

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on January 14, 2009 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 meeting convened at 7:30 p.m. Mayor Otis made a motion, seconded by Councilman Ball and, after a discussion of the appropriate topics for Executive Session, unanimously carried, to adjourn into Executive Session to discuss real estate matters. Former City Councilman Douglas McKean and David G. Jetson and Susan Scalfani, consultants from the firm of JCJ Architecture, participated in the Executive Session. No decisions were made. Mayor Otis made a motion, seconded by Councilman Pratt and unanimously carried to close the Executive Session at 7:45 p.m. 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. Mayor's Annual Message

“It is again my privilege to present the Mayor’s Annual Message and highlight both the work being done in our community and the challenges we face.

“Rye continues to be regarded as an outstanding community because of the level of volunteer involvement of our residents, the strength of our not-for-profit organizations and schools, and the professionalism and dedication of the staff of our City government. We are all part of a community fabric that makes Rye exceptional and that gives our work together additional meaning.

“Rye has relied on these strengths throughout the generations. In good times and challenging days, our community fabric has been our backbone. Now we face

what is likely the most serious economic threat to our nation and our region since the 1930's. With retrenchment and change in the financial services industry, communities like ours in the metropolitan area will feel the impact directly.

"We may have concerns about how long it will take the national economy to recover. Let me make it clear tonight that I have no doubt that the City of Rye will weather the downturn with great care and maintain financial strength as a community. My confidence is based upon actions we took in November and December with the adoption of the 2009 budget and our plans for further review of opportunities for additional savings in the New Year.

"On a financial basis, the City of Rye government remains one of the strongest local governments in New York State. We are one of a handful to hold a Moodys Aaa bond rating. Our level of property taxation for the municipal part of the tax bill is among the lowest in Westchester. Our undesignated fund balance is healthy, as is our level of debt. Our local government provides a full mix of municipal services that residents expect, and at a cost effective price.

"Our projections for revenue loss for 2009 are that we will be down about a million dollars based upon reduced elastic revenues. To address that expectation, the 2009 budget adopted by the City Council reduced spending by \$1.1 million compared to the 2008 budget. We eliminated over \$2 million in capital projects that had been suggested, authorizing only essential infrastructure projects. We reduced the tax increase by 1.47 percent below the City Manager's proposal and eliminated or deferred over \$200,000 in additional spending not reflected in the tax rate reduction.

"Until the economy recovers, projects that can be deferred will wait; projects that focus on flooding, public safety, or are time sensitive will proceed as we are able. In all cases, we will continue our efforts to seek outside funding to assist in the projects and needs of the City.

"Within the budget process, the Council and city staff searched for additional opportunities to reduce spending. We accomplished significant reductions in the budget process. Now, outside the limited time frame of the budget deliberations, the Council plans to review additional policy areas that affect revenues and costs.

"We believe we have fairly estimated the impact of the loss of elastic revenue such as interest income, mortgage recording tax income, and sales tax proceeds based upon information available in November and December.

"Our goal for the beginning of 2009 will be to provide contingency plans if the economic picture worsens beyond our projections. With the assistance of the Finance Committee and Department heads, we plan to look for new opportunities to reduce costs and develop estimates for savings for reductions in services if they become necessary. Council members will focus on a number of areas where we have questions that could not be fully reviewed in the budget process. The City

Manager will organize an in-house task force of department heads to review costs and contingency plans if service reductions are needed.

“The Council and residents do not seek service reductions and hope that none are necessary. Our expectation is that we can remain steadfast in the event of another downturn. Due diligence requires that we are prepared, that we know the cost of changes, and that we have done our homework ahead of time. At the same time, we are working towards making our organization more cost effective. The additional review will be beneficial.

“This is familiar territory. In 2001 and 2002, we encountered drastic loss in revenue because of an economic downturn. At that time, we established the Job Reduction Review Policy. This policy requires that every vacancy be reviewed by the City Manager to determine whether a position needs to be refilled or whether the work of that position can be merged or reorganized in a more efficient way. A number of changes have been made based upon this practice. When the economy improved, we did not rescind the policy. We have kept this practice in place as a standard operating procedure since it was established.

“The Council is united. We take our responsibility to maintain the economic stability of our City government, control costs and property taxes, and provide quality services very seriously.

“The City’s strong financial position is longstanding. For the last 13 years, we have had the benefit of the outstanding skill, expertise, and collaboration of City Comptroller Mike Genito.

“Mike will be leaving us at the end of January in a change in direction of his career and a move to the world of academia. Mike will assume the position of Director of the Institute for Public Policy and Management at Pace University which is an outstanding program in public administration and where Mike has taught on an adjunct basis for a number of years.

“Mike is a leader in his profession among governmental financial officers. All of our City Councils over the years have high expectations regarding financial reporting, information, and practices. Mike has met all those expectations.

“When new accounting standards are phased-in for municipalities, we are usually among the first to make the transition. The number of financial reports we receive, the amount of information requested in the budget process, and the time we spend reviewing financial issues is far above the norm for local governments.

“When we suffered from Hurricane Floyd, Mike mastered the complicated process of filing for funds through FEMA and other agencies. When we again sustained damage in the floods of 2007, Mike’s protocols for sharing information with FEMA and SEMO were vital in the competition for repair funds. He runs a

modern Finance Department that is up to speed on technology and provides all of the services it does with three fewer staff people than it had a few years ago.

“Mike has been a key part of our team. He also holds the title of Assistant City Manager. Pace University’s gain is our loss. On behalf of the City Council and the people of Rye we congratulate Mike on this new opportunity and thank him for his excellent service to our City.

“Mike will assist the City Manager in the search process for a new City Comptroller, as will former City Manager Frank Culross, who was our Manager when Mike was hired. The Council is committed to maintaining the level of expertise and quality we have received from Mike’s service to this community.

“Hard economic times affect the City government. In more significant ways, the financial downturn impacts Rye’s not-for-profits. Our many community groups are vital to activities in Rye. The City government partners with most of them in joint activities, events, and projects. To the extent that you are able, I ask residents to remember our local not-for-profit groups in your charitable giving and your volunteer time.

“For 2009, we will continue the progress we have made on a number of projects and activities.

“Our first responsibility is to continue to provide the basic services that residents expect: police, fire, public works, infrastructure, traffic safety, planning, and recreation. We have a skilled professional staff and superb department heads. They have been partners in controlling costs, providing services, and making the City of Rye one of the top municipal governments in the country.

“Beyond what we do every day are the special projects and goals that we as a community undertake.

“Our work on flood repair and mitigation projects will continue to advance. Work on the Elm Place brook wall is underway. Logistics with utility companies are being resolved so that the Theodore Fremd brook wall project can proceed, as well. We are awaiting approval of some final sign-offs on the Central Avenue Bridge project from state agencies. The dredging of the marina at the mouth of Blind Brook is nearing completion.

“Flood mitigation projects will move forward also. The Sluice-gate project in Rye Brook is moving forward in the approval process with NYS DEC and with funding expected from Westchester County.

“The Sluice-gate by itself is not a magic bullet. When it comes to flooding, no one project will resolve all of our issues. The Sluice-gate project will reduce the water level downstream about four feet in certain kinds of mid-level storms. Additional projects in the Bowman Avenue area are being vetted. The Army Corp

of Engineers is looking at projects in Purchase that will provide additional benefits. Only through multiple projects, each adding lowered water levels or additional water detention, will we be able to markedly reduce our exposure in Rye.

“My work on the County Flood Action Task Force and at the state level continue to allow our experience in Rye to be used to focus public policy towards better solutions and improved intergovernmental cooperation on flooding. We continue to receive significant support from our elected representatives at other levels of government on flooding issues. If you see Senators Schumer or Clinton, Congresswoman Lowey, County Executive Spano, Senator Oppenheimer, Assemblyman Latimer, or County Legislator Judy Meyers, please thank them for their help in supporting Rye projects.

“Congresswoman Lowey has been the leading member of the New York Congressional Delegation on bringing federal resources to flood projects in New York. Andy Spano, by establishing the county flood committee and devoting \$50 million towards projects, has shown his commitment. Without the past and continued support of other levels of government, no community could afford to address these issues on their own.

“In our case, we continue to be successful in securing outside funds for much of what needs to be done. At the appropriate time, we will need to seek community support for borrowing in order to secure the local match of some of the projects.

“We also need to work with our neighbors in Rye Brook and Harrison and win their further cooperation on flooding issues on Blind Brook and Beaver Swamp Brook where we are in dispute. The City of Rye government continues to be a strong advocate for flood mitigation and needs the help of our neighbors.

“With the installation of the Boston Post Road Diet and the implementation of other safety improvements around the High School and Middle School, we have moved forward on the work of the numerous entities focusing on pedestrian and traffic safety. The partnership between the city, the schools, YMCA’s Activate America Committee, our own Recreation Department, Traffic and Transportation Committee, and our Trailways Committee has brought progress and an ambitious list of new areas where we need to improve pedestrian safety and safety in walking to school. This work must continue, but will need an accelerated effort to apply for a variety of outside grants to support our efforts locally. We need to match projects with relevant grant programs in order to move ahead on projects on Forest Avenue, Oakland Beach Avenue, and near Rye Neck High School. We need to involve neighborhoods in order to address their needs and concerns.

“We are moving closer to approval of a lease with the Thruway Authority for use of the parcel on the Boston Post Road for an athletic field. The participation of user groups and residents in supporting the building of the field will be necessary.

“Acquisition of the Bird property in cooperation with the Committee to Save the Bird Homestead is on the road to becoming a reality with the City serving as the successful applicant of a series of government grants. The local cost for this acquisition will be borne through private funds raised by the Save the Bird Homestead Committee. County Legislator Judy Meyers, Assemblyman George Latimer, and Senator Suzi Oppenheimer have been champions in seeking outside support to make this acquisition possible, as have been Westchester Land Trust and Audubon New York. The Save the Bird Homestead Committee who raised the private funds, the Bird family, and the late John Erickson have all worked closely together to make this acquisition possible.

“The balance sheet at Rye Town Park is much improved with changes made in 2008, many at Rye’s suggestion. We still need to access the \$400,000 in outside grants secured for the tower building to address long-deferred capital repair needs at the park.

“We will continue to follow the issues in which we made progress in 2008. The Recreation Commission brought us a pilot program to address the issue of affordable use of the Rye Golf Club by Rye seniors. This is an issue that has been championed by John Carolyn. The Rye Golf Club Commission also offered a limited day membership category in 2008. The new effort by the Recreation Commission will be implemented this year. We will track that experience and the issue going forward.

“There are always unexpected issues that arise. We continue to oppose efforts to build a highway tunnel from the Long Island Expressway to Rye, which was proposed in 2007.

“Recently we learned of a proposal by the Coast Guard to withdraw responsibility for buoys in our waters. There is a tight deadline to comment to the Coast Guard and federal officials on this proposal. I will ask the staff to draft the appropriate comments for use by the City Council in opposing this change, which would shift the cost of the navigation buoy system to Rye adding thousands of dollars in expenses to our budget.

“These are some of the projects and challenges for 2009. There are many other tasks and activities that are the focus of the City Council and of the City Staff. We thank Paul Shew, Scott Pickup, Mike Genito, Dawn Nodarse, and Kevin Plunkett for all of their efforts on behalf of the City.

“As I noted earlier, we live in precarious times for our economy. We also live in a great community. The opportunity to serve in difficult times is a privilege. We are all committed to maintaining the stability and excellence for which Rye is known.

“We owe much to the generations that came before us and the legacy they left us. We are dedicated to keeping Rye the special town it is with the appearance of a small New England village and the community spirit that binds us together.”

Announcements

Mayor Otis noted that since the Council last met in December several people with ties to the City have passed away: Ben Bedini, who was the football coach at Rye High School from 1954 to 1962; Paul Redd, a long-time advocate for social justice who also served the City as an election machine technician; former Councilman and Part-time City Court Judge John Alfano's daughter Nancy Thompson and Lloyd Shew, father of City Manager Paul Shew. The Mayor offered condolences on behalf of the entire City Council.

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

Henry King, 76 Coolidge Avenue, came to speak about Beaver Swamp. He said that William Janeway, the Director of Region III, Department of Environmental Conservation (DEC) in New Paltz, spoke at the last Harrison Town Board Meeting, and said that he wanted the differences between the Town of Harrison and City of Rye to be compromised and an agreement reached. Mr. King said he was opposed to compromise. Mayor Otis said that he has spoken to Mr. Janeway on many occasions about the need to get the City's views more into the process. The Mayor said that a compromise that splits the difference and does not get the right results for Rye is not a compromise that the City would sign on to.

Elizabeth Zahm, 7 Ridgewood Drive, said that the overpass at Old Post Road over the Playland Parkway is continually filled with ice and snow. She said she understands that the area is owned by the County of Westchester and is technically not a sidewalk but asked if there was anything the City could do to get the snow removed. Councilman Cunningham said that he has been in contact with the County regarding the rehabilitation of the bridge and the project is still in the "pipeline" for capital projects for 2010 and hoped that the design would include a safer pathway across the bridge. Councilman Sack asked if it would be possible for the City to enter into an Intermunicipal Agreement with the County, whereby the City would take care of snow removal and bill the County for it?

Robert Schubert, 980 Forest Avenue, said the City does a pretty good job in general and he is "delighted to be a resident" but came to address the problem of his pond. He again quoted a section from City Code Chapter 195, regarding despoliation of wetlands and watercourses, which he believes applies to his situation. He showed a picture of his garden that he said was once used to collect \$30,000 in donations for the Girl Scouts, and is now reduced to a marshland. He asked the Council to seriously consider his issue.

Laura Carozzi, 192 Marbledale Road, Tuckahoe, NY, a spokesperson for HealtheHarbor.com, said she was disappointed that the City did not have plans in 2009 for enforcing the laws on Hen Island. Mayor Otis pointed out that HealtheHarbor.com was an outgrowth of litigation and a dispute between members of the Hen Island Association and a former member of the Board of that Association. He said that sanitary issues relating to Hen Island are handled by the Westchester County Department of Health and the building code issues raised have been looked at by the City's Building Inspector and Fire Inspector. He said the City Council is not interested in participating in activities relating to that litigation.

5. Appointment of a Council Member as Trustee of the Police Pension Fund, by the Mayor with Council approval, for a one-year term

Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously approved by the Council, to reappoint Councilman Andrew Ball as trustee of the Police Pension Fund for a one-year term expiring January 1, 2010.

6. Designation of the Chair of the Planning Commission by the Mayor

Mayor Otis designated Barbara Cummings as Chair of the Planning Commission.

7. One appointment to the Board of Assessment Review for a term expiring on September 30, 2013

Mayor Otis made a motion, unanimously approved by the Council, to appoint Mark Gardner to the Board of Assessment Review for a term expiring on September 30, 2013.

8. Designation of the days and time of regular meetings of the City Council

Mayor Otis made a motion, seconded by Councilman Pratt and unanimously approved, designating the following dates for regular meetings of the City Council in 2009:

January 14
January 28
February 11
February 25
March 11
March 25
April 15
April 29
May 13
May 27
June 10
July 15
August 12 (including capital projects)
September 9
October 7
October 21
November 4
November 18
December 2
December 16

9. Designation of official City newspaper

Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried to designate *The Journal News* as the official City newspaper.

10. Designation of the amounts of faithful performance bonds

Mayor Otis made a motion, seconded by Councilman Cunningham, to recommend the following amounts of faithful performance bonds, as recommended by the auditors:

A.	City Comptroller	\$ 1,000,000
B.	City Clerk	\$ 500,000
C.	City Marshal	\$ 100,000

ROLL CALL:

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

NAYS: None

ABSENT: None

11. Authorization for City Manager to enter into an Inter-municipal Agreement with Westchester County for Enhanced 911 Service

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

RESOLVED, that the City Manager is hereby authorized to enter into an Intermunicipal Agreement with the County of Westchester for Enhanced 911 Service commencing July 11, 2008 through July 10, 2013.

12. Authorization for City Manager to enter into an Inter-municipal Agreement with Westchester County for Repository for Integrated Criminalistic Information (RICI)

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

RESOLVED, that the City Manager is hereby authorized to enter into an Intermunicipal Agreement with the County of Westchester for a Repository for Integrated Criminalistic Information (RICI) System commencing March 1, 2009 through February 28, 2014.

13. Resolution authorizing the City Manager to submit necessary application forms for state funding secured by Assemblyman Latimer towards acquisition of the Bird property.

Mayor Otis noted that the City Council had previously authorized an application be made to the State Office of Parks Recreation and Historic Preservation in connection with the acquisition of this property. This application is another one of the funding pieces for the project.

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

RESOLVED, that the City Manager is hereby authorized to submit the application forms necessary to receive state funding in the amount of \$250,000.00, secured by Assemblyman Latimer, towards acquisition of the Bird property.

ROLL CALL:

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

NAYS: None

ABSENT: None

14. Resolution to update bid award for Police contract for uniforms with New England Sportswear
Roll Call

City Manager Shew said that last year the City entered into a two-year contract with New England Sportswear, which has partnered with a company called Rosen's Uniform. The name of the company has changed but all the numbers remain the same. Corporation Counsel has reviewed the assignment.

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

RESOLVED, that Bid Award #6-07, Police Uniforms, is updated to reflect that the balance of the contract will be filled by Rosen's Uniform, who has recently partnered with New England Sportswear.

ROLL CALL:

AYES: Mayor Otis, Council members Ball, Gamache, Parker and Sack

NAYS: Council members Cunningham and Pratt

ABSENT: None

15. Acceptance of grant award from the New York State Office of the Aging to Rye Recreation for Senior Swim and Golf program
Roll Call

Assistant City Manager Scott Pickup said that the money was originally programmed for another purpose but never received and the City asked to have it reprogrammed and repurposed.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to accept a grant award in the amount of \$2,000.00 from the New York State Office of the Aging for the Senior Swim and Golf program.

ROLL CALL:

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

NAYS: None

ABSENT: None

16. Appeal of denial of FOIL request by Timothy Chittenden

Corporation Counsel Kevin Plunkett said that this item was an appeal of a determination made by the Police Commissioner after consultation with outside labor counsel that certain documents requested under the Freedom of Information Law (F.O.I.L.) were exempt on the grounds that they were intra-agency communications of a deliberative nature. The final agency determination was turned over in response to the request.

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

RESOLVED, that the appeal of the denial of a Freedom of Information Law (F.O.I.L.) request made by Timothy Chittenden is hereby denied because the documents requested were intra-agency communications of a deliberative nature and, therefore, exempt.

17. Miscellaneous communications and reports

Councilman Cunningham provided an update on the Safe Routes to School funding grant. He said he, along with Mayor Otis and Councilwoman Gamache, met with representatives of the County and State Departments of Transportation in order to receive an explanation from the agency that reviewed the application and made the determination to disqualify the City, which he believed was an arbitrary determination. He said the purpose of the meeting was to look forward to any 2009 opportunities for Safe Routes to School funding projects and to clarify the requirements of these agencies in order to put the City in a better position to file applications in the future and receive funding. Mayor Otis said he felt the meeting was an opportunity for the City to communicate how wide the involvement is between the City and School Board in this issue. He added that it might be a good idea to reconvene some of the people who did the research for the prior application to come up with new funding targets.

18. Old Business

Councilman Sack suggested the City Manager convene a Recession Planning Task Force as suggested by the Finance Committee, to be made up of City staff and department heads, with the Finance Committee serving as advisors. The purpose of the Task Force would be to come up with a report, by the end of March 2009, looking into inefficiencies and redundancies and determining how the City can “do more with less”. Mayor Otis said other members of the Council had issues relating to the budget that were not resolved during the budget process, such as charging for parking in the evenings. He suggested City Manager Shew convene the department heads on the task recommended by the Finance Committee and that Councilmembers develop short memos on any issues that they want vetted. He said he believed that restaurant owners should be involved in any discussion of evening parking fees. Councilman Cunningham said the City has a long history of working with the schools in order to save costs and requested that the Council receive background information on this in their packets.

19. New Business

There was no new business.

20. Draft unapproved minutes of the regular meeting of the City Council held on December 17, 2008

Mayor Otis made a motion, seconded by Councilman Pratt and unanimously carried, to approve the minutes of the regular meeting of the City Council held on December 18, 2008

21. 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 9:16 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk