

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on August 16, 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 Hennes made a motion, seconded by Councilman Pratt and unanimously carried, to adjourn to executive session at 7:31 P.M. to discuss real estate. Councilman Ball made a motion, seconded by Councilman Seitz and unanimously carried, to close the executive session at 8:10 P.M. The regular meeting reconvened at 8:11 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.

Announcements

Mayor Otis reminded the audience that the annual presentation of the Capital Budget would take place on Monday, August 21, 2006 at 8:00 P.M.

Mayor Otis noted with sadness the loss of former Fire Chief George Ballantoni, saying he was a pillar of the community and the guiding force on the Fire Department's Building Committee which led the effort to restore both of Rye's fire houses. He is also remembered for his many years at J.D. Market. His loss to the whole of Rye is deeply felt.

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

Michael Visci, 38 Redfield Street, expressed his displeasure about being asked to provide liability insurance for Redfield Street's annual block party. He said no one wants to take responsibility for obtaining the insurance and it will be the end of a thirty year tradition on his street. The Mayor said the Council would need to learn more about the new procedure before commenting and asked for more information from the City Manager, Paul Shew. Mr. Shew said he was sorry Mr. Visci was upset and asked him not to blame the Council as the decision to ask for liability insurance was a result of seeing an increase number of law suits being brought against the City for all kinds of different things. He said the City encourages people to get together and there are lots of places in Rye (such as the picnic area at Rye Recreation) where people can gather and the City is fully covered, but streets are different and sooner or later the City will find itself in a lawsuit which will cost all City taxpayers. He said the request for individual coverage was a safeguard for the City and has, in fact, become standard practice in many communities. He said the City had looked into buying extra insurance for the City, but it is far more reasonable for an individual to add a one day/one event coverage to their own policy. He said staff had researched the matter and discovered that such coverage could be added for about \$60; another alternative is coverage available on the internet for about \$200. He suggested that such liability coverage might be more reasonable than hiring an off-duty policeman to cover the block party and more effective than trying to get every participant (invited or not) to sign a hold harmless waiver. Mayor Otis questioned if the City had shopped around for its own insurance enough? He said he wanted to know how many block parties take place. Former Councilwoman Carolyn Cunningham suggested more publicity announcing such a change and said she hoped nothing would discourage Rye's tradition of having block parties.

Henry King, 76 Coolidge Avenue, asked for an update on the Beaver Swamp Brook project. City Manager Shew said the City had met with Malcolm Pirnie and still had received no as built plans. Once they are obtained the City will meet with Harrison which does not have the plans either. Mr. King said he has been trying to find maps and he has never seen any with elevations. He questioned the veracity of whatever we might get from Malcolm Pirnie. He also thanked Councilman Ball for coming out to personally look at the situation. Mayor Otis acknowledged that there are still many unanswered questions (is the problem because of silt? changed elevations? or simply more rain?) and vowed to keep looking for the answers. Assistant Manager Scott Pickup said the City also would like to know the details about the road project in Harrison and how that model impacts the flooding situation. *Mary Jurs, 20 Hunt Place*, also thanked Councilman Ball for visiting, but said she wants some satisfaction as the flooding is just getting worse. Her daughter, *Debbie Jurs*, noted this was a big expensive project and asked if the plans were approved by Rye? The Mayor said they had worked with Harrison to cover the brownfields, but had opposed the original plans which didn't retain the wetlands; that Harrison wanted their ball field-Rye opposed it. He noted that no new wetlands maps have been filed and we all want a solution. Councilman Pratt suggested the City file a Freedom of Information request with the State to see if we can obtain the original maps with the elevations.

4. Discussion of 2005 Financial Trends Report

Mayor Otis asked City Comptroller Michael Genito to summarize the 2005 Financial Trends Report (a report reintroduced in the late 1990's) for the Council and thanked his staff for their assistance in creating the report. He said the report covers key items from 1996-2005; that it identifies a series of indicators and trends, none of which should stand on their own as representative of a trend. The report separates the operations of general government from the operations of the Boat Basin and Golf Club Enterprise Funds. He said there have been many positive things over the past ten years: the economy in general; higher than expected mortgage tax and sales tax income; and an increase in State aid, not to mention increased productivity from City workers.

Mr. Genito said our liquidity ratio and current ratio are both on positive upward trends, each of them well above their target level and as of this year, at the highest level in the ten-year trend period. Current liabilities to net operating revenue also show a positive trend, with 2005 again being the lowest level of the ten-year trend period. He reported that the unreserved and undesignated fund balance as a percentage of net operating revenues, required by policy to be at least 5%, has been at least at 10% for the entire trend period, and ended at 21.55%, the highest level in the past decade. These consistent positive results are due to conservative budgeting, unanticipated revenues, and judicious use of the fund balance. The spread between net operating revenues and expenditures has increased over the trend period, indicating a positive trend. Uncollected property taxes as a percentage of the tax levy continue at a phenomenal 99.5%+ collections rate. This is of particular significance when considering the fact that the City must guarantee the property taxes of the County and school districts. Tax liens, which had increased to a high of 6.2% in 2001, have since decreased to end 2005 at 1.81%. All these positive trends have resulted in Rye maintaining its Aaa rating, which was most recently confirmed by Moody's Investor Services in 2005. Elastic revenues (such as mortgage taxes, sales taxes, and utility gross receipts) have been positive but are the most susceptible to changes in the economy. We should, therefore, carefully watch this area of revenue and be cautious about relying on these revenues too much. Net operating expenditures have also risen steadily with fringe benefits as a percentage of salaries reaching a high of 49% in 2005, primarily because of State mandated retirement costs and steadily increasing health care costs. Non-capital equipment expenditures to net operating expenditures has declined slightly over the trend period except for 1997 when we made a major investment in information technology. The City has had an operating surplus for all but 2001 and 2002 when a deficit was planned, indicating a frugal approach to budgeting and expenditures.

Out debt indicators show that we continue to enjoy relatively low debt ratios. Net direct bonded long-term debt is trending up but remains at an excellent low level and has been used to fund necessary major capital assets such as firehouses, roads, and drainage systems. The trend in overlapping long-term bonded debt, which includes debt issued by the County and School Districts, is increasing. This should be of concern to all taxing jurisdictions, including the City, when planning future debt issues. The number of municipal employees per thousand of population has remained steady throughout the trend period at approximately 10 employees per thousand, an excellent indicator of productivity since City services have increased dramatically during that same trend period. City employees are doing more with the same number of people.

Mr. Genito said all financial indicators for the Boat Basin Enterprise Fund are extremely strong and positive. However, the need to dredge the harbor is both a financial and managerial challenge. In the short time between the preparation of this report (July 2006) and the presentation of it (August, 2006), the estimated cost of dredging rose from \$1 million to \$3.5 million. The regulations and multi-jurisdictional regulating agencies associated with dredging and the disposal of dredged materials are the prime drivers of these high costs.

The liquidity ratio of The Golf Club Enterprise Fund remains at a comfortable level and the Club's finances are in good shape. The only debt is for Whitby Castle and this is being paid off on a regular basis.

Mr. Genito said he was pleased with the 10 year trend results and looks forward to continuing the positive trends as we move to the future. He concluded by saying the complete 2005 Financial Trends Report could be found on the City's web site.

Mayor Otis commented on the large size of the Undesignated Fund Balance saying perhaps it is time to invest in some capital projects; on the healthy operations of the City; and reinforced Mr. Genito's warning not to rely too heavily on elastic revenues. He congratulated Mr. Genito on a great report noting that only a handful of communities in the State have the benefit of such a fine report and that Moody's, our bond-rating agency, is particularly impressed. Councilman Seitz pointed out that both the report and Mr. Genito had been the recipient of awards. Councilman Hennes said it was a fantastic report in both format and substance. He noted a warning sign that operating expenses were growing at a rate higher than inflation and wondered if there was any way to present the data on fringe benefits to spread out the rising costs of fringe benefits. He noted the undesignated fund balance was high because of good fortune (higher mortgage taxes, increased state aid, etc.) and there was no way this could or should have been anticipated when preparing last year's budget. Councilman Pratt was not in agreement, but complimented the report saying it could be used as a tool in crafting the 2007 budget. Councilman Cunningham suggested adding an energy trend.

5. Presentation by Friends of the Rye Nature Center

Mayor Otis introduced *Joe Murphy, 57 Franklin Avenue*, and *Mary Julian, 20 Onandaga Street*, co-chairs of the Rye Nature Center (RNC) Temporary Operating Committee that was established to review the existing Memorandum of Understanding between the Friends of Rye Nature Center (FRNC) and the City to establish the framework for an updated contractual relationship. He thanked everyone for working hard to build on a positive note and develop a plan which would provide stability. Mr. Murphy thanked the Council for setting up the committee and thanked those who had worked on the plan (Carolyn Cunningham, Marilyn Donahue, James Nash and Nathan Pearson; Scott Pickup [Asst. City Manager]; Council Liaisons (Mack Cunningham and George Pratt); and contributing members: Monsees Stubbs [FRNC Treasurer], Chantal Detlefs [City Naturalist], and Russ Johnson [Executive Director, RNC]). He said everyone had worked hard, had come closer together in understanding and are well on to developing a mutual strong sense of purpose. He reported Russ Johnson is developing a strategic plan and building a good relationship with the City Naturalist and other business partners. He said the programs are growing, as is the Board and the volunteer base.

Mr. Murphy and Ms. Julian outlined the ten specific proposals which they hope will be the basis for the new memorandum of understanding hopefully to be a five year contract. The proposals specify the role of the City and the Friends of Rye Nature Center (FRNC). The City will have oversight of the 47 acres which comprise the RNC; the FRNC will assist in maintenance and ultimately maintain the interior of the building while the City maintains the exterior; the City and FRNC will cooperate and collaborate on purchasing materials and supplies and will initiate a Public/Private Partnership to raise funds through Grants. To that end, the FRNC will seek matching funds against a \$25,000 challenge grant from the City. All programming, special events and festivals will be developed and implemented under the direction of the FRNC; the apartment should always be occupied by someone closely associated with the RNC; a forest health study should be conducted and a habitat management plan put into effect as steps toward the development of a Master Site Development plan; and the City should maintain staff to specifically assist in the wetland permit review process and environmental issues in the City. Mr. Murphy concluded by making an official request from the Council to grant a \$25,000 challenge grant to the RNC so that it can continue to grow.

Councilman Cunningham said he was impressed with both the planning and the direction of the FRNC, saying Director Johnson is working hard to expand operations beyond the present confines. Councilman Hennes said he was impressed with the dedication of the FRNC. The Mayor noted that today the FRNC had created an operational organization and that the next step would be to create the new contract providing a stable footing going forward.

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

RESOLVED, that the report from the Nature Center Temporary Operating Committee be adopted and that a draft of a new Memorandum of Understanding, based on the recommendations of the Committee, be prepared for review at the September 6, 2006 Council Meeting.

6. Consideration of setting a public hearing on a local law to amend the "Parking Districts Map" of the City of Rye for the purpose of changing the designation of four City-owned properties to the "A" Parking District

City Manager Paul Shew said there is a proposal to amend the Code of the City of Rye to expand parking regulations as they apply to the Central Business District to the City Hall "campus" (the Village Green, Rye Free Reading Room, City Hall and the former CVS building at 1037 Boston Post Road. The proposal will be referred to the Westchester County Planning Board 30 days prior to any decision on the proposed law.

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

WHEREAS, the Council wishes to amend the “Parking Districts Map” of the City of Rye for the purpose of changing the designation of four City-owned properties to the “A” Parking 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 October 4, 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 on a proposed local law to amend the
“Parking Districts Map” of the City of Rye for the purpose of changing the
designation of four City-owned properties to the “A” Parking District**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 4th day of October, 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 proposed local law to amend the “Parking Districts Map” of the City of Rye for the purpose of changing the designation of four City-owned properties to the “A” Parking District.

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

Susan A. Morison
City Clerk

Dated: September 25, 2006

7. Authorization for Corporation Counsel to draft transfer tax legislation

Mayor Otis said Councilman Seitz has proposed implementation of a transfer tax for the City of Rye and to move the idea forward Corporation Counsel should be asked to draft legislation. Councilman Seitz said he was proposing the following plan to implement such a tax which would raise additional revenue for the City of Rye:

1) 5% on all transfers of real property, decreasing at .5%/year for each year the property has been owned

- 2) Holding periods can be tacked to avoid being taxed more than once on the same property
- 3) No tax on sales of \$750,000 or less
- 4) Proceeds to be applied to infrastructure costs, debt and reserves of acquisition.

Councilman Pratt suggested the proposal was discriminatory and the percentage too high (maybe he could support it if it were a quarter to a half percent of real value); Councilman Hennes (who is opposed to the idea in general saying it would hurt the long-time homeowner) said the Finance Committee had a proposal that set lower rates; Mayor Otis cautioned that any proposal that was not “boiler plate” would never pass in the State legislature, especially as no one really likes to impose “flip taxes;” *Peter Jovanovich, 257 Milton Road*, said the question of who pays would require an economist. Councilman Seitz maintained the proposal should be given a shot; that it won’t cost tax payers anything and it is essential to look for new sources of revenues as costs increase.

The idea of sending the proposal in its current form to Corporation Counsel was tabled. Instead, the Council asked to see the most recent Finance Committee proposal as well as the text of legislation on transfer taxes in place in the five other communities in the State.

8. Resolution to self-insure for workers’ compensation

City Comptroller Michael Genito reported the City had been paying traditional insurance coverage for Workers’ Compensation but it had been suggested that it would be cost effective for the City to self-insure for normal coverage and carry insurance only for catastrophic cases (for example, a case of multiple injuries all at one time). He said the old premium was \$600,000; now the City pays \$138,000 per year with a \$300,000 deductible so the cost savings are significant. He said it was necessary for the Council to approve this new procedure:

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

WHEREAS Section 50 of the New York State Workers’ Compensation Law provides that the City of Rye may self-insure for workers’ compensation; and,

WHEREAS, the City of Rye has determined that self-insuring for workers’ compensation will provide more effective and efficient management and financial control over its workers’ compensation program; now therefore be it

RESOLVED, that effective June 1, 2006 the City of Rye elects to self-insure for its workers’ compensation.

ROLL CALL:

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

9. Resolution to amend 2006 General Fund budget for sidewalk repairs

City Comptroller Michael Genito said the annual sidewalk repairs had been completed and the private property owners would now be billed for their portion of the expense. He asked the Council to approve a resolution to amend the budget to reflect both the appropriation and estimated revenue, with the net effect being zero.

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

WHEREAS, the City Engineer has advised the City Comptroller that additional work will be required to repair sidewalks at the estimated cost of \$60,000; and,

WHEREAS, said repairs are to sidewalks abutting private properties and the cost of said repairs is the responsibility of the abutting property owners; now therefore be it

RESOLVED, that the 2006 General Fund Street Maintenance budget be amended to increase estimated revenues for sidewalk repair charges and increase appropriations for sidewalk repairs, each in the amount of \$60,000.

ROLL CALL:

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

10. Discussion of steps necessary for implementation of hotel occupancy tax

Mayor Otis said the hotel occupancy tax legislation had been signed into law by governor Pataki on July 26, 2006 so now it is time to draft local legislation to implement the law which will generate approximately \$120,000 for the City of Rye each year. The Council thanked Mayor Otis for shepherding the law through the legislature, and Councilman Seitz for his idea and for his "relentless pursuit" of getting it implemented. After consulting with Westchester County the Finance Department has developed some criteria for implementing the tax.

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

RESOLVED, that Corporation Counsel draft appropriate legislation to implement the new hotel occupancy tax in the City of Rye so that consideration of setting a public hearing for October 4, 2006 can be on the agenda for the next Council Meeting on September 6, 2006.

ROLL CALL:

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

11. Resolution to appoint a Marriage Officer for the City of Rye

Mayor Otis explained that Rye had been without a Marriage Officer since former Mayor Mary Ann Ilse had resigned and that many towns have such a position so that someone other than the Mayor and the City Judges could be in a position to solemnize a marriage within the City of Rye. He said the City Clerk had offered to fill this position at least through the end of the year and recommended that the Council accept her offer.

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

WHEREAS, Section 11-c of the Domestic Relations Law authorizes the appointment of a Marriage Office with authority to solemnize a marriage; and

WHEREAS, Susan A. Morison, Rye's City Clerk, is willing to serve as Marriage Officer for the City of Rye; and

WHEREAS, there is a need for the appointment of a Marriage Officer; now, therefore, be it

RESOLVED, that Susan A. Morison be and is hereby appointed Marriage Officer in the City of Rye with the authority contained in Section 11-c of the Domestic Relations Law to solemnize marriages in the City of Rye; and be it further

RESOLVED, that the appointment is for a term beginning with the adoption of this resolution through the end of this fiscal year and that said Marriage Officer shall serve without salary or wage.

ROLL CALL:

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

I DON'Ts: None

NO SHOWS: None

12. Miscellaneous communications and reports

Councilman Cunningham reported that the Playland Advisory Committee had met to review the proposed Master Plan for Playland, concentrating on proposed changes to the pool and the traffic flow. He reported that the new Playland Director, Mr. McBride had attended the meeting and had already made some regulatory changes to the upper pool parking lot which has pleased the neighbors.

Councilman Cunningham suggested the City put out some publicity concerning the scope of the project to correct problems under the Interstate 287 bridge over Midland Avenue which will require diversion of traffic during the nighttime hours.

Councilman Seitz suggested someone attend a public hearing concerning the Bowman Avenue proposal which is now considering adopting the environmental impact statement which gives the go-ahead to a proposed project which could impact flooding in the City of Rye.

Councilman Ball reminded everyone to attend Leaders of Tomorrow Summerfest 2006 on September 2nd starting at noon. He said it was the 13th annual event which recaptures field days of past times. Lots of fun activities are planned, not the least of which is the women's Pillow Fighting Contest. He urged everyone to attend.

13. Old Business

There was no old business to be discussed.

14. New Business

There was no new business to be discussed.

15. Draft unapproved minutes of the regular meeting of the City Council held July 19, 2006

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to adopt the minutes of the regular meeting of the City Council held July 19, 2006 as amended.

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 10:55 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk