

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on October 1, 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 7:07 p.m. Councilman Ball made a motion, seconded by Councilwoman Gamache and unanimously carried, to adjourn to executive session at 7 :08 p.m. to discuss Osborn and Bowman Avenue litigation and attorney/client matters. Councilwoman Parker made a motion, seconded by Councilman Cunningham and unanimously carried, to close the executive session at 8:21 p.m. The regular meeting convened at 8:23 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 Deputy City Clerk to call the roll; a quorum was present to conduct official city business.

Mayor Otis congratulated the Rye High School Football team for their 28-3 victory over Harrison and complimented all the athletes who participate in the sports programs throughout the Rye City School District.

Mayor Otis stated that it is important for the Council to note what is going on in the larger world: our economy, the national economy, the financial world, Wall Street and the financial sector of New York State. He said there will be dramatic changes in the financial sector that will affect every municipality in New York State including the City of Rye. The City has a good financial record in terms of financial reporting, a Triple A Bond rating, in maintaining the level of employees, and in keeping the level of expenses down. The Council will be entering the formal budget process in November and December, revenues will be down, so it is important to increase the amount of vigilance normally used concerning capital expenses and review those they are not time sensitive or those that have public safety component in order to ascertain what capital expenses can be deferred. The Council will continue to review staffing and to evaluate

staff vacancies and retirements. Rye residents should be assured that the Council is aware of the impact the economy will have on the community and will take very seriously their role regarding these issues throughout the budget process.

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

Sean Kennelly, 13 Wainwright St, said that the residents of Wainwright Street appeared four years ago before the Council regarding seven bungalows located on the street, and have spoken with the City over the years on this matter. Although they recognize the fact that the City has legal constraints that limits information that can be shared with them, they remain frustrated. *Paul Berte, 17 Wainwright St*. said there are seven properties in question; three on Beck Ave, three on Wainwright St. and one in the center of the property. One of the properties has been condemned for several years, is vacant and continues to deteriorate. These units appear to attract transients and people who are unattached to the community. He spoke with the Building Department several weeks ago to see if there was anything in the Code that the City could use to improve the situation; the central issue being the deterioration of the structures and lack of maintenance over a long period of time. The property has been for sale for the past 4 1/2 years but the deal keeps falling through. The cottages were vacated three months ago, but have been rented once again. He discovered that there are tax liens on the property and ask for an update on the tax information. The owner of the property was in court regarding a roof and the cleanup of the property, but he was not sure exactly what that entailed. He asked (1) if there were any foreclosure proceedings, (2) if the City has the ability to get into the buildings to reassess, (3) if any other cottages could be condemned and (4) stated there doesn't seem to be a parking plan for the property. Mayor Otis said that many tickets have been written over the years; the owners have been brought to Court and the City has tried to enforce the matters under their jurisdiction. City Manager Shew stated that they have walked the area and had hope for a sale and said that under the law, homeowners are allowed a wide latitude of what they can do. The City is concerned about the health, safety and welfare issues and is directing its interest to this end. A \$10,000 fine has been levied and the owners are back in Court once again. The City does not have the right to enter these homes, but at times may be invited in out of necessity. Currently the City is taking legal actions to pursue collection of back taxes or any fines levied against the property. Corporation Counsel continues to handle legal processes concerning this property and reiterated that the City is concerned with the health, safety and welfare issues. Councilman Cunningham expressed concerns about safety issues and asked if the Building Inspector or Fire Inspector could enter the cottages to see if there is anything that could affect the surrounding homes. Deputy Corporation Counsel Kristen Wilson said that if a safety issue was visible from the outside, the City could enter and investigate but that the City cannot enter into these cottages without permission. Councilman Sack said that perhaps we could ask for permission to enter. City Manager Shew said that if a landlord tenant dispute should arise then often the City can gain access, through invitation. Councilman Ball said this is a quality of life issue and should be taken seriously. He encouraged the, Building Inspector, to get as close to this situation through observation as possible because the status quo has not worked and suggested more discussion to see tactically what else could be done. Councilman Cunningham suggested that the Board of Health be contacted if it is suspected that these cottages have very old underground oil tanks. Mayor Otis reported that there is another court date on October 9, 2008, and that foreclosure proceedings by the City for back taxes have begun. Councilwoman Parker assured the residents

of Wainwright St that the Council is very much on top of quality of life issues and Ms. Kristen Wilson added that there is special counsel working on this matter. She will send an update to the Council. Comptroller Genito said that financial foreclosure has a new long process. The property must be in arrears for three years and time sensitive notices must be sent and must adhere to strict rules. The length of time this takes depends upon the responses to these notices and when it goes to court. *Ed Iannarelli, 30 Wainwright St.* said that in 1972 the area residents formed a corporation and eventually took down 32 cottages. The City helped by buying one, which they eventually sold.

John Carey, 860 Forest Avenue, addressed the Council regarding Verizon's Network Review Plan. He submitted his name to the FiOS (Verizon's fiber optic network system) Party List maintained by the Department of Public Service in Albany and is receiving important information. He stated that there are hazardous conditions in the FiOS installations that involve faulty and dangerous grounding/bonding of their equipment. Based on a document he was sent, an expert reported that when bonding is missing or ineffective, voltage differences of hundreds or thousands of volts can exist momentarily between equipment and lead to shock, electrocution or death. Verizon is aware of this and so is the Public Service Commission, but homeowners are not. This information was not disclosed even though it was known as far back as 2006. Verizon's inspections of all new installations (after August 1, 2008) indicated a significant level of non-compliance (17%). All past installations (those prior to August 1, 2008) will have to be checked, but only 10% of the new ones will be inspected. It is indicated in Verizon's plan that 5% of all installations will never be inspected. Mayor Otis thanked Mr. Carey for alerting the City and for providing them and Nicole Levitsky (RCTV) the information and said they would continue to follow these issues. Mayor Otis added that this is not a new issue and that the quality of the equipment of cable companies over the years has not had the best standards.

Jordan Glass, Esq. representative of Heal the Harbor.com, an organization dedicated to improvement of the environmental health and safety of Hen Island and Milton and Mamaroneck Harbors. He addressed the Council on several topics and made the following assertions on behalf of his organization: an email from Westchester County Deputy Health Commissioner Len Meyerson, (July 17, 2007) stated that an inspection of Hen Island revealed that none of the wastewater disposal systems on the Island were approved by the Westchester County Health Department; a review of the City of Rye's tax records showed that in 1989 there were eleven operating outhouses on the island; one remains, indicating that ten were shut down illegally and ten replacement systems were illegally established. (At least four are within ten feet of the shoreline of the Long Island Sound). He also alleged that seven years ago Fire Inspector Dianni noted that the fire safety of the Island was inadequate and suggested that dry hydrants be installed throughout the Island and to date this has not happened. He urged the City Council to take action because Hen Island residents have not. Mr. Glass then acknowledged a surprise visit from Mr. Floatie, the Heal the Harbor.com mascot. His purpose is to educate the public on environmental issues. He meets and greets children throughout the City in order to promote clean water and community health.

4. Four appointments to the Rye Golf Club Commission by the Council: three appointments for three-year terms expiring January 1, 2012 and one appointment for a two-year term expiring January 1, 2011.

Mayor Otis made a motion, seconded by Councilman Sack and unanimously carried, to approve the appointments to the Rye Golf Club Commission of John Duffy for a two-year term expiring January 1, 2011 and Douglas Killip, T. J. Hansen and Patricia Geoghegan for three-year terms expiring on January 1, 2012.

Councilman Sack said that this was a particularly close election and thanked everyone who ran. He said there were 307 envelopes received and he hoped that future elections would have greater participation. He urged those who ran to remain involved.

5. Designation of one member to the Rye Golf Club Nominating Committee

Mayor Otis made a motion, seconded by Councilman Sack and unanimously carried, to appoint Angela Sposato to the 2009 Rye Golf Club Commission Nominating Committee for a one-year term expiring January 1, 2010

6. Resolution to amend acceptance of a Local Government Records Management Improvement Fund Grant from the State Archives and Records Administration (SARA).
Roll Call

Mayor Otis congratulated the Clerk's Office for the receipt of the grant. City Manager Shew explained that this grant was written last year by Susan Morison, the former City Clerk. Councilman Ball noted that the grant had been downsized from the original award and said that this brings to mind the Mayor's opening statements regarding the economic climate and that the City will need to be prepared to extend a lot of foresight during the budget process. Comptroller Genito added that the State cut these grants by 6%.

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

WHEREAS, the City of Rye has been awarded a Local Government Records Management Improvement Fund grant in the amount of \$3,188 to hire an Archival Clerk to review the City's Inactive Records in order to determine which records should be retained and which can be discarded; and

WHEREAS, the 2008 Annual Budget made no provision for either the estimated revenue or appropriation of these grant funds; now therefore, be it

RESOLVED, that the City Council accepts the award of this grant; and be it further

RESOLVED, that the City Comptroller be authorized to amend the 2008 Budget as follows:

Increase the General Fund Records Management estimated revenues for State Aide Records Management in the amount of \$3,188

Increase the General Fund Records Management appropriations for Consultants in the amount of \$3,188

ROLL CALL:

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

NAYES: None

ABSENT: None

7. Resolution to increase bond authorization for Kirby Lane North Sewer Project
Roll Call

City Manager Shew said that this action moves the bond authorization from \$2.4 million to \$2.6 million specifically for the Kirby Lane North Sewer Project. All the funding may not be used but it needs to be authorized now. Comptroller Genito explained that when the original bond was drafted for improvements to sewer projects, \$300,000 was associated with projects other than Kirby Lane North, which to date, have been completed. The remaining amount was authorized for Kirby Lane North, and the original resolution was amended over the years to keep up with the project. Therefore, out of the total authorization of \$2.9 million, \$300,000 has already been accounted for and bonded. The other \$2.6 million is related to Kirby Lane North. He also reported that the application for long term financing was filed that day with the EFC (New York State Environmental Facilities Corporation).

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

BOND RESOLUTION, DATED OCTOBER 1, 2008, AUTHORIZING THE ISSUANCE OF UP TO \$200,000 AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS OF THE CITY OF RYE, COUNTY OF WESTCHESTER, STATE OF NEW YORK, TO FINANCE THE ADDITIONAL COSTS OF THE CONSTRUCTION OF SANITARY SEWERS IN AND FOR THE CITY, PURSUANT TO THE LOCAL FINANCE LAW.

WHEREAS, the City Council of the City of Rye (the “City”), a municipal corporation of the State of New York, located in the County of Westchester, hereby determines that it is in the public interest of the City to authorize the financing of the construction of sanitary sewers, in and for the City, including the acquisition of any applicable equipment, machinery, apparatus, land and rights-in-land necessary therefor and any preliminary and incidental costs related thereto, at a total estimated cost not to exceed \$200,000, all in accordance with the Local Finance Law;

WHEREAS, on January 22, 2003 the City Council of the City adopted a serial bond resolution, (the “January 2003 Resolution”), to finance the costs of the construction of sanitary sewers in and for the City (the “Project”) in the amount of \$1,220,500 and;

WHEREAS, on April 30, 2003, the City Council adopted a serial bond resolution (the “April 2003 Resolution”) to finance additional costs of the Project in the amount of \$579,500; and

WHEREAS, on March 9, 2005, the City Council of the City adopted a serial bond resolution (the "March 2005 Resolution") to finance additional costs of the Project in the amount of \$200,000; and

WHEREAS, on February 28, 2007 the City Council of the City adopted a serial bond resolution (the "February 2007 Resolution"; and together with the January 2003 Resolution, the April 2003 Resolution and the March 2005 Resolution, "the Prior Resolutions") to finance additional costs of the Project in the amount of \$700,000; and

WHEREAS, the City Council of the City now hereby determines that the costs of the Project have increased by \$200,000 to a total amount of \$2,900,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rye, in the County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the City, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, in the aggregate principal amount not to exceed \$200,000, pursuant to the Local Finance Law, in order to finance the costs of the construction of sanitary sewers in and for the City, including the acquisition of any equipment, applicable machinery, apparatus, land and rights-in-land necessary thereof and any preliminary and incidental costs related thereto.

Section 2. The City Council of the City has ascertained and hereby states that (a) the estimated maximum additional costs of the Project will not exceed \$200,000; (b) The estimated maximum cost of the Project is \$2,900,000; (c) no money has heretofore been authorized to be applied to the payment of the costs of the Project, except as authorized in the Prior Resolutions and no obligations have been issued thereunder except for the City's \$2,000,000 Bond Anticipation Note, Series 2007A, dated April 12, 2007 and renewal thereof dated April 10, 2008; (d) the City Council of the City plans to finance the costs of the Project from the proceeds of the serial bonds and/or of bond anticipation notes issued in anticipation of the issuance of such serial bonds as authorized by the Prior Resolutions and as authorized herein; and (e) the maximum maturity of the serial bonds authorized herein shall be in excess of five (5) years.

Section 3. It is hereby determined that the Project is of a class of object or purpose as described in subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law and that the period of probable usefulness of the Project is forty (40) years. The serial bonds authorized herein shall have a maximum maturity of the forty (40) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize the serial bonds authorized herein, and bond anticipation notes issued in anticipation of the issuance of such serial bonds, including renewals thereof, the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes, are hereby delegated to the City Comptroller, as chief fiscal officer of the City. The City Comptroller is hereby authorized to execute by manual or facsimile signature on behalf of the City, all serial bonds authorized herein

and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the City Clerk is hereby authorized to impress the seal of the City (or have imprinted a facsimile thereof) on all such serial bonds and all such bond anticipation notes, and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the manual or facsimile signature of the City Comptroller. In the absence of the City Comptroller, the Deputy City Comptroller is hereby authorized to exercise the powers delegated to the City Comptroller by this bond resolution.

Section 5. When this bond resolution takes effect, the City Clerk shall cause the same, or a summary thereof, to be published, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, in The Journal News, a newspaper having a general circulation in the City and, as a result thereafter, the validity of such serial bonds authorized herein, and of bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be contested only if such obligations are authorized for an object or purpose, or a class of object or purpose, for which the City is not authorized to expend money, or the provisions of law, which should have been complied with as of the date of the publication of this bond resolution, or such summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations were authorized in violation of the provisions of the Constitution of the State of New York.

Section 6. The faith and credit of the City are hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized herein as the same shall become due.

Section 7. The City hereby declares its intention to issue serial bonds as authorized herein, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds (collectively, the "obligations"), to finance the costs of the Project. The City covenants for the benefit of the holders of such obligations that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations, or any other funds of the City, and will not make any use of the Project which would cause the interest on such obligations to become subject to federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code") (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or the Project financed thereby, if such action or omission would cause the interest on such obligations to become subject to federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the serial bonds authorized herein or any other provisions hereof until the date which is sixty (60) days after the final maturity date of such serial bonds or an earlier prior redemption date thereof. The proceeds of the serial bonds authorized herein, and any bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be applied to reimburse expenditures or commitments made with regard to the Project on or after a date which is not more than sixty (60) days prior to the adoption date of this bond resolution by the City. The City may expend general funds or other available moneys for the Project which shall be reimbursed from the proceeds of such obligations.

Section 8. Prior to the issuance of the serial bonds authorized herein, or of bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City Council of the City shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the “environmental compliance proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the City Council of the City covenants that it will re-adopt, amend or modify this bond resolution prior to the issuance of any obligations authorized issued herein upon the advice of bond counsel. It is hereby determined by the City Council of the City that the Project will not have a significant impact or effect on the environment.

Section 9. For the benefit of the holders and beneficial owners from time to time of the serial bonds authorized herein, or of bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City agrees, in accordance with and as an obligated person with respect to the obligations under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner as may be required for purposes of the Rule. In order to describe and specify certain terms of the City’s continuing disclosure agreement for that purpose, and thereby implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller is authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”), to be placed on file with the City Clerk and which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the obligations authorized herein in accordance with the Rule, with any changes or amendments that are not inconsistent with this bond resolution and not substantially adverse to the City and that are approved by the City Comptroller on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed collectively by this paragraph and the Commitment shall be the City’s continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The City Comptroller is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Comptroller shall consult with, as appropriate, its Corporation Counsel and bond counsel or other qualified independent special counsel to the City and shall be entitled to rely upon any legal advice provided by its Corporation Counsel or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. The City Council of the City hereby determines the obligations authorized herein shall be sold to the New York State Environmental Facilities Corporation, a public benefit corporation of the State of New York, under Paragraph D of Section C21-9 of the City Charter. Accordingly, this bond resolution shall take effect immediately upon its adoption by the City Council of the City.

ROLL CALL:

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

NAYES: None

ABSENT: None

8. Resolution to transfer \$75,000 from Contingent Account to Law Department for reimbursement to the Rye School District for Osborn litigation expenses
Roll Call

City Manager Shew said the specific amount to be transferred is 22% of \$75,000 or \$16,500. *John Carey, 860 Forest Ave*, asked to see the document that arranges the City's reimbursement to the School District. Mayor Otis stated that the previous portions of the litigation were covered by the School District paying for the attorney's fees and the City using its own Corporation Counsel to oversee these matters, not as a separate charge to the City, but as part of the general duties of the Corporation Counsel. During the course of the litigation the City has paid 22% of the cost of a forensic accountant which was a joint expenditure related to the litigation because the City Council agreed to pay 22% of the legal fees for the appeal.

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

WHEREAS, Corporation Counsel has determined that approximately 22% of \$75,000 in additional funds will be required to fund the appropriations for legal services in the Law Department, and,

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

RESOLVED, that 22% of \$75,000 be transferred from the General Fund Contingent Account to Law Department Legal Services for litigation defense

ROLL CALL:

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

NAYES: None

ABSENT: None

9. Resolution to transfer \$50,000 from Contingent Account to Human Resources Department for legal services for Police litigation defense

City Manager Shew said this money was to be used for fees associated with several Article 78's; some of which are completed others still pending. Councilman Sack asked for a clarification of the number of Article 78's being paid for by this transfer and asked if there would be more fees in the future. City Manager Shew said it depended upon when these ended and if

any more were filed. Councilman Sack commented that some legal expenses are unanticipated every year, but requested that a prospective budget be prepared by the Law Department inclusive of the known expenditures in order to do a better job allocating money upfront with the understanding that some legal expenses cannot be foreseen. Councilman Pratt added that it is very difficult to predict legal expenses and not reasonable to expect the administration to be able to predict what will happen in the future and that the Council receives a Law Department budget every year. Councilman Sack reiterated that he wanted predictions based on what the administration does know, not on unanticipated litigation. He added that he had asked for backup on a \$65,000 transfer (approved at previous meeting) for fees relating to the Beaver Swamp litigation and has not received it. Mayor Otis said it would be in the Council's weekly packet. Councilman Ball added that he has seen this same discussion over the past several years, and requested that backup be submitted with annotations of the breakouts of the fees when these transfers are requested. Councilwoman Parker agreed with Councilmen Sack and Ball. Councilman Pratt said he felt this would be a good discussion for a public workshop with Corporation Counsel and with some background data when the Council is going through the normal budget process.

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

WHEREAS, the City Manager has determined that approximately \$50,000 in additional funds will be required to fund the appropriations for legal services in the Human Resources Department, and,

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

RESOLVED, that \$50,000 be transferred from the General Fund Contingent Account to Human Resources Department – Legal Services.

ROLL CALL:

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

NAYES: None

ABSENT: None

10. Resolution to appropriate \$200,000 of fund balance to fund the Contingent account.
Roll Call

Mayor Otis asked if this amount should be lowered since the amount in agenda item #8 was changed. Councilman Pratt said that if \$200,000 is not spent by the end of the year, whatever is left over reverts back to the Fund Balance. He also referred to a memo from the administration that all expenses in excess of \$5,000 will be carefully watched and more than likely the \$200,000 will be more than enough.

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

WHEREAS, the General Fund Contingent Account has a remaining balance of \$4,000, and,

WHEREAS, it is anticipated that additional funds will be required to fund expenditures that were not anticipated when the fiscal 2008 budget was adopted, now therefore be it

RESOLVED, that \$200,000 be appropriated from the General Fund fund balance to fund the General Fund Contingent Account.

ROLL CALL:

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

NAYES: None

ABSENT: None

11. Resolution to transfer \$31,000 from Contingent Account to Engineering for consultant expenses, a survey, related to pedestrian improvements for Oakland Beach Ave. and Forest Avenue.

Roll Call

Mayor Otis said that some of the surveys are tied into trailway projects as well as Forest and Oakland Beach Avenue improvements and asked if the entire \$31,000 will be spent. The City is getting into the analysis of the improvements to Forest and Oakland Beach Ave., and perhaps it may reveal that only one side of the streets need to be surveyed thus saving some money. He asked for due diligence and to not assume that it all has to be spent. Councilman Pratt said he would like to wait for the general budget process to revisit and discuss this matter with a professional and emphasized the need to continue to be fiscally responsible. Councilman Sack said these are good projects but given the economic climate and the fact that the budget process is about to begin, it might be more prudent to consider this item at another time. Councilwomen Gamache agreed and felt that Oakland Beach and Forest Avenues should be considered safety and welfare issues and be prioritized this way. Councilman Ball clarified that the surveys would measure distances off the centerline to determine the location of the right-of-ways and the edges of the City's work area. He felt that this was a good value, and wants this to remain a priority. Councilman Cunningham noted that part of the survey included an area of the Boston Post Rd where a wall is deteriorating near Loudon Woods and asked if there was any liability the Council should know about. Mayor Otis said it would be helpful to have a breakdown of what properties are going to be surveyed, the costs, and if there are parts of these properties that do not have to be surveyed. He stated that the improvements to Oakland Beach and Forest Avenues are being done to create safe walking trails not to create a trailway in an area where there are no safety issues. The item was deferred.

12. Authorization for Corporation Counsel to commence proceedings to dispose of abandoned boats at the Boat Basin/Marina.

This item was pulled by Corporation Counsel

13. Miscellaneous communications and reports

Councilman Cunningham congratulated the Police Department on their coordination with the County regarding the Westchester Triathlon and their coverage of the Rye Harrison Football game.

Councilman Pratt reported that there will be a sprint triathlon at West Point and that the Half Iron Man Triathlon still had some open slots. The Half Iron Man Triathlon is very difficult event and that possibly the City may be approached, once again, to hold this event.

Mayor Otis announced the Douglas McKean, former Council member, has been appointed to the Metro North Commuter Council by New York State Governor David Patterson.

14. Old Business

Councilman Sack reported on the Recreation Commission's plan to give consideration to the Seniors who play golf at the Rye Golf Club. Currently the Rye Golf Club has a Social membership, which for \$75.00 a year permits someone, with this membership, to play one round of golf for \$60.00 up to ten times a year. Rye Recreation Commission has offered to subsidize a portion of the daily fees for this type of membership. The program would be limited to ten individuals totaling a \$3,500 outlay. He thanked everyone who was involved in the proposal. He also mentioned that Agenda Item #19 (amending FOIL procedures) from the September 3, 2008 meeting was tabled and was supposed to be on the agenda for this meeting. He requested that it be placed on an upcoming agenda. Mayor Otis said the procedures needed more drafting.

Councilman Pratt asked for more clarity on the Police Department budget in terms of the staffing and overtime and asked the members of the Council to support his request. Regarding the Rye Golf Club, he said there is a sensitivity in the community regarding the fees and requested that when the Rye Golf Club Commission and the Manager sit with the Council during the budget process, and bring greater granularity in terms of the numbers and the business operations. Councilman Sack said the Commission budget had been prepared prior to the events on the Wall St. and that it does include some increases and perhaps they may have to reconsider the fees. Councilman Cunningham said each year the Golf Club Commission make an assumption on attrition and if they raise it too much they will loose members.

Councilman Cunningham said he feels that the Boston Post Road Diet has been a success, but expressed disappointment that the City did not receive any money for Safe Routes To School from the Department of Transportation (DOT). He heard that due to the fact that the City had made some improvements we were turned down. Assistant City Manager Scott Pickup has asked for additional information from the DOT because there were some stand alone items that did not receive any funding. Mr. Pickup will be meeting with the Safe Routes people and

they will try to get some answers. Mayor Otis pointed out that he believed that the City had asked if the road diet would affect the application. He also said that Safe Routes was not the only avenue to apply for funding for trails and safe routes to school. He encouraged everyone to look for other funding opportunities for this project and perhaps even for the funding for the surveys previously discussed.

15. New Business

None

16. Draft unapproved minutes of the regular meeting of the City Council held September 3, 2008

Mayor Otis made a motion, seconded by Councilman Ball and unanimously carried to approve the minutes as amended.

17. 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 10:15 p.m.

Respectfully submitted,

Diane C. Moore
Deputy City Clerk