

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on December 13, 2006 at 8:00 P.M.

PRESENT:

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

ABSENT: GEORGE S. PRATT

The City Council convened at 7:45 P.M. Mayor Otis made a motion, seconded by Councilman Hennes to adjourn to Executive Session at 7:46 P.M. to discuss pending litigation. Councilman Seitz made a motion, seconded by Councilman Fahey, to close the Executive Session at 8:05 P.M. The regular City Council Meeting convened at 8:07 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 announced that *Robert Callagy*, an outstanding leader of our community had passed away. He said Mr. Callagy was a generous, sensitive and gracious leader whose contributions to Rye included dedicated service to the Rye Free Reading Room (RFRR) and, most recently, his work with the City to create a neighborhood mini-park on a parcel of property near his home. *Dick Pinkham*, a good friend and neighbor, told the Council a group of Mr. Callagy's friends had already started raising funds to donate a tree and plaque in Mr. Callagy's memory somewhere near the RFRR, which he described as Mr. Callagy's passion. He said he had discussed this idea with Mr. Callagy's wife, Lynn, and would like to work with the Landmarks Advisory Committee to determine the best place to plant the tree. He said many had already pledged funds toward this gift and other donations would be welcome.

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

RESOLVED, that the City Council of the City of Rye enthusiastically accepts a gift of a tree and memorial plaque to be placed in an appropriate location on the Village Green near the Rye Free Reading Room in memory of the late Robert Callagy.

Mayor Otis also announced the loss of *Douglas Herron*, another special citizen of Rye. Being head of Personnel for the City of Rye for 20 years was only a sliver of Mr. Herron's busy life which was filled with family and friends, a life long interest in scouting as well as a dedicated volunteer at the Rye Historical Society (where he was treasurer for many years) and the Rye Nature Center. He offered condolences on behalf of the City Council to Mr. Herron's wife, Anne and to his children and grandchildren.

Mayor Otis announced that the director of the Rye Free Reading Room, *Betty Teoman*, has accepted a job as director of the library in Rancho Mirage, California. He said their gain is Rye's loss and he thanked her not only for all her good work as Director of the Rye Free Reading Room, but for all the contributions she and her husband, Kory, have made to the community. Ms. Teoman said it has been wonderful to have been part of the community and they are both sad to be leaving.

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

There were no other residents, other than Mr. Pinkham (see above) who wished to be heard.

4. Resolution directing the Corporation Counsel to effect settlement, resolution and dismissal of the Cingular lawsuit; granting Cingular a Special Use Permit pursuant to Chapter 196 of the City Code and authorizing the City Manager to enter into an Option and Lease Agreement with Cingular

William Cooney, representing the Corporation Counsel's office, reviewed that at the last meeting the Council had directed Corporation Counsel to present in Court an agreement reached between the City of Rye and Cingular to construct a cell tower on a City-owned piece of property located behind the Subaru Dealership Building at 1151 Boston Post Road. He noted that this settlement will end litigation between the City of Rye and Cingular; will locate the tower in a non-residential area near the I-95 Corridor (a preferred location, as stated in the Code of the City of Rye); and will provide an income stream to the City. He asked the Council to pass an additional resolution so the process can go forward. He said the Special Use Permit would not take effect until the terms of the lease were satisfactory, but once this was in place, the only additional step would be to obtain a building permit.

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

RESOLVED, that the City Council hereby directs the Corporation Counsel to effect settlement, resolution and dismissal of the Cingular lawsuit, granting Cingular a Special Use Permit pursuant to Chapter 196 of the Code of the City of Rye and authorizing the City Manager to enter into an Option and Lease Agreement with Cingular.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Pratt

5. Resolution to adopt the 2007 Budget and establish the 2007 tax levy and 2007 tax rate

City Manager Paul Shew thanked the City Council for all their hard and good work. He said the budget rate remains at approximately 16 cents on the dollar, one of the lowest in the County. He thanked the staff for doing an excellent job. Councilman Hennes and the Mayor echoed the sentiments saying City Comptroller Genito and the rest of the staff did a fine job. The Mayor said our taxes are high, but they are the third lowest in the Country, higher only than two Villages which provide less services.

Councilman Hennes said he would be voting for the budget despite the fact that it contains funding to reconstruct Theall Road at a cost of \$1.4 million. He also noted that the public should be asked to approve such a large expense at a referendum. Councilman Fahey concurred and read a statement into the record, pointing out the flaws in the collective thinking of the Council regarding Theall Road. He feels such a large capital expenditure should be thoroughly and diligently researched and he does not feel the Council has been able adequately to evaluate traffic patterns, core soil samples, or the effect on local water run-off. He questioned whether the \$1.4 million expenditure can be substantiated and feels the possibility of paving or rebuilding just a portion of the road was not thoroughly vetted. If the fear that the costs will continue to go up is the reason for spending the funds now then all capital projects should be done immediately and in fact totally rebuilding Theall Road means other projects will have to wait. Wise financial decision-making should be based on facts and he does not feel they have all the facts. He also feels the public should be able to vote on this project and he questions whether the public would actually approve such an expenditure. All of that being said, he congratulated everyone on a job well done, preparing a responsible budget, facilitating discussion and helping the Council to understand the fiscal challenges facing our City.

Councilman Seitz stated he was voting against the budget because he feels the burden on the taxpayer is unnecessarily high because the Council did not agree to raise the Merchant Parking Permit to \$1000. He said we are the only municipality which subsidizes merchants to this extent and he will keep this issue before the public. He will also be promoting higher commuter permit fees and the real estate transfer tax. Councilman Cunningham said he will vote for the budget but wants to make sure the Council continues to examine the needs of the Central Business District and to explore the possibility of additional filming revenue.

Mayor Otis offered his congratulations to the staff and to his fellow Council members saying they had had substantive workshops where differing views were respectfully discussed. He said not everyone is happy about everything in the budget (he would prefer not to have the parking meters continue, for example), but he feels reconstructing Theall Road is the right direction to take. He said repaving the Boston Post Road is still a possibility, but that more information is necessary in the area of traffic safety (a theme for the future as they study bicycle paths, school safety, etc.) He said public involvement is necessary to make sure the Council makes wise decisions.

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

WHEREAS, on November 8, 2006 the 2007 Tentative Budget was presented to the City Council; and

WHEREAS, since November 8, 2006 the City Council has adopted several amendments to the 2007 Tentative Budget; and

WHEREAS, the City Council now desires to adopt the 2007 Tentative Budget as amended; now, therefore be it

RESOLVED, that the tentative budgets as amended and fee schedules for the General Fund, Cable TV Special Revenue Fund, K.T. Woods Permanent Fund, Debt Service Fund, Capital Projects Fund, Boat Basin Enterprise Fund, Golf Club Enterprise Fund, Risk Retention Internal Service Fund and Building and Vehicle Maintenance Internal Service Fund, are hereby adopted for the fiscal year ending December 31, 2007; and be it further

RESOLVED, that the City Council does hereby certify to the City Comptroller the 2007 City of Rye tax rate of \$127.24 per \$1000 taxable assessed valuation and the 2007 City of Rye tax levy of \$17,610,433; and be it further

RESOLVED, that the City Council does hereby direct the City Comptroller to apportion and extend against each taxable property listed upon the assessment roll at the tax rate certified in this resolution to produce the tax levy certified in this resolution, and to render tax notices for, and receive and collect, the several sums so computed and determined, with interest as provided by law, and any special assessments heretofore authorized and approved.

ROLL CALL:

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

6. Resolution authorizing the City Comptroller to make the necessary year-end closing transfers

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

RESOLVED, that the City Comptroller is hereby authorized to make the necessary 2006 fiscal year-end budget transfers in City accounts, provided a list of such transfers is furnished to the City Council after completion of such transfers.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Pratt

6A. Resolution to reclassify the serial bond resolution adopted on March 22, 2006 in the amount of \$600,000, for the financing of the reconstruction of various city-owned buildings (the Police Station) as a capital improvement required for public safety purposes

City Manager Shew said it was a housekeeping matter to reclassify serial bonds adopted last March to reconstruct the police facility as a capital improvement required for public safety purposes. He assured everyone the resolution added no additional tax burden.

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

RESOLUTION, DATED DECEMBER 13, 2006, RECLASSIFYING THE OBJECTS OR PURPOSE SET FORTH IN A SERIAL BOND RESOLUTION ADOPTED ON MARCH 22, 2006 BY THE CITY COUNCIL OF THE CITY OF RYE, COUNTY OF WESTCHESTER, STATE OF NEW YORK, AUTHORIZING IN THE AGGREGATE PRINCIPAL AMOUNT OF \$600,000, THE FINANCING 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, adopted a serial bond resolution on March 22, 2006 (the “Resolution”) authorizing in the aggregate principal amount of \$600,000, the financing of the reconstruction of various City-owned buildings (the “Project”), pursuant to the Local Finance Law; and

WHEREAS, the City Council of the City wishes to reclassify the Project under the public safety exemption in the City Charter.

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. The Project, as defined in the Resolution and as defined herein, is hereby reclassified under Section C21-9 of the City Charter as a capital improvement required for public safety purposes requiring urgent action in an amount not exceeding \$1,000,000 in such fiscal year;

Section 2. This resolution will take effect immediately upon its adoption.

ROLL CALL:

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

6B. Resolution authorizing the issuance of up to \$700,000 aggregate principal amount serial bonds to finance the costs of construction and reconstruction of highways and roads in and for the City, pursuant to the local finance law

Mayor Otis said the Council had a proposal before them to pass a resolution authorizing the issuance of \$700,000 in serial bonds to fund half of the cost of reconstructing Theall Road. The bond would be subject to permissive referendum; it must be approved by at least five members of the Council and the public will have 45 days to comment.

Mayor Otis made a motion, seconded by Councilman Ball, to adopt a resolution authorizing the issuance of up to \$700,000 aggregate principal amount serial bonds to finance the costs of construction and reconstruction of highways and roads in and for the City, pursuant to the local finance law.

ROLL CALL:

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

The resolution did not have the required number of Council members voting "Aye" to be adopted.

7. Declare intent to be Lead Agency and setting a public hearing regarding the establishment of the Upper Dogwood Lane Sanitary Sewer Special Assessment District

City Manager Paul Shew reported that last March the City Council accepted a petition from property owners on Upper Dogwood Lane to establish a sewer district. The district includes five properties. In order to move forward in establishing a sewer district the Council should consider declaring its intent to be Lead Agency under SEQRA and should set a public hearing.

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

RESOLVED, that the City Council declare its intent to be Lead Agency under SEQRA in the establishment of the Upper Dogwood Lane Sanitary Sewer Special Assessment District.

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

WHEREAS, the Council wishes to establish the Upper Dogwood Lane Sanitary Sewer Special Assessment District; and

WHEREAS, it is now desired to call a public hearing to discuss the establishment of such Sewer Special Assessment District; 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 January 17, 2007 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 establish the Upper Dogwood Lane
Sanitary Sewer Special Assessment District.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 17th of January, 2007 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 the establishment of the Upper Dogwood Lane Sanitary Sewer special Assessment District.

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

Susan A. Morison
City Clerk

Dated: January 2, 2007

8. Resolution fixing January 3, 2007 as the first regular meeting and the organizational meeting of the City Council for 2007

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

RESOLVED, that January 3, 2007 is hereby fixed as the first regular and the organizational meeting of the City Council.

9. Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2007

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

RESOLVED, that the Mayor be and hereby is authorized to execute an agreement with the Rye Free Reading Room to furnish library services for 2007.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Pratt

10. Authorization to fill vacant position in Recreation Department

City Manager Paul Shew reported that Kevin Cook, who has been the Recreation Supervisor for the last ten years has taken a position with the County Parks Department and his position will need to be filled.

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

RESOLVED, that the City Manager be and hereby is authorized to fill the vacant position of Recreation Supervisor.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Pratt

11. Miscellaneous communications and reports

There were no miscellaneous communications and reports except from Councilman Fahey who wished everyone a Merry Christmas.

12. Old Business

There was no old business to be discussed.

13. New Business

There was no new business to be discussed.

14. Draft unapproved minutes of the budget workshop held on November 27, 2006, the budget workshop and regular meeting held on November 29, 2006

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to accept the draft of the minutes of the budget workshop held on November 27, 2006 as amended.

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to accept the draft of the minutes of the budget workshop and regular meeting held on November 29, 2006 as amended.

15. Adjournment

Mayor Otis wished everyone merry and happy seasons greetings and wished all viewers a happy new year, saying their interest in local government is appreciated.

There being no further business to discuss, Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to adjourn the meeting at 8:55 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk

