

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on December 12, 2007 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor  
ANDREW C. BALL  
MACK CUNNINGHAM  
MATTHEW FAHEY  
DUNCAN HENNES  
GEORGE S. PRATT (arrived at 9:00 P.M.)  
HOWARD G. SEITZ  
Councilmen

ABSENT: None

The Council convened at 7:00 P.M. Councilman Ball made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn to executive session at 7:01 P.M. to discuss the employment history and compensation of a public employee. Councilman Hennes made a motion, seconded by Councilman Cunningham, to close the executive session at 8:10 P.M. The Council reconvened at 8:15 P.M.

1. Pledge of Allegiance

Mayor Otis called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor Otis asked the City Clerk to call the roll; a quorum was present to conduct official city business.

Announcements

Mayor Otis said he was in the process of making new appointments to various Boards, Commissions and Committees and asked anyone interested in serving the community to call him and send a resume.

Mayor Otis announced that this was the last Council meeting for Councilmen Matt Fahey, Duncan Hennes and Gerry Seitz and thanked them for their hard work, service to the community and collegiality. He said what the public sees at the Council meetings is but a small sliver of their actual contribution. He pointed out that serving on the Council has a long tradition, dating back to 1904 when Rye became a Village and these three Council Members

have continued to help keep things going in the right direction. He presented each with an historic photograph of Rye (the unpaved Boston Post Road for Councilman Fahey; runners on Purchase Street for Councilman Hennes; and Howard's Hardware Store on Purchase Street for Councilman Seitz).

Councilman Hennes said serving on the Council was truly one of the most worthwhile things he has ever done and urged others to run for office and serve the community in this way. He said it was a pleasure working with Council Members and the excellent staff, but he is ready to move on to other things. Councilman Fahey said it was a pleasure to contribute; that the staff is worth its weight in gold; that he is proud of keeping taxes in check and overcoming differences. Councilman Seitz said it had been an honor to be elected to serve; that he had learned a lot about Rye and the people of Rye; that although there have been issues between the Council, it has been collegial and it is good to get out and volunteer for office rather than complain.

The audience joined the rest of the Council and staff in giving the retiring Council Members a round of applause.

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

*Joe Murphy, 57 Franklin Avenue*, asked why the Council had not considered the request for a challenge grant from the Rye Nature Center. The Mayor said for capital projects on City Property it is expected that the funds would be raised first and it seemed clear this building project would be a 2009, rather than 2008, project.

*Bob Schubert, Forest Avenue*, said he had deferred comments at the last meeting in deference to the budget discussion, but he will not be deterred further. He recapped his own impressive resume as an engineer and said he had built a sluice gate on his property exactly like the one proposed at Bowman Dam. He cited the Arbor Day proclamation urging beautification of Rye and repeated that the City had destroyed his beautiful garden; that the law is crystal clear and the City should have a referendum to see who is right. He said he wanted the issue "settled" but the Mayor repeated his response from prior meetings saying that the City has no remedy and that answer will not change just because Mr. Schubert appears at each meeting.

*John Carey, Forest Avenue*, presented a copy of a legal opinion on Alternative Dispute Resolution based on a Massachusetts Supreme Judicial Court ruling, saying it might be useful to the City.

4. Public hearing on a local law to add Chapter 174, Storm Water Management Erosion and Sediment Control for Land Development/Redevelopment Activity Equal to or Greater than 1 Acre, to the Code of the City of Rye

Mayor Otis said the local laws to be considered in Agenda Items 4-6 were all related so he opened the public hearing for all three.

City Manager Paul Shew and Kristen Kelly Wilson, representing Corporation Counsel explained that the three laws implement new storm water Phase II regulations dealing with storm water runoff and erosion and sediment control; that in order to implement a new law (Chapters 174 and 170 of the Code of the City of Rye) and preserve the City's existing storm water regulations changes to Chapter 173 of the Code of the City of Rye are also required. Adoption of Chapter 174, dealing with applications equal to or more than one acre, is mandated by the State of New York by January 8, 2008; Chapter 173 deals with applications less than one acre (99% of Rye's applications). The Local Water Run-off Committee and the staff recommend adoption of these laws as drafted. City Planner, Christian Miller said that the laws are difficult for the layman to understand, but basically codify procedures already in effect. The State is basically handing over authority to municipalities so requirements will be codified locally rather than on the State level. Ms. Wilson added that adoption of the laws would be an unlisted action under SEQRA so a Negative Declaration would be appropriate.

Joe Murphy, Chair of the Conservation Commission/Advisory Committee, inquired about how the new law will affect a certain large property on Grace Church Street and was informed that the disturbance was less than one acre so plans are subject to existing law only. There being no further questions from the Council or the public, Mayor Otis closed the public hearing for all three proposed laws.

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

**WHEREAS** the City Council hereby finds that the local law adding Chapter 174 and amending Chapters 173 and 170 of the code of the City of Rye is an Unlisted action pursuant to SEQRA; now, therefore, be it

**RESOLVED**, that the City Council finds that adoption of these local laws will have no significant adverse environmental impact and issues a Negative Declaration of Environmental Impact.

**ROLL CALL:**

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

Councilman Ball made a motion, seconded by Councilman Seitz, to adopt the following local law:

**City of Rye  
Local Law No. 8-2007**

**A Local Law to Add Chapter 174, Storm Water Management Erosion and Sediment Control For Land Development/Redevelopment Activity Equal to or Greater than 1 Acre, to the Code of the City of Rye**

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

**Section 1. §174-1 Findings of Fact**

It has been determined by the New York State Department of Environmental Conservation (NYSDEC) that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This storm water runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of storm water management practices can increase the velocity of storm water runoff thereby increasing stream bank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- F. Substantial economic losses can result from these adverse impacts on the waters of the State;
- G. Storm water runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of storm water runoff from land development activities;
- H. The regulation of storm water runoff discharges from land development activities in order to control and minimize increases in storm water runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with storm water runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards governing storm water management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

**§174-2 Purpose**

The purpose of this law is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the City and to address the State's findings of fact in §174-1 hereof. This law seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of New York State's SPDES General Permit for Storm Water Discharges from Municipal Separate Storm Water Sewer Systems (MS4s), Permit No. GP-02-02 or as amended or revised;
- B. Require land development and redevelopment activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP02-01 or as amended or revised;
- C. Minimize increases in storm water runoff from land development and redevelopment activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels, watercourses or waterways;
- D. Minimize increases in pollution caused by storm water runoff from land development and redevelopment activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of storm water runoff which flows from any specific site during and following development and redevelopment to the maximum extent practicable; and
- F. Reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through storm water management practices, devices and/or structures, and to ensure that these management practices, devices and/or structures are properly maintained and eliminate threats to public safety.

**§174-3 Statutory Authority**

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the City Council of the City of Rye has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the City of Rye and for the protection and enhancement of its physical environment. The City Council of the City of Rye may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

**§174-4 Applicability**

- A. This law shall be applicable to all land development and redevelopment activities as defined in §174-6 of this Chapter.
- B. The City shall designate a Storm Water Management Officer who shall accept and review all storm water pollution prevention plans. The Storm Water Management Officer may
  - (1) review the plans, and as necessary, (2) engage the services of a licensed/certified professional to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
- C. All land development or redevelopment activities identified in §174-6 as being subject to review and approval by the Storm Water Management Officer under subdivision, site plan and/or special permit regulations shall be reviewed subject to the standards contained or referenced in this law.
- D. All land development activities not subject to review as stated in §174-4.C of this Chapter shall be required to submit a Storm Water Pollution Prevention Plan (SWPPP) to the Storm Water Management Officer who shall approve the SWPPP if it complies with the requirements of this law.
- E. No person shall commence or carry out any development or land disturbing activity on any lot in the City of Rye, except those activities exempted in §174-5 of this Chapter below, without first obtaining a Storm Water Management and Erosion and Sediment Control Permit from the City Clerk upon approval of it by the City Engineer, and thereafter complying with the requirements of this Chapter.

**§174-5 Exemptions**

The following activities are exempt from review under this Chapter.

- A. Agricultural activity as defined in this Chapter.
- B. Silvicultural activity except that landing areas and log haul roads are subject to this law.
- C. Routine maintenance activities that disturb less than one acre and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility unless the Storm Water Management Officer determines that the disturbance is subject to the requirements of §174-7(F).
- D. Repairs to any storm water management practice or facility deemed necessary by the Storm Water Management Officer.
- E. Any part of a subdivision if a plat for the subdivision has been approved by the

City on or before the effective date of this Chapter.

- F. Land development or redevelopment activities for which a building permit has been approved on or before the effective date of this law.
- G. Cemetery graves.
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activity immediately necessary to protect life, property or natural resources.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- K. Landscaping and horticultural activities in connection with an existing structure.
- L. Land disturbing activities less than one hundred square feet.

**§174-6 Definitions**

The terms used in this Chapter or in documents prepared or reviewed under this Chapter shall have the meaning as set forth in this section.

**AGRICULTURAL ACTIVITY** - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**APPLICANT** - a property owner or agent of a property owner who has filed an application for a land development or redevelopment activity.

**BUILDING** - any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

**CITY** – the City of Rye, New York.

**CITY CODE** – The City Code of the City of Rye, New York.

**CITY ENGINEER** – the City Engineer of the City of Rye, New York.

**CLEARING** - any activity that removes the vegetative surface cover.

**DEDICATION** - the deliberate appropriation of property by its owner for general public use.

**DEPARTMENT** - the New York State Department of Environmental Conservation.

**DESIGN MANUAL** - the *New York State Storm Water Management Design Manual*, most recent version including applicable updates that serves as the official guide for storm water management principles, methods and practices.

**DEVELOPER** - a person who undertakes land development activities.

**EPA** – Environmental Protection Agency.

**EROSION** – the removal of soil particles by the action of water, wind, ice or other geological agents.

**EROSION CONTROL MANUAL** - the most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book.

**GRADING** - excavation or fill of material, including the resulting conditions thereof.

**IMPERVIOUS COVER** - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**INFILTRATION** - the process of percolating storm water into the subsoil.

**LAND DEVELOPMENT/REDEVELOPMENT ACTIVITY** - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development or redevelopment activities may take place at different times on different schedules.

**LANDOWNER** - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**LICENSED/CERTIFIED PROFESSIONAL** – a person currently licensed to practice engineering in New York State or a Certified Professional in Erosion and Sediment Control (CPESC).

**MAINTENANCE AGREEMENT** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

**NYSDEC** – New York State Department of Environmental Conservation.

**NONPOINT SOURCE POLLUTION** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**PHASING** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**PLANNING BOARD** – the Planning Board of the City of Rye.

**POLLUTANT OF CONCERN** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**PROJECT** -land development or redevelopment activity.

**RECHARGE** - the replenishment of underground water reserves.

**SEDIMENT CONTROL** - measures that prevent eroded sediment from leaving the site.

**SENSITIVE AREAS** - cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, and habitats for threatened, endangered or special concern species.

**SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01** - a permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES - General Permit for Storm Water Discharges from Municipal Separate Storm Water Sewer Systems GP-02-02** - a permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA and/or NYSDEC established water quality standards and/or to specify storm water control standards

**STABILIZATION** - the use of practices that prevent exposed soil from eroding.

**STOP WORK ORDER** - an order issued which requires that all construction activity on a site be stopped.

**STORM WATER** - rainwater, surface runoff, subsurface drainage and snowmelt.

**STORM WATER MANAGEMENT** - the use of structural or non-structural practices that are designed to reduce storm water runoff and mitigate its adverse impacts on property, natural resources and the environment.

**STORM WATER MANAGEMENT FACILITY** - one or a series of storm water management practices installed, stabilized and operating for the purpose of controlling storm water runoff.

**STORM WATER MANAGEMENT OFFICER (City Engineer)** – 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 City Engineer is designated by the City to accept and review storm water pollution prevention plans, forward the plans to the applicable municipal board and inspect storm water management practices

**STORM WATER MANAGEMENT PRACTICES (SWMPs)** - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to storm water runoff and water bodies.

**STORM WATER POLLUTION PREVENTION PLAN (SWPPP)** - a plan for controlling storm water runoff and pollutants from a site involving a disturbance equal to or greater than one acre during and after construction activities.

**STORM WATER RUNOFF** - flow on the surface of the ground, resulting from precipitation.

**STREAM CHANNEL** - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water (see also Watercourse, Waterway).

**SURFACE WATERS OF THE STATE OF NEW YORK** - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**WATERCOURSE** - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water (see also Stream Channel, Waterway).

**WATERWAY** - a channel that directs surface runoff to a watercourse or to the public storm drain (see also Stream Channel, Watercourse).

**WETLAND** - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

## **§174-7 Storm Water Pollution Prevention Plans**

### **A. Storm Water Pollution Prevention Plan Requirement**

No application for approval of a land development or redevelopment activity shall be reviewed until the Planning Board or City Engineer has received a Storm Water Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this Chapter.

### **B. Contents of Storm Water Pollution Prevention Plans**

- (1) All SWPPPs shall provide the following background information and erosion and sediment controls:
  - (a) Background information about the scope of the project, including location, type and size of project;
  - (b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the storm water discharges(s). The Site map should be at a scale no smaller than 1"=100';
  - (c) Description of the soil(s) present at the site;
  - (d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
  - (e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in storm water runoff;
  - (f) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to storm water, and spill -prevention and response;
  - (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
  - (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

- (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
  - (j) Temporary practices that will be converted to permanent control measures;
  - (k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
  - (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
  - (m) Name(s) of the receiving water(s);
  - (n) Delineation of SWPPP implementation responsibilities for each part of the site;
  - (o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
  - (p) Any existing data that describes the storm water runoff at the site.
- (2) Land development or redevelopment activities as defined in Section 6 of this Chapter and meeting Condition “A”, “B” or “C” below shall also include water quantity and water quality controls (post-construction storm water runoff controls) as set forth in Section 174-7.B(3) below as applicable:

Condition A - Storm water runoff from land development or redevelopment activities discharging a pollutant of concern to either an impaired water identified on the Department’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in storm water have been identified as a source of the impairment.

Condition B - Storm water runoff from land development or redevelopment activities disturbing five (5) or more acres.

Condition C - Storm water runoff from land development or redevelopment activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

- (3) SWPPP Requirements for Condition A, B and C:
- (a) All information in Section §174-7.B(1) of this Chapter;
  - (b) Description of each post-construction storm water management practice;

- (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction storm water management practice;
- (d) Hydrologic and hydraulic analysis for all structural components of the storm water management system for the applicable design storms;
- (e) Comparison of post-development storm water runoff conditions with pre-development conditions;
- (f) Dimensions, material specifications and installation details for each post-construction storm water management practice;
- (g) Maintenance schedule to ensure continuous and effective operation of each post-construction storm water management practice;
- (h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
- (i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site storm water management measures in accordance with Section 9 of this Chapter; and (J) For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all storm water management practices meet the requirements in this Chapter.

**C. Other Environmental Permits**

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development or redevelopment activity prior to approval of the final storm water design plan.

**D. Contractor Certification**

- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or storm water management practice installation shall sign and date a copy of the following certification statement before undertaking any land development or redevelopment activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Storm Water Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- (2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- (3) The certification statement(s) shall become part of the SWPPP for the land development activity.

**E. Posting of Storm Water Pollution Prevention Plan**

A copy of the SWPPP shall be retained at the site of the land development or redevelopment activity during construction from the date of initiation of construction activities to the date of final stabilization.

**F. Requirements for Land Development/Redevelopment Activity for Less than One Acre**

Activities involving land development, redevelopment or land disturbances less than one acre are subject to the requirements of Chapter 173 of the City Code.

**§174-8 Performance and Design Criteria for Storm Water Management Plans**

All land development or redevelopment activities equal to or greater than one acre shall be subject to the following performance and design criteria:

**A. Technical Standards**

For the purpose of this Chapter, the following documents shall serve as the official guides and specifications for Storm Water Management Plans (SWMPs) prepared under §174-7.B. Storm water management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

- (1) The New York State Storm Water Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).
- (2) New York State Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2005, most current version or its successor, hereafter referred to as the Erosion Control Manual).

**B. Equivalence to Technical Standards**

Where storm water management practices are not in accordance with technical standards, the applicant or developer must demonstrate to the City equivalence to the technical standards set forth in §174-8.A of this Chapter and the SWPPP shall be prepared by a licensed professional.

**C. Water Quality Standards**

Any land development or redevelopment or land disturbance activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

**§174-9 Maintenance, Inspection and Repair of Storm Water Facilities**

**A. Maintenance and Inspection During Construction**

- (1) The applicant or developer of the land development or redevelopment activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this Chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- (2) For land development, redevelopment or land disturbance activities as defined in Section 6 of this Chapter and meeting Condition A, B or C in §174-7.B(2) of this Chapter, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.
- (3) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all storm water management and erosion and sediment control practices.

**B. Maintenance Easement(s)**

Prior to the issuance of any approval that has a storm water management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the storm water management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the City to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Chapter. The easement shall be recorded by the grantor in the office of the City Clerk after approval by the counsel for the City.

**C. Maintenance after Construction**

The owner or operator of permanent storm water management practices installed in accordance with this Chapter shall ensure they are operated and maintained to achieve the goals of this Chapter. Proper operation and maintenance also includes as a minimum, the following:

- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this Chapter.
- (2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SWMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with §174-8.C of this Chapter.

**D. Maintenance Agreements**

The City shall approve a formal maintenance agreement for storm water management facilities binding on all subsequent landowners and recorded in the office of the City Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this Chapter entitled Sample Storm Water Control Facility Maintenance Agreement. The City, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future storm water management facility, provided such facility meets all the requirements of this Chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

**§174-10 Construction Inspection**

**A. Inspection**

The City Engineer may require such inspections as necessary to determine compliance with this Chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the storm water pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the City enforcement official at least 48 hours before any of the following as required by the City Engineer:

- (1) Start of construction
- (2) Installation of sediment and erosion control measures
- (3) Completion of site clearing
- (4) Completion of rough grading
- (5) Completion of final grading
- (6) Close of the construction season
- (7) Completion of final landscaping
- (8) Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the City Engineer.

**B. Storm Water Management Practice Inspections**

The City Engineer is responsible for conducting inspections of storm water management practices (SWMPs). Inspections may be performed by City staff or the City Engineer may designate an inspector required to have a Professional Engineer's (PE) license or Certified Professional in Erosion and Sediment Control (CPESC) certificate, as long as the designated inspector is required to submit a report. All applicants are required to submit "as built" plans for any storm water management practices located on-site after final construction is completed. The plan must show the final design specifications for all storm water management facilities and must be certified by a professional engineer.

**C. Inspection of Storm Water Facilities After Project Completion**

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NYSDEC SPDES General Storm Water Permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other storm water management practices.

**D. Submission of Reports**

The City Engineer may require monitoring and reporting from entities subject to this Chapter as are necessary to determine compliance with this Chapter.

**E. Right-of-Entry for Inspection**

When any new storm water management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in §174-10.C.

**§174-11 Performance Guarantee**

**A. Construction Completion Guarantee**

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the City in its

approval of the Storm Water Pollution Prevention Plan, the City may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the City as the beneficiary. The security shall be in an amount equal to 20% of the anticipated cost of the work covered by the permit issued for the project, not to exceed \$5,000 or in an amount to be determined by the City based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the City, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the City. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

**B. Maintenance Guarantee**

Where storm water management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the City with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all storm water management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain storm water management and erosion and sediment control facilities, the City may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

**C. Recordkeeping**

The City may require entities subject to this Chapter to maintain records demonstrating compliance with this Chapter.

**§174-12 Enforcement and Penalties**

**A. Notice of Violation**

When the City determines that a land development or redevelopment activity is not being carried out in accordance with the requirements of this Chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- (1) The name and address of the landowner, developer or applicant;
- (2) The address when available or a description of the building, structure or

land upon which the violation is occurring;

- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the land development or redevelopment activity into compliance with this Chapter and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the City by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

**B. Stop Work Orders**

The City may issue a stop work order for violations of this Chapter. Persons receiving a stop work order shall be required to halt all land development or redevelopment activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the City confirms that the land development or redevelopment activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Chapter.

**C. Violations**

Any land development or redevelopment activity that is commenced or is conducted contrary to this Chapter, may be restrained by injunction or otherwise abated in a manner provided by law.

**D. Penalties**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Chapter shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this Chapter 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.

**E. Withholding of Certificate of Occupancy**

If any building or land development or redevelopment activity is installed or conducted in violation of this Chapter the City Engineer may prevent the occupancy of said building or land.

**F. Restoration of lands**

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until aid.

**§174-13 Fees for Services**

- A. The City may require any person undertaking land development or redevelopment activities regulated by this Chapter to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SWMP maintenance performed by the City or performed by a third party for the City.
- B. Upon the filing of an application for a Storm Water Management and Erosion and Sediment Control Permit, the all applicable application and inspection fees shall be paid. the City Council shall set said fees annually by resolution before adoption of the budget.

**§174-14 Severability**

If the provisions of any Chapter, section, subsection, paragraph, subdivision or clause of this Chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any Chapter, section, subsection, paragraph, subdivision or clause of this Chapter.

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

**Schedule A**

**Storm Water Management Practices Acceptable for Water Quality (From: New York State Storm Water Management Design Manual, Table 5.1)**

Group	Practice	Description
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<b>Pond</b>	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A storm water wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
<b>Wetland</b>	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
<b>Infiltration</b>	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
<b>Filtering Practices</b>	Surface Sand Filter (F-1)	A filtering practice that treats storm water by settling out larger particles in a sediment chamber, and then filtering storm water through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats storm water as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as

		compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats storm water as it flows through a soil matrix, and is returned to the storm drain system.
<b>Open Channels</b>	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of storm water runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

**Schedule B**

**SAMPLE STORM WATER CONTROL FACILITY  
MAINTENANCE AGREEMENT**

Whereas, the City of Rye (“City”) and the \_\_\_\_\_ (“facility owner”) want to enter into an agreement to provide for the long term maintenance and continuation of storm water control measures approved by the City for the below named project, and

Whereas, the City and the facility owner desire that the storm water control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the City and the facility owner agree as follows:

- 1 This agreement binds the City and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
- 2 The facility owner shall maintain, clean, repair, replace and continue the storm water control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The storm water control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
- 3 The facility owner shall be responsible for all expenses related to the maintenance of the storm water control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
- 4 The facility owner shall provide for the periodic inspection of the storm water control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a

- Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the City within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the storm water control measures.
- 5 The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the storm water control measures except in accordance with written approval of the City.
- 6 The facility owner shall undertake necessary repairs and replacement of the storm water control measures at the direction of the City or in accordance with the recommendations of the inspecting engineer.
- 7 The facility owner shall provide to the City within 30 days of the date of this agreement, a security for the maintenance and continuation of the storm water control measures in the form of (a Bond, letter of credit or escrow account).
- 8 This agreement shall be recorded in the Office of the City Clerk, City of Rye together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to \_\_\_\_\_.
- 9 If ever the City determines that the facility owner has failed to construct or maintain the storm water control measures in accordance with the project plan or has failed to undertake corrective action specified by the City or by the inspecting engineer, the City is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the storm water control measures and to affix the expenses thereof as a lien against the property.
- 10 This agreement is effective \_\_\_\_\_

**ROLL CALL:**

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

5. Public hearing on a local law to amend Chapter 170, Subdivision of Land, of the Code of the City of Rye Regarding Storm Water Pollution Prevention Plan Requirements

See discussion in Agenda Item #4 above for public hearing, comments and SEQRA Negative Declaration:

Mayor Otis made a motion, seconded by Councilman Cunningham, to adopt the following local law:

**City of Rye  
Local Law No. 7-2007**

**A Local Law to Amend Chapter 170, Subdivision of Land,  
of the Code of the City of Rye Regarding**

**Storm Water Pollution Prevention Plan Requirements**

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

**Section 1. Chapter 170, Subdivision of Land, Article V, Section 170-20 of the Code of the City of Rye is hereby amended to add the following subsection:**

L. A Storm Water Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 174 of this Code shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 174 Section 7 of this Code. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this Code.

**Section 2. Chapter 170, Subdivision of Land, Article V, Section 170-21 of the Code of the City of Rye is hereby amended to add the following subsection:**

G. A Storm Water Pollution Prevention Plan consistent with the requirements of Chapter 174 of this Code and with the terms of preliminary plan approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 174, Section 7 of this Code. The approved Final Subdivision Plat shall be consistent with the provisions of this Code.

**Section 3. This local law shall take effect immediately upon filing in the Office of the Secretary of State.**

ROLL CALL:

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

NAYS: Councilman Seitz

ABSENT: None

6. Public hearing on a local law to amend Chapter 173, Surface Water, Erosion and Sediment Control, of the Code of the City of Rye

See discussion in Agenda Item #4 above for public hearing, comments and SEQRA Negative Declaration:

Mayor Otis made a motion, seconded by Councilman Fahey, to adopt the following local law:

**City of Rye**

**Local Law No. 6-2007**

**A Local Law to Amend Chapter 173,  
Surface Water, Erosion and Sediment Control,  
of the Code of the City of Rye**

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

**Section 1. Chapter 173, *Surface Water, Erosion and Sediment Control*, Section 173-2 of the Code of the City of Rye is hereby amended to read as follows:**

**§ 173-2. Permit required for certain work.**

No person shall commence or carry out any development or land-disturbing activity involving less than one acre on any lot(s) in the City of Rye without first obtaining a surface water, erosion and sediment control permit from the City Engineer, and thereafter complying with the requirements of this chapter. Any development or land-disturbing activity involving equal to or greater than one acre shall comply with the requirements of Chapter 174.

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

ROLL CALL:

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

NAYS: Councilman Seitz

ABSENT: None

7. Resolution to adopt the 2008 Budget and establish the 2008 tax levy and 2008 tax rate

Mayor Otis said the amended 2008 budget now calls for a tax rate of \$131.49, a 3.34% increase over the 2007 tax rate. The adopted tax rate of \$131.49 is a decrease from the \$132.98 tax rate proposed in the 2008 tentative budget which would have represented a 4.51% increase over the 2007 tax rate. He said the staff, reflecting Council wishes, has made a big effort to cut some spending by eliminating two proposed new positions; to increase some fees and amend the list of capital projects to make the repaving of the Boston Post Road possible.

Councilman Seitz said the tax rate was still too high and proposed raising an additional \$110,000; applying \$37,954 to the Rye Free Reading Room (RFRR) and using the balance to reduce taxes below 3%. In essence, the way he plans to raise the funds is to amend the City's

Financial Policies to provide that if, during any year, final audited numbers for the prior year shall be over the anticipated, budgeted amount, the Council may transfer some of these funds to the general fund as long as the undesignated fund balance is no less than 6% of the General Fund expenditures. He pointed out that the City always budgets conservatively and has consistently been able to post higher than anticipated elastic revenue. The result of this is that each year the tax rate is set at a level higher than it could have been because once the funds go into undesignated fund balance they can no longer be used for operating expenses. Councilman Hennes pointed out that these funds are not “lost” but are available to be used for capital projects which reduces the need for additional debt and leaves us in a good financial position when hard times come. He feels this proposal to use one-time elastic revenues for ongoing operational expenses is an unsound policy and he is totally opposed to changing this financial policy which he considers the most important one the Council has adopted. Councilmen Fahey and Pratt concurred, as did Catherine Parker, Councilwoman-elect. Councilman Pratt noted that the Finance Committee had worked very hard in developing the financial policies, specifically on the issue of the appropriate level and use of fund balance. Mayor Otis said his “lock box” idea to do projects only if funds are available is the same concept, but for capital projects only and not for recurring expenses, such as extra funds for the RFRR. Councilman Pratt concurred, asking what the RFRR would then do if the funds were not available.

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

**RESOLVED**, that the Financial Policies of the City of Rye be amended so that \$110,000 can be released from the undesignated fund balance using \$37,954 to increase the allocation to the Rye Free Reading Room and the balance to reduce the tax rate.

**ROLL CALL:**

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

The resolution failed to pass by a vote of 1-6

Councilman Cunningham reported that the Recreation Commission did meet to discuss raising an additional \$50,000 from fees and they felt they had carefully reviewed all criteria and that 47% was an appropriate return. Mayor Otis said next year he would like to further examine the Mooring Program and Fees, the Demolition Fees and to see if there is a way to be more supportive of the RFRR. Councilman Hennes said he appreciated all the efforts of the staff to reduce the tax rate and while he would have liked to see it lower, he is satisfied with the present result. He said everyone was doing a good job of keeping the tax rate low with no loss of services. Councilman Seitz said he is concerned that the Council has not provided funds for the two new positions because he is afraid the staff will not be able to continue to provide all the necessary services. Councilman Cunningham reminded him the position of the Environmental Coordinator is still in the budget.

There being no further discussion on the proposed 2008 budget, Councilman Hennes made a motion, seconded by Councilman Fahey to adopt the following resolution:

**WHEREAS**, on November 7, 2007 the 2008 Tentative Budget was presented to the City Council, and,

**WHEREAS**, since November 7, 2007 the City Council has adopted several amendments to the 2008 Tentative Budget, now, therefore be it

**RESOLVED**, that the tentative budgets and fee schedules as amended for the General Fund, Cable TV Special Revenue Fund, K.T. Woods Permanent Fund, Debt Service Fund, Capital Projects Fund, Boat Basin Enterprise Fund, Golf Club Enterprise Fund, Risk Retention Internal Service Fund and Building and Vehicle Maintenance Internal Service Fund, are hereby adopted for the fiscal year ending December 31, 2008, and be it further

**RESOLVED**, that the City Council does hereby certify to the City Comptroller the 2008 City of Rye tax rate of \$131.49 per \$1,000 taxable assessed valuation and the 2008 City of Rye tax levy of \$18,286,992; and be it further

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

**ROLL CALL:**

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

Councilman Seitz said he felt the tax rate was still too high and could have been lowered if the Council had taken some of his suggestions about increasing revenue so he could not support the budget as proposed.

Mayor Otis noted that in 2008 the Council will have to address sources of funding for flood expenses, but this is a good budget and he thanked everyone for working hard on it; asking good questions and finding solutions.

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

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

**RESOLVED**, that the City Comptroller is hereby authorized to make the necessary 2007 fiscal year-end budget transfers in City accounts, provided a list of such transfers is furnished to the City Council after completion of such transfers.

ROLL CALL:

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

NAYS: None

ABSENT: None

9. Resolution to appropriate fund balance for legal services

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

**WHEREAS**, the City has incurred costs in the amount of approximately \$60,000 for legal services that were not anticipated in the adoption of the 2007 General fund budget; now, therefore, be it

**RESOLVED**, that \$60,000 be appropriated from General Fund balance to fund legal services in the Law budget.

ROLL CALL:

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

NAYS: None

ABSENT: None

10. Resolution to authorize participation in Westchester County contracts

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

**WHEREAS**, by Act No. 8-1983, The County Board of Legislators authorized the County Purchasing Agent to act as Purchasing Agent for any city, town, village, school district or other unit of local government within the County of Westchester County, provided that said unit of local government by act,

ordinance or resolution authorizes the County Purchasing Agent to act as its Purchasing Agent for items purchased by the County, and empowering designated officers and employees to sign requisitions, and further directing the proper official of local government to audit and pay County bills for the cost of County services within thirty (30) days after the receipt of said bill by the local government, and to provide the County with such insurance coverage as may be required by the County's Director of Risk Management, NOW, THEREFORE, be it

**RESOLVED**, that the County Purchasing Agent is hereby authorized to act as Purchasing Agent for the City of Rye, New York on a continuing basis, and be it further

**RESOLVED**, that the City Manager, the Assistant City Manager, the City Comptroller, and/or the City Engineer are hereby authorized to sign appropriate requisitions, and be it further

**RESOLVED**, that the City Comptroller is hereby authorized and directed to audit and pay County bills for the cost of County services within thirty (30) days after receipt of said bills, and be it further

**RESOLVED**, that the City Comptroller is hereby authorized to secure and provide to the County of Westchester any and all insurance required by the County's Director of Risk Management, in Accordance with County Act No. 8-1983.

ROLL CALL

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

11. Consideration of amendment of § 191-6 (B) of the City Code, "Traffic Regulations," to reverse the direction of one way traffic on Hewlett Avenue during certain hours from westbound to eastbound

City Manager Paul Shew asked the Council to consider reversing the direction of one way traffic on Hewlett Avenue during certain hours from westbound to eastbound now that the construction of Milton School is finished. School Superintendent Ed Shine has asked that this change be made during the Christmas Holiday brake. Changing the signs should be coordinated between the Police Department, the Department of Public Works and the Schools. This

amendment changes the traffic back to the way it was so it was decided the change could be made without an official public hearing. All resources available to the City and the Schools should be used to notify the neighborhood and public of the change.

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

**RESOLVED**, that Section 191-6(B) of the City Code, "Traffic Regulations," be amended to reverse the direction of one-way traffic on Hewlett Avenue during certain hours from westbound to eastbound returning the traffic pattern altered in May, 2005.

ROLL CALL:

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

NAYS: None

ABSENT: None

12. Resolution to accept Child Passenger Safety Program Grant

Councilman Hennes made a motion, seconded by Councilman Cunningham, to adopt (with congratulations for a good, well run program) the following resolution:

**WHEREAS**, the City of Rye has been awarded a New York State grant in the amount of \$4250 for participation in the statewide 2006/2007 "Child Passenger Safety" program; now, therefore, be it

**RESOLVED**, that the City of Rye accepts the aforementioned grant.

ROLL CALL:

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

NAYS: None

ABSENT: None

13. Resolution fixing January 2, 2008 as the first regular meeting and the organizational meeting of the City Council for 2008

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

**RESOLVED**, that January 2, 2008 is hereby fixed as the first regular and the organizational meeting of the City Council.

Mayor Otis announced that the Swearing-In Ceremony for the new Council Members would take place on January 1, 2008 at 4 P.M. He said everyone was welcome to attend this very nice right of passage.

14. Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2008

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

**RESOLVED**, that the Mayor be and hereby is authorized to execute an agreement with the Rye Free Reading Room to furnish library services for 2008.

ROLL CALL:

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

NAYS: None

ABSENT: None

15. Miscellaneous communications and reports

Councilman Cunningham congratulated the Police Department for solving the recent outbreak of burglary cases. He said it was great detective work and being able to arrest the burglar returned peace of mind to the community.

Councilman Cunningham thanked departing Councilmen Fahey, Hennes and Seitz saying it had been a pleasure to serve with them and he had learned a lot. He presented a new egg timer to Councilman Seitz who presented the old one to Mayor Otis! Mr. Pratt also said it had been a pleasure, reiterating how much extra, unseen work goes into the job. Councilman Ball echoed the sentiments and thanked them for staying on message and presenting bold new ideas. He said they would be missed.

16. Old Business

There was no old business to be discussed.

17. New Business

There was no new business to be discussed.

18. Draft unapproved minutes of the budget workshop held on November 26, 2007, the budget workshop and regular meeting held on November 28, 2007

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to approve the minutes of the budget workshop held on November 26, 2007 as submitted.

Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to approve the minutes of the budget workshop and regular meeting held on November 28, 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 10:05 P.M.

Respectfully submitted,

Susan A. Morison  
City Clerk