

***APPROVED MINUTES*** of the Special Meeting of the City Council of the City of Rye held in City Hall on March 17, 2009 at 7:30 P.M.

PRESENT:

STEVEN OTIS, Mayor  
ANDREW C. BALL  
MACK CUNNINGHAM  
PAULA J. GAMACHE  
CATHERINE F. PARKER  
GEORGE S. PRATT  
Councilmembers

ABSENT: JOSEPH A. SACK

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 noted that Councilman Sack was out of town on business.

Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried to adjourn into Executive Session at 7:34 p.m. to discuss a personnel matter. No decisions were made or votes taken. Councilman Cunningham made a motion, seconded by Councilman Ball and unanimously carried to adjourn the Executive Session at 7:55 p.m. The regular meeting reconvened at 7:56 p.m.

3. Consideration of a possible resolution pursuant to Article 8, Section C8-4 of the City Charter entitled Removal regarding the City Manager

Mayor Otis said the City Council feels it must exercise the beginning of a process outlined in City Charter, Section C8-4, Removal, which reads:

The Council may remove the City Manager at any time as provided in this section. At least thirty (30) days before such removal shall become effective, the Council shall by a vote of at least four (4) members of the Council adopt a preliminary resolution stating the reasons for his removal and may suspend the Manager from duty for a period not to exceed forty-five (45) days. The Manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days nor

later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Council may, by a vote of at least four (4) members thereof, adopt a final resolution of removal. The Manager shall continue to receive his salary for at least three (3) months after the adoption of the preliminary resolution, except that where the removal is for misconduct, his salary need not be paid during suspension and the payment of his salary may terminate at any time after the adoption of the preliminary resolution.

Mayor Otis said the Council would vote on a Resolution this evening. The process calls for the option of the City Manager to request a public hearing and that would be the occasion for comment by the Council or the public. The Mayor added that the action being taken did not reflect a lack of support for City staff on the part of the City Council.

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

**BE IT RESOLVED**, pursuant to Article 8, Section C8-4 of the City Charter, the City Council hereby adopts this preliminary resolution removing O. Paul Shew from his position as City Manager for the following reasons:

Failure to communicate with and keep the City Council apprised of assignments/projects for which he was responsible to the satisfaction of the Council;

Failure to carry out projects and initiatives identified by the City Council to its satisfaction;

Failure to be responsive to the satisfaction of the City Council to its requests for information and/or actions required of him by the City Council;

Undertook actions contrary to the instructions of the City Council on assignments and/or projects for which he was responsible;

An Executive Session meeting was held with the City Manager in August of 2008 where the City Council shared their concerns regarding performance on these types of issues and that improvement to their level of satisfaction was necessary;

In February 2009 the City Council met and has concluded that sufficient improvement in these areas has not been achieved;

Based upon these concerns of the City Council, the City Manager no longer has the support and confidence of the City Council.

The removal of Mr. Shew from his position as City Manager and termination of his employment shall become effective thirty (30) days from the date of this Resolution, subject to Mr. Shew exercising his rights under Article 8, Section C8-4.

**BE IT FURTHER RESOLVED** that pursuant to Article 8, Section C8-4 of the City Charter, O. Paul Shew is suspended from duty as City Manager with pay effective immediately.

**ROLL CALL:**

**AYES:** Mayor Otis, Councilmembers Cunningham, Gamache, Parker, and Sack  
**NAYS:** Councilman Ball  
**ABSENT:** Councilman Sack

4. Resolution to appoint Acting City Manager

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

**WHEREAS**, O. Paul Shew has been suspended as City Manager and as a result is unable to exercise his powers as City Manager during his absence;

**WHEREAS**, the City Charter does not empower any other person to act in his absence;

**WHEREAS**, there is a necessity that an Acting City Manager be designated pending the Removal Process; and

**BE IT FURTHER RESOLVED**, that based upon the need of the City to have an Acting City Manager during Mr. Shew's absence and that the City Charter does not grant the power to designate an Acting City Manager to any person other than the City Manager, the City Council hereby as a matter of necessity designates Frank J. Culross as Acting City Manager effective March 18, 2009 only until such time as the Removal Process involving Mr. Shew is resolved.

**ROLL CALL:**

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

5. Adjournment

Councilman Cunningham made a motion, seconded by Councilman Ball and unanimously carried to adjourn the meeting at 8:00 p.m.

Councilman Pratt made a motion, seconded by Councilwoman Parker and unanimously carried, to reconvene the meeting to act on Item 4.

There being no further business to discuss, Councilman Pratt made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn the meeting at 8:03 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk