

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on May 3, 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 7:00 P.M. Councilman Fahey made a motion, seconded by Councilman Ball and unanimously carried, to adjourn to executive session at 7:01 P.M. to discuss pending litigation. Councilman Hennes made a motion, seconded by Councilman Pratt and unanimously carried, to close the executive session at 8.00 P.M. No decisions were made. The regular meeting reconvened at the Square House 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.

Mayor Otis welcomed everyone to the annual historic gathering of the City Council at the Square House. He introduced Rye Historical Society Director, Kristina Bicher, who in turn welcomed everyone to the Square House and shared anecdotes about George Washington's visit to the Square House in 1775 when Rye was neutral and very dangerous territory. She said it is fortunate that the Square House survived this period and invited everyone to visit the Village Green on May 13, 2006 when George Washington will arrive again as part of a Revolutionary War Enactment. She also urged people to visit the Knapp House to see a map of the Boston Post Road from 1800. Mayor Otis thanked Kristina and the society for being such good stewards of Rye's History.

Mayor Otis made his opening comments as follows:

“Welcome to our Annual Square House meeting where we make special note of the links between our work today and the past generations that have served this community on the City Council, on Boards and Commissions, and as members of our dedicated City staff. The community we treasure is their gift to us and our responsibility to make even better

“It is especially fitting that we make note of these links when we consider some of the work of the City in our recent past.

“A few weeks ago we commemorated the expansion of our Damiano Center. When Mayor Mary Ann Ilse and the City Council of that time served Rye, they began an effort to expand the Center. Today the community has continued their work.

“Fourteen years ago Mayor Ross and the City Council considered purchasing the building next to City Hall and the village green. Monday the City closed on that property fulfilling a dream to make use of the site next to City Hall, most likely as a new Police and Court facility.

“Our firehouses were built in the earliest days of our existence as a village. The Locust Firehouse is under reconstruction around the corner. Milton construction has been completed.

“It is fitting tonight that we make special note of the passing last week of Edith Read. Edith was born in 1904, the year Rye became a village. Her life spanned our municipal life to date and her commitment to Rye saw no limit.

“She served on this City Council and was the original Chair of Rye's Conservation Commission where she served for a decade. She was an active member of our Landmarks Advisory Committee for many years, served on the board of the Rye Historical Society, was a leader in the Federated Conservationists of Westchester County, and the Environmental Planning Lobby, New York's state-wide environmental lobbying organization.

“Edith was a dedicated and focused advocate. She rarely took no for an answer and never was satisfied with a partial answer. She convinced County Executive Andy O'Rourke to create a wildlife sanctuary behind Playland which bears her name. She helped create the Rye Nature Center, City acquisition of wetland areas known as parcels A & B off of Theodore Fremd Avenue, was an advocate for saving the Jay property, restoring Beaver Swamp Brook, and not allowing subdivision of the Parsons property.

“Edith was a pioneer in promoting environmental protection, the establishment of parks, and advancing historic preservation in Rye and throughout New York

State. Her relentless pursuit of these goals was an inspiration to me. I will always remember Edith as a guiding influence and dear friend.

“On this occasion when we honor service to Rye and the bonds between our work and the work of the generations that came before us we can do no better than to honor Edith Read.”

Councilman Hennes said he was pleased to see so many volunteers, knowing how hard they all work, along with the excellent City staff. He noted that Rye is unique in that so many who grew up here come back and stay, including many on the City Council with strong and historic ties to the community. Mack Cunningham, recalling his boyhood, thanked former Mayor Grainger for helping to save Rye from having the Rye-Oyster Bay Bridge in our back yard. Councilman Fahey added his thanks to the volunteers, noting they really care and are what makes Rye special. He also noted while the Council does not always agree, their discussions lead to sound decisions.

Mayor Otis then introduced City Manager O. Paul Shew, who said it was a pleasure to be in this historic building which the City is lucky to have. He thanked the Council for their hard work and dedication and introduced members of the City Staff who were able to be present.

William Connors	Police Commissioner
Chantal Detlefs	City Naturalist
Peter Fox	Boat Basin Supervisor
Christian Miller	City Planner
Susan A. Morison	City Clerk
Scott Pickup	Assistant City Manager
Kevin J. Plunkett	Corporation Counsel
William Rodriquez	Superintendent of Recreation
Vincenzo Tamburro	Building Inspector
Noreen Whitty	City Assessor
Scott Yandrasevich	Rye Golf Club Manager

The Mayor welcomed former Mayors. Ed Grainger recalled working with Edith Read on flooding problems saying that their failure to create a retention dam on private property up-county was probably the only thing she didn't get done, but it was not for lack of trying very hard; Warren Ross added his tribute to Mrs. Read saying she always had good advice, was persistent, and courageous, often championing things that were not particularly popular and said Rye had lost one of our greatest citizens of all time. He congratulated the Council for purchasing the CVS building and urged them to continue to pursue affordable housing on North Street. The Mayor said Fred Hunziger had called in from Florida to send greetings and John Carey was unable to attend because of a health problem. Former Councilman Bill Ball said it was great to see his son continuing a family tradition of service to Rye, noting that the Councilman's grandfather had been Chief of Police when the Village was created. Acting City Judge and former Councilman John Alfano sent greetings from Judge Peter Lane. The Mayor also recognized former Council members Joe Latwin, Jim Burke, Bob Cypher and Carolyn Cunningham who all said how pleased they were to be here and urged the Council to keep up the good work. Ms. Cunningham paid special tribute to Mrs. Read, saying she had been her role model and mentor. The Mayor also recognized State Assemblyman George Latimer who said it

is an honor to be here each year and to see that the spirit of Rye continues even with such losses as Mrs. Read.

The Mayor greeted the following members of Rye City Boards, Commissions and Committees:

- Doris Blank, Chair of the Rye Cable Committee, said RCTV is a star in Rye's crown with excellent programming which has brought the community together. She noted the passing of Marvin Goldstein, but thanked the many good people continuing to make it work, including Nicole Livitsky (taking over from Jim Kenny) and Scott Pickup. She warned that the entrance of Verizon into the cable business sounds good, but could mean the end of franchise fees as we know it – franchise fees which allow RCTV to finance all that they do. She also said they are busy negotiating a new contract with Cablevision.
- Eugene McGuire, Chair of the Board of Architectural Review, thanked the Board and Rye Citizens for their cooperation.
- Barbara Cummings, Chair of the Planning Commission, said her committee has been very busy and active; that she had an excellent committee with incredible talent; and that Christian Miller and his staff deserve special thanks for incredibly thorough work, friendly attitude to the public and straight answers. She paid personal tribute to Edith Read recalling how late the Landmarks Committee meetings ran because Mrs. Read always knew so much about every issue.
- John Wickham, Fire Chief, said it was great to be in this wonderful old building and thanked the Council for seeing that the Fire Department's old buildings were restored.
- Joe Sack, member of the Zoning Board of Appeals, said he was honored to serve with his fellow board members who know so much and work so hard.
- Marian Shea, Chair of the Rye Senior Advocacy Committee, thanked the Council for helping her committee get started and for making it permanent by writing it into the Code. She said she had a great committee which is currently working on their first brochure. She said she would be happy to go to any group to talk about the work they are doing.
- Paula Gamache, representing the Finance Advisory Committee, thanked the Council for increasing the size of the committee, saying it was a good thing because they have a lot to do.
- Alex Piscionere, co-chair of the Youth Advisory Committee, said the committee would like to give an award and they are currently working on a procedure to do this and will be looking for people to nominate.
- Doug French, Chair of the Recreation Commission, said it is special to be able to celebrate 60 years of traditions such as the Window Painting event; to watch new activities such as Rye Youth Lacrosse and the Skateboard Park grow; and to see the completion of the expansion of Damiano Center where new traditions can now begin.

The Mayor closed the historical portion of the meeting by thanking everyone and saying what an honor it is to serve our community.

(The City Council walked across the Village Green
to continue the meeting in Council Chambers)

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

Richard Runes, Kirby Lane North, requested again that the City look into fixing the flooding problem on the street, and said raising the street by 18 inches is only a quick fix. He said the broken cap in the sewer line is part of the infrastructure and the City should fix it. Other residents including *Sheldon Snyder, Tony Spaeth, and Karen Shanes*, concurred that flooding has always been, and continues to be, a big problem and they would like it fixed, even though the problem does not lie within the scope of the other improvements being made to the street. Mayor Otis said the Council was waiting for a report from staff; that there are lots of places with flooding issues and the City is investigating everything. He thanked them for coming.

Ellen (Sis) D'Angelo, Wappanocca Avenue, spoke about two things: the gas station at the corner of her street and Purchase Street and the parking on Wappanocca. She asked what is contained in the large drums now on the gas station property and said there are so many cars parked on her street that no one can see and it is dangerous. She said she would like to have the street re-striped, but because it is a County road, it may not be such a simple request. The Mayor told her the City would try and get it done, one way or another.

Jeanne Sinnott, resident of *Highland Hall*, concurred with the parking on Wappanocca, noting that it will make no difference if it is re-striped because so many commuters park there and stay all day. She urged more parking enforcement.

Robert Cypher, 75 Orchard Lane, and prime advocate of the new skateboard park suggested that the Council and the Recreation Commission might consider naming the park in memory of Jarred Amico who was so tragically killed on Midland Avenue while riding his bike. Mr. Cypher said Jarred lived near the park and loved it and this would be a nice way to remember him. The Council urged him to work with the Recreation Commission.

Tom Amico, 336 Midland Avenue, grandfather of Jarred Amico, thanked the City Council and the City for their support and caring. The Mayor assured him hearts continue to be broken as we all continue to mourn the loss of his grandson.

Ralph Vallone, Midland Ave, long-time member of the Recreation Commission, said years ago a young man was killed on Playland Parkway and through his efforts the County agreed to put in a sidewalk and lights. He said he had long-since had concerns about Midland Avenue as people come off Playland Parkway and speed down Midland without thinking there is a school nearby and he would suggest some signage as well as traffic control strips. He suggested the City should have a Safety Commission. Mayor Otis said the Traffic and Transportation Commission serves in that capacity and he suggested Mr. Vellone attend the next meeting of the T&T Commission.

4. Public hearing to amend Chapter 197 (Zoning) of the City of Rye, New York with respect to restaurants in the B-1 Neighborhood Business District

Mayor Otis said the Council had a request from a petitioner to extend the hours of operation for a restaurant (On The Way Café) which is in a B-1 Neighborhood Business District

and that such a change required a text amendment to the Code of the City of Rye. The Mayor said the request had been reviewed by Westchester County and the Planning Commission, neither of which had objections. The Mayor opened the public hearing.

Joseph Latwin, representing the petitioner, explained again that the only request is to keep the On The Way Café open through the dinner hours. He said he had submitted petitions with names of many people, all of whom were in favor of the extension. (Note: the petition was available at the restaurant and signed by restaurant patrons.)

Several residents of Ridgeland Terrace, right next to the Café, spoke in opposition to the request. *Janet Suarino*, #32 *Ridgeland Terrace*, said it is a lovely café, but parking is already such a problem that extension of the hours will only make it worse. She said their little private street (which residents have to maintain) already has a lot of wear and tear, loitering and noise, and they don't want more problems. Her son, *Richard Suarino*, read a letter from a neighbor, *Armand Puglia* (#27), expressing the same reservations and submitted pictures showing the overcrowded parking. *Joel Derelius* (#31) said they have no police enforcement on their street and he anticipated the extension of hours could only make the situation worse. *Mary Jane Anderson* (#28) said she never saw the letter, but added her voice to the opposition, as did *Lenore Puglia*.

Pat and Tom Ryan, 34 *Ridgeland Terrace*, who rent the On The Way Café to *Neal Vitello*, spoke in favor of the extra hours saying Mr. Vitello does a great job of keeping the parking lot clean and the parking problems are not because of him or his business. Mr. Vitello said the cars in the lot would be his clients and there would be no extra delivery trucks.

The Council had comments as well. Councilman Pratt questioned the validity of the pictures submitted and suggested the parking situation would remain the same even with the new hours, maybe even make it better as the cars would be owned by Rye residents rather than those going to Playland. He said he was concerned about the other traffic issues and wanted to work on getting those fixed. Councilman Seitz said he was concerned the neighbors appeared not to get enough notice. Mr. Latwin said he sent out the public notice with a very explanatory cover letter explaining the exact request to everyone within 750' for the restaurant. He said most of the concern he heard was not about the hours, but about the parking. Councilman Ball said, having lived on Ridgeland Terrace, he had empathy for the concerns of the residents but thought the parking would continue to be bad regardless of the hours. Councilman Fahey said the concerns of the neighborhood were important. Councilman Hennes said he wanted to hear from more of the neighbors and suggested a neighborhood meeting with City staff to address all the issues. There was also some concern about what might happen if a different restaurant took over from the On The Way Cafe. Corporation Counsel Kevin Plunkett advised the Council that once the change is made, it can be changed back, but it is not always easy or wise.

Mayor Otis, concurring with the general feeling on the Council that additional time was necessary before making a decision, made a motion, seconded by Councilman Fahey and carried by a vote of 5-1 with Councilman Cunningham abstaining, to adopt the following resolution:

RESOLVED, that the public hearing to amend Chapter 197 (Zoning) of the City of Rye with respect to permitting restaurants in the B-1 Neighborhood Business District be continued at the next regular meeting of the City Council.

5. Youth Advisory Committee Update

This agenda item was deferred to a later meeting.

6. Authorization for the City Manager to enter into an agreement with the Rye Merchants Association for use of a portion of Car Park #2 for a Farmer's Market

Sally Wright, local liaison for the Farmer's Market, asked the Council to continue its agreement with the Farmer's Market exactly as they had done in the past, but with a change of location. She proposed that it be moved to Car Park #2 between Elm Street and Theodore Fremd Avenue. She said they will put up banners and, hopefully, this location will provide more visibility so that patronage will go back up. She said there would be two new vendors this year (a cheese person and new farm products).

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

RESOLVED, that the City Manager is hereby authorized to enter into an agreement with the Rye Merchants Association for use of a portion of Car Park #2 for a Farmer's Market, on Sundays from 7:00 A.M. to 3:30 P.M.

7. Discussion with representatives of Planning Commission regarding subdivision issues and possible remedies

Barbara Cummings, Chair of the Planning Commission made a presentation to the Council regarding subdivision issues and possible remedies. She said Commission members *Nick Everett*, *Carolyn Cunningham* and *George Pratt* as well as City Planner Christian Miller were present to assist with the presentation. She said the proposal had been developed by the Planning Commission last Fall and presented to the Council by Mr. Miller at the January 18, 2006 meeting. At that time the Council requested additional input.

She said the proposal could be broken into three separate areas.

- 1) The Council is asked to consider language changes to City wetlands rules to make the City code more consistent with the language of the Wetlands Ordinance of 1991. This would make procedures related to wetlands issues more streamlined. By incorporating this wording into the Code, wetlands will be deducted from the total area of a property and no longer be counted when considering a subdivision.
- 2) Similarly, the Council is asked to consider excluding “steep slopes” from the available square footage of a property. Steep slopes would be considered slopes with a grade of 25% or more.
- 3) The final piece concerns lot configurations – how houses lie on the lot. At the moment the code allows the creation of “flag lots” (with a house built behind another house) and gerrymandered lots (uneven lot lines created to artificially create adequate side lots). There are problems with adjacent driveways, with maintenance, with identification of houses, with loss of privacy, all of which lead to neighbor issues. The Planning proposal would no longer allow either “flag lot” or “Gerrymandered lot” subdivisions.

Mrs. Cummings said there are about 4000 building lots in Rye; 19 have a steep slope issue and 85 could be affected by the proposed subdivision change. She said today the needs are different in that there are more sewers so space is not needed for septic systems; it is no longer prohibitive to blast so people are looking at once inaccessible places to build; and property values are so high every one is considering subdivision. She asked the Council what they want to see in the future. The Planning Commission is seeking guidance. Councilman Pratt informed the Council they should change the laws or continue to be sued. Councilman Seitz said no one wants to be sued even though the City defends them, but the Council needs to adapt the law to make sure the future “look” of Rye is as they want it to be. Carolyn Cunningham urged the Council to address the first two issues (wetlands and steep slopes) right away as they are long overdue.

Pat McCarthy, 60 Summit Avenue, owner of one of the 185 sub-dividable lots which he is currently trying to sub-divide, described the proposals as a “solution looking for a problem.” There are not so many subdivisions to consider and the process is already very thorough. He said in his case he would not be able to subdivide and would have to move. *Joseph Lorono, Lorono Construction*, said property rights are being eroded.

Mayor Otis said he could see setting a public hearing for wetlands and perhaps steep slopes, but would like to see more on the subdivision portion. His concern is that by denying these kinds of sub-divisions people will be forced to tear down beautiful old homes. He asked if there are other alternatives. Ms. Cummings said there were and they would put forth the other suggestions even though the proposed changes are what the Planning Commission considered the best. The Mayor would like to consider items 2 and 3 together; Councilman Pratt advocates for doing all three separately; Joe Latwin said regardless of how they are considered all three pieces have to be viewed in the context of a master plan. Councilman Hennes announced he would recuse himself when the subdivision proposal is discussed. It was agreed that the Council should move ahead with consideration of the wetlands portion of the proposal, that the City Planner and

the Corporation Council should do more research on the steep slope issue before setting a public hearing; and the subdivision plan should not be considered until later.

Councilman Pratt made a motion, seconded by Councilman Seitz 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 regarding the Application of Wetlands and Watercourses in Meeting Zoning Code Requirements; and

WHEREAS, it is now desired to call a public hearing on such proposed amendment to the law, now, therefore, be it

RESOLVED, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on June 14, 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:

**CITY OF RYE
PUBLIC NOTICE**

Notice of Public Hearing to amend Chapter 197 (Zoning) of the Code of the City of Rye, New York Regarding the Application of Wetlands and Watercourses in Meeting Zoning Code Requirements

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 14th day of June, 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 regarding the application of wetlands and watercourses in meeting zoning code requirements.

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

Dated: May 8, 2006

Susan A. Morison
City Clerk

8. Discussion of federal legislation reducing municipal government role in cable franchising and coordination of municipal rights of way; consideration of letter in opposition

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

RESOLVED, that the City of Rye should send a letter to all members of Congress representing New York State opposing federal legislation (Barton-Rush bill) reducing the role of municipalities in cable franchising and control of municipal rights of way;

9. Appointment of Planning Commission subcommittee members to the Retail Strategy Task Force.

Mayor Otis announced that the members of the Planning Commission subcommittee working on the issues involving the Central Business District were going to join forces with the Retail Strategy Task Force set up by the Council. The Mayor made a motion, unanimously approved, to appoint Brian Dempsey, Nick Everett, Peter Larr, Martha McDade and Joe Sack to the Task Force. He said Barbara Cummings, Chair of the Planning Commission, had decided not to serve on the Task Force. He also said there were additional names suggested by Councilman Seitz and they would be considered at a subsequent meeting. Councilman Pratt said he was going to move ahead with the initial meeting.

10. Approval of the election of four new members to the Rye Fire Department

Mayor Otis made a motion, seconded by Councilman Fahey and unanimously carried, to adopt the following resolution:

RESOLVED, that the Council of the City of Rye hereby approves the election of Mike Stoddart and Atticus Zavelle to the Poningo Hook and Ladder Company; of Ryan Melahn to the Poningo Engine & Hose Company; and Lorraine Tolento to the Fire Police Patrol Company, by the Fire Wardens at their April 10, 2006 meeting.

11. Bid award for deep tine aerator equipment

City Manager Paul Shew presented background material justifying the purchase of a deep tine aerator for use by the Recreation Department. The Council was particularly interested in having more information because only one bid had been received. The bid tab is as follows:

ONE (1) DEEP TINE AERATOR

BIDDER	AMOUNT BID
Wilfred MacDonald, Inc.	\$25,900.00

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

RESOLVED, that bid #5-06, One (1) Deep Tine Aerator, is hereby awarded to Wilfred MacDonald, Inc., being the sole bidder meeting specifications, in the amount of \$25,900.

ROLL CALL:

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

NAYS: None

ABSENT: None

12. Miscellaneous communications and reports

Councilman Pratt said he would be meeting with the City Clerk and the City Planner to work on developing a plan for Merchant Parking.

13. Old Business

There was no old business to be discussed.

14. New Business

Mayor Otis suggested that in the future items involving the expenditure of funds have some financial information included on the agenda sheet and that the expected life-span of the item to be purchased be referenced.

15. Draft unapproved minutes of the regular meetings of the City Council held April 19, 2006

Councilman Seitz made a motion, seconded by Councilman Hennes and unanimously carried, to approve the minutes of the regular meeting of the City Council held April 19, 2006 as submitted.

16. 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 11:50 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk