

***APPROVED MINUTES*** of the Regular  
Meeting of the City Council of the City of Rye held in  
City Hall on July 18, 2007 at 8:00 P.M.

PRESENT:

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

ABSENT: DUNCAN HENNES  
GEORGE S. PRATT

(The joint Executive Session with the Board of Education  
scheduled prior to this meeting was cancelled.)

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.

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

*Bob Schubert, Forest Avenue*, appeared again to read another statement concerning the loss of water on his property and state that he had not received a promised report. Councilman Seitz called his attention to the memorandum from City Engineer George Mottarella, stating what action had been taken and why he had not felt a surface water control permit was necessary. Councilman Seitz also suggested that the large addition to the house directly behind the Schubert property may have had something to do with the loss of water and again pointed out that the City really can't be responsible for making the water come back, but Mr. Schubert did not agree. He submitted his report to the City Manager.

*John Carolin, 66 Milton Road*, appeared again in the interests of having a Senior Discount Membership at the Rye Golf Club, saying it is time to be fair to the Seniors who have paid their dues since the early 1960's. A discussion over whether or not the Council had jurisdiction over the Golf Commission ensued, with Mr. Carolin urging the Council to make sure the Commission comes up with an acceptable proposition. The Commission is currently

working on the 2008 budget and will be considering the matter in the process of those discussions.

*Joe Murphy, 57 Franklin Avenue and Chair of the Conservation Commission/Advisory Committee* recommended that the Council review the noise ordinance with respect to limiting any gas-operated leaf blowers during the summer. He said while this is not a new issue, it is more relevant today.

*Dennis Cates, 1 Marlene Court*, reported on a major drainage problem at his home saying that a 44" City pipe drains into two smaller County culverts under Playland Parkway and his house is constantly flooded. He said he had had several visits from the County but would like more input from the City. The Council asked the City Manager for more input.

*Bob Gay, 96 Mendota Avenue*, asked about the status of the Flood Emergency Relief Board, saying he had made an error on his application and needs to modify his plan. He doesn't wish to wait for two months and wanted to know if the FERB could meet for his application. The Corporation Counsel is reviewing the FERB legislation.

#### 4. Flood Update

City Manager Paul Shew reminded everyone that the Federal Emergency Management Agency (FEMA) process will take up to 36 months including the post project audit (which requires that all projects be competitively bid or FEMA will do their own bidding and take the 2<sup>nd</sup> lowest bid as a threshold for reimbursement). The City is being diligent and careful, and is urging Chas. Sells & Sons, the engineering consultant, to proceed with all due haste. Assistant Manager Scott Pickup reported on the continued cooperation of both FEMA and the State Emergency Management Office (SEMO), saying that project worksheets were leading to positive negotiations to cover some of the emergency reconstruction projects including the Central Avenue Bridge, the Theodore Fremd wall, and the Locust Avenue Firehouse. He expects all worksheets to be completed by mid-August so they can be vetted by the team we have been working with. Still in discussion are the Milton Harbor debris removal (complicated because it is an interagency project) and the removal of debris from the Bowman Dam area. Safer barricades along Theodore Fremd have been approved.

The second thrust of activity is mitigation which includes the improvement of Bowman Dam and flood control measures along Blind Brook. The City has filed a letter of intent. The next step is to complete a one page application. An answer is expected by August 13, but everyone was reminded that the available funds for all of New York State is only \$12 million so the needs, and therefore the competition, is great. Mayor Otis pointed out that Rye is in a good position because we already have mitigation plans in place, know what to ask for and have an approved Hazard Mitigation Plan in place. The Mayor also reported that he had been appointed as one of 7 people on the County Flood Committee which will have \$10 million to allocate each year and will be developing criteria on how to spend the funds. His priority would be toward mitigation projects, review of prior development projects and review of standards for future projects. He reiterated that Rye is in an advantageous position, but we will have to make a

convincing case for what we want and need. He said there is a lot going on, but there is a lot to be done. Everyone is working hard seven days a week and he personally couldn't get less sleep.

*Andy Goodenough, 25 Mohawk Street* reported for the Rye Flood Action Coalition saying everyone was working hard and a lot was going on behind the scenes. He said they are concerned that 3 months after the flood no shovel had been put in the ground, suggesting that the de-silting of Bowman Dam should be routine maintenance which the City should fund. He reported on a survey they had just sent out (61% still have no kitchen; 44% had no insurance; 30% got only about \$2000 from FEMA); pointed out that all the houses being raised are being done so with private money; and there are concerns about the squash court project at the Apawamis Club. He concluded by saying the coalition is raising a legal fund should they need it. *Bernard Althoff, 34 Mendota*, said he was concerned that Chas. Sells was running behind schedule and urged the City to encourage more speed and perhaps involve Nita Lowey's office in the process. He feels the earliest completed applications will have the best results. *Dr. Cedric Raines, Orchard Avenue*, again suggested taking the blacktop off the Rye YMCA parking lot because FEMA would look favorably on communities that help themselves. He asserted that the water flows directly off the parking lot into his neighborhood. The Mayor said he was proposing new protocols for such projects, hoping that Rye will be a leader in this area. He cited the Rye Country Day School playing field project which led to better storm water control. *Holly Kennedy, 105 Mendota*, asked at what point do we decide to spend Rye's money rather than wait for FEMA? Why aren't we already removing silt from Bowman Dam? What is our plan? The Mayor said we are not waiting for funds; we are following a necessary process and once we get enough answers about what FEMA will fund, and what they will not, we can decide what the City should pay for. *Sean Traynor, 101 Mendota*, said it was all well and good that we were reaching out to all funding sources, but what is Rye doing for itself? Isn't it a bad time to be even considering the Apawamis squash court expansion? *Christine Ford, 2 Seneca*, urged more code enforcement. The Mayor said the Building Department was already overloaded with work and suggested perhaps the burden should be on the homeowner to hire a professional.

5. Public hearing on a proposed local law to amend Chapter 197, Zoning, and Chapter 195, Wetlands and Watercourses, of the Code of the City of Rye, New York regarding applicable standards for residential construction in flood zones

Mayor Otis opened the public hearing on a proposed local law to amend Chapter 197, Zoning, and Chapter 195, Wetlands and Watercourses, of the Code of the City of Rye, New York regarding applicable standards for residential construction in flood zones. He turned the floor over to City Planner Christian Miller who said he had developed the legislation immediately after the April 15 flood to try and reconcile the two laws. He said the proposal is both a policy issue and a law issue and, while the immediacy has diminished, it is good to take a look at three areas: measurement of building height; calculation of story; and calculation of gross floor area. The draft law would give more homes in the flood zone the opportunity to comply with the requirements of the Zoning Code and eliminate the need for, or reduce the extent of, variances from the Board of Appeals. He presented a slide show, created by summer intern Andrew Nathanson, showing how the proposals would affect residential properties in the flood zone. The slide show described how the FEMA standards would not require a house on stilts, but would require higher houses with more stories and greater F.A.R. He reminded the Council that the

height standard in Rye was 35 feet until it was limited to 28 feet in 2003. Local architect Paul Benowitz confirmed that the local law would apply to all areas of Rye.

Mayor Otis thanked Mr. Miller and Mr. Nathanson for an excellent presentation; and suggested keeping the public hearing open until the August 15 meeting at which time he said he hoped there would be comments from additional Boards and Commissions.

6. Continuation of public hearing to amend Chapter 173 Surface water, Erosion and Sediment Control, of the Code of the City of Rye

Mayor Otis announced the continuation of the public hearing to amend Chapter 173 Surface water, Erosion and Sediment Control of the Code of the City of Rye. City Manager Paul Shew said this law will make the City compliant with the Phase II MS4 regulations addressing storm water management and illicit discharges. He referred the Council to a memorandum from the City Naturalist outlining the various requirements of the new law which combines new regulations with existing regulations already in use by the City of Rye. Councilman Seitz expressed concern that all subdivisions were not being asked to comply with surface water controls, suggesting that the requirements be made more stringent for all development. The Corporation Counsel will review the suggestions so the public hearing will be continued at the August 15, 2007 meeting.

7. Continuation of 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

Mayor Otis announced the continuation of the 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. City Manager Paul Shew said the new law deals with water quality and brings the City into compliance with Federal and State mandates which prohibit residents (including businesses) from hooking up to the municipal sewers. He pointed out that there is a public education section which provides the impetus for voluntary compliance. There is no grandfathering provision for older homes. Councilman Seitz pointed out that in reality this is an unfunded, and very costly, mandate from the Federal Government to bring all our sewer pipes (approximately 53 miles of sanitary piping and 30 miles of storm sewers) into compliance and the City has no choice but to be compliant.

There being no further discussion from the Council or the public, Mayor Otis closed the public hearing and made a motion, seconded by Councilman Seitz, to adopt the following local law:

**CITY OF RYE**  
**LOCAL LAW NO. 4 2007**

**A law to add Chapter 162, Storm Sewer System, Prohibition of Illicit Discharges, Activities and Connections to the City's Municipal Separate Storm Sewer System of the City Code of the City of Rye**

**Be it enacted by the City Council of the City of Rye**

**Section 1. §162-1 Purpose/Intent**

The purpose of this code is to provide for the health, safety and general welfare of the residents of the City of Rye through the regulation of connections to the City's municipal separate storm sewer system (MS4) and the regulation of non-storm water discharges to the (MS4) to the maximum extent practicable as required by federal and state law. This code establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the New York State Department of Environmental Conservation's (NYSDEC) SPDES General Permit (GP-02-02) for Municipal Separate Storm Sewer Systems. The objectives of this code are:

- A. To meet the requirements of the SPDES General Permit for Storm Water Discharges from MS4s, Permit No. GP-02-02 or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-storm water wastes;
- C. To prohibit unauthorized and illicit connections, activities and discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this code; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

**§162-2. Definitions.**

Whenever used in this code, unless a different meaning is stated in a definition applicable to only a portion of this code, the following terms will have meanings set forth below:

BEST MANAGEMENT PRACTICES (BMPs) - Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CITY - The City of Rye, New York.

CITY ENGINEER - The City Engineer of the City of Rye, New York.

CLEAN WATER ACT - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CODE - Code of the City of Rye, New York.

CONNECTION PERMIT - An authorization for connection as well as a discharge permitted under Section 162-13 of this code, as well as a discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the NYSDEC. This permit is subject to special terms and conditions by the City Engineer. The permit will expire on or before the expiration of the NYSDEC SPDES permit, waiver or order or upon change of ownership or use of the property.

CONSTRUCTION ACTIVITY - Activities requiring authorization under a NYSDEC SPDES permit for storm water discharges from construction activity, GP-02-01, as amended or revised, or activities covered by Erosion and Sediment Control or Pollution Prevention Plan laws, ordinances or regulations of the City. These activities include construction projects resulting in land disturbance equal to or greater than the area stipulated in statutes or regulations of the State, County or the City, whichever is most restrictive. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

COUNTY - The County of Westchester.

DESIGN PROFESSIONAL - New York State licensed professional engineer or licensed architect.

GENERAL PERMIT - An authorization for the connection as well as the discharge of storm water or authorized non-storm water (per Subsection 162-6 (A) of this Code), from properties occupied by private dwellings.

HAZARDOUS MATERIALS - Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the

environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT ACTIVITY - Any action or condition, active or passive, that results in non-storm water entering the City's MS4.

ILLICIT CONNECTION - Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 including, but not limited to:

1. Any conveyances which allow any non-storm water discharge including treated or untreated sewage, process wastewater and wash water to enter the MS4, and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency;
3. Any building or structure floor drain or trench drain; and
4. Any unauthorized connection as defined elsewhere in this section.

ILLICIT DISCHARGE - Any discharge through an unauthorized connection, and any direct or indirect non-storm water discharge to the MS4, except as exempted in Section 162-6 of this code.

INDIVIDUAL SEWAGE TREATMENT SYSTEM - A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

INDUSTRIAL ACTIVITY - Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MS4 - Municipal Separate Storm Sewer System owned by the City or another municipal entity.

MUNICIPAL SEPARATE STORM SEWER SYSTEM - A conveyance or system of conveyances and retention and infiltration facilities; (including roads with drainage systems, curbs and gutters on municipal streets, manholes, catch basins, ditches, man-made channels, or storm drains, storm water basins, drainage reserve areas, drywells or any other component of a storm water system) that is:

1. Owned or operated by the City or another municipal entity;

2. Designed or used for collecting or conveying or storing or infiltrating or managing storm water;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

MUNICIPALITY - A County, Town, City, Village or other unit of government.

NON-STORM WATER DISCHARGE - Any discharge to the MS4 that is nocomposed entirely of storm water.

NYSDEC - The New York State Department of Environmental Conservation.

OFFICE OF THE CITY ENGINEER - Office of the City Engineer of the City of Rye.

PERSON - Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT - Anything, which causes or contributes to pollution. Pollutants may include, but are not limited to, dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, hazardous materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards. Also, paints, varnishes, and solvents; oil and other automotive fluids; hazardous or nonhazardous liquid and solid wastes, yard wastes including branches, grass clippings and leaves; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations so that same may cause or contribute to pollution; and discharges of soaps, detergents, or floatables; pesticides, herbicides, and fertilizers; sewage, fecal coliforms and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building, structure or site improvements; cement, gravel, sand, silt, mud, other soils, and noxious or offensive matter of any kind.

PREMISES - Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

SPECIAL CONDITIONS.

1. Discharge Compliance with Water Quality Standards. The condition that applies where an MS4 has been notified that the discharge of storm water authorized under their MS4 SPDES permit may have caused or has the



reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the MS4 must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

2. 303(d) Listed Waters. The condition in an MS4 SPDES permit that applies where the MS4 discharges to a NYSDEC 303(d) listed water. Under this condition the MS4's storm water management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
3. Total Maximum Daily Load (TMDL) Strategy. The condition in an MS4 SPDES permit where a TMDL including requirements for control of storm water discharges has been approved by EPA for a water body or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL storm water allocations prior to September 10, 2003, the MS4 was required to modify its storm water management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
4. The condition in an MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which an MS4 discharges. Under this condition the MS4 must review the applicable TMDL to see if it includes requirements for control of storm water discharges. If an MS4 is not meeting the TMDL storm water allocations, the MS4 must, within 6 months of the TMDLs approval, modify its storm water management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE - State of New York.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORM WATER DISCHARGE PERMIT - A permit issued by the NYSDEC that authorizes the discharge of pollutants to waters of the State.

STORM WATER - Rainwater, surface runoff, subsurface drainage and snowmelt.

STORM WATER MANAGEMENT OFFICER (SMO) - The City Engineer of the City of Rye (or the person serving in the capacity of the City Engineer) or his/her authorized deputies, agents or representatives, including employees of other City Departments, as appropriate. The SMO is to enforce this code, review storm water pollution prevention plans, forward the plans to the applicable municipal board and inspect storm water management practices.

STORM WATER SPECIAL PERMIT - An authorization for the connection as well as the discharge of storm water or authorized non-storm water (per Subsection 162-6 (A) of this code), from all properties occupied by other than private dwellings.

303(d) LIST - A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the NYSDEC as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next 2 years.

TMDL - Total Maximum Daily Load.

TOTAL MAXIMUM DAILY LOAD - The maximum amount of a pollutant allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that pollutant.

UNAUTHORIZED CONNECTION - A permanent or temporary unapproved direct or indirect conveyance to the City's MS4. Any connection, pipe, hose, or other conveyance that is not documented on plans, maps, or equivalent records signed by the City Engineer or that is not approved by a permit issued by the City Engineer, is considered unauthorized regardless of whether the discharge is otherwise allowed by this code.

UNCONTAMINATED - Means "free of pollutants" (see definition of Pollutant).

WASTEWATER. Water that is not storm water is contaminated with pollutants and is or will be discarded.

**§162-3. Applicability.**

This code shall apply to discharged connections to the City's MS4. This includes activities that result in discharge, seepage or deposition into the City's MS4, and all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency and allowed by a discharge or connection permit or other document approved by the City Engineer. This code shall also apply to discharges and connections entering another MS4 that is tributary to the City's MS4.

**§162-4 Responsibility for administration.**

The City Engineer of the City of Rye, as the Storm Water Management Officer (SMO) for the City, or duly authorized deputies, agents or representatives, including employees of other City Departments, as appropriate, shall administer, implement, and enforce the provisions of this code.

**§162-5. Severability.**

The provisions of this code are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this code or the application thereof to any person,

establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this code.

**§162-6. Discharge prohibitions.**

Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the City's MS4 any materials other than storm water except as provided in Subsection 162-6 (A) The commencement, conduct or continuance of any illicit (illegal) discharge to the MS4 is prohibited except as described as follows:

- A. The following discharges are exempt from discharge prohibitions established by this code, unless they are subsequently determined to be substantial contributors of pollutants: water line flushing or other potable water sources, uncontaminated landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, uncontaminated crawl space or basement sump pump discharges, air conditioning condensate, uncontaminated irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.
  
- B. Discharges approved in writing by the City Engineer to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws, codes and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the City Engineer may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this code.
  
- C. Dye testing in compliance with applicable state and local laws or codes is an allowable discharge, but requires a verbal notification to the City Engineer prior to the time of the test.
  
- D. The prohibition shall not apply to any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the NYSDEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws, codes and regulations, and provided that written approval has been granted for any discharge to the MS4 by the City Engineer.

**§162-7. Prohibition of unauthorized connections.**

- A. Connections to the City's MS4 without a permit are prohibited.

1. Any connection to the City's MS4 is considered to be an unauthorized connection unless it has been approved by a permit issued by the City Engineer or documented on a plan, or map that has been approved by the City Engineer. This constraint applies to all connections, permanent or temporary, regardless of whether the discharge is otherwise permitted by this code.
  2. The construction, use, maintenance or continued existence of unauthorized connections to the City's MS4 is prohibited.
  3. This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection was permissible under law, code or practices applicable or prevailing at the time of connection.
  4. A person is considered to be in violation of this code if the person connects a line conveying sewage or other pollutants to the City's MS4, or allows such a connection to continue.
  5. The connection of interior floor drains and trench drains at the entrances to buildings or other structures is prohibited.
- B. Remedy Unauthorized Connections. Where the City Engineer has identified an unauthorized connection as defined in Section 162-2 of this code, the City Engineer may require that a proper permit be obtained or that the connection be removed at the property owner's expense.

**§162-8. Prohibition against failing individual sewage treatment systems.**

No persons shall operate a failing individual sewage treatment system in areas tributary to the City's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

- A. The backup of sewage into a structure
- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate storm water sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any components of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- F. Contamination of off-site groundwater.

**§162-9. Prohibition against activities contaminating storm water or maintaining or using an unauthorized connection to the City's MS4.**

- A. Activities that are subject to the requirements of this section are those types of activities that:
1. Cause or contribute to a violation of the City's MS4 SPDES permit.
  2. Cause or contribute to the City being subject to the Special Conditions as defined in Section 162-2 of this code.
  3. Cause or contribute to the City's MS4 receiving pollutants as defined in Section 162-2 of this code.
  4. Cause or contribute to the City's MS4 receiving discharges from an undocumented or unauthorized connection (whether permanent or temporary).
- B. Such activities include failing individual sewage treatment systems as defined in Section 162- 8 of this code, improper management of pet waste or any other activity that causes or contributes to violations of the City's MS4 SPDES permit authorization.
- C. Upon notification to a person that he/she is engaged in activities that cause or contribute to violations of the City's MS4 SPDES permit authorization or cause or contributes to pollutants being discharged to the City's MS4, that person shall take all reasonable actions to correct such activities such that he/she no longer causes or contributes to violations of the City's MS4 SPDES permit authorization, or causes or contributes to pollutants to be discharged or deposited into the City's MS4.

**§162-10. Requirement to prevent, control, and reduce storm water pollutants by the use of best management practices.**

- A. Best Management Practices. Where the City Engineer has identified illicit discharges as defined in Section 162-2 of this code or activities contaminating storm water as defined in Section 162-7 of this code, the City Engineer may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.
1. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials, pollutants or other wastes into the MS4 through the use of structural and non-structural BMPs.

2. Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 162-2 of this code or an activity contaminating storm water as defined in Section 162-9 of this code, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
3. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

B. Individual Sewage Treatment Systems. Response to Special Conditions Requiring No Increase of Pollutants or Requiring a Reduction of Pollutants

C. Where individual sewage treatment systems are contributing to the City's MS4 being subject to the Special Conditions as defined in Section 162-2 of this code, the owner or operator of such individual sewage treatment systems shall be required to:

1. Maintain and operate individual sewage treatment systems as follows:
  - a. Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within 3 inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within 10 inches of the bottom of the outlet baffle or sanitary tee.
  - b. Avoid the use of septic tank additives.
  - c. Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes and household chemicals; and
  - d. Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.
2. Repair or replace individual sewage treatment systems as follows:
  - a. In accordance with 10 NYCRR Appendix 75A to the maximum extent practicable.
  - b. A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:
    - (i) Relocating or extending an absorption area to a location not previously approved for such.

- (ii) Installation of a new subsurface treatment system at the same location.
  - (iii) Use of alternate system or innovative system design or technology.
- c. A written certificate of compliance shall be submitted by the design professional to the City at the completion of construction of the repair or replacement system.

**§162-11.      Suspension of access to MS4**

- A. The City Engineer may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The City Engineer shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the City Engineer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- B. Suspension due to the detection of illicit discharge or unauthorized connection. Any person discharging to the City's MS4 in violation of this code may have their MS4 access terminated if such termination would abate or reduce an illicit discharge or result in the remedy of an unauthorized connection. The City Engineer will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefore. The violator may petition the City Engineer for a reconsideration and hearing. Access may be granted by the City Engineer if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence, or that the discharger has obtained proper permission for the connection. Access may be denied if the City Engineer determines in writing that the illicit discharge has not ceased or is likely to recur or the unauthorized connection has not been remedied. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City Engineer.

**§162- 12.      Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity SPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City Engineer prior to the allowing of discharges to the MS4.

**§162-13. Connection permits.**

A. General. Any connection to the City’s MS4 requires a permit issued by the City Engineer. Applications for permits shall be made on forms provided by the Office of the City Engineer. Permit applications shall be supplemented by any plans, specifications, analyses, calculations or other information considered pertinent by the City Engineer. The City considers connection to its MS4 as a last resort to solve flooding problems. Before approving a connection, the City will require that applicants use on-site best management practices to handle storm water and other authorized non-storm water discharges to the maximum extent practicable. The Office of the City Engineer will assess the adequacy of the applicant’s on-site storm water disposal management practices.

B. Permit Types.

1. General Permit. An authorization for the connection as well as the discharge of storm water or authorized non-storm water (per Subsection 162-6 (A) of this code), from properties occupied by private dwellings.

2. Connection Permit. An authorization for connection as well as discharge authorized under Section 162-13 of this code, as well as for a discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the NYSDEC. This permit is subject to special terms and conditions by the City Engineer. The permit will expire on or before the expiration of the NYSDEC SPDES permit, waiver or order or upon change of ownership or use of the property.

3. Special Permit. An authorization for the connection as well as the discharge of storm water or authorized non-storm water (per Subsection 162-6 (A) of this code), from all properties occupied by other than private dwellings.

C. Permit Fees. The following fee schedule:

1.	<u>General Permit:</u>	<u>Application and Filing Fee:</u>	<u>\$25.00</u>
		<u>Inspection Fee:</u>	<u>None</u>
2.	<u>§162-6 (D) Permit:</u>	<u>Application and Filing Fee:</u>	<u>\$250.00</u>
		<u>Inspection Fee:</u>	<u>\$500.00</u>
3.	<u>Special Permit:</u>	<u>Application and Filing Fee:</u>	<u>\$250.00</u>
		<u>Inspection Fee:</u>	<u>\$500.00</u>



- D. Inspection. All connections to the City's MS4 shall be subject to the approval and inspection by the City. The applicant must notify the Office of the City Engineer at least 48 hours prior to commencing work and at least 48 hours prior to final restoration.
  
- E. Indemnification. The property owner shall indemnify and save the City harmless from any loss, damage or expense, claims or suits arising out of and in connection with the installation and connection to the City's MS4. In addition, the City makes no guarantee that its MS4 will not become surcharged or otherwise overburdened and that water from the MS4 will not back-up through the connection onto the owner's property. By making a connection, the applicant/owner assumes all of the risk and liability that may arise from it.
  
- F. Permit Transfers. General permits may be transferred with the sale of a residential property, provided the use does not change. The new property owner shall comply with the terms and conditions of the transferred permit. Special permits are not transferable without approval of the City Engineer.
  
- G. Work within City Roads. Any connection made within or involving work within a City road will also comply and be subject to any and all applicable codes and regulations pertaining to permits for work on and within City streets and roads. A permit under this code does not relieve the applicant from the permits under the foregoing codes and regulations.
  
- H. Other Permits Required. A connection permit issued pursuant to this code does not relieve the applicant from any and all other permits, permissions, or compliance with rules and regulations that may be required by federal, state, county, town, city government agencies or other public or private parties. This permit does not supersede any of the above.
  
- I. Permit Rules and Regulations. The City Engineer may promulgate rules and regulations for the permitting process within the constraints of this code.

**§162-14. Access and monitoring of discharges.**

- A. Applicability. This section applies to all facilities that the City Engineer must inspect to enforce any provision of this code, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition that constitutes a violation of this code.
  
- B. Access to Facilities.
  - 1. The SMO shall be permitted to enter and inspect facilities public and private subject to regulation under this code as often as may be necessary to determine compliance with this code. If a discharger has security measures in force that require proper identification and

clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

2. Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this code.
3. The City shall have the right to set up on any facility subject to this code such devices as are necessary in the opinion of the City Engineer to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The City Engineer has the right to require the facilities subject to this code to install monitoring equipment as is reasonably necessary to determine compliance with this code. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
5. Unreasonable delays in allowing the City access to a facility subject to this code are a violation of this code. A person who is the operator of a facility subject to this code commits an offense if the person denies the City reasonable access to the facility for the purpose of conducting any activity authorized or required by this code.
6. If the SMO has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this code or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

**§162-15. Notification of spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the City Engineer in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City Engineer within 3 business days of

the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 3 years.

**§162-16. Enforcement.**

**A. Notice of Violation.**

When the City Engineer finds that a person has violated a prohibition or failed to meet a requirement of this code or a permit issued pursuant to this code, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation any or all of the actions listed below:

1. The elimination of illicit or unauthorized connections or discharges;
2. That violating discharges, practices, operations, activities, or connections shall cease and desist;
3. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
4. The performance of monitoring, analyses, and reporting;
5. Payment of a fine; and
6. The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**B. Penalties.**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this code shall be guilty of a violation punishable by a fine not exceeding one-thousand dollars (\$1,000) or imprisonment for a period not to exceed 2 months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of 5 years, punishable by a fine not less than one-thousand dollars (\$1,000) nor more than two-thousand dollars (\$2,000) or imprisonment for a period not to exceed 2 months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of 5 years, punishable by a fine not less than two-thousand dollars (\$2,000) nor more

than five thousand dollars (\$5,000) or imprisonment for a period not to exceed 2 months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this code shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

**§162-17. Appeal of notice of violation.**

Any person receiving a Notice of Violation may appeal within 15 calendar days of its issuance. The City Engineer shall hear the appeal within 30 days after the filing of the appeal, and within 5 days of making his/her decision, issue a decision by certified mail to the discharger. The City Engineer may conduct the hearing and take evidence or may designate any officer or employee of the Office of the City Engineer to do so.

**§162-18. Corrective measures after appeal.**

- A. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the City Engineer, then the City Engineer shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- B. If refused access to the subject private property, the City Engineer may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the City Engineer may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

**§162-19. Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this code. If a person has violated or continues to violate the provisions of this code, the City Engineer may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**§162-20. Alternative remedies.**

- A. Where a person has violated a provision of this code, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Corporation Counsel and concurrence of the City Engineer, where:

1. The violation was unintentional.
2. The violator has no history of previous violations of this code.
3. Environmental damage was minimal.
4. Violator acted quickly to remedy violation.
5. Violator cooperated in investigation and resolution.

**B. Alternative remedies may consist of one or more of the following:**

1. Attendance at compliance workshops.
2. Storm drain stenciling or storm drain marking.
3. River, stream or creek cleanup activities.

**§162-21. Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this code is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**§162-22. Remedies not exclusive.**

The remedies listed in this code and regulations are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

**Section 2. This local law shall take effect immediately upon filing in the Office of the Secretary of State.**

Note: The underlining indicates an entirely new law.

**ROLL CALL**

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

8. 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)

Mayor Otis opened the 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). Corporation Counsel Representative Kristin Wilson pointed out that the amendment to this law is in direct correlation to the passage of Chapter 173 and as that hearing is continued, this one should be as well. The public hearing will be continued at the August 15, 2007 meeting.

9. Consideration of setting a public hearing for a local law to amend Chapter 100, Floodplain Management, of the City Code of Rye as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36

City Manager Paul Shew explained that amending Chapter 100, Floodplain Management which regulates development and other activities within the city's flood zone is required by the NYSDEC in order to enable Rye to continue participation in the Flood Insurance Rate Program. The updated law will also implement the new Flood Insurance Rate Maps. He said the law needs to be adopted by September, 2007.

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

**WHEREAS**, the Council wishes to amend Chapter 100, Floodplain Management, of the Code of the City of Rye, as authorized by the New York State Constitution, Article IX, Section 2 and Environmental Conservation Law, Article 36; 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 August 15, 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 100, Floodplain  
Management, of the Code of the City of Rye, as authorized by**

**the New York State Constitution, Article IX, Section 2  
and Environmental Conservation Law, Article 36**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 15th day of August, 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 100, Floodplain Management, of the Code of the City of Rye, as authorized by the New York State Constitution, Article IX, Section 2 and Environmental Conservation Law, Article 36.

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

Susan A. Morison, City Clerk

Dated: August 6, 2007

10, Establishment of, and appointments to, the Thruway Fields Planning Committee

Mayor Otis announced that the New York State Thruway Authority has indicated they will proceed with allowing the City to have a permit to use the parcel of land on the Boston Post Road opposite Rye Country Day School for ten years with a nominal use charge given the public purpose contemplated by the City. Therefore, it is time to gather interested groups of people together to develop a design for the area and seek funding opportunities for this parcel because it appears this offer will be imminent.

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

**RESOLVED**, that the Rye City Council hereby establishes the Thruway Fields Planning Committee to work on the design, use plan, budget, and public/private funding opportunities in cooperation with City Staff as designated by the City Manager; and be it further

**RESOLVED**, that the Committee will report back to the City Council with their proposed plan when complete; that the Committee shall be appointed by the Mayor with Council approval and the Chairman shall be designated by the Mayor.

**ROLL CALL:**

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

**NAYS:** None

**ABSENT:** Councilmen Hennes and Pratt

The Mayor made motion, approved by the Council to appoint the following members to the newly established Thruway Fields Planning Committee:

User Groups:

Bill Whitson – Rye Youth Soccer  
David Greenhouse – Rye Youth Lacrosse  
Doug Tuttle – Rye Little League  
Scott Nelson (or his designee) – Rye Country Day School

Recreation Commission:

Scott Florio  
Doug French  
Steve Verille

The Mayor nominated Richard Runes as Chairman of the Committee.

11. Resolution to transfer \$75,000 from contingency to law department for legal expenses

City Manager Paul Shew reported that legal expenses for various Article 78's vs. Boards and Commissions, flood projects, special litigation and projects (Thatcher Proffitt & Wood), special tax assessment counsel (Huff Wilkes); and special counsel water rates and related issues (Joel Dichter, Esq.) had been incurred over the course of the year.

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

**WHEREAS**, the City is incurring legal costs estimated to total at least \$75,000 more than the amount anticipated in the adoption of the 2007 General Fund budget; and

**WHEREAS**, the General fund contingent Account currently has a balance of \$270,000 available for transfer to other accounts; now, therefore, be it

**RESOLVED**, that the 2007 General fund budget be amended, transferring \$75,000 from the Contingent Account to the Law Department cost center.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmen Hennes and Pratt

12. Authorization for City Manager to execute an Inter-Municipal Agreement (IMA) with the County of Westchester Department of Public Safety regarding the assignment of instructors to the Police Academy for both recruit and in-service training

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



**RESOLVED**, that the City Manager of the City of Rye is hereby authorized to enter into an Inter-Municipal Agreement (IMA) with the County of Westchester to indemnify members of the Police Department who provide instruction at the Westchester County Police Academy, effective upon execution through March 20, 2012.

ROLL CALL:

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

13. Resolution endorsing the Friends of the Rye Nature Center application to the New York State Office of Parks, Recreation and Historic Preservation

City Manager Shew said the City had offered a challenge grant to the Friends of Rye Nature Center to help pay for a grant writer and that person has prepared an application for a grant, which needs to be authorized by the Council. The grant will not add any cost to the City of Rye.

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

**WHEREAS**, the Friends of Rye Nature Center is applying to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) for a grant under the Environmental Protection Fund for a park project to be located at the Rye Nature Center, 873 Boston Post Road, Rye, New York, a site located within the territorial jurisdiction of the Council: and

**WHEREAS**, the goals of the park project are to establish a program area for eco-education using green building and sustainable development practices, enhancement of recreational opportunities for the public, and provide for the interpretation of the natural heritage of the State of New York; and

**WHEREAS**, the City of Rye is the owner of record of the park project site, which is operated by the Friends of Rye Nature Center under contract with the City; and

**WHEREAS**, under the rules of these programs, said not-for-profit corporation must obtain the “approval/endorsement of the governing body of the municipality in which the project will be located”; now, therefore, be it

**RESOLVED** by this august body that the Council of the City of Rye hereby does approve and endorse the application of the Friends of Rye Nature Center for a grant under the Environmental Protection Fund for a park project known as the “Sustainable Living Demonstration Classroom” and located within this community; and be it further

**RESOLVED**, that, should the Friends of Rye Nature Center be unable to do so, said property shall be forever maintained by the City of Rye as a municipal park in this community consistent with the rules promulgated by OPRHP.

ROLL CALL:

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

14. Resolution declaring certain City of Rye vehicles as surplus

City Manager Paul Shew presented the list of vehicles to be declared surplus by the City of Rye. There was concern over the low mileage of some of these vehicles. He explained that two were not properly prepared for Police use thus necessitating costly repairs and that most Police vehicles have a “life” of only about 50,000 miles due to the way they are used. In the future, the Council requested additional detail when supplied with a surplus list.

The list of vehicles to be sold (perhaps on EBay) is as follows:

2004 Ford Crown Victoria, VIN #2FAHP71W24X172005, Mileage 64,111  
2004 Ford Crown Victoria, VIN #2FAHP71W44X172006, Mileage 54,911  
2005 Ford Crown Victoria, VIN #2FAHP71W25X156100, Mileage 60,387  
2003 Ford Crown Victoria, VIN #2FAHP71W83X112588, Mileage 39,465  
2004 Ford Crown Victoria, VIN #2FAHP71W74X172002, Mileage 52,792  
1999 Ford Crown Victoria, VIN #2FAHP771W9XX185748, Mileage 55,885  
1994 Dodge B150 VIN #2B4HB15X4RK181606, Mileage 47,000

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

**WHEREAS**, the City has been provided with a list of City vehicles that the Department of Public Works has identified as being obsolete or will become obsolete during 2007; and

**WHEREAS**, the Department of Public Works has recommended that said vehicles be declared surplus; now, therefore, be it

**RESOLVED**, that said vehicles are declared surplus; and be it further

**RESOLVED**, that authorization is given to the City Comptroller to sell or dispose of said vehicles in a manner that will serve in the best interests of the City.

ROLL CALL:

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

15. Authorization for City Manager to enter into an Agreement with the Rye City School District for the continuation of the use of studio and production space for Rye TV

City Manager Paul Shew reported that the Rye Cable Committee and City Staff had updated the 5 year agreement with the Rye City School District to continue the joint Cable TV operations, that the Memorandum of Understanding had been reviewed by Corporation Counsel, and asked for authorization to sign the agreement contingent upon approval by the Board of Education.

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

**RESOLVED**, that the City Manager is hereby authorized to execute an updated Agreement between the Rye City School District and the City of Rye for continuation of the use of studio and production space for Rye TV.

ROLL CALL:

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

16. Resolution to transfer \$60,000 from RCTV fund balance to cover costs of studio upgrades

City Manager Paul Shew reported that there is an opportunity to upgrade electrical and HVAC systems at the Rye Cable TV studio as part of general renovations taking place this summer at Rye High School. By adding this job as a change order to a larger contract, which has already been properly bid and executed according to State rules through the Board of Education, the City will save considerable funds.

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

**WHEREAS**, it is advantageous to enter into a contract as part of an on-going project at Rye High School to upgrade the HVAC and electric upgrades in the Rye TV studio to coordinate with upgrades in the rest of the high school building; and

**WHEREAS**, the City will pay for HVAC and electric upgrades to the studio location in the amount of \$60,000, more than the amount anticipated in the adoption of the 2007 budget; now, therefore, be it

**RESOLVED**, that the 2007 RCTV budget be amended, transferring \$60,000 from the RCTV Fund Balance.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmen Hennes and Pratt

17. Miscellaneous communications and reports

Mayor Otis congratulated Councilman Seitz on his appointment to serve as a member of the Palisades Interstate Park Commission. The Commission consists of 7 members appointed by New York State; 7 by The State of New Jersey; and a Chairman and operates both Bear Mountain Park and Palisades Interstate Park, created in the early 20<sup>th</sup> century to protect the west side of the Hudson River.

Councilman Cunningham complimented the school administration and the Rye Board of Education for accommodating the Rye Recreation Campers despite all the construction.

Mayor Otis announced that the New York Department of Environmental Conservation would be conducting hearings on the Beaver Swamp Brook "Project HomeRun" on Monday, July 23, 2007 at 6:00 P.M. in the Harrison High School cafeteria. Corporation Counsel Kevin Plunkett and Kristin Wilson will represent Rye at this meeting. Any questions should be addressed to either of them.

Councilman Cunningham commented that weekday parking at Rye Town Park was very haphazard and the Commission should remember that it is a "park" rather than a "car park." Mayor Otis said he considers this the #1 safety issue at the park and noted that every day the parking is different and objectionable. While there are more controls now in place at the park, the parking issue is far from satisfactory.

18. Old Business

Councilman Fahey inquired about the Stop Sign Policy. It has been reviewed by staff, as well as the Traffic and Transportation Committee and will be redistributed to the Council. It still needs some minor changes, but should be ready for the August meeting

Councilman Fahey noted that the new skateboard park at Recreation Park looks fantastic and is being thoroughly enjoyed by his children as well as many others. He suggested the lady at the gate be repositioned to face the park. The usage fees are being used to subsidize the cost of operating the park.

19. New Business

Councilman Fahey commented on a letter from the County Executive concerning Affordable Housing and wanted to make sure the new units on Cottage Street qualified as affordable in Rye. Mayor Otis commented that the desired number of units for Rye was totally unrealistic.

Councilman Seitz inquired about a proposed law concerning property taxes sponsored by Assembly Minority Leader Tedisco and wondered if the Council should offer support for its passage. Mayor Otis said that there are often proposals for such legislation and it would be a lot to support each one. He said he was all for anything that supports lower property taxes and would look into the status of property tax legislation to see if this is one Rye should actively support.

20. Draft unapproved minutes of the regular meeting of the City Council held June 13, 2007

Councilman Fahey made a motion, seconded by Councilman Seitz and unanimously carried to adopt the minutes of the regular meeting of the City council held June 13, 2007 as amended.

21. Adjournment

There being no further business to discuss, Councilman Fahey made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn the meeting at 12:20 A.M.

Respectfully submitted,

Susan A. Morison  
City Clerk