

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on June 13, 2007 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 Council convened at 7:00 P.M. Councilman Hennes made a motion, seconded by Councilman Ball and unanimously carried, to adjourn to executive session at 7:01 P.M. to discuss The Osborn litigation and attorney/client matters. Councilman Fahey made a motion, seconded by Councilman Cunningham, to close the executive session at 8:10 P.M. No decisions were made. The Council reconvened at 8:13 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 congratulated the Rye High School Lacrosse team for making it to the Final Four of the State playoffs. He noted the extraordinary low score of the final game (4-2) and said we are, as always, proud of our sports teams.

3. Flood Update (*heard after Agenda Items 4 and 8*)

Mayor Otis reported that the biggest activity had been to maximize our outside funding opportunities by working closely with the Federal Emergency Management Agency (FEMA), the State Emergency Management Office (SEMO), the Army Corps of Engineers and Chas. Sells & Sons to complete all necessary forms by the appropriate deadlines. The City has also been working with State and Local officials as well as with Rye Brook, Long Island Sound Watershed

Intermunicipal Council (LISWIC) and the Rye Flood Action Committee. He reminded everyone of the County-wide Flood Forum on June 20, 2007 and noted that the County continues to be supportive on blocking the Konigsberg Development in Rye Brook.

City Manager Paul Shew said the City had been working consistently with Rye Brook. Internally the staff continues to be very busy. The Finance Department is keeping close watch on the expenses and will be working with FEMA for the next 33 months. He noted it is very important for the City to follow exact protocol so FEMA's auditors don't find a reason to recall any funds they have given us. He noted that the Council's decision to participate in Project Impact has sent a very positive sign to both FEMA and SEMO that this is a community that really cares. He also said it is very important to meet scheduled deadlines and he urged the Rye Flood Action Committee to accelerate their schedule whenever possible. He noted the tireless actions of City Engineer George Mottarella (in the field) and Assistant Manager Scott Pickup (coping with the mounds of paperwork).

Assistant Scott Pickup reported on some of the recovery projects. He said the project worksheets had been submitted for the Central Avenue Bridge; that we are in a favorable position; that the project has already been reviewed on one level; and it is possible we could have a check within a few weeks. The worksheets for repairing the walls are more complex as the project requests support not only for repair, but also for mitigation designed to reduce future hydraulic impact. The City is working on a floodgate proposal for the Locust Avenue Firehouse, similar to the one at the Milton Point Firehouse. We are working with Rye Brook to share data so nothing has to be redone. Dredging projects (at both Milton Harbor and at the Bowman Dam spillway) are more expensive and time consuming and will require permits and careful coordination. All projects have impacts either up or downstream and the City is being mindful not to recommend anything that would have an adverse effect on anyone. Each one involves a tremendous amount of details and hard work. He noted that Rye's FEMA contact, with whom we have been working very closely, will be reassigned in another two weeks so it puts more pressure on the City to get as much done as we can before he leaves, even though our SEMO representative (with whom we also have a close relationship) will be staying on the job.

Councilman Ball asked if the City needed more assistance to get all this done. Mr. Shew said former City Manager Frank Culross is helping, but the real problem is that things that need to be attended to in other parts of the City have had to be put on the back burner. He again asked for patience. The Mayor said he thought Rye was in a better position than many other communities because our studies are in place and Chas. Sells is helping bring things together. Councilman Cunningham asked if the County could contribute to the rebuilding of Theodore Fremd (perhaps repaving, but that is all).

Residents had comments as well. *Greg MacKenzie, Mead Place*, asked about the costs. Mr. Pickup said the numbers are evolving, but one hard number is the Oakland Avenue Bridge which will cost \$1.46 million (including raising the bridge). What about the next bridge just downstream? It would be considered a mitigation project because it was not damaged so it is more of an issue. How about the Nature Center Bridge? It is on the regular capital improvements schedule, but was not damaged so it is not part of the flood project list. Why do we want to be so involved in the Bowman Avenue property? Why not give it back to the County? We own it as a flood prevention measure; we need autonomy, it has been our

responsibility since 1941 and will continue to be so. What about the Rye Country Day School field? More water has been diverted toward Port Chester, and in fact the dry wells have been replaced so it is even better. The Mayor said it would be a good idea to have a law that required that all projects should be inspected for possible improvements.

Andy Goodenough, 25 Mohawk Street, head of the Rye Flood Committee, thanked everyone for their good work saying everyone was getting a lot of education. He turned the microphone over to *Bernard Althoff, 34 Mendota*, who said he had participated in a meeting with Chas. Sells and found them to be very professional in their work on the Bowman Dam area. He wondered if Sells could accelerate their timetable as even September is too far away. Mr. Shew said he would try and get the reports more quickly, but the City needs to be sure it doesn't sacrifice any quality of product. *Mr. Althoff* said there were so many ideas floating around, maybe everyone needs to focus on one to get it done and restore faith. *Carolina Johnson, 40 Mendota*, said she (and about 20 other people) had attended the Rye Brook meeting and it appears the Konigsberg Development is really a done deal so what can Rye do to be innovative because we have to control our own destiny. Perhaps we can purchase water rights around the development. Mayor Otis said he was concentrating on opposing the development as the final approvals are not signed. We are negotiating, but cannot do so in public. He also noted that a proposed land swap proposal is really a disaster. *Holly Kennedy* noted that there are still about a dozen people not able to live in their homes. There was also discussion of other water problems such as the runoff from the Apawamis Club. *Mr. Goodenough* concluded by saying no one will rest until kids can go to sleep without crying when they hear raindrops. The Mayor thanked everyone again for coming and for all their help.

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

Former Mayor John Carey, 860 Forest Avenue, announced that there would be a Fourth of July celebration on the Village Green, organized by his son, Douglas and other citizens wishing to pay honor to this national holiday. He noted there would be events for children and that the Marquis de Lafayette (who had once kissed a young 5 year old who is Doug Carey's great, great, great, great grandmother) would be making a guest appearance!

Eileen O'Connor, 43 Wainwright, St. presented a petition signed by many residents expressing support for a bike lane on the Boston Post Rd (U.S.1).

Bob Schubert, Forest Avenue, asked the Council to take action to correct the loss of his wetlands due, he feels, to new construction in his neighborhood. He asserts that the neighbor was given a verbal "go ahead" to repair the drainage system on his land when he should have been subject to review by the City and made to obtain a Wetlands Permit. Now, the water which formerly drained into the Schubert's land, making it a beautiful wetlands garden, now drains, he thinks, into the street and out to Long Island Sound and the Schuberts are left with a large swamp. Mr. Schubert cited local law and presented several maps and said he had not been given satisfaction by the City Administration and he wants something done so his land can be returned to the status quo. *Rita Schubert* said her beautiful garden had been destroyed and she wants to see the mistake corrected. The neighbor (at 3 Magnolia Place) has taken the position that he had permission to do what he did from the City and he has no responsibility. (The Mayor noted that

with or without a permit, the neighbor can still be responsible and also noted that the City does not give verbal approvals – one either needs a permit or one doesn't.) *Michelle Martin*, the neighbor on the corner of *Forest Avenue and Magnolia Place*, reported that she had had to get a permit and go through the wetlands process and she thought 3 Magnolia Place was just as much in the wetlands as she is. Councilman Seitz suggested that Mr. Schubert's "fight should be with the Magnolia Place neighbor and the Council agreed that while they are sympathetic, this is not an easy situation to solve. City Manager Paul Shew said Mr. Schubert has made a number of visits to City Hall and assured the Council no shortage of time has been spent on this situation, but he said he would present a report for the Council through the Corporation Counsel's Office.

5. Public hearing to amend Chapter 173 Surface water, Erosion and Sediment Control, of the Code of the City of Rye

Kristen Wilson, representing the Corporation Counsel, presented a draft of an amended Local Law, Chapter 173. She thanked the Clerk's Office for their help in getting the document ready. She said the new law reflects Phase II Stormwater Federal mandates and is a compilation of existing law and new requirements. Mayor Otis opened the public hearing.

Council members had some specific questions about the draft, such as the fee schedule, what buildings it applies to, and how it differs from what we have now. *James Powers, 58 Intervale Place*, had a question about trees; *Joe Murphy, Chair of the Conservation Commission/Advisory Commission (CC/AC)*, suggested that both Jim Nash and Lou Nash (members of the CC/AC) review the proposed law. Ms. Wilson was asked to prepare a summary of the changes in the law. In anticipation of additional comments, the public hearing remained open.

6. Public Hearing to add Chapter 162, Storm Sewer System, Prohibition of Illicit Discharges, Activities and Connections to the Municipal Separate Storm Sewer System to the Code of the City of Rye

Kristen Wilson, representing the Corporation Counsel, presented the draft of a new local law which, just like Chapter 173 in Agenda Item #5 reflects Phase II Stormwater Federal mandates. The Mayor opened the public hearing.

The Council requested a layman's version of the provisions outlined in the law and additional comments, so the public hearing remained open.

7. Consideration of setting a public hearing on a proposed local law to amend Chapter 170, Subdivision of Land, of the Rye City Code by adding new subsections 170-6(H) and 170-7(A)(1)(h)

Kristen Wilson, Corporation Counsel's Office, said that portions of Chapter 170 in the Code of the City of Rye would have to be amended as a result of the additions and changes

proposed in Chapter 162 and Chapter 173 discussed in the previous two agenda items so a public hearing was necessary for this law as well.

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

WHEREAS, the Council wishes to amend Chapter 170, Subdivision of Land, of the Code of the City of Rye, by adding new subsections 170-6(H) and 170-7(A)(1)(h); and

WHEREAS, it is now desired to call a public hearing on such proposed amendments 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 July 18, 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 laws.

Section 2. Such notice of public hearing shall be in substantially the following form:

**PUBLIC NOTICE
CITY OF RYE**

**Notice of Public Hearing to amend Chapter 170. Subdivision of Land,
of the Code of the City of Rye by adding new subsections
170-6(H) and 170-7(A)(1)(h)**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 18th day of July, 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 a proposal to amend Chapter 190, Subdivision of Land, of the City Code of the City of Rye by adding new subsections 170-6(H) and 170-7(A)(1)(h).

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

Susan A. Morison, City Clerk

Dated: July 9, 2007

8. Approval for Rye Senior Advocacy Committee to enter into a Memorandum of Understanding with ElderServe for a public/private partnership

Joe Murphy and Marion Shea, Rye Senior Advocacy Committee, asked the Council to sign a memorandum of understanding with the ElderServe Safe Center for Seniors (ESCS) to assist the Rye Community in safeguarding the health and welfare of its senior citizens, pro bono. ElderServe would identify social, health and/or mental health issues; provide a safe and confidential process of helping Rye senior citizens; work as an advocate for the amelioration of issues which threaten the health and wellness of seniors; provide educational sessions; and meet quarterly with the Rye Senior Advocacy Committee. Mr. Murphy said the senior population is growing so there are more needs and this could be a model. He said the ElderServe contract with Westchester County was begun in 1997 and their contributions are consistently expanding. In response to a question from Councilman Ball, Mr. Murphy said there would be no charge to any Senior needing services, but the person will be asked to support the organization. The Council was in support of the concept, seeing it as a wonderful service.

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

RESOLVED, that the City of Rye sign a memorandum of understanding with the ElderServe Safe Center for Seniors, contingent on a legal review by Corporation Counsel.

ROLL CALL:

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

9. Designation of Nominating Committee for the Boat Basin elections and appointment of the Chairman of the Nominating Committee

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

RESOLVED, that the City Council of the City of Rye hereby designates Edward Collins (Permit Holder elected to the Nominating Committee in August 2006); William Blake (Commission Member not running for re-election); and Ford Winter (Permit Holder appointed by the Commission) as the Rye Boat Basin Nominating Committee for the 2007 Rye

Boat Basin Commission elections, and further designates Ford Winter as Chair of the Nominating Committee.

10. Designation of Nominating Committee for the Rye Golf Club elections and appointment of the Chairman of the Nominating Committee

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

RESOLVED, that the City Council of the City of Rye hereby designates John Duffy (Commission Member), Lois Codispoti (Commission Member appointed), Steve Abraham (appointed), and Jim Maione and Adrienne Belluscio (elected to the Nominating Committee in August 2006) as the Rye Golf Club Nominating Committee for the 2007 Rye Golf Club Commission elections, and further designates John Duffy as Chair of the Nominating Committee.

11. Bid for Toro Sand Pro Equipment

City Manager Paul Shew reported that only one vendor submitted a bid which was in excess of the purchase limit and he recommended the bid be rejected.

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

RESOLVED, that Bid #4-07 for Toro Sand Pro Equipment, from Turf Products Corp., the sole bidder, in the amount of \$15,008, be rejected.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Pratt

12. Discussion of solar panel installation policy

Mayor Otis reported that the Board of Architectural Review (BAR) had been asked to consider solar panels and *Gene McGuire, Chair of the BAR* had requested guidance as there was nothing in the Code of the City of Rye to guide the members in making decisions about this kind of addition to houses. Councilman Ball, liaison to the BAR, confirmed the need for guidance as more such requests are expected with the “greening of America.” Kristin Wilson, representing the Corporation Counsel, said there are other laws in other communities and she will submit those to the BAR and Council for their consideration.

13. Approval of members of Flood Emergency Relief Board

Mayor Otis made a motion, unanimously approved to nominate the following people to serve as members of the Flood Emergency Relief Board (FERB) established at the May 30, 2007 Council Meeting: Eugene McGuire from the Board of Architectural Review; Nick Everett from the Planning Commission (Martha Monserrate as backup); Serge Nivelles from the Zoning Board of Appeals (Alan Weil as backup); and Joe Murphy from the Conservation Commission/Advisory Committee in an advisory capacity.

He said the FERB would meet every other Wednesday beginning June 20th if there were applications. There are none for June 20th.

14. Members for Water Runoff and Construction Working Group

Mayor Otis made a motion, unanimously approved to nominate Rich Filippi and Larry Lehman as additional members of the Water Runoff and Construction Working Group, established at the April 11 Council Meeting as the Water Runoff Working Group.

15. Miscellaneous communications and reports

Councilman Cunningham congratulated and thanked the Rye Garden Club, and their president Laura Hennes for the planting in front of Damiano Center and for the future planting to be in front of the Square House.

Councilman Cunningham reported that \$8000 had been raised for scholarships for the Recreation Department Day Camp this summer.

16. Old Business

Councilman Fahey reported yet another request for a stop sign had been made to the Traffic and Transportation Committee and wondered when the Council would have a draft of the Stop Sign Policy to review.

17. New Business

There was no new business to be discussed.

18. Draft unapproved minutes of the regular meeting of the City Council held May 30, 2007

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 May 30, 2007 as amended.

19. 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