

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on May 28, 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 7:00 p.m. Mayor Otis made a motion, seconded by Councilman Pratt and unanimously carried, to adjourn to executive session at 7:01 p.m. to discuss labor relations and attorney/client matters. Councilwoman Gamache made a motion, seconded by Councilwoman Parker to close the executive session at 8:10 p.m. No decisions were made. 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.

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

*Peter Sinnott, 60 Mendota Avenue*, spoke about the possibility of raising the Bowman Avenue "Dam". He said that since the current dam works 90% of the time the Council should consider making it bigger and stronger. He questioned an earlier report from Chas. Sells Engineers that indicated that raising the dam could impact its structural integrity and requested to see a copy of any structural engineer's report that was done on the dam. He urged the City Council to act soon and not waste more time on studies and suggested the City hire a structural engineer to do a drawing and get a price for what it would cost to raise the dam. Mayor Otis assured Mr. Sinnott that the City had determined that the dam was structurally sound right after the flood and that Chas. Sells Engineers had looked into the possibility of raising the dam and did not recommend it as the best course of action for flood remediation. He also said that the

sluice gate recommendation could provide three to four feet of lowered water elevation and offered the biggest bang for the buck. The Mayor also said that the City Council is limited in the amount of money it can authorize to be spent on the various flood related projects without presenting them to a public referendum for approval. Councilman Ball said he did not think raising the dam would offer the kind of retention effect that residents are hoping for. Councilman Pratt reiterated the fact that the City had checked out the structural integrity of the dam and suggested that the Sells report addressing the question of raising the dam be revisited in order to weigh all options.

*Bill Lawyer, 15 Hillside Place*, wanted to remind everyone that the leaf blower ban had been passed and a letter was going out to all residents in order to reinforce that it will go into effect on June 1<sup>st</sup>. *John Carey, 860 Forest Avenue*, provided a letter to the Council from the Cable TV Committee regarding a proposed increase in rates for Cablevision. He urged the Council to send a letter of protest to the Public Service Commission to demand an explanation. *Henry King, 76 Coolidge Avenue*, came to ask about the status of the Beaver Swamp Brook/Project Home Run matter. Mayor Otis said he had recently spoken with the Regional Director of the DEC to express the City's dissatisfaction with their continued sanctification of the damage done by the remediation project. Corporation Counsel Kevin Plunkett said he had participated in a conference call the previous week with the DEC Administrative Law Judge in which he had stressed the City's concerns about the DEC's apparent sign off on the remediation work and for the City's continued concern about flooding issues. He added that the City has hired a hydrologist and would continue to advocate our position.

*Robert Schubert, Forest Avenue*, came to speak again about his problem of a lack of water going into a pond on his property and his interpretation of Chapter 195 of the City Code regarding wetlands. He continued to urge the Council to intervene and compel the restoration of his wetland. Mayor Otis reiterated the Council's position that although they are sympathetic to Mr. Schubert's problem, they are not in a position to remedy what is essentially a dispute between two neighbors. Councilwoman Parker reminded Mr. Schubert about a conversation they had had several months before wherein she told him that even though the City Council and City staff are unanimous in the opinion that this is not a matter for the Council to intervene in, if he could provide his own experts that could contradict the City's experts she would listen to them, and so far he has failed to do so. (At this time Mayor Otis called for a five-minute recess.)

(Mayor Otis suggested taking Agenda Item 8 out of order.)

4. Presentation of the City of Rye Stormwater Management Program 2007 Annual Report

City Planner Christian Miller said that the DEC requires that the City's Stormwater Management Program Annual Report be presented at a public meeting. In 2003 the City's Stormwater Management Plan was prepared as part of the implementation of the Federal and State Phase II stormwater regulations and requirements of the associated general permit the City obtained. The main purpose of the program is to manage stormwater runoff in order to reduce or prevent pollution from entering the stormwater system of the City or surrounding communities. It was required to be implemented by January 2008. There are six minimum measures required of all municipalities in New York State. The City has initiated programs in all areas, which

include Public Education and Outreach, Public Involvement and Participation, Illicit Discharge Detection and Elimination, Construction Site Stormwater Runoff and Control, Post Construction Stormwater Management, and Pollution Prevention and Good Housekeeping. Mr. Miller said legislation passed by the Council last year was in compliance with DEC requirements relating to the Illicit Discharge Detection and Elimination and Construction Site Stormwater Runoff and Control. The report was prepared with the assistance of a consultant. This year's report satisfies our reporting obligation in its entirety.

Councilman Cunningham's asked how staff training requirements were met. Mr. Miller responded that there was a variety of training done by staff related to stormwater pollution prevention. It is done by Engineering, Planning and Public Works Department staff and the programs vary from year to year. Councilwoman Gamache asked about public compliance with the state mandated laws passed by the Council last year. Mr. Miller replied that there had been one application that related to the construction runoff legislation and the City was involved in an ongoing program with Westchester County regarding illegal connections to sanitary sewer lines.

5. Presentation by Stormwater Runoff Committee – Consideration of Amendments to Chapter 173, Surface water, erosion, and sediment control

Mayor Otis said City Planner Christian Miller would be making a presentation on behalf of the Stormwater Runoff Committee based on the feedback received from Council Members and various City Boards and Committees on the draft amendment to Chapter 173 of the City Code. The Mayor suggested that due to the complex nature of the suggested changes the Council schedule a workshop on the subject after the presentation. Mr. Miller agreed with the suggestion of a workshop because of the technical aspect of the law. He presented the comments from the Stormwater Runoff Committee in response to the comments received in connection with the proposed changes to the surface water control regulations which have been on the City's website for several months. He said the members of the Committee reviewed all comments forwarded to them and agreed to make the proposed changes in some areas, offered a modified change to some suggestions and held a stronger point of view in response to some proposed changes. It is believed that the existing law is a good law that is both strong and restrictive and that after months of review by the Committee there were areas that it felt needed to be enhanced. He then provided the Council with an overview of the changes:

- The proposed law would provide opportunities to increase on site storage, specifically through the retrofit provision required of additions over a certain size.
- The proposed law would reduce or clarify the discretion staff has in administering the law.
- The proposed law would regulate land disturbance. A new concept in stormwater management that did not exist when the current law was enacted is that disturbing the earth has impact on stormwater runoff and the proposed draft tries to enhance what the existing law already contains.
- The proposed law clarifies when it is appropriate to connect to the City's drainage infrastructure.

- The proposed law changes the appellate body under the law from the City Council to the Planning Commission and creates a set of standards that must be met in order for an appealed application to be approved.

Councilman Ball agreed with the idea of holding a workshop on the topic and added that the definition of impervious cover should be added to the discussion in order to achieve more clarity. Mayor Otis thanked the members of the Stormwater Runoff Committee for their hard work.

6. Status Report on Purchase Street Roundabout (June 18<sup>th</sup> Work Session)

Councilman Cunningham reported on a meeting with the County that was also attended by Assistant City Manager Scott Pickup, City Planner Christian Miller and City Engineer George Mottarella. The County has scheduled a paving project for Ridge Street and Wappanocca Avenue, which it owns. The City must upgrade the signal at that intersection. The idea has been proposed by the City to put a roundabout in the area as a better and safer way of managing the traffic. The County's engineers have reacted positively to the proposal. The next step is to design the project and the City and the County must enter into a Memorandum of Understanding. The County would be receptive to the project if the City would agree to take over Ridge Street and Wappanocca Avenue after they have been paved. Assistant City Manager Scott Pickup said that the City would hire a firm to do the preliminary engineering to design the project and provide a cost estimate, which can then go back to the City Council for approval prior to being shared with the neighborhood. The City would then be ready to discuss an Intermunicipal Agreement (IMA) with the County regarding the project. *Peggy Peters, Ridge Street*, asked if the neighbors could meet with the Planning Department prior to the City meeting with engineers? She said that neither of the proposals presented to them at the workshop totally satisfy the residents. Mr. Pickup replied that the City planned on meeting with the neighborhood again in order to get a design that everyone is satisfied with to bring to the County.

Councilman Sack asked about topics that would be covered at the June 18<sup>th</sup> work session? He said he wanted to make sure the date was set and would include discussion of traffic issues on Oakland Beach and Forest Avenues and rocks in the right-of-ways. Mayor Otis said he wanted to be sure additional work had been done on the Forest Avenue issues to provide two alternatives for discussion including the widening of the roadway or putting a trailway on one side of the road. He also asked if there was any Council interest in adding the water runoff workshop to the agenda.

7. Discussion of Demolition: what constitutes demolition and the associated fees for such

Mayor Otis said that Councilman Cunningham had been working with City Building Inspector Vincenzo Tamburro regarding a scale of fees for demolition. Councilman Cunningham said that demolition fees had been raised annually over the last several years and were now at \$2,000, which penalizes some people who go through the process required for removing structures. The suggestion is to create a tiered fee schedule based on the type of structure involved and the scope of the work and the amount of oversight needed. Councilwoman Gamache asked if different actions would be covered under one permit or separate permits. Councilman Ball said that he is in favor of making the change but before the Council gets to the point of adopting the tiered system a better determination must be made as to

what activities fall under the different tiers. Mayor Otis directed staff and the Corporation Counsel to draft the necessary changes which would provide for appropriate categories and fees for overlapping projects.

8. Approval of Lease Assignment between City of Rye and Lester's of New York, Inc.

Corporation Counsel Kevin Plunkett said that presently there is a lease between the City and Cloz, Inc. for the property at 1037 Boston Post Road with approximately three and one half years left to run. Cloz has approached the City for consent to an Assignment and Assumption Agreement of their lease to Lester's of Rye. As part of the Agreement, Cloz will remain a responsible party under the terms of the original lease with the City. Mr. Plunkett said that the Law Department has reviewed the assignment document and recommends that the City consider the assignment and accept the terms.

Mayor Otis wished the new entity good luck at the location. Councilman Sack reminded the Council that the lease term on the property is finite and the Council must make a decision very soon on what will be done with the property.

Councilman Ball made a motion, seconded by Councilman Pratt, to adopt the following Resolution:

**RESOLVED**, that the lease between the City of Rye and Cloz, Inc. for the property located at 1037 Boston Post Road be assigned from Cloz, Inc. to Lester's of Rye, Inc.

ROLL CALL:

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

9. Bid award for one Truck-Mounted 75 Foot Tree Trimmer Aerial Device and Flatbed Body for the City of Rye Department of Public Works  
Roll Call

City Manager Shew said that this item was rejected previously when it was decided it would be more efficient for the Department of Public Works to put together their own package. It is a replacement for a 1992 piece of equipment that has aged out. Councilman Cunningham added that the Department has come up with a plan to bid out the bucket piece of the equipment and purchase the chassis separately. The Department will also seek to dispose of the 1992 by online auction. The bid tab is as follows:

Councilman Cunningham made a motion, seconded by Councilman Sack to adopt the following Resolution:

RESOLVED, that Bid #04-08 for One (1) Truck Mounted 75' Tree Trimmer Device and Flatbed Body is hereby awarded in the amount of \$102,749.00 to Altec Industries, Inc., the low bidder whose bid meets the specifications.

ROLL CALL:

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

NAYS: None

ABSENT: None

**BID 4-08**

**One (1) Truck-Mounted 75 ft.  
Tree Trimmer Device and Flatbed Body**

<b>Bidder</b>	<b>Bid Amount</b>
Altec Industries, Inc.	\$102,749.00
DUECO	\$103,706.00

10. Resolution for Federal Relief Project Agreements for permanent restoration work at Theodore Fremd Avenue Wall/Central Avenue Bridge  
Roll Call

Assistant City Manager Scott Pickup said this is the first phase of Federal Requirements for maintaining documentation, which will allow the City to apply for federal funds under the Federal Highway Emergency Relief Program. There is also a local share required of 20% for both projects. Our engineering estimates from previous work have been accepted. The process has been delayed because the City had to convince other levels of government that our consultant selection process was compliant with federal requirements. The next phase will be to submit detailed reviews of both projects in order to receive notices to proceed and go out to bid. The City has applied for an expedited review from the Department of Transportation. Councilman Cunningham asked if delays would impact construction costs? Mr. Pickup said that if the bids come back high there is a mechanism for additional relief. He also concurred with Councilman Ball that this is the City's formal acknowledgment of being responsible for the 20% share. In response to Councilman Sack's question about the dollar amount listed in the proposed resolution, Mr. Pickup said it was the anticipated total amount of the projects. The 80% share will come from a Federal Highway Program and the source of the City's 20% will be determined when the bids come back to the Council for approval.

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

**WHEREAS**, a Project for the Permanent Restoration work to correct damages caused by the April 14, 2007 Floods at various locations in the City of Rye, Westchester County, PIN 8701.43 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, for Federal emergency relief that calls for the apportionment of the costs of the Permanent Restoration to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

**WHEREAS**, the City of Rye desires to advance the Project by making a commitment of 100% of the non-federal share of the costs thereof;

**NOW, THEREFORE**, the City of Rye, duly convened does hereby

**RESOLVE**, that the City of Rye hereby approves the above-subject project; and it is hereby further

**RESOLVED**, that the Rye City Council hereby authorizes the City of Rye to pay in the first instance 100% of the federal and non-federal share of the cost of preliminary engineering and construction work for the Project or portions thereof; and it is further

**RESOLVED**, that the sum of \$2,255,079.00 is hereby appropriated from available funds and/or short-term debt as determined by the City Comptroller to be in best interest of the City financially, and made available to cover the cost of participation in the above phases of the Project; and it is further

**RESOLVED**, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Rye City Council shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the Mayor thereof, and it is further

**RESOLVED**, that the Mayor of the City of Rye be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the City of Rye with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

**RESOLVED**, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

**RESOLVED**, this Resolution shall take effect immediately.

ROLL CALL:

AYES: Mayor Otis, Councilmembers Ball, Cunningham, Gamache,



12. Miscellaneous communications and report

Councilman Cunningham said that thanks to the Traffic & Transportation Committee and Board of Education, the annual Bicycle Rodeo would be held on Saturday May 31<sup>st</sup> from 10:00 a.m. to 1:00 p.m. in the High School parking lot.

Councilwoman Parker said that the Port Chester-Rye-Rye Brook Emergency Ambulance Corps. is holding their Hands of Appreciation Day also on May 31<sup>st</sup> from 12:00 – 3:00 p.m. at EMS Headquarters at 417 Ellendale Street in Port Chester.

Councilman Ball announced that the Rye Garnet's football team would hold a carwash on Sunday, June 8<sup>th</sup> from 10:00 a.m. to 2:00 p.m. at the High School.

Councilman Sack reported that in his capacity as Council liaison he has met with the Chairman of the Golf Commission regarding the proposed resolution amending the rules and hopes it can be brought back to the full Council for consideration soon.

13. Old Business

Councilman Cunningham said he supported the Mayor's letter to the September 11<sup>th</sup> Memorial Committee regarding the proposed gazebo and asked what can be done to move the process forward. He said he believed it would do the community well. Mayor Otis said he has had conversations with the Chairs of both the Landmarks Committee and Board of Architectural Review and both Committees will have feedback for the Council before the next meeting.

Councilman Ball asked when Verizon would be turning on the PEG channels for new cable customers. Assistant City Manager Scott Pickup said he would check into it.

14. New Business

There was no new business to be discussed.

15. Draft unapproved minutes of the regular meetings of the City Council held April 16, 2008, and May 7, 2008 and informal minutes of the Joint Meeting of the City Council and Board of Education held on April 12, 2008

Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to adopt the minutes of the regular meetings of the City Council held on April 2, 2008 and May 7, 2008 and the informal minutes of the Joint Meeting of the City Council and Board of Education held on April 12, 2008, as amended.

16. Adjournment

There being no further business to discuss, Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn the meeting at 10:21 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk