

**“AMENDED” APPROVED MINUTES** of  
the Regular Meeting of the City Council of the City  
of Rye held in City Hall on February 28, 2007 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 Hennes made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn to executive session at 7:01 P.M. to discuss pending litigation and attorney/client matters. Councilman Pratt made a motion, seconded by Councilman Ball to close the executive session at 8:13 P.M. The regular meeting reconvened at 8:15 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 Agenda Item # 5 (Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department, “Procedure for Determining claims Pursuant to General Municipal Law §207-c”) had been withdrawn, to be discussed at a later date.

Mayor Otis announced with sadness the passing of Bernie Ball, a long-time member of the Rye Fire Department, a great contributor to Rye and a truly nice person. He offered condolences to the entire family which were accepted by Councilman Ball who confirmed that it

was a loss not only for the Ball family, but for all who knew Bernie Ball. A moment of silence was observed.

Mayor Otis announced that the Rye High School Boy's Ice Hockey team won the Sectional Championship by defeating Brewster 6-1. He said this was a great moment for boy's hockey and wished them well on their way to the Regional and State Championship playoffs.

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

There were no members in the audience who wished to be heard.

4. Presentation from Friends of Rye Nature Center concerning status of challenge grant

City Manager Paul Shew complimented the Friends of Rye Nature Center (FRNC) for their progress over the past few years on the path toward self reliance, saying they were here tonight to report on the status of the challenge grant of \$25,000 which has been offered by the City of Rye. *Mary Julian, President of the FRNC*, reported on that progress and their success in meeting the challenge. She began by thanking Mayor Otis for setting up the task force set up to create a plan for the Friends and the Nature Center (Joe Murphy and Jim Nash from the Conservation Committee/Advisory Committee (CCAC); Marilyn Donohue, Bill Pearson and herself from the FRNC; Assistant City Manager Scott Pickup and City Naturalist Chantal Detlefs; FRNC Executive Director Russ Johnson and Friend's Treasurer, Monte Stubbs). She also thanked Councilmen Pratt and Cunningham for their participation. Over the last years the FRNC have accomplished the following:

- They have established a publicity committee and have worked to broaden awareness.
- They have worked more closely with the schools; completed the transfer of the school contract from the City to the Friends; now teach in all the grammar schools; and are working with the middle school to bring the ecology club to the RNC on a regular basis.
- They have worked to improve the condition of the 47-acre preserve; have completed a forest study with the Department of Environmental Conservation; and developed a stewardship program.
- They have raised \$60,000 (in one phonathon) to meet the \$25,000 challenge grant so that they can hire a grant writer.

Ms. Julian concluded her report with an official request that the City Council now release their portion of the challenge grant. *Joe Murphy, President of the CCAC* offered congratulations to everyone for the 3 ½ year effort and described the Friends as a "wow." The Council adopted the following resolution:

**RESOLVED**, that the Challenge Funds in the amount of \$25,000 previously reserved for the Friends of Rye Nature Center (FRNC) to be used to hire a Grant Writer now be released to the FRNC, the matching funds having been raised.

5. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department, "Procedure for Determining Claims Pursuant to General Municipal Law §207-c"

This agenda item was postponed. See Announcements.

6. Consideration of Application Resolution for the City to lease Thruway Authority Property on the Boston Post Road for Athletic Field Purposes

Mayor Otis said that a plan to lease the Thruway Authority Property on the Boston Post Road opposite Rye Country Day School for use as athletic fields has been something the City has been pursuing for over nine years. He reported the Thruway Authority has recently visited and seemed positive about considering a 10-year agreement with the City. Councilman Hennes pointed out the terms would be from zero to modest cost for the City and private groups have evinced interest in absorbing the cost of developing the fields. A resolution to proceed with filing the application is needed from the Council. Councilman Cunningham cautioned that there are a lot of steps remaining, but said it was in the interest of Rye to pursue this plan. Councilman Seitz congratulated the Mayor on a job well done.

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

**RESOLVED**, that the City Council supports the efforts of the City to lease Thruway Authority property on the Boston Post Road opposite Rye Country Day School for athletic field purposes, and be it further

**RESOLVED**, that the City Council hereby authorizes the City Manager to file the appropriate real property application with the Thruway Authority as the next step in the process.

ROLL CALL:

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

NAYS: None

ABSENT: None

7. Consideration of applying our Trailways Study Group project as Rye's participation in the County Executive's "Mayors and Supervisors Challenge for a Healthy Community"

Mayor Otis suggested the Council consider applying the City's Trailways Study Group project as Rye's participation in the County Executive's "Mayors and Supervisors Challenge for a Healthy Community." This program has been established to further the same goals as the

Activate America Program and asks communities to adopt projects that promote healthier lifestyles.

Councilman Pratt suggested the City take even more positive action and put a moratorium on all Belgian block curbing. City Planner Christian Miller said he had prepared a memorandum which outlines the issues and reiterates the City's policy denying barriers in the City right-of-way (usually 5-15 feet), including the stones all along Stuyvesant Avenue. He suggested that the City will need to be flexible as it is not good to have a law banning curbs (all communities have some kind of curbs). The Council endorsed enforcement of the existing code relating to City rights-of-way, suggesting it is perhaps time to make it more stringent and the matter should be discussed further as a separate agenda issue.

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

**RESOLVED**, that the Trailways Study Group project be considered as part of Rye's participation in the County Executive's "Mayor and Supervisors Challenge for a Healthy Community."

8. Resolution to increase bond authorization for Kirby Lane North Sewer Project

City Manager Paul Shew said there had been additional expenses added to the cost of the Kirby Lane North Sewer Project and the Council needed to give its approval to increase the bonding amount by an additional \$700,000. There have been some extra costs incurred over the course of the project, but in addition the residents have requested some add-ons to the project, such as water and gas lines. The City will be absorbing \$300,000 for the sewer pump station owned by the City and the street will be repaved as part of the City's on-going pavement plan, but otherwise costs will be absorbed by the residents of the area. Comptroller Michael Genito confirmed that the residents have been informed of increased costs and have all agreed to the increased so it is not necessary to obtain more signatures. The extra bonding will lead to increased EFC funding.

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

**BOND RESOLUTION, DATED FEBRUARY 28, 2007 AUTHORIZING THE  
ISSUANCE OF \$700,000 AGGREGATE PRINCIPAL AMOUNT SERIAL  
BONDS OF THE CITY OF RYE, COUNTY OF WESTCHESTER, STATE OF  
NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, TO FINANCE  
ADDITIONAL COSTS OF THE CONSTRUCTION OF SANITARY SEWERS  
IN AND FOR THE CITY.**

**WHEREAS**, the City Council of the City of Rye (the "City"), a municipal corporation of the State of New York, located in the County of Westchester,

hereby determines that it is in the public interest of the City to authorize the financing of additional costs of the construction of sanitary sewers in and for the City, including the acquisition of any applicable equipment, machinery, apparatus, land and rights-in-land necessary therefore and any preliminary and incidental costs related thereto, at a total estimated additional cost not to exceed \$700,000; and

**WHEREAS**, on January 22, 2003 (the “January 2003 Resolution”), the City Council of the City adopted a serial bond resolution to finance the costs of the construction of sanitary sewers in and for the City (the “Project”) in the amount of \$1,220,500 and;

**WHEREAS**, on April 30, 2003, the City Council of the City adopted a serial bond resolution (the “April 2003 Resolution”) to finance additional costs of the Project in the amount of \$579,500; and

**WHEREAS**, on March 9, 2005, the City Council of the City adopted a serial bond resolution (the “March 2005 Resolution”; and together with the January 2003 Resolution and the April 2003 Resolution, the “Prior Resolutions”) to finance additional costs of the Project in the amount of \$200,000; and

**WHEREAS**, the City Council of the City now hereby determines that the costs of financing the Project have increased by \$700,000 to a total amount of \$2,700,000;

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

Section 1. There is hereby authorized to be issued serial bonds of the City, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, in the aggregate principal amount not to exceed \$700,000, pursuant to the Local Finance Law, in order to finance additional costs of the Project, including the acquisition of any applicable equipment, machinery, apparatus, land and rights-in-land necessary therefore and any preliminary and incidental costs related thereto.

Section 2. The City Council of the City has ascertained and hereby states that (a) the estimated maximum additional costs of the Project will not exceed \$700,000; (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project, except as authorized in the Prior Resolutions, and no obligations have been issued thereunder; (c) the City Council of the City plans to finance the costs of the Project from the proceeds of the serial bonds, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, as authorized by the Prior Resolutions and as authorized herein; (d) the maximum maturity of the serial bonds authorized herein shall be in excess of five (5) years; and (e) on or before the expenditure of moneys to pay for any additional

costs made in connection with the Project for which proceeds of the obligations authorized herein are to be applied to reimburse the City, the City Council of the City took "official action" for federal income tax purposes to authorize the capital financing of such expenditure.

Section 3. It is hereby determined that the Project, at an estimated maximum cost of \$2,700,000, for which an additional \$700,000 principal amount of serial bonds and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, are authorized herein and appropriated therefore, is of a class of object or purpose as described in subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law and that the period of probable usefulness of the Project is forty (40) years and such serial bonds shall have a maximum maturity of the forty (40) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

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

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

the provisions of the Constitution of the State of New York.

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

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

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

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

Section 10. The City Council of the City hereby determines the obligations authorized herein shall be sold to the New York State Environmental Facilities Corporation, a public benefit corporation of the State of New York, under Paragraph D of Section C21-9 of the City Charter. Accordingly, this bond resolution shall take effect immediately upon its adoption by the City Council of the City.

ROLL CALL:

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

NAYS: None

ABSENT: None



9. Consideration of adoption of City of Rye Hazard Mitigation Plan

City Planner, Christian Miller presented a draft of a proposed Rye Hazard Mitigation Plan for the Council's review and comment. He said the plan had been completed by staff with the assistance of a committee of volunteers in June, 2004, but never adopted. He said it is part of an overall plan for the entire country and while communities are not bound to adopt such a plan, there is value to having an adopted plan as it is helpful in getting additional funding. Once such a plan is approved by a local municipality it would then have to be approved by the State. Councilman Hennes expressed concern about a plan which would take away property rights for those living in the flood plains (one in every six homes in Rye). The Mayor pointed out that the Wetlands Law did the same thing and was a protection for property owners in the event of disaster. Mr. Miller said the draft had already received 17 pages of comments from FEMA (which is actually good compared to other plans) and he said he would work on updating the plan and reworking some of the areas in hopes that the final product would be acceptable to the Council. The Mayor said it is important to have a Hazard Mitigation Plan even if what the City adopts does not meet all of FEMA's requirements because it is important to have something in place. This will, Mr. Miller stated, help the City help itself to do the right thing.

At the suggestion of Councilman Seitz, the Council requested that the City Manager prepare a memorandum outlining the positives and negatives of having such a policy. For example, having such a policy will not affect homes obtaining Flood Insurance, but it could lower the premiums.

10. Discussion of spending rules proposal submitted by Councilman Seitz

Councilman Seitz presented a proposal which would provide that any individual capital project or other capital expense (other than an emergency project or one coming under the public safety exception) which will require expenditure of an amount in excess of 5% of total real estate taxes received in the prior fiscal year (irrespective of source of funds) be put to a referendum on Election Day of the year in question and require the positive vote of a majority of those voting. He said over the last years \$9 million has been received over estimated revenue (primarily from elastic revenues which are hard to predict) and he feels this extra revenue should be used for the benefit of the taxpayers. Councilman Fahey said he was intrigued by the idea but questioned the timing (i.e. having to wait for 11 months after the budget is adopted to ask for permission) and the possibility that habitual nay-sayers would vote down projects that need to be done "just because." Both Councilmen Hennes and Pratt expressed preference for spending cash over issuing new debt. Councilman Hennes suggested such spending proposals should be adopted by a super majority of the Council rather than a simple majority. Mayor Otis questioned whether this wasn't just another restrictive "box" and said he had not heard of a referendum which asks permission to spend rather than borrow. He pointed out that the Council has kept the Undesignated Fund Balance on target over the years, spending available cash rather than allowing it to rise to over 20%.

The Council took no action on the proposal.

11. Request by Rye Little League to host a “lighted” baseball game at Grainger Field in May

*Doug Tuttle, President of the Rye Little League*, along with *Bart DiNardo, former President*, requested permission to host a “lighted” baseball game at Grainger Field in May. He said Rye is one of the last “small town” communities and a weekend of baseball under the lights, celebrating the 50<sup>th</sup> Anniversary of Little League in Rye, would enhance that special feeling and be exciting for everyone. He said at the moment this is a “one-weekend event” and he wants to make sure they do it correctly. They will send out a flyer to all in the neighborhood; be through by 9:45 P.M.; and hire an off-duty policeman to control traffic. He said the lights are not of the magnitude of the High School and, as Councilman Cunningham pointed out, they will shine from the outfield toward the DPW buildings and not into the neighborhood. In addition, they will not be on very long as there will be quite a bit of daylight. The Council approved of the idea as long as the neighbors are properly notified and have no serious objections and requested that they be kept informed.

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

**RESOLVED**, that the City Council approves the request of the Rye Little League to host “lighted” baseball games (at 5:30 and 7:30 P.M.) at Grainger Field on a Friday and Saturday in May in celebration of the 50<sup>th</sup> Anniversary of Rye Little League, pending neighborhood notification.

12. Approval of the election of a new member to the Rye Fire Department

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

**RESOLVED**, that the Council of the City of Rye hereby approves the election of Michelle L. Murray to the Milton Point Engine Company approved at the February 2007 meeting of the Board of Fire Wardens.

13. Miscellaneous communications and reports

Councilman Cunningham reported that the Trailways Committee has learned that the proposed grants obtained by the County to develop walking trails includes a redesign of the Theodore Fremd/Purchase Street intersection and suggested the City wait and see what these plans might include before developing our own plans to improve that intersection. Assistant City Manager Scott Pickup said the grant mentioned is \$1.5 million Transportation Improvement Plan and once plans are finalized they will be submitted to the community for approval and vetting. There are many trails already existing, but there are gaps to be filled in.

Councilman Cunningham reported Verizon, Inc. has signed an agreement with Port Chester and recommended the City study this agreement as we continue our own negotiations with Verizon.

14. Old Business

Mayor Otis asked if the Council wished to have a workshop to discuss stop signs in general so they could work toward a general stop sign policy for the City. He urged anyone who had not received the State and Federal Department of Transportation guidelines on the subject to get them and suggested the subject be put on the agenda for the next meeting. He said hopefully a decision could be made at the last March Council Meeting. He also commented that the report on speeding and speed limits was interesting.

15. New Business

There was no new business to be discussed.

16. Draft unapproved minutes of the regular meetings of the City Council held on January 17 and February 7, 2007

Councilman Seitz made a motion, seconded by Councilman Hennes, to approve the minutes of the regular meeting of the City Council held on January 17, 2007 as amended.

Councilman Hennes made a motion, seconded by Councilman Fahey, to approve the minutes of the regular meeting of the City Council held on February 7, 2007 as submitted.

17. 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 10:16 P.M.

Respectfully submitted,

Susan A. Morison  
City Clerk