

APPROVED MINUTES of the Budget
Workshop/Regular Meeting of the City Council of the
City of Rye held in City Hall on December 3, 2008 at
7:00 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 Cunningham and unanimously carried to adjourn into Executive Session to discuss personnel issues. Councilman Ball made a motion, seconded by Councilwoman Gamache and unanimously carried to close the Executive Session at 8:12 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.

Mayor Otis said the first order of business was to congratulate the Rye High School varsity football team for repeating as State Champions after an undefeated season.

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

Robert Schubert, 980 Forest Avenue, said he has done nothing wrong but his property has been damaged and he believes the City Council is disobeying the law. He said he wanted to know where his water is going and where is there an exception in the Wetlands Law for his problem? He said the City was spending taxpayer money on lawyers to “stonewall” him and that his neighbors told him they received permission from the City to perform work on their property, which he feels was a “goof” in the organization. Councilman Ball questioned Mr. Schubert about the attorney he believes the City is paying to “stonewall” him. Mayor Otis said the City is not making additional expenditures for legal services related to Mr. Schubert’s matter.

4. Public hearing on the proposed 2009 Budget

Mayor Otis gave a brief overview of where the Council is in the budget process and outlined its goals. The budget was presented to the Council on November 5, 2008 with a 5.9% tax increase. There have since been five budget workshops as well as discussion at two previous City Council meetings. The discussion and deliberations will continue between now and December 17th, when the Council is slated to adopt the 2009 budget. The two primary goals of the Council are to lower the proposed tax increase to a more reasonable level while maintaining services, and to address what is the appropriate level of funding to give to the library. It is the desire of the Council to increase the amount of funding provided in the City Manager's proposed budget but, at the same time, not be out of line with how the Council is dealing with other City agencies. Less spending is proposed for 2009 than for 2008; all but essential capital spending has been cut and additional cuts may be made in vehicle purchases that were proposed. It is expected that the City will continue to maintain a healthy Undesignated Fund Balance and staff have continued to make cautious estimates for elastic revenues such as mortgage recording tax, sales tax and interest income. The Mayor added that cuts amounting to an additional \$350,000 to \$400,000 have been identified to help accomplish the Council's goals. He asked other Council Members for their comments before opening the public hearing.

Councilman Cunningham said that his focus is not on a one-year budget but a multi-year discipline because the challenges to this community will likely go beyond 2009 and decisions made this year could make next year's budget cycle less painful.

Councilman Ball had some specific questions for City Comptroller Michael Genito. Would it be possible to reduce the projection for 2009 CSEA DPW overtime down from \$116,000 to \$100,000? The actual amount spent in 2007 was \$66,000 and it is expected that \$85,000 will be spent by the end of 2008. Mr. Genito said he would have to discuss it with the head of the Department of Public Works because they make the projections based on past history and a three-year average. Mr. Ball also questioned the amount of money earmarked for sand, salt and deicing (\$56,000 in 2007 and projection for 2008 of \$100,000 with only \$47,000 having been spent through November 10th). Mr. Genito said there were two things involved in this number, the second load of salt that comes in, and salt prices have gone up 50% over prior years, mostly due to transportation costs, which do not come down as quickly when gas and oil prices come down. The City buys salt through State contract and the prices are the lowest that you can get in New York State.

Councilman Sack said he believed that if there ever was a year to keep taxes down it was this one. He said he would like to see the tax rate reduced as much as possible because "desperate times call for desperate actions" but that sometimes in "hard times" people need government services even more. He understands that some constituencies are seeking reinstatement of money; but there are some programs that are not being funded at all, such as the Safe Routes to School and Trailways program, which he would like to see funded, but he understands that in this year it is not possible. Mayor Otis said that grants have been applied for and if we do receive money, the City should use fund balance for the local match amount. Councilman Sack also asked a question relative to claim losses and asked why the amount projected for claim losses for 2009 was doubled? Comptroller Genito said the significant claims

were more on the medical side and not the risk liability side although the legal fees on the liability side were higher. The amount that is normally budgeted is the amount that used to be the City's self-insured retention of \$120,000 to \$150,000. About half of that amount has normally been spent on claims, but with adjustments made throughout the year, in many cases for legal costs, the City will end up spending pretty close to the amount budgeted. Most of the costs associated with this budget are for purchased insurance and purchased services such as actuaries and consultants and claims administrators. The amount of legal fees and actual claims payouts are not known at the time the budget is adopted. City Department budgets are charged a proportional share of the Risk Retention budget lines. Councilman Ball asked if the claim losses line, currently stipulated at \$150,000, were to be cut in half what would be the consequences. Mr. Genito said that the City could find itself in the situation were there was not enough money in the Risk Retention Fund and staff would have to come back to the Council to appropriate money from Contingency or Fund Balance to pay for the claims. Councilman Sack inquired about the project balance amounts listed for capital projects and what is done with these funds. Mr. Shew said that typically an amount of money is retained on projects for one year to make sure there is money to pay for any additional claims that may come in. Once the project is finally closed, any money left is transferred out of the project line.

Councilman Pratt said the basic fact to understand when going into the budget cycle is that property taxes are 63.4% of the budget and elastic revenues are 36.6%. Property taxes proposed for the coming budget are \$19,649,000 and the amount proposed for salaries and wages and benefits, which represent the services provided to the community, is \$19,123,000 or 97.3% of the property tax money. Over time elastic revenues have expanded as a percent of the total budget and dependence on these revenues puts pressure on the whole budget. It is prudent for the City to be conservative in forecasting what elastic revenues it will be receiving. The focus of the Council should be on controlling and reexamining costs in non-service related areas. He also thanked the Finance Committee for their memo, specifically the recommendation for a Recession Planning Task Force and thought the Council should discuss forming such a Task Force in case the recession lasts more than a year or so.

Councilwoman Gamache agreed that the Council would like to lower the proposed tax rate while maintaining the quality of services. Part of the discussion might have to be about cutting services if the economy doesn't get better. She reminded people that based on where they live, their City taxes represented either 16% or 14% of their total tax bill.

The Mayor then opened the hearing to public comment:

Howard G. Seitz, 141 Kirby Lane, said that when he was on the Council he believed the City needed to find new sources of revenue and also to get people to pay for services that are peculiar to them. He added that he does not believe that there have been any new sources of revenue identified other than the two he initiated, parking meters and hotel occupancy tax. He recommended ways to increase revenue: (1) doubling parking fines; (2) increase Merchant Parking Permit fees by 50%; (3) increase Recreation fees by 10% per child which would yield \$15,000 to be applied to scholarships; and (4) double the fees charged for parking to \$1.00 per hour and extend the hours for meters until 9:00 p.m. He said the total of these suggested changes could yield the City an additional \$570,000, one-half of which is used to reduce the tax burden and the other half used to address other needs such as the library or trailways. He said he

believed the City should look to find new revenues from people who don't live in Rye. Councilwoman Parker said that she agreed with Mr. Seitz' proposal regarding extending the hours for parking meters but does not agree with doubling the fines. She also said she did not agree with doubling the fees for Merchant Parking permits because many part-time employees do not find it pays for them to buy a permit at the current price and choose to feed the meters. Councilman Pratt said that other areas of revenue that have come into the City in the past 15 years include the mortgage recording tax and County sales tax and reiterated his belief that dependence on elastic revenues is what puts the City at risk. The focus of the City should be to cut costs. He also said he did not believe in increasing recreation fees because in these times more people might need help in providing recreation opportunities for their children.

Arthur Stampleman, 720 Milton Road, said he would focus on costs and cost estimates related to employee benefits. Benefits for the first nine months of 2008 were 4% above 2007 but for the fourth quarter of 2008 they are 79% above 2007's fourth quarter. If the benefits remained at only 4% above last year there would be \$1 million less in expenses projected for the year. The record for forecasting employee benefits does not seem to be good. He suggested the Council spend time understanding the numbers presented for employee benefits for this year and next year where benefits are projected to go up more than salaries. Councilman Ball asked if the spike in the fourth quarter for retiree benefits reflected the mandatory contribution to the State Employee Retirement System? Mr. Genito said there are a number of year-end adjustments where the City does accruals, and the retirement bill comes in in December, which is a once a year bill. Councilman Pratt said with the performance of the markets recently, it is reasonable to expect that the State will raise the City's contribution rate. Mr. Genito said that the rate is set on the March of the prior year.

Karen Bresolin, President of Library Board of Trustees, said the Library is thinking about tomorrow and years to come when doing strategic planning. She said the Library does not want to be signaled out in getting cuts or in getting more than anyone else and is willing to work with the amount that the City gives them. Councilwoman Parker asked about the results of fundraising since the Library's presentation at the November 19th Budget Workshop and said a weekly update would be helpful until the next Council meeting. *Kurt Haedler, Library Director*, said that things have started to pick up a little but not substantially. A second appeal letter will be going out soon and the end of December is usually the highest period of giving.

Bernard Althoff, 34 Mendota Avenue, said he was concerned that there was no new money in the 2009 budget for the Bowman Avenue problems. Mayor Otis reminded Mr. Althoff that there is money in the 2008 budget for the Sluice Gate project and \$150,000 has been spent so far. The City has made the cut off round with the County for funding and an application will be submitted in the next few days. The City hopes to receive over \$1 million from the County, as well as money from Rye Brook and \$400,000 that Assemblyman Latimer has secured. Whatever cannot be raised from outside funds will come from the Undesignated Fund Balance. When the Budget is adopted a page will be added on the various flood projects. Councilman Sack asked if it would be prudent to earmark money that will be taken out of Fund Balance in 2009 for flood projects. Councilman Pratt said the pace of flood projects is driven by outside agencies and does not believe it is a good idea to spend money before you get money. Councilman Cunningham added that the City is also waiting for funding from the State to repair the Central Avenue Bridge.

Mayor Otis said he would close the public hearing with the knowledge that the budget would be changed subsequent to this meeting. The changes would be adopted at the next meeting. Councilman Sack asked if the significance of closing the public hearing was that any subsequent votes would require a super majority vote (at least five votes) to change the budget? Mayor Otis said a super majority vote was only required to increase the budget.

The public hearing was closed.

5. Public Hearing to amend local law Chapter 108-27 ‘Heating’ of the Rye City Code to reflect the heating requirements of the New York State Building Code

City Manager Shew said that the purpose of this local law is to bring the City Code into compliance with changes in the State Code. Mayor Otis opened the public hearing and asked if anyone wanted to comment. As there were no comments from the public or Council, the Mayor closed the public hearing.

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

**CITY OF RYE
LOCAL LAW NO 5-2008**

**A local law to amend Chapter 108, Housing Standards,
Article V, Section 108-27, Heating, of the Code of the City of Rye
in order to bring it into compliance with the Property Maintenance
Code of New York State**

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

Section 1. 108-27. Heating.

A. General requirements:

- (1) Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter design dry-bulb temperature for the locality indicated in the *Energy Conservation Construction Code of New York State*. Cooking appliances shall not be used to provide space heating to meet the requirements of this section. Exception: Owner-occupied, one-family dwellings.
- (2) Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 15th to May 31st to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Exception: When the outdoor temperature

is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required, provided that the heating system is operating at its full design capacity. The winter design dry-bulb temperature for the locality shall be as indicated in the *Energy Conservation Construction Code of New York State*.

- (3) Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 15th to May 31st to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
 2. Areas in which persons are primarily engaged in vigorous physical activities.
- (4) Occupiable public spaces. Indoor public spaces shall be supplied with heat during the period from September 15th to May 31st to maintain a temperature of not less than 68° F (20° C) in accordance with the *Building Code of New York State* during the period the spaces are occupied
- (5) Room temperature measurement. The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

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 immediately upon filing with the office of Secretary of State

ROLL CALL:

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

NAYES: None

ABSENT: None

6. Consideration to set a public hearing to adopt changes amending local law Chapter 191, Vehicles and Traffic, of the Rye City Code by amending Section 191-18, Subsection D(2) prohibiting all-night parking except that parking will be allowed on the westerly side of Theall Road, off the travel portion of said road from a point approximately four

hundred thirty-five 435 feet north of its intersection with Osborn Road and running north for a distance of three hundred fifteen 315 feet

This item was deferred until there is a resolution regarding parking in the lot adjacent to Rye Manor.

7. Discussion regarding the filing of a joint application between Rye and Rye Brook for a Flood Mitigation project

Mayor Otis noted that negotiations are continuing with Rye Brook regarding the cost sharing of the joint application and the application should be finalized and submitted. The City has been in touch with the County Planning Department and confirmed that the City can wait a few more days to get the numbers worked out before submitting the application. The City is applying for the Sluice Gate as well as money to do the upper pond resizing project. The request to the County will be for \$2.4 million and it is hoped they will pay at least half of that amount. Councilman Cunningham asked if the \$50 million the County had allocated for flooding projects over a five-year period would be distributed at \$10 million a year? Mayor Otis said he was not sure if the County would limit themselves to \$10 million a year but thought they might spend the money as quickly as they receive valid applications. He added that since the City of Rye was one of the first communities to get through the first round to be eligible for funding, it should be one of the first communities to receive money.

8. Approval of the election of two new members to full membership in the Rye Fire Department

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

RESOLVED, that the Council of the City of Rye hereby approves the election of Richard Colligan into membership in the Poningoe Hook & Ladder Company, and Michael Szwasjkowski into membership in the Milton Point Engine and Hose Company, approved at the November 2008 meeting of the Board of Fire Wardens.

9. Miscellaneous communications and reports

Councilman Cunningham said that in reviewing the capital projects cuts made to the proposed 2009 budget, he believes that City staff should take another look at the Orchard Avenue Bridge project in order to reallocate money to do that project next year. He also said that again this year the Wreaths Across America organization would be stopping at City Hall as they travel down from Maine to Arlington Cemetery to put wreaths on the graves of fallen soldiers. A brief ceremony will be held on Thursday, December 11th at approximately 10:00 a.m.

Councilwoman Parker announced that there was an opening for a crossing guard and suggested anyone interested should contact the City Manager's office.

10. Old Business

There was no old business.

11. New Business

There was no new business.

12. Draft of the unapproved minutes of the Budget Workshop held on November 17, 2008, and the Regular Meeting/Budget Workshop of the City Council held on November 19, 2008

Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried to approve the minutes of the Budget Workshop held on November 17, 2008 and the Regular Meeting/Budget Workshop held on November 19, 2008, as amended.

13. 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 10:00 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk