

**APPROVED MINUTES** of the Regular  
Meeting of the City Council of the City of Rye held in  
City Hall on May 7, 2008 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor  
ANDREW C. BALL  
MACK CUNNINGHAM  
PAULA J. GAMACHE  
CATHERINE F. PARKER  
GEORGE S. PRATT  
JOSEPH A. SACK  
Councilmembers

ABSENT: None

The Council convened at 7:10 p.m. Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn to executive session at 7:11 p.m. to discuss real estate negotiations and attorney/client matters. Councilwoman Gamache made a motion, seconded by Councilman Sack to close the executive session at 8:05 p.m. No decisions were made. The Council reconvened at 8:10 p.m. at the Square House for the annual ceremonial meeting.

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.

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Mayor Otis welcomed everyone to the annual Square House meeting. He introduced Ruth Smalt, Executive Director of the Rye Historical Society, who welcomed everyone to a recreation of what City Council meetings looked like prior to 1964 when they moved across the Village Green. Ms. Smalt noted that George Washington had commented in his journal about the quality of the people in Rye, after visiting the then Widow Haviland's Tavern in the early 1700's. She said she agreed with him on that point and saw it in the room this evening. She encouraged everyone to visit the Historical Society's current exhibit *Views of Rye: 1917-2007*.

Mayor Otis said this is an important meeting because it is a good opportunity to get together and renew the long history of volunteers working with the City to make Rye better. He called the *Views of Rye* a testimonial to the volunteers who have made the community what it is.

The Mayor recognized the 20th Anniversary running of the YMCA's Rye Derby as another example of the volunteer spirit of the community that we honor with the Square House ceremony. He then asked the other Council Members for their remarks.

Councilman Pratt thanked the volunteers who assist the City behind the scenes and serve the community. Councilwoman Gamache said that the community is better because of the volunteers. Councilwoman Parker said she is honored to have Rye as her hometown and thinks we are blessed to have each other as neighbors. Councilman Sack remarked on the apostolic nature of volunteerism in Rye and said he always enjoyed coming to this meeting when he served on the Zoning Board and was glad that this portion of the meeting was being taped this year. Councilman Ball said it was a privilege to attend this ceremony and that it was great to be in a building that helps us stay connected to the past and he also wanted to recognize the great work done by staff. Councilman Cunningham said that without the help of the various boards and committees and City staff, the Council would not be able to accomplish all that they do.

Mayor Otis said it was a pleasure to serve with this Council and the great City staff and introduced City Manager Paul Shew who said it was appropriate to be meeting in this room tonight because later this evening the Council would take action to make a significant change on a road used by Benjamin Franklin as a postal road. He then introduced the staff members in attendance.

William Connors	Police Commissioner
Peter Fox	Boat Basin Supervisor
Michael Genito	City Comptroller/Assistant City Manager
George Hogben	Fire Chief
Nicole Levitsky	Rye Cable TV Coordinator
Christian Miller	City Planner
George Mottarella	City Engineer
Dawn Nodarse	City Clerk
Scott Pickup	Assistant City Manager
Kevin J. Plunkett	Corporation Counsel
William Rodriguez	Recreation Supervisor
Sally Rogol	Assistant Recreation Supervisor
Kristen Wilson	Deputy Corporation Counsel

The Mayor welcomed former Mayors in attendance. *Ed Granger*, remarked on the similarity of many issues faced by Councils in his time and today, *John Carey*, opined that RyeTV could offer Presidential candidates an opportunity to conduct traditional "Lincoln/Douglas" type debates and *Warren Ross*, said he was struck by how the Council Members thanked the guests for their service. The Mayor also acknowledged the presence of former Council Members. *Bill Ball*, said it was a pleasure to be invited back and was terrific that people volunteer, *George Latimer*, offered that after working with many other communities, he really appreciates his home community and its form of government, *Joe Latwin*, noted that at one time the entire City government could be run out of this building. *Carolyn Cunningham*, also representing the Planning Commission, said that the longer you live in Rye the more you

appreciate the people who have served the City, *Arthur Stampleman*, said he loved his time on the Council and thanked everyone on the Council for their work and *Bob Cypher*, said it was good to see everyone and encouraged the Council to revive the Youth Advisory Council.

Mayor Otis acknowledged the following members of Rye City Boards, Commissions and Committees:

- *Doug French*, Chair of the Recreation Commission, said this was a favorite night to share among generations and commended Recreation Superintendent Bill Rodriguez for making Rye a better place during his years at the Recreation Department.
- *Nancy Stampleman*, representing the Landmarks Committee, said their Committee works to try to preserve buildings like those in *Views of Rye*.
- *Doris Blank*, Chair of the Rye Cable Committee, said RyeTV provides a conduit between the representatives and citizens and that Rye would be a different community if they did not exist. She also thanked John Carey for his hard work in the cable contract negotiations.
- *Brian Dempsey*, Chair of the Traffic and Transportation Committee, said his committee has been very busy lately with school and Boston Post Road issues and reminded everyone of the Bicycle Rodeo that would be held on May 31<sup>st</sup> at the High School.
- *Joe Murphy*, Chair of the Conservation Commission/Advisory Council, said he has seen good things happening in the nine years he has been on the CCAC and commented on the Environmental Educational Forum that had been held in January. He also said the Senior Advocacy Committee would be addressing the livable community issue.

The Mayor closed the historical portion of the meeting by thanking everyone and saying it is an important tradition that makes Rye better. The meeting reconvened in Council Chambers at 8:59 p.m.

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

*Arthur Stampleman*, 720 Milton Road, asked if City staff could speak to the Post Office about providing more mailboxes around town. *Joe Murphy*, 57 Franklin Avenue, presented a petition signed by 64 Rye Manor residents who are asking for special treatment for access to cable services. He requested that the Council provide a letter of support to Eugene Conroy to let Verizon engineers come in to assess the facility if the City is unable to make the facility a special district. *Fire Chief George Hogben* and *Second Assistant Chief Tony Scarfone* thanked the Council for the additions and renovations to City firehouses and invited the public to an open house at headquarters on May 17<sup>th</sup> from 10 a.m. to 3:00 p.m.

*Jordan Glass*, an attorney representing the environmental group "Heal the Harbor.com", came to speak in opposition to an ongoing construction project on Hen Island, where a variance was granted by the Zoning Board of Appeals. Mayor Otis informed Mr. Glass that since a City Board was a defendant in litigation in connection with the project, the Council would not be commenting on the issue.

4. Update from the September 11<sup>th</sup> Memorial Committee regarding the status of the memorial project.

*Holly O'Neill*, representing the September 11<sup>th</sup> Committee, said that as a result of last year's flooding, the Committee has decided not to proceed with the Memorial and bridge that was previously approved. They are now considering a gazebo because they understand there is precedent for one being located on the Village Green. At this time the Committee is looking to the Council for guidance on how long the process would take, if the Council could help shorten the process, and, if it is worth pursuing. The idea of a gazebo received positive feedback from the Members of the Council and Mayor Otis promised to get back to the Committee quickly with a response to their procedural questions after consulting with City staff and Boards.

5. Continuation of public hearing to amend Chapter 133, Section 133-8 (E) (Noise, Construction work restricted to certain hours and days) and Section 133-9 (Penalties for offenses) of the City Code of the City of Rye.

Mayor Otis said that there has been extensive conversation at the last several meetings on what to do regarding construction noise and the Council has received very good comments from contractors and builders. The Council has tried to respond to the points raised and, therefore, has returned to the original premise of addressing the penalty section by increasing the fines to \$750 with no mandatory minimum and \$1,000 for repeated offenses and allowing for the imposition of a stop-work order for up to 72 hours at the discretion of the Judge. He said that more than increased penalties, voluntary compliance with the law and enforcement by City staff were also necessary.

Public comment on the proposed draft law included: *Joe Latwin, former City Council Member*, who questioned the jurisdiction of City Courts to suspend anyone from doing anything for 72 hours. He believed the power would lie within the jurisdiction of the Supreme Court. Corporation Counsel Kevin Plunkett disagreed saying that the City Council had the power to authorize a City Court Judge to impose the penalty post due process. *Roger Paganelli, local contractor*, asked whom the penalty would be imposed upon. He said he believed the language did not make it clear if the penalty went to the contractor, the subcontractor or the actual operator of the machinery that was in violation of the law. The Mayor answered that the draft before the Council this evening only increases the penalties imposed and retains the language previously in the law. *Bill Lawyer, 15 Hillside Place*, said the law gives the discretion to the police to decide who is issued the violation and hopes people are not able to avoid penalties due to a loophole in the law. Corporation Counsel Plunkett answered that the discretion is given to the City Court Judges. *Mitch Palais, 70 Grace Church Street*, said he hoped the law would be reviewed with the Police Department to ensure enforcement.

In the ensuing Council discussion, the following issues were raised:

- The ultimate goal is compliance with the law and the Council has responded to feedback from the construction industry regarding enforcement and increasing fines.
- When a stop work order is issued, whose work must stop for three days, the operator cited or all work on the site? Should the language that reads "...any person who violates any provision of this chapter..." be changed for purposes of clarity to add "or any owner

of property or any owner's agent who has knowledge that the provision is being violated" or "whosoever authorized the act"?

- Construction rules are printed on building permits but are contractors who do work that does not require a permit given the same notice?
- The law gives discretion to the Judges to impose the penalty for violations of the law that can include monetary penalties, jail time or imposition of a stop-work order against the job site.
- The Council should pass the law that is before it without further modification.

The Mayor closed the public hearing. Councilman Pratt made a motion, seconded by Mayor Otis, to adopt the following local law.

**CITY OF RYE  
LOCAL LAW NO \_\_ -2008**

**A local law 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**

Be it enacted by the City Council of the City of Rye as follows:

**Section 1. § 133-8. Construction work restricted to certain hours and days [Added 6-18-2003 by L.L. No. 2-2003 Editor's Note: This local law also renumbered former §§ 133-8 and 133-9 as 133-9 and 133-10 respectively; amended 4-11-2007 by L.L. No. 2-2007] is hereby amended by as follows:**

Deletion of Section A in its entirety.

~~After investigation of complaints by residents that the noise from construction work performed at unusually early or late hours or on Sunday or holidays has deprived them of needed rest and quiet and has materially diminished the customary use and enjoyment of their premises, the City Council hereby finds and declares that, to preserve the peace and good order of the community and to protect the health, comfort and well-being of residents, construction work, as defined in this section, should be prohibited before 7:30 a.m. and after 6:30 p.m. on weekdays, before 10:00 a.m. and after 5:00 p.m. on Saturdays, and should be prohibited at any hour on Sundays and the holidays set forth in Subsection C.~~

**B.A.** Whenever used in the section, the following terms shall have the meanings indicated:

**CONSTRUCTION WORK** – All work performed, by one or more employees and/or independent contractors pursuant to an oral or written agreement for compensation and involving the construction, reconstruction, demolition or removal of buildings or major repairs to buildings, the excavation, clearing, filling or grading of land or the placement or removal of earth, stone or building material of any kind,

whether or not the work involves the use of machinery or power tools. The term “construction work” shall not mean the performance of necessary emergency repairs.

**MECHANICAL ROCK REMOVAL** – The removal or chipping of rock through the use of any tools that are not operated solely by human muscular power. Rock includes natural stone and impervious concretions created by humans, such as macadam, concrete and bricks.

**C. B.** Construction work prohibited at certain hours and on certain days. No person shall engage in construction work earlier than 7:30 a.m. or later than 6:30 p.m., prevailing time, on weekdays, earlier than 10:00 a.m. or later than 5:00 p.m., prevailing time, on Saturdays, or at any hour on, Sunday or any of the following holidays: New Year’s Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

**D. C.** Notwithstanding any provision of § 133-8 to the contrary, an individual may perform construction work him/herself on property on which such individual then resides as follows:

(1) Weekdays, between 7:30 a.m. and 8:00 p.m.

(2) Saturdays and Sundays (including holidays), between the hours of 10:00 a.m. and 8:00 p.m.

**E. D.** Mechanical rock removal and blasting prohibited at certain hours and on certain days. No person shall conduct mechanical rock removal, as defined in subsection B, or blasting operations using explosives as defined by § 98-40, within the City of Rye after the hour of 5:00 p.m. and before 9:00 a.m. nor at any time on Saturday, Sunday or any of the following holidays: New Year’s Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, except under authority of a special permit issued by the City Manager.

**Section 2.** § 133-9. Penalties for offenses [ Added 6-16-1999 by L.L. No. 5-1999; amended 4-11-2007 by L.L. No. 2-2007] is hereby amended to read as follows:

In the event an activity is not being performed in accordance with this chapter, the owner of the property or the owner's agent or the person performing such violation shall be notified to suspend all work, and any such persons shall forthwith stop such work and suspend all activities. Such order and notice shall be in writing and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the property and sending a copy of same by registered or certified mail. Any person who violates any provision of this chapter shall be guilty of an offense and

shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both except that ~~repeated~~ violations under § 133-8, Construction work restricted to certain hours and days, shall be treated as individual violations for each and every such violation and noncompliance respectively thereof, shall be punished upon such first conviction by fine of not more than ~~\$250~~ **750, an order to suspend construction work on the site for a period of not more than 72 hours,** or by imprisonment not exceeding 15 days, or ~~by both~~ **any combination of** such fine, **suspension**, and imprisonment, and each day that such violation shall continue shall be construed as a separate offense. Upon any subsequent conviction for the same offense, such person shall be subject to a fine of not more than ~~\$500~~ **1000, an order to suspend construction work on the site for a period of not more than 72 hours,** or by imprisonment not exceeding 15 days, or ~~by both~~ **any combination of** such fine, **suspension**, and imprisonment. The imposition of one penalty for any violation shall not excuse or remedy such violations.

**Section 3.** Severability

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

**Section 4.**

This local law shall take effect on June 1, 2008.

ROLL CALL:

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

NAYS: Councilman Sack

ABSENT: None

6. Public Hearing to amend local law Chapter 133, Noise, Sections 133-3(A)(3).

Mayor Otis said that when the leaf blower law was passed a few weeks ago it unintentionally changed the hours for operation of lawn equipment. The draft before the Council returns the hours for use of lawn equipment, as well as leaf blowers during their permitted time of use, back to the hours that were previously on the books. It also removes snow blowers from the law and adds cemeteries preparing for burials and contractors who repave and seal driveways and roads to the list of exemptions. Councilman Cunningham, the sponsor of the legislation, said that although he was not happy with weakening the law, it was a result of the dialogue with the community and will still restrict the use of leaf blowers. He said the Council is looking for compliance as well as enforcement and wants to get the message out to the public and contractors. Councilman Pratt requested that the section of the law that returned the time when

lawn equipment could be operated on weekends from 5:00 p.m. back to 8:00 p.m. be changed only to 6:00 p.m. Mayor Otis believed that the law should be returned to what it was originally and could be revisited when the Council reviews the law next year.

Public commented included: *Bill Lawyer, 15 Hillside Place*, asked if the change in hours would require renoticing the law? (Corporation Counsel Plunkett said no because this was a technical amendment to a law that had not been implemented yet.) He also did not believe further exemptions should be added to the law. *Lori DeCaro, 2 Riverside View*, believed the law should revert to 8:00 p.m. *Curtis Spacavento, local landscaper*, asked the Council to reconsider the May 1<sup>st</sup> date that will be implemented next year. He asked the Council to look around at the ground and streets now and see possible drainage issues caused by the buds falling from the trees and please take that into consideration when the Council reviews the law next January. The Council thanked Mr. Spacavento for bringing the issue to their attention at this time.

Councilwoman Gamache felt that since many people were already feeling the affects of allergies, they could take the initiative to clear the buds from their properties with brooms before their gardeners arrived and the May 1<sup>st</sup> date should not be changed. Councilman Ball suggested possibly changing the date of the annual ban to May 15<sup>th</sup> when the Council revisits the law. Councilman Sack also said that the Council should look around for other possible safety exceptions such as cleaning parking lots when the law was reconsidered. Mayor Otis suggested a moratorium on all noise agenda items until January 2009, notwithstanding emergency legislation.

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

**RESOLVED**, that the draft local law before the Council be amended to change the hours regulating when lawn equipment and leaf blowers can be operated, by making the law that will go into effect on June 1<sup>st</sup> less restrictive by one hour so that it reads not after “6:00 p.m. or before 10:00 a.m. on weekends or holidays.”

**ROLL CALL:**

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

Mayor Otis closed the public hearing. Councilman Pratt then made a motion, seconded by Councilman Cunningham to adopt the following local law:

**CITY OF RYE  
LOCAL LAW NO. 3-2008**

**A local law to amend Local Law No. 2 of 2008 - Chapter 133, Noise, Sections 133-3(A)(3) (Permissible intensity of noise) and Section 133-7 (Lawn maintenance equipment regulations) of the City Code of the City of Rye**

Be it enacted by the City Council of the City of Rye as follows:

**Section 1. § 133-3. Permissible intensity of noise [Amended 8-21-1991 by L.L. No. 19-1991; 4-2-2008 by L.L. No. 2-2008] is hereby amended to read as follows:**

§ 133-3. Permissible intensity of noise.

Except for noise emanating from the operation of motor vehicles, the permissible intensity of noise from any of the foregoing acts, whether such noise is intermittent, impulsive, sporadic or continuous, shall be limited as follows:

A. Maximum sound pressure [db(A)] shall be as follows [Amended 7-20-1994 by L.L. No. 1-1994; 4-2-2008 by L.L. No. 2-2008]:

(3) Lawn mowers, leaf blowers, **and** outdoor vacuum cleaners ~~and snowblowers~~ shall have a permitted intensity of 85 db(A); **use of this equipment is prohibited** ~~during months when the use of this equipment is permitted; no person shall operate such equipment~~ between the hours of **8:00** ~~5:00~~ p.m. and 8:00 a.m. on weekdays and between the hours of **6:00** ~~5:00~~ p.m. and 10:00 a.m. on weekends and holidays. **The permitted intensity and hours described in this subsection will apply to leaf blowers during months when the use of leaf blowers is permitted.**

**Section 2. § 133-7. Lawn maintenance equipment regulations [Added 6-16-1999 by L.L. No. 5-1999; amended 4-2-2008 by L.L. No. 2-2008] is hereby amended to read as follows:**

It is the policy of the City of Rye to minimize noise created by lawn maintenance equipment. The following rules are intended to help accomplish that goal. Editor's Note: See also § 133-3A(3). In addition to these restrictions, operators should exercise courtesy and take reasonable steps to minimize the noise creation at all times.

- A. No person shall operate within the City of Rye any gasoline or electric leaf blower between May 1 and September 30 every year with the exception that this ban does not take effect until June 1, 2008. As used in this subsection, "leaf blower" shall be defined to include any device powered by a electricity, gasoline, diesel or similar fuel engine which is used, designed or operated to produce a current of air for the purpose of pushing, propelling or blowing leaves, dirt, gardening and grass clippings and cuttings, refuse or debris.
- B. The head of the Rye Department of Public Works may permit the use of leaf blowers from May 1 to September 30 for a period of time not to exceed seven

days after significant storm events or during other emergency situations circumstances.

- C. Additional rules for any person operating any leaf blower between the dates of October 1 and April 30 are as follows:
  - (1) No leaf blowers shall be operated simultaneously on the same lot with any other type of machine-powered lawn equipment.
  - (2) Two or more leaf blowers shall not be operated simultaneously, except in R-1 Residence Districts as indicated on the City of Rye Zoning Map.
- D. This section shall not apply to the following entities **and activities**: municipal, schools, religious institutions, membership clubs, golf courses, hospital and retirement communities, **cemeteries, and driveway/road paving and sealing activities**, except that **any leaf blower use** ~~these entities~~ shall **be minimized** ~~any power blower use~~ to the maximum extent practicable in proximity to residences.
- E. The use of power or leaf blowers to move leaves or yard debris to city streets, public property, storm drains or abutting lots is prohibited at all times.
- F. Between January 1 and March 1 of 2009, the City Council shall place on its agenda for public comment a discussion of § 133-7 to evaluate the City's experience concerning the provisions of this section. Exempt entities in § 133-7(D) shall file a report with the City Manager by December 31, 2008 describing their efforts to reduce and minimize leaf blower use within their institutions.

**Section 3.** Severability

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

**Section 4.**

This local law shall take effect on June 1, 2008.

ROLL CALL:

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

7. Presentation of Boston Post Road Diet – Plans

Mayor Otis said that this presentation deals with the Boston Post Road from the Mamaroneck border to the section of the road diet that has already been implemented. City Manager Paul Shew called on City Planner Christian Miller to give an overview of the project. Mr. Miller said the purpose of the presentation was to show the latest version of the plans for the remainder of the Boston Post Road lane reductions that are referred to as the second and third phases. The plans should go out to bid in May in order for the Council to consider awarding bids for the pavement striping in June or July. The strategy is to coordinate the bids for the repaving project from the Golf Course to the Mamaroneck line with the pavement striping project. Staff is seeking feedback from the Council to determine if they are going in the right direction with the project.

*Peter Russillo, Project Manager with John Collins Engineers*, continued the presentation. The next phases of the project starts at the Mamaroneck border, where Mamaroneck police currently park a vehicle and set up cones for the school crossing in the morning. Changes have been made to the diet plans to continue a median down to that location that mimics what the police department currently does. Moving North on the Boston Post Road the proposed diet reduces the lanes similarly to the section that has been completed, providing two 11' lanes with 4' shoulders on either side and a 6' flush median, with breaks in the median for turning lanes at intersection areas. In the areas of the road with left turn lanes there would be a reduction in the width of the shoulder areas to 1 ½'. Additional no parking signs would be put up as necessary. At the Oakland Beach Avenue intersection a left turn lane would be created and the separate right turn lane on the northbound side would be retained. The traffic signal at the intersection might have to be modified to allow for left turn only signs and there would also need to be additional signage to indicate that the left lane must turn left. Continuing northward to the intersection of Old Post Road and Boston Post Road where the completed phase begins, there would be the same diet with a 6' flush median and a through lane and a separate right turn lane, which is less confusing than the way the road is currently marked with a separate left turn lane.

Mr. Rusillo responded to questions from the Council, including:

- Why is there no left turn lane at Bradford Avenue? The volume of cars turning during peak hours determined the locations for left turn lanes.
- Why not have left turn lanes at all intersections? It is not worth limiting the width of the shoulder for only a few cars.
- Why is there a difference in traffic counts south of Oakland Beach Avenue, between Oakland Beach Avenue and where it splits with Old Post Road and north on the Boston Post Road where the diet has been completed? Will there be back ups caused in certain areas as a result of the diet due to increased traffic volumes? Areas of uninterrupted flow can support more vehicles than presently come through the areas. There can be delays at areas of interrupted flow like the intersection at Oakland Beach Avenue because of the traffic signal, but the dedicated left turn lane might make the traffic more efficient. The intersection currently does not operate well but when people become accustomed to the change in pattern it should operate better and more safely.
- Should the current pattern of two lanes near the Oakland Beach Avenue intersection be stretched out farther in each direction to facilitate cars getting through? Only if there were no dedicated left turn lanes.

- Will there be any traffic delays caused by people making right turns into driveways? There should be no problem because of the combination of the shoulder and flush median.
- Will it be easier or more difficult to make left turns out of side streets? The area to turn into will be smaller but will be better defined and cars will only be waiting for gaps from one lane of traffic each way.
- Will there be a problem with people trying to pass slower moving vehicles by driving in the median area? People will get used to it and the new lane widths will allow more freedom to travel.
- Will there be any affect on traffic coming out of Rye Golf Club? It will operate the same rate as it does currently as only one vehicle can turn left out of the club at a time.

City Planner Christian Miller and Brian Dempsey, the Chair of the Traffic and Transportation Committee, answered questions from the Council regarding adding crosswalks at Hannan Place and Sonn Drive. A crosswalk is not recommended at Hannan Place. Funding for sidewalks along Boston Post Road from Johnson Place to the Mamaroneck line has been requested as a part of the Safe Routes to School Grant Application. There is currently no crosswalk anticipated at Sonn Drive. Both men agreed that the section of the proposed diet in the area of Osborn School needs to be looked at very carefully because there is more traffic in this section than other sections of the Boston Post Road. Additionally, at pick-up time the traffic back up going into the school essentially closes down one southbound lane, so keeping the current two lane southbound configuration at that spot might need to be considered.

It was the consensus of the Council that staff was proceeding in the right direction on the project and they should proceed with research on the issues raised about the section around Osborn School and go forward with the bidding process for the section near the Mamaroneck border.

8. Authorization for DelBello, Donnellan, Weingarten, Wise and Wiederkehr, LLP to defend the Zoning Board of Appeals in the Article 78 proceeding commenced by Ray Tartaglione.  
Roll Call.

Mayor Otis said that Alan Weil, the Chair of the Zoning Board of Appeals, has requested that the law firm that Corporation Counsel Kevin Plunkett is a partner in, DelBello, Donnellan, Weingarten, Wise and Wiederkehr, LLP, defend the Board in an Article 78 proceeding challenging a decision made by the Board. Mr. Plunkett said it was a routine matter and he believed that the attorney representing one of the other respondents would do most of the work.

*Jordan Glass*, an attorney representing the website “Heal the Harbor.com” and who admitted that the website is associated with the same interests as the petitioner, questioned the appointment of the DelBello firm. Mayor Otis said it was the right of the City Council to determine what law firm will handle the litigation and they have a recommendation from the Zoning Board of Appeals.

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

**RESOLVED**, that the law firm of DelBello, Donnellan, Weingarten, Wise and Wiederkehr, LLP is hereby authorized to defend the Zoning Board of Appeals in an Article 78 proceeding commenced by Ray Tartaglione.

ROLL CALL:

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

9. Supplemental Appropriation Request for Legal fees and Labor fees.  
Roll Call.

City Manager Shew said that a transfer of funds was required from the General Fund Contingent Account to the Human Resources Department and to the Law Department. Councilman Cunningham asked that the Council receive a report on what has been expended on legal cases in total. Councilman Ball concurred and added that this is a routine action because the budget lines for legal expenses are routinely left optimistically low.

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

**WHEREAS**, City staff has determined that the amounts required for legal services in fiscal 2008 will exceed the amounts provided for in the adopted 2008 budget by \$180,000, and,

**WHEREAS**, the General Fund Contingent Account has a balance of \$194,000, now therefore be it

**RESOLVED**, that the City Comptroller is authorized to transfer \$80,000 from the General Fund Contingent Account to Human Resources Department and \$100,000 from the General Contingent Account to the Law Department.

ROLL CALL:

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

10. Application for U.S. EPA Grant for Sewer Pump Station Repairs.  
Roll Call.

Mayor Otis said that the grant was for up to \$191,000 in federal funds and was arranged with the help of Congresswoman Nita Lowey and helps to offset many of the hidden costs associated with the City's sanitary sewer and stormwater systems.

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

**WHEREAS**, the City has been awarded a grant from the U.S. Environmental Protection Agency (EPA) for fiscal year 2008 for the repair of sewer pump stations, and,

**WHEREAS**, the terms and conditions of the grant provide for a total project spending of \$347,273 with a 55%/45% federal/local funding allocation (up to \$191,000 in federal funds if the City provides funding up to \$156,273), and

**WHEREAS**, capital project 581219 Hewlett Avenue Pump Station currently has a project balance of approximately \$168,000 that can be allocated to the City's local share requirement, and now therefore be it

**RESOLVED**, that the City of Rye accepts the 2008 EPA Sewer Pump Station grant, and be it further

**RESOLVED**, that the budget for capital project 581219 Hewlett Avenue Pump Station be increased in the amount of \$191,000 to reflect the anticipated EPA funding.

ROLL CALL:

AYES: Mayor Otis, Councilmembers Ball, Cunningham, Gamache,  
Parker, Pratt and Sack

NAYS: None

ABSENT: None

11. Resolution to declare certain equipment as surplus.  
Roll Call.

City Manager Shew said that the vehicles on the attached list being declared surplus meet the standards implemented last year by the Council of five years or 70,000 miles. Councilman Ball questioned why three of the vehicles, although they meet the age or mileage criteria, were being declared surplus when they were rated as good in the body, interior and mechanical categories. Mr. Shew said that vehicles are determined surplus on a case-by-case basis and some vehicles are being retained for longer periods of time due to their condition.

1998 Ford Windstar, Vin # 2FMZA51VOWBD53764, Mileage 58,518  
1998 Ford Expedition Vin # 1FMPU18L3WLB48816, Mileage 82,999  
2005 Ford Crown Victoria Vin # 2FAHP71W85X156098, Mileage 73,564  
1993 Chevy 3500 Vin # 1GBJK34R0XF083353, Mileage 53,340  
1996 Chevy 3500 Vin # 1GBJK34RXTE229936, Mileage 84,290  
2001 Chevy Tahoe Vin # GNEK13V81J293386, Mileage 93,382

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

**WHEREAS**, the City has been provided with a list of City vehicles that the Department of Public Works has identified as being obsolete or will become obsolete during 2008; and

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

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

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

ROLL CALL:

AYES: Mayor Otis, Councilmembers Ball, Cunningham, Gamache,  
Parker, Pratt and Sack

NAYS: None

ABSENT: None

12. Miscellaneous communications and reports.

Councilman Cunningham requested an update on the status of the Field Committee and the Boston Post Road property. Mayor Otis responded that he had spoken with the Thruway Authority that day and they are moving forward with their process and our committee will begin looking at design issues for the field. Councilman Cunningham also said that he had been invited to meet with Dr. Shine, Brian Dempsey and Scott Pickup to participate with the School District's architect regarding Middle School and High School plans.

Councilman Ball invited everyone to the American Legion's annual Memorial Day Ceremony on the Village Green on Monday May 26<sup>th</sup> at 10:00 a.m.

Councilwoman Gamache said that the Rye Historical Society was holding their annual Gala on May 10<sup>th</sup> from 6:30 to 9:30 p.m.

13. Old Business.

There was no old business to be discussed.

14. New Business.

Councilman Sack suggested that the Council hold a workshop on traffic and safety issues such as Forest Avenue, Oakland Beach Avenue and rocks in the right-of-ways. Councilman Pratt concurred and suggested adding the sidewalk at the end of Eve Lane that leads down to the School to the discussion. Mayor Otis suggested waiting until enough work was done on the issues relating to Forest Avenue to have two alternatives to present to residents.

15. Draft unapproved minutes of the regular meeting of the City Council held April 16, 2008 and informal minutes of the Joint Meeting of the City Council and Board of Education held on April 12, 2008.

This item was put over to the next meeting.

16. Adjournment.

There being no further business to discuss, Councilman Ball made a motion, seconded by Councilman Pratt and unanimously carried, to adjourn the meeting at 11:40 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk