; (b) no money has heretofore been authorized to be applied to the payment of the cost of the Project; (c) the City Council of the City plans to finance the cost of the Project from the proceeds of the serial bonds as authorized herein, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds; and (d) the maturity of the serial bonds authorized herein shall be in excess of five (5) years.

Section 3. It is hereby determined that the Project is of a class of object or purpose as described in subdivision 27 of paragraph a of Section 11.00 of the Local Finance Law and that the period of probable usefulness of the Project is twenty (20) years. The serial bonds authorized herein shall have a maximum maturity of the twenty (20) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize the serial bonds authorized herein, and bond anticipation notes issued in anticipation of the issuance of such serial bonds, including renewals thereof, and the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes, are hereby delegated to the City Comptroller, as chief fiscal officer of the City. The City Comptroller is hereby authorized to execute by manual or facsimile signature, on behalf of the City, all serial bonds authorized herein and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the City Clerk is

hereby authorized to impress the seal of the City (or have imprinted a facsimile thereof) on all such serial bonds and all such bond anticipation notes, and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the manual or facsimile signature of the City Comptroller. In the absence of the City Comptroller, the Deputy City Comptroller is hereby authorized to exercise the powers delegated to the City Comptroller by this bond resolution.

Section 5. When this bond resolution takes effect, the City Clerk shall cause the same, or a summary thereof, to be published, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, in *The Journal News*, a newspaper having a general circulation in the City and, as a result, the validity of such serial bonds authorized herein, and of bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be contested only if such obligations are authorized for an object or purpose, or a class of object or purpose, for which the City is not authorized to expend money, or the provisions of law, which should have been complied with as of the date of the publication of this bond resolution, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 6. The faith and credit of the City are hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized herein as the same shall become due.

Section 7. The City hereby declares its intention to issue serial bonds as authorized herein, or bond anticipation notes issued in anticipation of the issuance of such serial bonds (collectively, the "obligations"), to finance the costs of the Project. The City covenants for the benefit of the holders of such obligations that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations, or any other funds of the City, and will not make any use of the Project which would cause the interest on such obligations to become subject to federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code") (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or the Project financed thereby, if such action or omission would cause the interest on such obligations to become subject to federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the serial bonds authorized herein or any other provisions hereof until the date which is sixty (60) days after the final maturity date of such serial bonds or an earlier prior redemption date thereof. The proceeds of the serial bonds authorized herein and any bond anticipation notes issued in anticipation of the issuance of such serial bonds may be applied to reimburse expenditures or commitments made with regard to the Project on or after a date which is not more than sixty (60) days prior to the adoption date of this bond resolution by the City.

The City may expend general funds or other available moneys for the Project which shall be reimbursed from the proceeds of such obligations.

Section 8. Prior to the issuance of the serial bonds authorized herein, or bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City Council of the City shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the “environmental compliance proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the City Council of the City covenants that it will re-adopt, amend or modify this bond resolution prior to the issuance of any obligations authorized issued herein upon the advice of bond counsel. It is hereby determined by the City Council of the City that the Project will not have significant impact or effect on the environment.

Section 9. For the benefit of the holders and beneficial owners from time to time of the serial bonds authorized herein, or bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City agrees, in accordance with and as an obligated person with respect to the obligations under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner as may be required for purposes of the Rule. In order to describe and specify certain terms of the City’s continuing disclosure agreement for that purpose, and thereby implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller is authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”), to be placed on file with the City Clerk and which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the obligations authorized herein in accordance with the Rule, with any changes or amendments that are not inconsistent with this bond resolution and not substantially adverse to the City and that are approved by the City Comptroller on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed collectively by this paragraph and the Commitment, shall be the City’s continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The City Comptroller is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Comptroller shall consult with, as appropriate, its Corporation Counsel and bond counsel or other qualified independent special counsel to the City and shall be entitled to rely upon any legal

advice provided by its Corporation Counsel or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. The City Council of the City hereby determines the financing of the Project to be required for public safety purposes requiring urgent action as set forth in Paragraph E of Section C21-9 of the City Charter and the amount of outstanding obligations issued for public safety purposes requiring urgent action, including the obligations as authorized herein, does not exceed \$2,500,000. Accordingly, this bond resolution shall take effect immediately upon its adoption by the City Council of the City.

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,
Pratt and Seitz

NAYS: None

ABSENT: None

12. Appointments to the Rye Senior Advocacy Committee; two appointments for terms expiring January 1, 2007; two appointments for terms expiring on January 1, 2008 and three appointments for terms expiring January 1, 2009; by Mayor with Council approval

Mayor Otis made a motion, unanimously approved, to appoint Esther Martensen and re-appoint Kathleen Lonergan for one-year terms expiring January 1, 2007; to re-appoint Ellen D'Angelo and Josephone DelMonte for two-year terms expiring January 1, 2008; and to appoint Marge Leffler and re-appoint Marian Shea and Julia Schwartz-Leeper for three-year terms expiring January 2009 to the Rye Senior Advocacy Committee.

13. Designation of Chair of Rye Senior Advocacy Committee by the Mayor

Mayor Otis reappointed Marian Shea as Chair of the Rye Senior Advocacy Committee.

14. Authorization to extend current agreement between the City and Friends of Rye Nature Center for 90 days.

City Manager Shew said a temporary committee has been evaluating the financial, operating and capital needs of the current Operating Agreement between the City and Friends of Rye Nature Center. He said the Committee is making good progress, but in order to present a complete analysis and recommendation, it has requested that the current agreement be extended for an additional 90 days. He also introduced *Russ Johnson, the new Executive Director of the Rye Nature Center* who was recommended for the position by former director Tracy Kay. Mr. Johnson said he was honored to be working at the Nature Center, an urban wilderness treasure. Councilman Cunningham said there was good coordination between the Committee, the Conservation Commission/Advisory Committee and Russ and he is looking forward to the report.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes and extension to the current agreement between the City and the Friends of Rye Nature Center for an additional ninety days.

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,
Pratt and Seitz
NAYS: None
ABSENT: None

15. Authorization to fill vacant position in Public Works Department

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

RESOLVED, that the City Council of the City of Rye, recognizing no negative economic impact to the City, hereby authorizes the City Manager to fill the vacant position in the Public Works Department.

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,
Pratt and Seitz
NAYS: None
ABSENT: None

16. Bid award for swimming pool heater

City Manager Shew reported that even though only one bid had been received the bidder seemed competent and reasonable and he and the City Engineer were therefore recommending the award of the bid. Rye Golf Club Manager, Scott Yandrasevich, said the goal of installing a heater was to expand usage of the pool and it would only actually be used for two weeks at the beginning of the season and two weeks at the end of the season to keep the water temperature comfortable. He acknowledged that the heating costs would be expensive but said the decision of the RGC Commission was to add this amenity for the members. A discussion of the steeply increasing rates (50-60% in the last 7 years) of the RGC ensued. Councilman Pratt was particularly disturbed about only having one bid and wondered what will happen if there is a downturn in the membership. The Mayor said he receives lots of complaints about the

membership rates, but not about the pool temperature and questioned whether having a heated pool is worth the cost. Others on the Council stated the Commission had decided to heat the pool and the Council should abide by their decision.

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

RESOLVED, that Contract #2006-01 – Rye Golf Club Pool Heater be awarded in the amount of \$57,000 to Sun-Dance Energy Contractors Inc. d/b/a Markley Mechanical Mechanical, Inc. being the sole bidder meeting specifications.

ROLL CALL:

AYES: Councilmen Ball, Fahey, Hennes, and Seitz
NAYS: Mayor Otis, Councilmen Cunningham and Pratt
ABSENT: None

The bid was approved by a vote of 4-3.

17. Bid award for One (1) Custom truck Cab & Chassis with Dump Body and Plow

City Manager Shew reported that a new custom truck cab and chassis is in the budget, is much needed, and the City can afford it. He recommended the Council approve the bid. The bid tab is as follows:

BID #1-06

**ONE (1) CUSTOM TRUCK CAB & CHASIS
W/DUMP BODY & PLOW**

BIDDER	AMOUNT BID
Gabrielli Mack Sales & Service	\$107,230.00
Bruno Truck Sales	\$122,741.00
New York Metro Peterbilt	\$125,387.00

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

RESOLVED, that Bid #1-06, One Custom Truck Cab and Cassis with Dump Body and Plow in the amount of \$107,230 to Gabrielli Ford Truck Sales, being the lowest bidder meeting specifications.

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,
Pratt and Seitz

NAYS: None

ABSENT: None

17A. Revision of Section 191-19 of the City Code, "No parking any time" to include the South side of Rye Beach Avenue from Forest Avenue to Old Rye Beach Avenue

Mayor Otis reported that parking on Rye Beach Avenue is a constant problem. It is a narrow street and particularly dangerous and problematic on the end of Rye Beach Avenue closest to Rye Town Park.

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

WHEREAS, the Council wishes to amend Section 191-20-C of the Rye City Code, No parking any time, to include the south side of Rye Beach Avenue from Forest Avenue to Old Rye Beach Avenue; 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 April 5, 2006 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 Section 191-19 of the Rye City Code, No parking any time to include the south side of Rye Beach Avenue from Forest Avenue to Old Rye Beach Avenue

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 5th day of April, 2006 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 proposal to amend Section 191-19 of the Rye City Code, No parking any time, to include the south side of Rye Beach Avenue from Forest Avenue to Old Rye Beach Avenue.

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

Dated: March 28 2006

Susan A. Morison
City Clerk

18. Schedule regular meeting of the City Council held annually at the Square House for May 3, 2006

Councilman Hennes made a motion, seconded by Councilman Fahey, to set the date for the City Council meeting held annually at the Square House for May 3, 2006. He urged everyone to attend this historic ritual.

19. Miscellaneous communications and reports

Councilman Ball reported on two special Rye Historical Society events. The first is a program at the Knapp House with special guest Vince Golden from the Antiquarian Society discussing the merit of old newspapers on Saturday, March 25. The second is the unveiling of an 18th century map of the Rye portion of the Boston Post Road on Friday, March 31.

20. Old Business

There was no old business to be discussed.

21. New Business

Councilman Cunningham reported that there had been requests for using Whitby Castle in 2007 so the City needs to accelerate its actions to develop a Request for Proposal on the future of the Castle. City Manager Shew said he would look at the timeline and consult with the

working group. The Mayor and Councilman Pratt agreed it was not in anyone's best interest not to move as quickly as possible.

Mayor Otis said he and Police Commissioner Connors had attended a National Incident Management System (NIMS) training session which was interesting and important. He said the Council will be asked to authorize a resolution endorsing NIMS in the near future.

22. Draft unapproved minutes of the special City Council meeting held on February 25, 2006 and the regular meeting of the City Council held March 1, 2006

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to approve the minutes of the special City Council meeting held on February 25, 2006 as amended.

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to approve the minutes of the regular meeting of the City Council meeting held on March 1, 2006 as amended.

23. 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 10:47 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk