

APPROVED MINUTES of the Regular
Meeting of the City Council of the City of Rye held in
City Hall on August 15, 2007 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
ANDREW C. BALL
MACK CUNNINGHAM
MATTHEW FAHEY (arrived at 9:10 P.M.)
DUNCAN HENNES
GEORGE S. PRATT
HOWARD G. SEITZ
Councilmen

ABSENT: None

The Council convened at 6:45 P.M. Councilman Hennes made a motion, seconded by Councilman Ball and unanimously carried, to adjourn to executive session at 6:46 P.M. to discuss personnel and litigation matters. Councilman Fahey made a motion, seconded by Councilman Cunningham, to close the executive session at 8:10 P.M. Although no votes were taken during the executive session, a possible Article 78 proceeding was discussed. See Agenda #3, page 2. The Council reconvened at 8:11 P.M.

Announcements

Mayor Otis offered condolences, on behalf of the Council and the City of Rye to Maureen and Gary Adamson on the loss of their son Ryan. He said everyone's hearts and thoughts were with them as they try to cope with the tragic loss of their child.

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. Flood Update

General. City Manager Paul Shew reported that FEMA representatives had been in Rye this week, as they have every week, meeting with Assistant Manager Scott Pickup (who is handling the coordination) and Comptroller Michael Genito (who is handling the finances). He congratulated everyone for their excellent work and turned the floor over to Mr. Pickup who began by saying the Milton Harbor dredging issue has yet to be resolved as there are issues between FEMA and the Army Corps of Engineers, particularly concerning upland disposal. He said everyone is working hard, but that portion of flood recovery is not as far along as the other areas. The other complication is the repair of the Theodore Fremd corridor because part of the repairs will come from the Federal Highway Fund so it divides the project request and makes it a bit more complicated. Rye is still confident there will not need to be an expenditure of local funds. He said the FEMA personnel will be redeployed as of September 1 so they, and we, are hoping to have all plans completed by then. He looks forward to a more complete report at the September 5 Council Meeting. Three hazard mitigation grant submissions have been made and the Sells report is on time and target.

Mayor Otis said all indications are that Rye's recovery requests, especially for repair projects, will be almost 100% covered, but he is interested in making sure all of Rye's contributions are codified so the Council can see whether or not a referendum will be needed.

Bowman Ave/Article 78. Mayor Otis reported that the Konigsberg development project on Bowman Avenue had been approved by Rye Brook. Corporation Counsel Kevin Plunkett reported that in Executive Session he had discussed the pros and cons of an Article 78 proceeding to protect the City's various interests. Mr. Plunkett reported on the status of the project and the need to commence litigation by August 23rd if the Council so desired.

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

RESOLVED, that the Rye City Council hereby authorizes the Corporation Counsel to commence an Article 78 proceeding against the Village of Rye Brook and other necessary parties relating to the Bowman Avenue Development Project.

ROLL CALL:

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

NAYS: None

ABSENT Councilman Fahey

Beaver Swamp Brook. Corporation Counsel Kevin Plunkett reported that he had represented the City Council at a Department of Environmental Conservation (DEC) hearing to listen to objections to "Project Homerun," the playing fields built on the Harrison side of Beaver Swamp Brook. He said our environmental consultant, Laura Tessier, as well as all the residents

who came, did a great job and as a result the DEC has gone on record as saying they are concerned not only about "Project Homerun", but the entire Beaver Swamp Brook mediation project. At the very least, the DEC is now taking another hard look. *Henry King, 76 Coolidge Ave.*, who admitted his previous visits before the Council had been to complain, said he is thrilled with the new developments and thanked everyone for all the work they have done.

Comments on the general flooding issue. Richard Filippi, 13 Loewen Court, opined that it would be very bad not to rebuild the Central Avenue Bridge, but suggested rerouting the utilities and raising the bridge. He also wants to see the private bridge at the bottom of Loewen Court removed. *Greg MacKenzie, 14 Mead Place*, said he was under the impression the Army Corps of Engineers takes no responsibility for Blind Brook, but he is incorrect as the Corps is actively studying mitigation of Blind Brook as part of a grant project. The answer to his question about who owns the brook is: it is different in different locations and the City is working on finding the exact answers. *Mr. MacKenzie* reported silt coming down into Blind Brook from a construction site on Evergreen Avenue; *Sis D'Angelo, 110 Wappanocca Avenue*, concurred that the silt coming down from "everywhere" is unbelievable. *Mr. MacKenzie* also complained that the first house to be raised on Mendota to conform with FEMA standards doesn't look like Rye, but the Council pointed out that it is private property which the owner has a right to protect; that it is a flood related and future insurance issue; and he can be sure the taller house will look much better once it is finished.

Individual water issues. Dennis and Jane Cates, 1 Marlene Court, blame the City for continued flooding on their property from a City storm water drain and claim no one is doing anything to help them. City Manager Paul Shew said there is not a solution "on the shelf" and sometimes solving one person's water problem just passes it along to another. In this case, the problem has been around for many years and it is possible there is no solution. City Planner Christian Miller explained to the City Council possible solutions put forth by the City Engineer George Mottarella. Mr. Miller noted that the City Engineer and Planner have spent considerable time reviewing this situation including spending over an hour with Mr. Cates at his home to review the situation and discuss possible solutions. One solution involves extending a new or larger storm water pipe under Playland Parkway, which would require Westchester County approval. The other solution involves modifying the outflow structure at Mead's Pond, which would require the consent of five property owners of the pond. The City Planner states that there is no clear reason why all of a sudden there is such an apparent increase in storm water runoff, but noted the long history of poorly drained conditions in the area, including references to such conditions in the 1961 Planning Commission file approving the Marlene Court Subdivision. Mr. Miller said everyone sympathizes with the Cates's need for immediate attention, but that a fix requires careful review by consulting engineers to confirm specifically what mitigation measures would work and that they will not adversely impact others. The City would like to find and solve the underlying problems, if that is possible, but he assured the Council and the residents many on staff had spent a great deal of time on this individual problem. Mayor Otis said water is a Southern Westchester County dilemma all communities are dealing with and said the City will never be able to guarantee everyone will have a dry basement, because it can't.

(Councilman Fahey arrived at this time)

Bob Schubert, Forest Avenue, spoke again about his lack of water saying his issue of having land that has gone from a water garden to a mud hole had been going on for 18 months. He continues to be convinced that the City did not follow the law and urged the Council to enforce it rather than shrink away from their elected duties. He said he is not going away and is determined to be protected under City Code. Mayor Otis said the Council is not here to debate, and informed Mr. Schubert repairing a pipe on private property does not need a permit so, while they sympathize, it is a neighbor to neighbor issue.

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

Doug Carey, 131 Purchase Street, invited everyone to 2007 Summerfest, "Looking Back at Rye in the 1950s" on Sunday, September 2nd. This is the 14th annual field day sponsored by Leaders of Tomorrow and the Rye Recreation Department. The horseshoe tournament will begin at noon; the bare-handed baseball game at 1 PM; the wood-racquet tennis tournament at 2:30; and the races and booths at 3 PM. Two hours of live Big Band music begins at 5 PM and during the day one can enjoy the Historical exhibit of Rye in the 1950s, a continuation of last years "Treasures Lost: Treasures Saved" developed as part of the 15th annual Enrichment Program. All are welcome to enjoy this very special day.

Doug Carey also reported that the Bird/Erikson House, 600 Milton Road, built in 1835 has just been put on the market. He said the home is an historical treasure and a "Save the Bird Homestead" non-profit group has been formed. There will be fundraisers to save the home, hopefully to purchase it and run it as a science educational center. Junius Bird and his brother Roland (JR) Bird were both eminent scientists. Junius was a noted curator of the American Museum of Natural History and RT Bird was a famous paleontologist

Joseph Murphy, 57 Franklin Avenue asked about the status of the proposed agreement between the City and Elderserve for the benefit of the Rye Senior Advisory Committee. City Manager Paul Shew said he is meeting with May Carpenter at the County before authorizing the approval.

5. Continuation of 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

The public hearing was kept open until the September 5th meeting. (Note: Chapter 195, Wetlands and Watercourses, is no longer impacted by the proposed amendments.)

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

The public hearing was kept open until the September 5th meeting when a representative from the engineering firm of Dvirka & Bartilucci consulting Engineers will make a presentation to the Council regarding Phase II.

7. Continuation of 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)

The public hearing was kept open until the September 5th meeting as this local law relates to Chapter 173 (see Agenda Item #6 above).

8. 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

Mayor Otis opened the public hearing, but recommended that the public hearing be kept open until the September 5th Council meeting by which time comments on the draft law from the New York State Department of Environmental Conservation will have been reviewed.

9. Consideration of City of Rye Stop Sign Policy

Mayor Otis asked the Council to consider a draft of the City of Rye Stop Sign Policy, including a new paragraph he had added to achieve more flexibility. He said the policy had been reviewed by staff and appropriate Boards. Councilman Cunningham said the Traffic and Transportation Committee has no less than 20 requests for stop signs and are waiting for a policy to be adopted so they can have a consistent procedure. Councilman Seitz objects to using stop signs as a vehicular control method; Councilman Hennes objected to the statement that “stop signs should not be used for speed control” when he feels they obviously are; Councilman Fahey said adopting the policy made it too easy to deny requests, such as the one in his neighborhood. Councilman Pratt said he continues to think there should be wording about appealing to the Council; Councilman Ball wants to hear more from the Police Commissioner; the Mayor said his new paragraph made Rye’s policy appropriate to our community without overruling the Federal guidelines. After lengthy discussion approval of the policy was deferred.

10. Discussion of environmental goals and objectives presented to the City Council by the Conservation Commission in memos 5/23, 6/8 and 7/18/

Mayor Otis referred to several memos, dated 5/23, 6/8 and 7/18, 2007 from the Conservation Commission/Advisory Council requesting City Council action on various aspects of the environment and global warming. He said the City has long been an advocate for the environment and suggested a formal message of support for the goal of improved environmental practices would be appropriate.

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

WHEREAS, the Rye City Council thanks the Conservation Commission/Advisory Council for their ideas towards adopting improved environmental practices by the City; and

WHEREAS, the Rye City Council supports more energy efficiency in our own operations and sound environmental practices by the residents of the City of Rye; and

WHEREAS, the Rye City Council supports reducing air pollution, increasing recycling, and finding new ways to enhance Rye's leadership in sound environmental practices; now, therefore, be it

RESOLVED, that the Rye City Council

1. supports the efforts of the Conservation Commission/Advisory Council to promote good environmental practices in the community;
2. recommits the City to continuing our efforts at energy efficiency, increasing recycling, and asking the City Manager to seek additional ways Rye can upgrade our environmental practices;
3. awaits more specific legislative proposals from the Conservation Commission/Advisory Council on issues affecting Rye;
4. opposes pollution of Long Island Sound, our brooks and streams and the air we breathe.

ROLL CALL:

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

NAYS: None

ABSENT: None

11. Discussion of next steps for filling the City Naturalist Position and/or reframing the position as an environmental coordinator position

The Council asked for a more specific job description and more input from the City Manager and various Board and Staff members before discussing the next steps for filling the City Naturalist position and/or reframing the position as an environmental coordinator.

12. Discussion of recommendations to the Rye Town Park Commission regarding matching funds for tower building grants

Mayor Otis who, along with Brian Daly, is on the Rye Town Park Commission asked for Council input concerning the restoration needs for the tower buildings. The cost of the project (which is to replace the roof of this land-marked structure) is \$1.2 million. He said there is a \$400,000 grant which needs to be matched (\$155,000 is needed) and the additional funds also need to be raised. There are several options available to the City which contributes 50% of the

expenses of Rye Town Park, but does not have a controlling say in the park operations. The options are:

- 1) The Rye Town Park Commission could add \$155,000 to the 2008 Rye Town Park budget which would add \$77,500 to our 2008 RTP charge from the Town
- 2) The Town of Rye could borrow the same amount and the City of Rye's share would be added to our annual RTP charge from the Town
- 3) The Town of Rye could borrow the full remaining amount needed to complete the total roof project and the City of Rye's share would be added to our annual charge from the Town.

The Council requested additional input from the City Comptroller with more analysis and more input about the needs and costs of the project.

13. Acceptance of grant from New York State Department of State for "A Citizen Survey on Recreational Traffic Safety Needs"

City Manager Paul Shew reported that the 2008 Capital Plan has proposed projects connected with trailway and pedestrian improvements in the City of Rye and said the City has received a grant to help assess the current needs and desires of Rye citizens. This grant is a pre-requisite for obtaining additional grants for the trailway project and even though a similar survey had been conducted in prior years, a new one is required.

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

RESOLVED, that the City Manager is hereby authorized to enter into Agreement with the NYS Department of State for a Community Project Appropriation of \$2,400 for a citizen survey to assess benefits of traffic calming and recreational uses within the community of Rye.

ROLL CALL:

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

NAYS: None

ABSENT None

14. Authorization for City Manager to enter into an agreement with the County of Westchester for access to telecommunications services through the network provided to the County under an agreement with Cablevision

City Manager Shew explained that the agreement with the County for access to telecommunications services, better known as Lightpath, is a continuation of an existing agreement and does provide a discounted rate.

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

RESOLVED, that the City Manager is hereby authorized to enter into an agreement with the County of Westchester extending a 2002 agreement providing for access to telecommunications services through the network provided to the county under an agreement with Cablevision.

ROLL CALL:

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

NAYS: None

ABSENT None

15. Request of Rye YMCA for use of the Village Green on September 24, 2007 as part of the YMCA's participation in the America on the Move Step-tember week-long event

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

RESOLVED, that the request of the Rye YMCA for use of the Village Green on September 24, 2007 from 11:00 A.M. to 3:00 P.M. as part of the YMCA's participation in the American on the Move Step-tember week-long event be approved.

16. Authorization to fill a vacant position in the Public Works Department

City Manager Shew explained that a vacancy in the position of laborer is available due to a retirement. Internal candidates exist to fill this vacancy which will result in a savings in pay scale.

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

RESOLVED, that the City Manager is hereby authorized to fill the vacant position of laborer in the Department of Public Works.

ROLL CALL:

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

17. Authorization to create a new position of Parking Enforcement Officer/School Crossing Guard

City Manager Paul Shew reported the Police Commissioner has proposed creating a new position to continue to provide assistance at the Milton/Apawamis crosswalk, and to assist in the enforcement of parking regulations when not at a school crossing. The Council asked for a more detailed job description before authorizing the position.

8. Approval of the election of four new members to the Rye Fire Department

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

RESOLVED, that the Council of the City of Rye hereby approves the election of Alastair Murdoch to the Poningo Hook and Ladder Company and Steve Buckley, Annie Farrenkopf and Mark Davis to the Milton Point Engine & Hose Company approved at the August 2007 meeting of the Board of Fire Wardens.

19. Addition of two members to Thruway Fields Planning Committee

Mayor Otis made a motion, unanimously approved to add Greg Howells from the Rye YMCA and Jim Culyer from the Board of Education as members to the Thruway Fields Planning Committee.

20. Adoption of the 2007/2008 tax levy and tax rate for the Rye Neck Union Free School District

City Manager Paul Shew reported that the Rye Neck Union Free School District has provided the City with the allocation of the tax levy and tax rates for the Town of Rye and the City of Rye. The amounts and rates are subject to minor adjustments and adoption by the District at their next Board of Education meeting.

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

WHEREAS, the Rye Neck Union Free School District (District) has certified to the City of Rye Comptroller taxes in the amount of \$8,387,413 to be raised on property within the District located in the City of Rye, with established tax rates of \$575.620081 per \$1,000 of taxable assessed value on homestead property and \$733.920977 per \$1,000 taxable assessed value on non-homestead property, for the fiscal year beginning July 1, 2007 and ending June 30, 2008, now, therefore, be it

RESOLVED, that in accordance with the provisions of the City Charter, the City Comptroller is commanded to levy and collect said taxes, subject to any further amendments or approvals required by the Rye Neck Union Free School District.

ROLL CALL:

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

NAYS: None

ABSENT None

21. Miscellaneous communications and reports

Councilman Cunningham asked about the public opening of the Locust Avenue Firehouse, suggesting it could be the same day as the Rye Y's September 24th event on the Village Green. He also voiced approval for the request for additional funds to repair sidewalks in the 2008 Capital Improvements Plan.

Councilman Fahey inquired about the completion of the Pump Station at Midland and Peck Avenues. The fieldwork is progressing and hopefully Peck Avenue will be open both ways as of Friday so the barriers put up at The Gables to prevent cutting through their property can be removed.

22. Old Business

Councilman Cunningham asked about the status of installing solar roofing panels. The two that had been requested were approved, but there has been no report from the Board of Architectural Review on future guidelines.

23. New Business

Councilman Seitz said he had learned a person named Al Wilson has been putting flowers around at the intersection of Grace Church Street and Midland Avenue and he thought it would be nice for the Council to make a formal declaration of thanks.

Councilman Seitz said he was concerned about an ethics issue, more specifically that people on various boards who may have close business connections with applicants may not be recusing themselves.

24. Draft unapproved minutes of the regular meeting of the City Council held July 18, 2007

Mayor Otis made a motion, seconded by Councilman Hennes to adopt the minutes of the regular meeting of the City Council held July 18, 2007 as submitted.

25. 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 11:15 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk