

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on September 6, 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

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 noted the passing of Edith Neuhoff on September 1st at the age of 91. He said that she had been very involved in the community over the years, including most recently serving as a member of the Beautification Committee.

Mayor Otis also announced that the September 11th Memorial Committee would be holding a ceremony this coming Monday on the Village Green in observance of the fifth anniversary of the September 11th attacks. The ceremony will begin at 6:30 p.m. at the site of the proposed memorial bridge.

Updates

Mayor Otis asked City Manager Paul Shew to give updates on the damage caused by the storm over the weekend and on any new information regarding block parties.

City Manager Shew reported that at the peak of the *storm*, 3,200 were out of power and 16 streets were closed. He said the Emergency Services, Fire and Police did an excellent job with the Fire Department responding to 75 calls. The Public Works Department worked day and

night all weekend in order to open roads, but they are required to operate on a safety first basis which prohibits approaching trees until Con Ed has determined that the lines are dead. As of this evening, 180 were still out of power, including Councilman Seitz, but it was hoped all service would be restored by Thursday. He said the clean up process was on going and especially noted the work of Public Works Foreman Pete Anfusio. The City Council echoed Mr. Shew's praise of the job done by Police, Fire and Public Works especially in light of the fact that the storm had occurred on a holiday weekend. Councilman Seitz said he had heard many comments complementing the responsiveness and attitude of public works employees as well as the responsiveness of the Mayor. Councilman Cunningham asked if the schools would be able to open on Thursday morning as planned. City Manager Shew said he had spoken with School Superintendent Edward Shine and a special Public Works crew was scheduled for 5:00 a.m. for clean up around the schools. The Council questioned the response time of Con Ed. Mayor Otis said Con Ed is unable to get crews out and this should be addressed with the State Public Service Commission, as five-day outages are not acceptable. Councilman Seitz asked about burying power lines. Mayor Otis said that Con Ed was asked about that about eight years ago and said the City's water elevation could cause a problem. Councilman Hennes said he believed it should be looked into again. Assistant City Manager/Comptroller Michael Genito reported to the Council that Boat Basin Supervisor Peter Fox, with the help of many boat owners, had managed to tie up all boats at the Marina during the storm. No boats were lost although other harbors did suffer damage. The Council sent their compliments to Mr. Fox.

Mayor Otis then asked the City Manager to report on further research done on the topic of *block parties*. City Manager Shew said it was his understanding that the City Council wanted staff to find a way to responsibly permit block parties since they have a long history in Rye. He said that for the next two months, permits for block parties would be issued as they had in the past, with the insurance requirement waived. The issue of insurance would be revisited at budget time. He said our insurance broker was looking into finding coverage for the City for these events but so far two companies had declined to issue this type of insurance due to liability issues.

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

Frank Visci, 38 Redfield Street, said he was here to thank the Council and City Manager for their involvement in the block party issue, but asked what would happen after the two-month period. Mayor Otis thanked Mr. Visci for his service to the community in bringing the block party issue to everyone's attention. He reiterated the Manager's statement that the block party issue would be discussed again during the budget process as the City continues to look for appropriate insurance coverage.

4. Discussion of Central Business District parking modifications

Mayor Otis said there were two proposals up for consideration: Councilman Seitz' proposal to limit on-street parking in certain locations; and his proposal, which had been originated by Councilman Pratt, to move merchant parking away from the row closest to the stores.

Councilman Seitz said the Mayor's suggestion made sense since it involves reallocating spaces and encourages turn over and thought it should be adopted. Councilman Hennes concurred and stated he thought it was a good first step and suggested the proposal be sent to the Merchants Association for their comment. Mayor Otis said the current proposal could be traced back to the green line system of 15 years ago. He said currently merchant permits are not honored on streets and this proposal would subject those merchants with permits who park in the row closest to the stores to the same regulations as the general public. Councilman Pratt said an additional 96 spaces would be freed up closer to the stores, which parallels the amount available on the streets.

The discussion then turned to Councilman Seitz' proposal to limit parking to 30 minutes for eight spaces between Purchase Street and Haviland Lane. He said many of the stores in that area could be considered "grab and go shops" which needed a quicker turn over. He said those merchants who oppose this suggestion, operated businesses that need longer time. He said he would like to see an analysis of the use of these spaces so the time limit could be adjusted according to need, with some businesses needing more than the two hour limit. Councilman Hennes suggested that the short-term spots should be those closest to the stores and the longer term spots those farthest away. Mayor Otis suggested that Councilman Seitz send a new memo to the merchants outlining his proposal. Councilman Ball suggested that since not every merchant that would be affected belongs to the Merchants Association there should be more outreach. Mayor Otis suggested this might be accomplished through articles in the local newspapers.

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

RESOLVED, that the proposals to restrict those who have merchant parking permits from parking in the row closest to the stores and to change eight spaces located between Purchase Street and Haviland Lane to 30-minute spaces be referred to the Merchants Association for their review and comment.

5. Consideration of setting a public hearing on law to enact occupancy tax in the City of Rye

City Manager Paul Shew said that the Law Department had prepared a draft law for the Council's review that would put into effect in the City of Rye the Occupancy Tax recently signed into law by the Governor. Councilman Seitz asked why the definition of "hotel" did not include clubs. Kristen Wilson, representing the Corporation Counsel's Office, said this was done to conform to the current definition of "hotel" in the City Code. She said the law was prepared to track closely with the law currently in effect in Westchester County. Ms. Wilson said the requirement for the tax to be collected would become effective as soon as the law was filed with the Department of State. Councilman Seitz said he felt clubs should be included in the definition

of “hotel” so that they could not “opt out” of the legislation. The Council agreed that the number of rooms necessary for inclusion as a hotel should be lowered from six rooms to four.

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

WHEREAS, the Council wishes to adopt a new law to enact a City of Rye room Occupancy Tax to the Code of the City of Rye; and

WHEREAS, it is now desired to call a public hearing to discuss a proposed new 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 enact a
City of Rye room Occupancy Tax**

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 enact a City of Rye Room Occupancy Tax.

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

Dated: September 22, 2006

Susan A. Morison
City Clerk

8. Authorization for City Manager to purchase fire ladder truck (This item was taken out of order.)

Assistant City Manager/Comptroller Michael Genito did back up checks on prices for this item since it had been a sole source bid. His independent verification with manufacturers determined that only Seagrave could produce the truck with the specifications required by the

City. In response to a question about the truck's equipment, Fire Chief John Wickham replied that although the truck comes with specified equipment, some equipment from the old truck will be used but radios will be additional.

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

RESOLVED, that the City Manager is hereby authorized to enter into negotiations for purchase of a low profile Seagrave ladder truck with Excelsior Fire Equipment Sales for a total purchase of \$615,000.

Chief Wickham then reported to the Council on a recent fire on Hen Island that was put out with little damage to the house. He thanked the American Yacht Club for their cooperation in providing the use of their launch. The Council reiterated to Chief Wickham how impressed they had been with the actions of the Fire Department during the storm.

6. Discussion of funding alternatives for major road and bridge infrastructure projects

Mayor Otis said that the purpose of this discussion was to provide direction to staff on major capital projects, some of which have been out there for some time such as the repair of the Orchard Avenue, Central Avenue and Nature Center bridges estimated at \$620,000; the repair of the Boston Post Road from the Rye Golf Club to the Mamaroneck line estimated at \$450,000 and Theall Road for an estimated \$1.2 - \$1.5 million. Assistant City Manager Scott Pickup has been pursuing Federal and State grant funding for bridges, which, if received, could fund up to 95% of the cost. Mayor Otis said he would like to see the Theall Road and Boston Post Road projects addressed in the budget by a mix of bonding and use of undesignated fund balance. Councilman Hennes said that he thinks it is a good idea to pursue funding options for the bridge repairs but would like to hold off judgment until other capital needs in the budget can be prioritized. He said he does not believe that \$1.2 - \$1.5 million is the full amount for Theall Road because speed measures will have to be taken after the project is completed and he would like to see a cost/benefit analysis on what the cost would be to simply repave it. Councilman Pratt suggested that a matrix should be created including projects that are presently underway as well as anticipated projects. It should include what is the source of the funding and how it will be used and a clear definition from staff as to the number of projects they can actually handle, including man-hours by department. He said he believed this would help in the five-year management of capital projects. Councilman Fahey suggested that projects that have been approved but not yet started should also be included in the matrix. Mr. Genito said that staff is currently working on the 2007 budget and that the process includes selecting the most important and affordable projects and determining the appropriate balance of current funds and debt to finance these projects. Councilman Ball said he was not sure if speed on Theall Road was an issue. The road had previously been paved in two parts in 1972 and 1974 and wondered if that had caused any safety problem. He said there are two reasons to spend the money, to honor an obligation to maintain infrastructure and so it does not cost more next year. Mayor Otis said that the City

Engineer has called Theall Road the worst road in the City and recommends redoing the road. Councilman Seitz asked if there was an analysis on changes in the use of Theall Road. He said there was now a larger population at The Osborn and suggested that the new Medical Center opening at the former Lillian Vernon site could have additional traffic impact. Councilman Cunningham said he understood Councilman Hennes' idea about only repaving Theall Road but thinks blacktopping would only be a short-term fix. He said he also believed that we should look at repairing Smith Street, which is the worst road in the downtown and when looking for funding for the bridges the Locust Avenue Bridge should be included. Mayor Otis thanked the members of the Council for their comments.

7. Authorize City Manager to execute Memo of Understanding with Friends of Rye Nature Center

City Manager Paul Shew said the operation of the Nature Center is still a work in progress but the arrangement with the Friends was working better than it had a year ago. He asked Assistant City Manager Scott Pickup to discuss the proposed agreement. Mr. Pickup said this is a true example of a private/public partnership and he gave credit to the Council liaisons and the members of the group who worked on the committee. He said the document reflects the reality of a new organization moving toward a model of self-sufficiency and presents opportunities to go forward with new programming through challenge grants. Council members expressed concern that the proposed agreement was too vague and did not sufficiently outline a shift in payment responsibility to the Friends. Councilman Hennes suggested that if the agreement does not outline a shift of payments, the length might be shortened to two years. Mayor Otis suggested that the language be changed to memorialize that the Friends would take on more financial responsibility each year. Councilman Seitz inquired about a termination clause if the City felt the agreement was not working out and also wanted to make sure the City was properly indemnified by the Friends against liability. Councilman Cunningham, who had served on the Nature Center Committee, said it was important to give a window to the Friends to allow them to grow their program without the responsibility of day-to-day maintenance of the facility and perhaps the language in the Agreement should be even less specific. Councilman Pratt, who also served on the Committee, said that he would defer to the Legal Department for the form of the Agreement but felt the ultimate goal was to create a partnership with the City with growth of responsibility by the Friends and a business model must be created in order to move forward. Councilman Hennes suggested the City Manager should be authorized to modify the agreement based on the Council's concerns and execute the Agreement. The other members of the Council concurred.

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

RESOLVED, that the City Council authorizes the City Manager to negotiate changes as requested by the Council and enter into an Operating Agreement between the Friends of the Rye Nature and the City of Rye.

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 Manager Paul Shew said that the City Engineer has determined that additional repairs must be made to City sidewalks abutting private property but the City Code requires that property owners reimburse the City for the cost of such repairs.

Councilman Pratt made a motion, seconded by Councilman Fahey, 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 \$5,000; 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 in the amount of \$5,000.

ROLL CALL:

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

NAYS: None

ABSENT: None

10. Resolution to amend 2006 General Fund budget for Rye Youth Council state aid

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

WHEREAS:, the Rye Youth Council has submitted a voucher to New York State Office of Children and Family Services for state aid in the amount of \$4,177; and

WHEREAS, the City of Rye acts as a sponsor of said state aid where the City receives the funds and passes them on to the Rye Youth Council in the form of an appropriation; and,

WHEREAS, the adopted 2006 General Fund budget did not anticipate the revenues or expenditures related to said state aid program; now therefore be it

RESOLVED, that the 2006 General Fund budget be amended to increase the Rye Youth Council estimated revenues and appropriations, each in the amount of \$4,177.

ROLL CALL:

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

NAYS: None

ABSENT: None

11. Budget modification resolution

Assistant City Manager/Comptroller Michael Genito explained that since the City has incurred unexpected and unbudgeted expenses this year particularly in legal areas, staff has recommended that \$250,000 be appropriated from fund balance to the Contingent Account for transfer, as needed, through the end of the year. Mr. Genito said that even though it is not required by our Code, it has been the practice to adopt resolutions authorizing transfers from the Contingency Account into other accounts. Councilman Hennes said he gets a great deal out of the different resolutions and thinks they are very important because the budget is the most important thing the Council does and voting on the resolutions helps them understand if there are any issues. Councilman Seitz said that voting on these resolutions makes the Council deal with the amounts they are willing to spend, especially on legal matters. Mr. Genito concurred that the Council should be made aware of these expenditures but said these resolutions cover bills that have already been incurred and must be paid. Councilman Pratt asked for clarification on what happened in the legal budget this year as opposed to past years. Mr. Genito said he would be able to provide a summary of the last five years of legal spending. The Council concurred that they would like the resolution modified to reflect that the Council would be notified before any transfers from the Contingency Fund were made.

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

WHEREAS, the City has incurred several expenditures that were not anticipated in the adoption of the 2006 General Fund budget; and

WHEREAS, funds previously available in the General Fund Contingent Account have been transferred to other accounts by resolution of the City Council; and,

WHEREAS, there is no requirement that the City Council adopt resolutions to transfer funds from the Contingent Account to other accounts; and,

WHEREAS, it would be administratively more efficient for the City Manager to make transfers as necessary from the Contingent Account and provide advance notice of such transfers to the City Council; now, therefore be it

RESOLVED, that \$250,000 be appropriated from General Fund fund balance to fund the Contingent Account; and further be it

RESOLVED, that the City Manager will make transfers from the Contingent Account to other accounts as needed and report such transfers to the City Council.

ROLL CALL:

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

12. Approval of Poningo Neck Cooperative tax certiorari settlement

Kristen Wilson, representing the Corporation Counsel's Office, said that an independent appraiser had been hired to appraise the value of the Poningo Neck Cooperative property and that the settlement falls within the range of the appraisal. She said the School Board has already approved the settlement. The case is scheduled for trial at the end of the month and if the agreement was not accepted the judge could assess legal fees against the City, which would increase the cost of the settlement. Councilman Pratt said that since New York law requires that condominiums be taxed as if they were rentals, he thought this was an excellent settlement. Mayor Otis suggested that maybe the Council should have a workshop with the City Assessor for her to explain how rental rate is determined.

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

RESOLVED, that the Tax Certiorari Settlement for assessment years 1999-2006 involving Poningo Neck Cooperative (Sheet 153-10 Block 1 Lot 20) be approved in the amount of \$41, 490 for tax years 2003-2006.

ROLL CALL:

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

13. Authorization to fill a position in Public Works Department

City Manager Paul Shew said that under the hiring freeze the Manager must come to the Council for approval to fill positions. This position is authorized in the budget and the vacancy was created by a retirement. The new person will be hired at the entry-level salary.

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

RESOLVED, that the City Manager is hereby authorized to fill the vacancy of Maintenance Worker Traffic Signs in the Department of Public Works of Maintenance Worker Traffic Signs.

ROLL CALL:

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

14. Two appointments to the Boat Basin Commission, by the Council, for two-year terms expiring January 1, 2009

Councilman Hennes made a motion, seconded by Councilman Seitz and unanimously carried, to approve the appointments of William Blake and Kenneth Dahlgren for two-year terms expiring January 1, 2009.

15. Designation of one member to the Boat Basin Nominating Committee

Councilman Hennes made a motion, seconded by Councilman Pratt and unanimously carried, to designate Edward Collins a member of the 2007 Boat Basin Nominating Committee for a one-year term expiring January 1, 2008.

16. Four appointments to the Rye Golf Club Commission, by the Council, for two-year terms expiring January 1, 2009

Councilman Hennes made a motion, seconded by Councilman Seitz and unanimously carried, to approve the appointments of John Duffy, Lois Codispodi, Douglas Killip and T.J. Hanson for two-year terms expiring January 1, 2009.

17. Designation of two members to the Rye Golf Club Nominating Committee

Councilman Cunningham said he had concerns with the process by which the Golf Club chose their Nominating Committee. He said he is not certain there is an opportunity for all members to serve that want to and would like to see a memo outlining the process. Councilman Pratt concurred, saying that he would like to have an extended discussion of the process.

Councilman Pratt made a motion, seconded by Councilman Hennes and unanimously carried, to designate Adrienne Belluscio and Jim Maione members of the 2007 Rye Golf Club Nominating Committee for a one-year term expiring January 1, 2008.

18. Consideration of request for permission to close a section of Purchase Street for the 54th annual celebration of the Halloween Window Painting Contest

Mayor Otis said this is a good example of the City, the Recreation Department and the Merchants working together to create a successful event.

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

RESOLVED, the City Council hereby approves the request of the Recreation Department for permission to close a section of Purchase Street for the 54th Annual Halloween Window Painting Contest on Sunday October 22, 2006 (rain date October 29) 8:00 A.M. to 3:00 P.M.

19. Bid award for Contract #2006-07, Garage Door Replacement at Public Works

City Manager Paul Shew reported the City had received only one bid for the garage door replacement at the Public Works Department despite sending out an invitation to bid to several potential bidders. He said the City Engineer has reviewed the bid and feels that the doors offered meet the contract specifications and the price bid is well within the budget so in this case he recommends awarding the bid to the sole bidder.

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

RESOLVED, that Contract #2006-07, Garage Door Replacement, at Public Works be awarded in the amount of \$47,500 to Clinton Kearney Door Co. being the sole bidder meeting specifications.

ROLL CALL:

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

NAYS: None

ABSTAIN: Councilman Ball (recused)

ABSENT: None

20. Miscellaneous communications and reports

Councilman Pratt said the meeting schedule for the Central Business District Task Force should be published on the website and that they hoped to have a preliminary draft report ready for budget season.

Councilman Cunningham reminded everyone that the Westchester Triathlon would be taking place at Playland on the weekend of September 16 and 17th. He said it is a worthy event that raises money for such organizations as Leukemia/Lymphoma, ALS and the Rye YMCA and has been spearheaded by Phil Gormley, Frank Kenny and Ray Kelly. The organizers are still looking for volunteers and those interested can contact 921-3988 or go on the website at westchestertiathlon.com.

21. Old Business

The City Manager updated the Council on the block party issue earlier in the meeting.

22. New Business

Councilman Seitz announced that he would not be able to attend the October 4, 2006 meeting and requested that items pertaining to parking, On the Way Café or transfer tax not be scheduled for that meeting.

23. Draft unapproved minutes of the regular meeting of the City Council held August 16, 2006 and special meetings held on August 21, 2006 and August 30, 2006

Councilman Seitz made a motion, seconded by Councilman Pratt and unanimously carried, to adopt the minutes of the regular meeting of the City Council held on August 16, 2006 as submitted.

Councilman Seitz made a motion, seconded by Councilman Hennes and unanimously carried, to adopt the minutes of the special meeting of the City Council held on August 21, 2006 as submitted.

Councilman Hennes made a motion, seconded by Councilman Ball and unanimously carried, to adopt the minutes of the special meeting of the City Council held on August 30, 2006 as submitted.

24. 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 10:30 p.m.

Respectfully submitted,

Dawn Nodarse, for
Susan A. Morison
City Clerk