

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on August 6, 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 6:30 p.m. Mayor Otis made a motion, seconded by Councilman Ball and unanimously carried to adjourn into Executive Session to discuss attorney/client matters and personnel. Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried to close the Executive Session at 8:25 p.m. No decisions were made. The Council reconvened at 8:28 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

*John Carey, 860 Forest Avenue*, said that he had been told that the City has a policy of donating property that has been declared surplus, which he believes it should not do. City Manager Shew said that typically, after the Council has declared property surplus, it is either auctioned or sold on EBay. Property would only be donated if the City were unable to sell it.

*Doug Carey, 131 Purchase Street*, announced that on Sunday August 31<sup>st</sup> the Leaders of Tomorrow 15<sup>th</sup> Annual Summerfest Field Day would be held at Recreation Park from noon to 5:00 p.m.

*Henry King, 76 Coolidge Avenue*, came to speak about Beaver Swamp Brook. He said he had heard that Mayor Walsh of Harrison has requested that Rye not be given additional time to

comment to the D.E.C. on the issue of additional fill used in the original remediation project because she wants to use the field as a parking lot for the train station. He said he is against legitimizing the use of the field for any reason. Mayor Otis said he was unaware of the parking lot issue but would check into it. He added that the City continues to try to get documents from Harrison's engineers in connection with the remediation project. Deputy Corporation Counsel Kristen Wilson said the City has requested an extension of time until mid-October to comment in order to review Harrison's documents.

*Robert Schubert, 980 Forest Avenue*, came to speak again about the issue of the lack of water going into the pond on his property. He said it has been almost two years and no action has been taken by the City to remedy his situation and that he will not quit. Mayor Otis reiterated the position of the City Council that Mr. Schubert's remedy is not with them and again advised him to negotiate a solution with his neighbor.

(At this point the Council took a three minute recess.)

*Jean Marie Minelski, a former Rye resident*, asked the Council to consider endorsing the *Homeowners and Bank Protection Act*, which would impose a moratorium on mortgage foreclosures. Mayor Otis said that the City Council normally does not endorse legislation that is not particular to local government but would review any information she provided.

(Agenda Item 5 was taken out of order.)

4. Presentation of the 2009-2013 Capital Improvements Program

Mayor Otis announced that the presentation to be made by Comptroller Michael Genito of the annual Capital Projects Report was not a budget but a list of projects for the Council to consider and prioritize during budget discussions in November and December.

Mr. Genito began his presentation by reiterating that the Capital Improvements Plan is a plan not a budget that tries to capture the City's major projects and acquisitions in order to identify and prioritize them. It involves infrastructure, buildings and facilities, and vehicles. Staff try to identify the costs and sources of funding for the projects and acquisitions, which primarily come from three areas: general revenues, debt, and grants and aid.

The 2009-2013 requirements provide for \$26 million in total. Of this amount \$12.4 million for infrastructure, \$9.4 million for buildings and facilities, and \$4.2 million for vehicles and equipment. Funding sources include \$7.6 million from revenues or reserves, \$12.8 million from new debt, \$.05 million from existing debt and \$5.1 million from grants and aid.

The first year of the plan (2009) is the most important and is the one that staff will focus on when preparing the operating budget for the coming year. The projects recommended for 2009 total \$5.2 million for infrastructure, buildings and facilities and vehicles and equipment. The funding sources are \$2.6 million from revenues or reserves, \$.06 million from new debt, \$0.5 million from existing debt and \$1.5 million from grants and aid.

- \$3.3 million in infrastructure projects include \$560,000 for traffic signals (\$360,000 is for Central Business District signals that the City Engineer recommends bidding in January, the time of year when contractors are making up their book of business for the year and usually give better rates.); \$725,000 for street projects including \$600,000 for the annual street resurfacing program (\$225,000 of funding is expected to come from State aid know as CHIPS [Consolidated Highway Improvement Program]; \$325,000 for sidewalks and walkways (including the Boston Post Road sidewalk near Johnson Place); \$1.3 million for bridges (\$1.1 million is related to the Central Avenue Bridge, which the City anticipates receiving as much as \$880,000 from a Highway Program); \$245,000 for sewers and \$175,000 for drainage projects (part of the drainage funds are for repairs to the Bowman Avenue Spillway or “Dam”).
- \$1.2 million is proposed for 2009 for buildings and facility projects. Projects include \$130,000 for City Hall improvements, \$130,000 for Police building improvements, \$122,000 for Public Works improvements and \$752,000 for Recreation improvements (\$520,000 of the \$825,000 remaining from the Recreation Bond will be used to fund the Recreation projects).
- \$.7 million for vehicles and equipment would include \$90,000 for Police vehicles, \$30,000 for Fire vehicles, \$570,000 for DPW vehicles and equipment and \$54,000 for Recreation vehicles and equipment. (The City utilizes a vehicle replacement policy when determining what vehicles should be replaced.)

Mr. Genito said that in putting together the Capital Improvements Plan staff also try to identify projects that currently cannot be put into the plan because the scope of the project, timing of the project or the funding or the source of the funding are not yet determined. Some of these projects involve flood mitigation and drainage (including mitigation projects related to Bowman Avenue and Beaver Swamp Brook); Court and Police facilities (The final \$5 million payment is due in 2010 for the purchase of 1037 Boston Post Road. If bonding were used to make the payment it would require a mandatory referendum. The Office of Court Administration might be a possible source of funding if this facility was used to relocate the City Court from its current location at the Police Department, which would allow the Police Department to expand into the area now occupied by the City Court.); MTA parking improvements (the City has an annual lease with the MTA but would like to have a long-term agreement in effect before putting any significant resources into capital improvements in the parking lot); Recreation Trailway (the discussion has been to fund this project through grants and donations); and the Rye Nursery Wetlands Restoration.

Mr. Genito ended his presentation by saying that the presentation as well as the entire *2009-2013 Capital Improvements Plan* are on the City’s website. He asked that any questions be sent by email or phone to the City Manager’s Office or the Finance Department.

*Robin Jovanovich, of The Rye Record*, said she was surprised that only \$50,000 was included in the document for flooding and suggested that since the Rye Meeting House has severe flooding issues, money should be spend on renovating it before investing in mitigation projects. Mayor Otis said that the major flood projects were in the back of the plan in the future considerations section. He added that some projects like the Central Avenue Bridge and the Elm Place Retaining Wall have already been approved and, therefore, were not included with the new

projects. Mr. Genito concurred, adding that the Elm Place Retaining Wall project was being funded 100% by FEMA and 80% of the Central Avenue Bridge funding would come from a Federal Highway Grant. In connection with the Rye Meeting House, the Mayor said that approximately \$70,000 in *pro bono* services have been donated for an architectural analysis, building analysis and engineering analysis relating to the foundation and flooding. Over the next year the City will be proceeding with a plan to redo the foundation and raise the building and berm it to deal with the water issue. Mr. Genito added that sometimes these projects cover a span of many years. He said that in connection with the Meeting House, there is provision in this plan for \$25,000 for a study in 2009 and \$200,000 for improvements in 2010. Ms. Jovanovich also asked if there would be a flood referendum on the November ballot. Mr. Genito said that would be up to the City Council but added that a Council Resolution would have to be adopted by the September meeting in order to meet the legal notice requirements for referendums.

5. Presentation by the Rye Arts Center requesting a new long-term lease extension

Patricia B. Gaulin, Board President, and Peggy Hill, Executive Director, presented information relative to the request of the Rye Arts Center to amend their lease for the property at 51 Milton Road to extend it by an additional 30 years at the current rent of \$1 per year. They said that the Rye Arts Center is a great asset to the community and, since 1987 when it opened its doors, the Center has served as an educational center for the arts and has offered many quality programs and classes. It has become the largest community art center in Westchester County. In the past ten years the Center has invested over \$185,000 in the building and an extended lease will enable them to raise the funds necessary to perform additional needed repairs that will allow them to continue to meet their goals and fulfill their mission. Mayor Otis said that the Council would ask for feedback from staff before responding to the request.

6. Designation by the Mayor of a temporary City Council subcommittee to review issues relating to the commuter parking lots

Mayor Otis said that in furtherance of an item mentioned by Comptroller Genito in the Capital Improvements Plan presentation, he will designate a City Council Subcommittee to review issues relating to the commuter parking lots. He said this will be a short-lived committee composed of Councilmembers Ball, Cunningham and Gamache who will work with staff to look at a Metro-North site plan proposal for the train station in order to move the conversation with the MTA forward. The Mayor added that he has been contacted by the MTA “bicycle advocate” who would like to work with the City on the issue of making the train station more “bicycle friendly” for commuters.

7. Consideration of authorizing the City Manager to endorse the implementation of an easement between the American Yacht Club located at Stuyvesant Avenue and the City of Rye

This item was deferred upon request of the Corporation Counsel.

(Agenda Item 9 was taken out of order.)

8. Manager’s Report on obstructions in the right of way

City Manager Shew said the issue of right-of-way compliance has been discussed in the City for many years. There are certain areas around the City such as Greenhaven, Stuyvesant Avenue, Forest Avenue and Manursing Way, typically areas without sidewalks, where rocks and other obstructions have been placed in the City right-of-ways. The Council has requested that staff develop a proposal that would encourage compliance with removal of obstructions in the right-of-way in the most efficient fashion. He said that the first thing that would have to be done would be to institute an educational program to inform the public of the reason for change because it would allow people to comply on their own. He added that the requirements for the program would include the legal authority to act to remove the obstructions and the legislative authority to affect the change. A removal program would be phased in over time and the removal and disposal portion should be contracted out. Mr. Shew said the policy direction from the Council needed to indicate that the Council was firm on this issue, would articulate the need for the policy and how it would be funded because in some instances surveys may be required to determine the exact location of the right-of-way. Phasing the program in could begin with primary roads and then extend to secondary roads. Mr. Shew also said he believed any education program should not be started during the summer months when many residents are away and that it would also be beneficial to work in conjunction with the Schools. He also added that before involving removal of Belgian Block curbs, the licenses granted by the City would have to be reviewed.

Council comment on the City Manager's report included:

- Proceed with the educational aspect, stressing the danger of placing obstructions in the right-of-ways;
- People will voluntarily comply when they understand rocks are dangerous;
- Revisit the issue after the education program has been implemented, possibly in January or February;
- Remove rocks along Manursing Way and those abutting public or club properties immediately;
- Removing rocks from public property not in front of people's homes first, will help get people's attention;
- Can a legal distinction be made regarding risk between high pedestrian traffic streets and low pedestrian traffic streets;
- Action should be taken sooner than January or February – notify people of the danger and tell them to remove them or they will be removed;
- Survey work will be done on Forest Avenue in connection with the widening proposal; it could serve as a pilot program for determining right-of-ways.

City Manager Shew said he would investigate what would be involved in implementing a "fast" program that would involve removing rocks abutting public property but also noted that even if the Council chose not to act until January, the enabling legislation would need to come before the Council for action prior to that time.

*Robin Jovanovich*, asked if public did not comply with the education program, was the City Department of Public Works ready to pick up the rocks, and if the City would be willing to

co-fund the operation. City Manager Shew said rock pick-up would not be a project assigned to the Public Works Department.

9. Proposal for term limits on Boards and Commissions including term limits for the City Council

Councilman Sack said that this proposal had benefited from being tabled at the last meeting because he has received a great deal of feedback. To summarize, he said that in June he told the Golf Commission that he believed they should impose term limits on their Commission Members and agreed with their suggestion that term limits should be applied to all Boards and Commissions. He said he understands the historical knowledge argument for not imposing term limits but believes that his proposal will bring new blood to the various Boards and that even good people need to move on after a while. He also said he was willing to extend the term limit from two terms to three terms. Mayor Otis noted that he had circulated a memo earlier in the day analyzing the longevity of the Golf Commission membership since 1991 that indicated there were a few Commission Members who had served for a long time but the majority only served for a few years.

Comments from Council Members included:

- Term limits will not serve the community well;
- The City benefits from the expertise of volunteers who serve for free, providing thousands of dollars worth of service gratis;
- There is not an infinite pool of volunteers to draw from;
- Younger members of the community are busy with jobs and families and do not have the time to volunteer.
- It is difficult to find new people for some boards because special expertise is required;
- People tend to limit their own terms on Boards;
- Elections impose term limits and voters displace incumbents they are not happy with;
- The City Council can change the makeup of Boards and Commissions to bring in more people if necessary;
- In last several years many new committees have been added and membership of some existing committees expanded, which has increased the number of volunteers serving;
- The Mayor has the authority to remove Board Members for cause;
- Institutional memory on Boards is beneficial;
- Each year that a volunteer serves on a Board helps better prepare him for the issues that Board faces;
- A balance of new and old members is beneficial to Boards;
- The City should do a better job of recruiting people to participate on Boards and Commissions.

The other members of the Council thanked Councilman Sack for bringing the issue forward for debate but did not agree that there was a problem with turn over on the Boards and Commissions. Councilwoman Parker took the opportunity to make a plea to the viewing audience to volunteer to serve on the various Boards and Commissions. Councilman Sack said that even though he sensed that the motions would be defeated, he would still make them.

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

**RESOLVED**, that term limits of two terms be imposed on elected bodies including the City Council, the Boat Basin Commission and the Golf Commission.

ROLL CALL:

AYES: Councilman Sack

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

ABSENT: None

The motion failed to carry.

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

**RESOLVED**, that term limits of two terms be imposed on appointed members to City Boards and Commissions.

ROLL CALL:

AYES: Councilman Sack

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

ABSENT: None

The motion failed to carry.

10. Protection of Vehicular and Pedestrian Traffic, Boston Post Road at Thistle and Barberry Lane:  
Cost estimate of \$60,000  
Roll Call

City Manager Shew said that the City has been getting reports of rocks in the road near an ancient stonewall on Boston Post Road opposite the current CVS located at 1121 Boston Post Road and an outside structural engineering firm has recommended that barriers be placed on the sidewalk in front of the wall to block off the sidewalk to prevent injury to pedestrians or traffic problems. He said that letters have been sent out to the immediate homeowners to advise them. This action is being taken in order to make the area safe while it is determined what type of restoration is needed and who is responsible for paying for it. City Comptroller Genito said it has been determined it will be cheaper to buy the barriers rather than rent them due to the necessity of determining ownership of the wall.

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

**RESOLVED**, that funding from the 2005 Clinton Avenue Drain (\$75,000) be moved to a new emergency project – 08 Boston Post Road Rock Stabilization.

ROLL CALL:

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

11. Resolution to amend Rye Meeting House project budget to reflect award of federal aid  
Roll Call

City Manager Shew said that three things will happen at the Meeting House: (1) a structural analysis to stabilize the building, (2) elevation of the building with a new foundation, and (3) scraping and painting.

Mayor Otis made a motion, seconded by Councilwoman Gamache to adopt the following Resolution:

**WHEREAS**, the city of Rye has been awarded a federal grant from the National Park Service under the Save America’s Treasures Program for the rehabilitation of the Friends Meeting House Project 671020 (“Project”); and,

**WHEREAS**, the terms and conditions of the grant provide that the City of Rye is obligated to spend at least \$183,022 to receive a reimbursement of at least \$49,305 in federal aid; and

**WHEREAS**, the Project has an available balance of City funding in the amount of approximately \$117,000; and,

**WHEREAS**, sufficient funds exist in the fund balance of the Building and Vehicle to provide additional City funding to meet the terms and conditions of the grant; now therefore be it

**RESOLVED**, that the Friends Meeting House Project budget be amended as follows:

Increase Appropriations \$69,305;  
Increase Estimated Revenues – Federal Aid \$49,305; and  
Appropriate Fund Balance – Building and Vehicle Fund \$20,000

ROLL CALL:

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

NAYS: None

ABSENT: None

12. Resolution to transfer funds from Contingent Account to Police Headquarters Upgrade Project for asbestos abatement  
Roll Call

City Manager Shew said that the project was completed today and tests will be performed to make sure everything is in order. City Comptroller Genito said that as a part of the air testing done on the original project there was a report that there was dust in certain areas with asbestos in it and as a safety measure it was tested and an abatement was done, which added to the cost of the project.

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

**WHEREAS**, the Police Headquarters Upgrade Project 631010 (“Project”) is accounted for in the Building and Vehicle Fund; and,

**WHEREAS**, the Project requires additional funding in the amount of \$40,000 for asbestos abatement; and

**WHEREAS**, sufficient funds exist in the General Fund Contingent Account; now therefore be it

**RESOLVED**, that \$40,000 be transferred from the General Fund Contingent Account to the Police Headquarters Upgrade Project.

ROLL CALL:

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

NAYS: None

ABSENT: None

13. Resolution to amend 2008 General Fund Budget and authorize use of crime forfeiture proceeds for police cameras  
Roll Call

Mayor Otis made a motion, seconded by Councilwoman Gamache to adopt the following Resolution:

**WHEREAS**, the City Police Department is in receipt of crime forfeiture proceeds in the amount of \$2,175; and

**WHEREAS**, New York State law requires that such funds be used solely for police purposes; and

**WHEREAS**, it is the recommendation of the Police Commissioner that such funds be used to purchase digital cameras for the Police Department; and,

**WHEREAS**, the 2008 General Fund Budget did not anticipate the receipt or use of these funds; now therefore be it

**RESOLVED**, that the 2008 General Fund Budget be amended to increase Police Investigation Estimated Revenues – Crime Forfeiture Proceeds and Police Investigations Appropriations – Equipment, each in the amount of \$2,175.

ROLL CALL:

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

NAYS: None

ABSENT: None

14. Consideration of request for permission to close a section of Purchase Street for the 56th annual celebration of the Halloween Window Painting Contest

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

**RESOLVED**, the City Council hereby approves the request of the Recreation Department for permission to close a section of Purchase Street for the 55<sup>th</sup> Annual Halloween Window Painting Contest on Sunday October 19, 2008 (rain date October 26) 8:00 A.M. to 3:00 P.M.

15. Authorization to fill position of Accountant in the Finance Department  
Roll Call

Mayor Otis said that this position will become vacant upon the retirement of Carolyn Ottly, who has been a great employee and wonderful asset to the City for 18 years. City Manager Shew echoed the Mayor's sentiments and added that it was a much-needed position.

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

**RESOLVED**, that the City Manager be and is hereby authorized to fill the vacant

position of Accountant in the Finance Department.

ROLL CALL:

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

16. Authorization to fill position of Assistant Superintendent in the Recreation Department  
Roll Call

Mayor Otis said that the Council has received an email from Doug French, the Chair of the Recreation Commission, outlining why the Commission believes it is important to authorize filling this position. City Manager Shew said that this position was held by Sally Rogol who has recently been promoted to the position of Superintendent.

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

**RESOLVED**, that the City Manager be and is hereby authorized to fill the vacant position of Assistant Superintendent in the Recreation Department.

ROLL CALL:

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

17. Designation of Chair of the Conservation Commission/Advisory Council by the Mayor

This item was deferred.

18. Appeal of denial of FOIL request by Rye Police Association

City Manager Shew said that even though in the City's estimation a response was not required by law, in an effort to forge a new relationship with the Police Association a response was being made and a letter, which is deemed a response to the FOIL request, has been sent to the PBA.

19. Draft unapproved minutes of the regular meeting of the City Council held July 16, 2008

Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to adopt the minutes of the regular meeting of the City Council held on July 16, 2008, as amended.

20. Miscellaneous communications and reports

Councilman Sack announced that the 40-mile Avon Breast Cancer Walk would be held in October and a team from Rye called the Sole Ryeders would be participating. He referred people to the website <http://walk.avonfoundation.org> for further information. Councilwoman Parker added that Councilman Sack's wife was a member of the Sole Ryeders group, who raised over \$100,000 last year.

Councilman Cunningham said that he wanted to congratulate Mike Larken of the Rye Police Department on being promoted to the rank of Sergeant.

21. Old Business

Councilman Ball inquired if there had been sufficient response to the bid for dredging the Boat Basin. City Manager Shew said that there might be problems with the bids, which were being reviewed by staff.

22. New Business

Councilman Cunningham inquired about the work that Con Ed has been doing on Forest Avenue and Milton Road to put in new gas pipes. He asked for the scope of the project and when it was expected to be completed. He also asked for the similar information on Con Ed's tree trimming project. Mayor Otis said that City staff has stopped issuing new street opening permits to Con Edison in order to get them to finish the work they have begun. City Manager Shew said that the City has limited the steel plates because there had been so many of them, but added that there is a down side to this because if the work is not finished while the asphalt plants are open temporary fill will be used which can cause problems during the winter months. He said he thought the work on Forest Avenue would be completed by next week but would try to get schedules.

23. 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 11.25 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk