

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on January 16, 2008 at 8:00 P.M.

PRESENT:

ANDREW C. BALL
MACK CUNNINGHAM
PAULA J. GAMACHE
CATHERINE F. PARKER
GEORGE S. PRATT, Acting Mayor
Councilmembers

ABSENT: STEVEN OTIS, Mayor
JOSEPH A. SACK

The Council convened at 7:15 P.M. Councilman Ball made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn to an attorney/client meeting to discuss pending litigation being handled by the Corporation Counsel's office at 7:16 p.m. Councilman Ball made a motion, seconded by Councilwoman Parker to close the attorney/client meeting at 8:18 P.M. The Council reconvened at 8:20.

1. Pledge of Allegiance

Councilman Pratt, serving as Acting Mayor for Mayor Otis who was unable to attend because of a family emergency, called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

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

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

Marian Shea, Brookdale Place and Chair of the Rye Senior Advocacy Committee, inquired about the status of the Memorandum of Understanding requested with ElderServe in White Plains. She said the Committee is starting on a new initiative to help Senior Citizens remain in their homes. This initiative requires a working arrangement with ElderServe and will also require the addition of two more people to serve on their Committee as they expect Rye to be taking a leadership role in this new initiative. City Manager Paul Shew said he had met with Westchester County Senior Programs and Services Commissioner Mae Carpenter and will be meeting with Joan Caserta, Director for Elderserve to coordinate how ElderServe dovetails with this new Senior Living initiative. Mrs. Shea was reminded that the addition of new members to her committee would require amending the code of the City of Rye.

John Carolin, 66 Milton Road, said he wished to postpone his comments about the Senior Citizen Golf Membership until the full Council could be present.

4. Resolution endorsing naming the Rye Post Office in honor of Caroline O'Day

Paul Hicks, 637 North Street asked the Council to endorse a proposal to name the Rye Post Office in honor of Caroline O'Day. He provided a brief synopsis of Mrs. O'Day's contributions to Rye including her service on the Rye School Board, the League of Women Voters and in the Women's Suffrage movement. At the age of 65 she was elected as Congresswoman-at-Large and represented our community in Washington from 1936-1943. As such she was instrumental in seeing that WPA funds were directed to Rye for a new post office. She presided at the opening by cutting the ribbon and providing the principal remarks. Mr. Hicks said there are precedents to rename post offices throughout the United States and in our area Tuckahoe has recently renamed their facility in honor of Robert Merrill. He said Congresswoman Lowey is ready to support the suggestion should it have the support of the City Council. Mrs. O'Day's grandson, *Dan O'Day, Kirby Lane* said his grandparents lived on Grace Church Street and later moved to Sunset (Hunter) Lane. Mr. Hicks has just published a long article on Mrs. O'Day in the New York State Historical Association magazine. Councilman Ball pointed out that his Great Aunt Theresa was the first postmistress to serve in the new building and the proposal has his full support.

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

WHEREAS, Caroline O'Day, a long-time resident of Rye, contributed to our community in many civic ways, including service as head of the Rye School Board; and

WHEREAS, Mrs. O'Day, as a member at large of the House of Representatives from 1935 to 1943, establishing a reputation as an effective legislator with a strong interest in social welfare measures and only the second Congresswoman to chair a major committee (Committee on Election of President, Vice President and Representatives); and

WHEREAS, Mrs. O'Day, while a member of Congress, was instrumental in hastening the building of Rye's Post Office and was on hand to cut the ceremonial ribbon on September 5, 1936; now, therefore, be it

RESOLVED; that the City Council of the City of Rye, endorses the proposal to name the Post Office through the appropriate legislative process as the Caroline O'Day Post Office in honor of this extraordinary Rye citizen.

ROLL CALL:

AYES: Acting Mayor Pratt, Councilmembers Ball, Cunningham, Gamache
and Parker
NAYS: None
ABSENT Mayor Otis, Councilman Sack

5. Continuation of public hearing related to Cable Franchise Agreement with Cablevision

Acting Mayor Pratt reconvened the public hearing related to a Cable Franchise Agreement with Cablevision. Assistant Manager Scott Pickup noted that the Council had a new version of the agreement before them and staff recommends approval to adopt it be given. Acting Corporation Counsel Kristen Kelly Wilson said some of the suggestions made by Rye Cable Committee member Judge John Carey had been incorporated and Counsel also recommended adoption. Both she and Mr. Pickup noted there were other suggestions made by Mr. Carey (such as the issue of moving the lineup) which would be better addressed at a later time. They also noted that Cablevision has submitted a proposal concerning the past-due Public Educational Government (PEG) funds due the City of Rye which would be reviewed by Counsel; they have informed Peter Mustic, Superintendent of the Rye Neck Schools concerning the fourth channel; and the insurance as written has been approved by the City's carrier. Acting Mayor Pratt noted that this is the second agreement the Council has reviewed and, having learned a lot by going through the process with Verizon, they are in a good position to judge this agreement. He thanked staff, counsel, the Cable TV Committee and Cablevision for a good collaborative effort. Andy Ball, Cable TV Committee liaison particularly thanked former Mayor John Carey for his expertise and passion in reviewing and guiding these agreements.

Judge Carey introduced a new issue, namely that Cablevision has just announced that it is seeking permission to deregulate the basic tiers which will mean an immediate increase and he urged the Council to amend the agreement to include increases no greater than the cost of living. After discussion, it was agreed that this issue has not even been formally posted, will have to be discussed by the Public Service Commission and was an issue which would have to be handled on a State or Federal level. It was agreed that when it was the proper time the City Council should comment on the proposal, but that taking up this issue now would not give any leverage to go back to Verizon and it should not be done.

Robert Hoch, Director of Government Affairs for Cablevision, thanked the City's negotiating team for all their hard work and noted that the hard work of the Council on the Verizon agreement had been additive and helpful. He said this agreement covers a 10 year period; covers the whole City of Rye which is fully built out with 23 cable drops; one free internet at City Hall, the Rye Free Reading Room and the Schools; that the PEG fee is \$25,000 per year (the same as Verizon netting the City a total of \$50,000 per year; there are 6 PEG access origination areas and a 5% franchise fee waiver of right to offset property taxes. Councilman Cunningham expressed concern on the cap on audit fees, but was assured up-front audit fees are usually a percentage of costs and there would not be a burden to the City. *Joe Murphy, advisor to the Rye Senior Advocacy Committee* suggested one of the free PEG access origination areas should be at Rye Manor, but this is not a municipal facility and making an exception would take

more research. Basically this agreement is the same as the one with Verizon except that Verizon has to build out their network whereas Cablevision has completed this job.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the adoption of the proposed Cable Franchise Agreement from Cablevision presented to the Council dated December 28, 2007 and subsequently amended; and that it is, hereby, further

RESOLVED, that the City Manager of the City of Rye is hereby authorized to enter into a Cable Franchise Agreement by and between the City of Rye and Cablevision of Southern Westchester, Inc.

ROLL CALL:

AYES: Acting Mayor Pratt, Councilmembers Ball, Cunningham, and Gamache

NAYS: Councilwoman Parker

ABSENT Mayor Otis, Councilman Sack

6. Ratification of Memorandum of Agreement with CSEA DPW

City Manager Paul Shew said the Council had charged the Staff to negotiate in the spirit of making legacy changes. They have done so which has made the negotiations more difficult, have led to mediation but ultimately to an agreement which meets the spirit of the Council directive and real world objectives. He said the proposed Memorandum of Agreement (MOA) has been ratified by the CSEA Local 860 DPW Unit (the largest in the City). Assistant Scott Pickup said the MOA provides for health insurance alternatives which will offer personal decisions and mirror existing benefits. The cost will be beneficial for both the employees and the City. He noted this wage and benefit package also ties in performance to advancement so that all employees in Enterprise Fund areas will need positive evaluations for consideration. The MOA includes increased steps, salary increases of 3.4% retroactive to 2007, 3.2% in 2008 and 3.2% in 2009 and better health coverage. He feels the MOA will enhance the working relationship with employees and it is hoped that a similar arrangement can be worked out with the Clerical Bargaining Unit. There were no comments from members of the Bargaining Unit.

Acting Mayor Pratt made a motion, seconded by Councilman Cunningham, to adopt the following resolutions:

WHEREAS, the City of Rye and the Rye CSEA Local 860 DPW Unit have negotiated a new Memorandum of Agreement which will replace the agreement which expired on December 31, 2006; and

WHEREAS, the CSEA DPW Unit ratified the proposed terms of the MOA; now, therefore, be it

RESOLVED, that the City Council approve the three year contract MOA between the RYE CSEA Local 860 DPW Unit for the contract period of 1/1/07 – 12/31/09

ROLL CALL:

AYES: Acting Mayor Pratt, Councilmembers Ball, Cunningham, Gamache and Parker
NAYS: None
ABSENT Mayor Otis, Councilman Sack

7. Consultant presentation and discussion of proposed Boston Post Road Lane Reduction Project

City Planner Christian Miller said the Council has been provided with the Boston Post Road (BPR) Design Feasibility Study (the “Diet”), prepared by Buckhurst, Fish and Jacquemart which proposes a project to reduce the number of lanes on the BPR from four to two. He said the report is the culmination of a discussion requesting ideas to promote walking combined with the plans to repave the road during 2008. The “Diet” is an idea to retrofit the road to make it more pedestrian safe as well as ensure all lanes meet current standards. The purpose of tonight’s presentation is to see if the Council wishes to proceed with this concept. He introduced *Georges Jacquemart* who presented the report which calls for the reduction of lanes from four to two with left and right-hand turns at most intersections, a striped median, and wider shoulders (there is not room for a full bike lane). Mr. Jacquemart reported that their traffic study revealed that the number of injuries on the BPR per year is relatively high, that the volume per day can sustain a “diet” and the new plan would reduce speeding and increase safety. He said it would be cost effective and would provide significant improvements to a road that currently does not meet desired traffic engineering standards.

Brian Dempsey, Chair of the Traffic and Transportation (T&T) Committee, endorsed the idea saying T&T is interested in any plan which would provide slower speeds and more pedestrian safety, especially as this plan would move the cars away from the curb.

Larry Lehman, 10 Chester Drive, former Chair of the T&T Committee and a traffic engineer, agreed the BPR is dangerous but urged the Council not to rush to judgment saying the cure might be worse than the disease. He suggested the plan should be developed on a much larger scale; peak hours (such as getting out of the Rye Golf Club when the pool closes) should be evaluated and emergency vehicle passage should be addressed.

The Council had questions concerning the proposal. *Wouldn’t Mamaroneck object to a “diet” near Rye Neck High School?* The road would be maintained with four lanes at that section to take care of the pick-up and drop off traffic. *How will one get on and off the medians?* The July 2007 plan proposed raised medians, but the plan has been changed to provide painted/flush medians which would allow vehicles to drive over the striping and turn into residential driveways. *Why is there more traffic recorded for Soundview than Glen Oaks?* There are more ways to get to Glen Oaks. Soundview is a large neighborhood with only one means of access. *How does it affect emergency services?* There is enough distance between the curb so

trucks can pass, especially since a raised median is no longer proposed. *How will the "diet" affect the High School?* It will have no effect because it is already tapered as the road narrows to two lanes at Parsons Street. *The traffic diverted from I-95 will not stop. Can the two lanes handle this?* Yes. *Will further discussion about this plan affect plans to repave the road this year?* No. It would be more efficient, if the "Diet" is to be done, to do it at the same time as the repaving, but this does not have to happen. *What would be the next steps to further the progress of this proposal?* To proceed with an engineered design of the "Diet" and bid specifications.

After further discussion the Council authorized staff to prepare plans showing the BPR "Diet" plans in more detail. The Council also encouraged more discussion about the proposal. Councilman Cunningham wanted to break the plan into sections, starting with the section between the High School and the Osborn School. Councilwoman Gamache suggested District 1 (which would be the most affected) should be offered a special time for public comment and additional information.

8. Authorization for outside counsel to settle Croton Landfill litigation

Acting Corporation Counsel Kristen Wilson explained that the City of Rye was one of many named defendants in an action filed in March 2006 in Federal Court by a group of industrial companies, referred to as the Croton Point Landfill Joint Defense Group, seeking recovery of remedial response costs already paid to reimburse New York State and Westchester County for remediation of the Croton Point Sanitary Landfill for allegedly disposing of wastes at the Landfill. The Council authorized the City Manager to enter into a Joint Defense Agreement wherein a defense for the City was provided by James Periconi, Esq. As a result of mediation the amount demanded of the City has been reduced from \$25,000 to \$10,135 (which includes legal fees).

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City's Corporation Counsel to agree to a settlement proposal relating to the Croton Point Landfill litigation in the amount of \$10,135.

ROLL CALL:

AYES: Acting Mayor Pratt, Councilmembers Ball, Cunningham, Gamache and Parker
NAYS: None
ABSENT Mayor Otis, Councilman Sack

9. Discussion of requests for federal funding to be made to Congresswoman Nita Lowey

Acting Mayor Pratt noted that each year Congresswoman Nita Lowey invites municipalities to submit applications for federal funding of local projects. The deadline for submission of requests for fiscal year 2009 is January 23, 2008. He urged Council Members to submit any suggestions for public purpose projects they might have for this list to the City Manager as soon as possible. He noted that the most successful suggestions in past years have related to environmental issues.

9A. Consideration of setting a public hearing to amend penalty section of Chapter 133 relating to construction noise.

City Manager Paul Shew said the legislation before the Council was suggested in recognition that often fines for noise violations are inadequate to have the desired result. Councilwoman Gamache asked how the level of the existing fines had been settled upon and said she would like to look at this more closely.

Acting Mayor Pratt made a motion, seconded by Councilwoman Parker and unanimously carried, to adopt the following resolution:

WHEREAS, the Council wishes to amend Chapter 133, Noise, Sections 133-8(E) (Construction Work restricted to certain hours and days) and Section 133-9 (Penalties for offenses) of the Code of the City of Rye; and

WHEREAS, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

RESOLVED, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on February 13, 2008 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local laws.

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

**PUBLIC NOTICE
CITY OF RYE**

**Notice of Public Hearing to amend Chapter 133, Noise, Sections 133-8(E)
(Construction work restricted to certain hours and days) and Section 133-9
(Penalties for offenses) of the City Code of the City of Rye**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 13th day of February, 2008 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend Chapter 133, Noise, Sections 133-8(E) (Construction work restricted to certain hours and days) and Section 133-9 (Penalties for offenses) of the City Code of the City of Rye.

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

Susan A. Morison, City Clerk
Dated: February 1, 2007

10. Designation of the days and time of regular meetings of the City Council

January 3	May 7	September 3
January 16	May 28	
February 13	June 11	October 1
		October 15
March 5	July 16	November 5
March 19		November 19
April 2	August 6	December 3
April 16	(including Capital Projects)	December 17

11. Two appointments to the Zoning Board of Appeals for three-years terms and one appointment to fill out a term expiring on January 1, 2010, by the Mayor with Council approval

Acting Mayor Pratt made a motion, unanimously approved by the Council, to re-appoint Alan Wiener and to appoint Scott Beechert to the Zoning Board of Appeals for three-year terms expiring January 1, 2011 and to appoint Tamara Mitchel to a two year term also expiring January 1, 2010.

12. Three appointments to the Conservation Commission/Advisory Council for three-year terms, by the Mayor with Council approval

This agenda item was deferred to the next meeting.

13. Three appointments to the Landmarks Advisory Committee for three-year terms, by the Mayor with Council approval

Acting Mayor Pratt made a motion, unanimously approved by the Council, to re-appoint Sid Burke, Dan Kelly, and Richard Hourahan to the Landmarks Advisory Committee for a three-year term expiring January 1, 2011.

14. Designation of the Chairman of the Planning Commission, by the Mayor

Acting Mayor Pratt designated Barbara Cummings as Chairman of the Planning Commission.

15. Two appointments to the Traffic and Transportation Committee for three-year terms, by the Mayor with Council approval

Acting Mayor Pratt made a motion, unanimously approved by the Council, to re-appoint Jim Burke and Edith Burpee to the Traffic and Transportation Committee for a three-year term expiring January 1, 2011.

16. Designation of the following City Council Liaisons by the Mayor

Ambulance Corps – Councilwoman Parker
Board of Appeal – Councilman Ball
Board of Architectural Review – Councilman Sack
Boat Basin Commission – Councilman Pratt
Commission on Human Rights – Councilman Pratt
Conservation Commission/Advisory Council – Mayor Otis, Councilman Pratt
Finance Committee – Councilwoman Gamache
Landmarks Advisory Committee – Councilman Sack
Recreation Commission – Councilman Ball
Rye Beautification Advisory Commission
Rye Cable Television Committee – Councilwoman Gamache
Rye City School Board – Mayor Otis, Councilman Pratt
Rye Free Reading Room – Councilwoman Gamache, Mayor Otis
Rye Golf Club Commission – Councilman Sack
Rye Merchants Association – Councilman Parker
Rye Playland Advisory Committee – Councilwoman Parker
Rye Senior Advocacy Committee – Councilman Ball
Traffic and Transportation Committee – Councilman Cunningham
Youth Advisory Committee

17. Appeal of denial of FOIL request made by Rye Police Association

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

RESOLVED, the appeal of the denial by the City Clerk, a Records Management Officer of the City of Rye, of a F.O.I.L. request for all E-Mail communications relating to a previous F.O.I.L. request made to the MIS Department on November 19, 2007 is denied, pursuant to Section 87(2)(g) of the NYS Public Officers Law.

ROLL CALL:

AYES: Acting Mayor Pratt, Councilmembers Ball, Cunningham, Gamache and Parker

NAYS: None

ABSENT Mayor Otis, Councilman Sack

18. Miscellaneous communications and reports

Councilman Cunningham said he had received complaints that it is hard to find the new medical center on Theall Road and wondered why there were not two signs. The City Manager will talk to the Building Inspector. [NOTE: the Code specifically limits signage to one; to add an additional sign would require a variance for which the Medical Center would have to apply.]

Councilman Cunningham inquired about the Friends Meeting House. Assistant Manager Scott Pickup said two architectural firms have been asked to submit specifications but only one has been received to date. Once an architect has been selected, the proposal will be submitted to the Council. He noted that the Landmarks Committee has an issue with how high to raise the building as part of flood control.

Councilman Cunningham asked if the City could move forward with designing a new Central Avenue Bridge before receiving funds and wanted to know where the City is on all flood projects. Assistant Manager Scott Pickup said all costs for work done prior to receiving State or Federal funds would be non-recoverable, but we could decide to pay for ourselves and move forward now. He said the traffic analysis on the bridge would be ready by the February 13th meeting and he also expects a more specific timeline for all projects to be ready by the February meeting as well.

19. Old Business

Councilman Cunningham said he was perturbed not to be able to access the Recreation Commission Minutes on the City's Web page. [NOTE: Upon investigation, it was determined that they are in fact available on the Web, but not in the usual place. Councilman Cunningham has been so advised and the link to the minutes have been adjusted.]

20. New Business

There will be a public meeting of the Temporary Traffic Safety Committee meeting at 7 P.M. on Thursday, January 17th at the Damiano Center

There will be and Environmental Forum sponsored by the Conservation Commission/Advisory Council and the newly formed Environmental Advocacy Committee of Rye (EACR) at 7:00 P.M. on Wednesday, January 23, 2008 at the Rye Free Reading Room.

21. Draft unapproved minutes of the regular meeting of the City Council held January 2, 2008, and the special meeting/trailways workshop held on January 9, 2008

Acting Mayor Pratt made a motion, seconded by Councilman Cunningham and unanimously carried, to adopt the minutes of the regular meeting of the City Council held January 2, 2008 as amended.

Acting Mayor Pratt made a motion, seconded by Councilman Cunningham and unanimously carried, to adopt the minutes of the special meeting/trailways workshop of the City Council held January 9, 2008 as submitted.

22. Adjournment

There being no further business to discuss, Councilman Cunningham made a motion, seconded by Councilman Ball and unanimously carried, to adjourn the meeting at 11:45 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk