

**APPROVED MINUTES** of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 25, 2009 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor  
ANDREW C. BALL  
MACK CUNNINGHAM  
PAULA J. GAMACHE  
CATHERINE F. PARKER  
GEORGE S. PRATT (arrived at 9:50 P.M.)  
JOSEPH A. SACK  
Councilmembers

ABSENT: None

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.

Announcements

Mayor Otis began the meeting by announcing the death of former Rye Police Officer and Detective Patrick “Sparky” Spacavento, who served the City for many years. Councilman Cunningham announced that American Legion Post Commander John LaGattuta had also died. He said Mr. LaGattuta was a real gentleman, who led the post with grace and honor. Mayor Otis asked for a moment of silence for both men.

Later in the meeting, Mayor Otis welcomed Frank Culross back to the City in the capacity of Acting City Manager, saying the City was very lucky to have his help.

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

*Jim Amico, 350 Midland Avenue*, came to address the Council on two items. He asked for an update on the site survey that was recently conducted on Midland Avenue. Councilman Cunningham said that the survey was looking at the present site lines from the Palisade Road stop sign looking north and south on Midland Avenue and comparing with the current New York State standards. The standard is about 200 feet and it is currently less than that amount. The Traffic and Transportation Committee could recommend extending the site lines to allow people

coming out of Palisade Road to be able to see the traffic coming in both directions by pushing back the area where cars are permitted to park. Mayor Otis said that in response to an email from Mr. Amico a couple of months ago, he had contacted Brian Dempsey, the Chairman of the Traffic and Transportation Committee and asked him to take another look at the stop sign and crosswalk issues in the area, which he agreed to do. Mr. Amico said he believed the City Stop Sign Policy was not in favor of residents who wish to have stop signs erected because they must provide information about incidents happening over time in order to be considered. He said he believed that stop signs offer a direct command and should be used to regulate traffic and safety. Councilman Cunningham said that the reason an analysis of the entire Midland corridor is being done is to determine that any action taken will not cause a problem somewhere else.

*Jordan Glass, Esq., 711 Legion Drive, Valhalla, attorney for Healtheharbor.com.,* showed a photograph of Hen Island that he contends, show conditions on the Island that could be a source of mosquito breeding grounds and could be a large source of mosquito infestation in the Greenhaven section. He quoted from Sections 108-40, Infestation and screening and 108-43, Responsibilities of owners, of Chapter 108, Housing Standards, of the Rye City Code and said the City should enforce those sections of the Code to ensure that residents of Hen Island follow the law. He offered an invitation to members of the City Council to visit Hen Island and view the conditions on the Island themselves. Mayor Otis said that, as has been said at previous Council meetings, the City Fire and Building Inspectors have been to Hen Island within the last year and did not find violations at that time. Mr. Glass said he believed the mosquito issue was a separate issue. *Ray Tartaglione, 10 Hen Island,* accused Building Inspector Tamburro and City Manager Shew of lying about violations on Hen Island. Mayor Otis admonished Mr. Tartaglione for the tone of his accusations, saying that the people of Rye expect a higher level of dialogue. The Mayor added that staff will review Mr. Glass' comments from this evening and make a determination of what it makes sense to do, based on County or City jurisdiction. Councilman Sack said he believed issues can be addressed without "hot" language and suggested that Mr. Glass provide a list of what he thinks are violations so determinations can be made as to their validity. Mr. Tartaglione said he had provided a list in 2007. He also said that outhouses have been replaced by bathrooms in at least ten instances and there is no record of this with either the City or County. Councilman Ball said he was familiar with Mr. Tartaglione's disagreements with the other members of the Association of shareholders on Hen Island and questioned why none of them shared his concerns. He also said he believed the County had determined that the nature of the mosquito infestation was not the type that cause diseases. Mr. Tartaglione said he did not agree with the County's determination about the mosquitoes.

4. Hydrological report by the FPM Group on 980 Forest Avenue

Mayor Otis introduced Kevin Phillips, a principal of FPM Group, who conducted the survey and analysis related to 980 Forest Avenue. Mr. Phillips said he was hired by the City to look at the Schubert pond located at 980 Forest Avenue and conduct a hydrogeologic investigation, which is the study of both ground water and surface water movement. The narrow task was to look at the water balance of the pond, specifically trying to focus on the Gates property located at 3 Magnolia Place and determine if, when they improved their property by improving the drainage in their backyard, they diverted water out of the watershed. FPM was also asked to take a look at the entire watershed and propose any solutions that are viable to the complex problem. He outlined the watershed for the Schubert's pond and the ridgeline which

controls the water that feeds the pond. All water falling within the ridgeline makes its way into the pond. There are two regimes in hydrology, surface water and ground water and depending on soils and vegetation within the watershed the two regimes are constantly changing. The only way water can get out of the ridgeline is if it is forced out by a pump. Mr. Phillips said that his job was to determine whether or not the Gates had a pumping station in their back yard. He showed photographs of the drywell on the Gates property and said the only opening in the drywell was the one that allowed water into it and it is flowing at approximately five gallons per minute. There is no pump so all the water must flow down to the pond. He said he then looked for another pump that might not be visible and determined the only place where a pump could connect to, outside of the watershed ridgeline, was on Magnolia Place at the location where there is a manhole. Upon investigation of the manhole he determined that there is no pipe coming from the Gates backyard. Mr. Phillips referred to a copy of a 1966 subdivision map of the area that was submitted by the Gates' engineer with a notation "Never Found" referring to pipes that are indicated on the map. The engineer found pipes in the backyard that stop at the location of the drywell. There are pipes that come from off the property onto the Gates property in an old series of pipes that end at a "French drain", which drains directly into the pond. The flow of water going into the "French drain" is about the same as the flow going into the Schubert pond, approximately five gallons per minute. The only thing the drywell on the Gates property does is protect the "French drain". It is too small to absorb all the water coming from the Gates property. Mr. Phillips said that from a scientific standpoint, it does not appear that Mr. Gates has done anything to change the water balance into the pond; however, that does not mean Mr. Schubert is not experiencing a low flow into the pond. During the summer months there could be almost no flow which could result in stagnant water in the pond. He added that ponds are unique in the hydrologic world because they sit between the surface water and the ground water. During periods of high temperatures where evapotranspiration dominates, the movement of the ground water input into the pond can be limited. He said a study could be done to determine why there is a lower flow but it would take three years. He added that the pond collects runoff from eight to ten acres and clarifies the runoff and traps sediment and nutrients prior to their running into Long Island Sound. He described the pond as being well-maintained with a clear input of groundwater. Additionally, Mr. Phillips said that Mr. Schubert has put in leveling devices or orifices that go to a 42 inch pipe that flows into the Sound and allow him to control the level in the pond. When he visited the pond all the orifices were open. He proposed three possible alternatives for fixing the problem of water flow to the pond:

1. Take the runoff from Forest Avenue for a set distance and allow it to go into the pond. It could add 600,000 gallons a year into the pond and would turn the pond over about 30 times a year. This would supplement the water from the standpoint of surface water.
2. A small homeowner well could be put in that would allow Mr. Schubert to control the input of groundwater into the pond. At the rate of approximately ten gallons per minute, the pond could be turned over in about a day and a half.
3. Create a hard pipe from the Gates drywell directly into the pond. Mr. Phillips did not recommend this alternative because he believes that underground there is a hydrologic connection from the "French drain" to the pond.

Questions on the presentation from the Council and audience included:

- Could the water from the drywell be draining to a lower level of soil that is more permeable and, therefore, running into the Sound? (It would be extraordinary if that was happening, but not impossible.)
- Is the drywell above or below the pond in elevation? (It starts at grade, which is around seven and one-half feet and goes down to about three feet. The pond elevation is about five feet.)
- Where has the water gone? (Ponds are vulnerable to groundwater fluctuations and fill up with sediment. The water is going into the pond. If the orifices were closed the pond would fill up.)
- How would the flow of water change within two days of work being done on the Gates property? (The improvements done to the Gates property did not change the water balance to the pond. Fluctuations in the water table change the flow into the pond during the summer.)
- How significant is the water flow off roofs from other houses in the area? Could work done on other homes in the area have affected water to the pond? (Any house within the watershed can affect the pond. It is less likely that it would have been the Gates property because it is located in the middle of the watershed. Homes along the ridgeline could have diverted water out of the watershed easier than the Gates and if it was a significant amount of water it could have had an immediate affect.)
- Work was done on other properties in the area within a 17 month period but the focus has only been on the Gates project. Could those other projects as well as changes in the habits of people pumping out their basements have contributed to the scale of the change in the area? (The Gates project did not but, others could have. You would have to look at the development that has occurred within the watershed within the last five or ten years.)
- The pond is not in its natural state, it has been enlarged. Could that action have made it more susceptible to changes in ground water fluctuation? (The enlargement of the pond in 1994 would be a variable in the water balance of the pond on a long term basis but would not have quickly changed the water balance in a couple of days in 2006.)
- Where is the French drain and how does it work? (It is a channel with rock sides and gravel in the middle that is located underground. Water from the drywell seeps down into the French drain which acts as a pipe. The drywell was built to protect the French drain.)
- Would closing some of the orifices help the problem in any way, while still preventing the build up of stagnant water in the pond that leads to a mosquito breeding problem? (Confer with a mosquito expert to determine how quickly the water in the pond must be turned over to prevent mosquitoes from breeding.)
- How long would it take the pond to fill at the present rate if the orifices were closed? (About two and one-half days now when the inflow to the pond is higher. The inflow could drop to nothing in the summer.)
- If the water from the drywell is going into the pond, is there less water going into the drywell? (A dye test could be done to make sure the water is going to the pond. It is a relatively easy procedure, but would require the permission of both Mr. Schubert and the Gates.)
- If the drywell on the Gates property were removed would it increase the flow? (No because the only function of the drywell is to protect the French drain.)

- Is there water in the spot suggested for the well in alternative #2? (Yes, but a pump would have to be put in.)
- Could anything be done, short of a three-year study, to determine where the water went? (It is a complicated issue. The watershed must be looked at in a comprehensive fashion. This study focused on the Gates property. Their project did not divert the water. Something else has caused the problem.)

Mr. Schubert indicated that, for aesthetic reasons, the only solution he would be interested in would be one that directed water into the French drain. He also said that there was not that much building going on in the actual watershed area and there was no comparison between that and what had happened to the pond in a two or three day period. He said that although an invitation was made to him to participate in the study; his only participation was during the time when his property was examined. He questioned why the former City Naturalist was not asked to participate. He also said that no one had gone to other properties in the area to see what they might have done.

Mayor Otis said that the City wants to be part of the solution to try to get more water back into the pond. He suggested that Mr. Schubert think through the different options presented. The Mayor said that no one was told they were partnering with Mr. Phillips in the study. Both Mr. Schubert and the Gates offered access to their properties in order for Mr. Phillips to conduct his study of the issue. Councilman Ball said that Mr. Schubert condemned the study because it focused on the Gates property, but for three years he has done nothing but draw the Council's attention to that property so it would follow that that is where the study would look. Councilman Pratt suggested that the Council consider: (1) going forward with a dye test to determine if water is flowing from the Gates property to the Schubert pond, and (2) getting more information on what was done on the surrounding properties that may have reduced the flow of water to the pond. After that is done the three alternatives put forth for solving the problem could be considered. Councilman Cunningham offered his thanks to Mr. and Mrs. Gates for their cooperation in the investigation. It was the consensus of the Council to support going forward with the dye test, if the required approvals can be obtained, and to receive more information about the solutions suggested by Mr. Phillips including what would be involved in the projects and what they would cost.

5. Presentation by Berger, Lehman Associates, P.C., regarding the Central Avenue Bridge replacement project

Mayor Otis said the City is eager to move ahead with the Central Avenue Bridge replacement project. He has spoken with the Chief Engineer of the New York State Department of Transportation (DOT) to ask for help in terms of a timetable for the project as well as some direction for accelerating the process. DOT has offered a commitment to accelerate project review at their end. The Mayor added that there are additional tasks that are required by the Federal Highway Administration, which require further work from Berger Lehman in order to provide work product the DOT says is required under federal standards.

Assistant City Manager summarized the history of the project. Berger Lehman was hired almost immediately after the April 2007 flood. At that time it was assumed that FEMA would pay the entire cost and Berger Lehman began designing the project. The City was informed by

SEMO that the project was not eligible for federal reimbursement under FEMA because it is designated as a state highway. The project was then eligible for New York State Emergency Relief funding. Last year, the Council approved proceeding with the \$2.2 million Emergency Relief project and the required 20% local share of approximately \$400,000. Much of the work on the project had already been completed by Berger Lehman and was brought to DOT for approval. DOT informed the City that the project would have to go through a complete design review process. The City went through DOT Regional Offices, the Federal Highway Offices and other contacts that the Mayor had, trying to find some relief to this regulatory issue because it is an emergency program. The Local Project Program is not set up for emergency work; it is set up for long-term work and is much more expensive, with more detailed review and requires a great deal of back channel work. The City also attempted to get the project funded through stimulus money but was told that there was no relief available on stimulus projects and the Federal Highway guidelines would still apply. The City is looking at an expedited review process and hopefully will get some help from Albany to speed the process along. At the end of the process there will be a completed design to go out to bid and, if all that comes together, construction of the project can begin. The City has already spent about \$135,000 on this project and will submit that amount plus the \$180,000 that is being requested this evening for reimbursement to qualify as the City's 20% local share. Berger Lehman is on a list of DOT preferred contracting firms. Neal Weitman of Berger Lehman said that the DOT has approved the selection of the Berger Lehman firm to do the work. The process is a six-step process. They have completed step six and must now go back and do steps one through four. Berger Lehman had previously submitted to the City a contract document with plans that were 90% completed and in order to bring them up to State DOT standards a Local Projects Checklist must be completed. They must also verify the right-of-way lines to determine if a temporary easement will be required for construction because one of the abutments must be moved five feet. Moving the abutment will also change the hydrology of the river and that must be examined. The project must also be approved by the State Historic Preservation Office (SHPO), which may not be as flexible as the DOT. Mr. Weitman said that a typical local project process adds nine to twelve months to a project with the DOT review alone adding six to nine months to the process. He added that he has asked Berger Lehman's sub-consultant for historic work to come up with a timeline based on typical SHPO review but questions how quickly the process can be completed. Mayor Otis said that the timetable proposed to him was from the Chief Engineer of DOT who is aware of the SHPO piece. He said the City is asking Berger Lehman to do their part as quickly as possible and the City will work with the State agencies and try to get them to do their work as quickly as possible. Mr. Weitman said that construction time on the project would be approximately nine months in good weather, which would mean advertizing it for bid in March and completion by November. He added that the City would be required to hold a public information meeting on the project in advance of submitting the design approval documents but a presentation such as the one being made at this meeting could satisfy that requirement. Councilman Ball suggested that more than one meeting might be preferable since many residents are interested in this project. Councilman Pratt thanked City staff for their work on this complicated issue.

(Agenda Items 14 and 9 were taken out of order.)

6. Consideration to set a public hearing to amend local law Chapter 191, Vehicles and Traffic, of the Rye City Code, Section 191-20 to provide a new Three-hour parking limit for Car Park No. 3

Councilwoman Parker said she believed that extending the time limit for Car Park 3, which is one of the least utilized lots, from two to three hours would benefit part-time employees who feed the meters and people who come into town for more than one errand.

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

**WHEREAS**, the Council wishes to amend Chapter 191, Vehicle and Traffic, Section 191-20, Parking time limited, of the Code of the City of Rye to provide a new three-hour parking limit for Car Park No. 3; and

**WHEREAS**, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

**RESOLVED**, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on April 15, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

Section 2. Such notice of public hearing shall be in substantially the following form:

**PUBLIC NOTICE  
CITY OF RYE**

**Notice of Public Hearing on a proposed local law to amend Chapter 191, Vehicles and Traffic, Section 191-20, Parking time limited, of the Code of the City of Rye, to provide a new three-hour parking limit for Car Park No. 3.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 15th day of April, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend Chapter 191, Vehicles and Traffic, by amending Subsection 191-20, Parking time limited, of the Code of the City of Rye to provide a new three-hour parking limit for Car Park No. 3.

Copies of said local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse  
City Clerk  
Dated: April 3, 2009

7. Consideration to set a public hearing to amend local law Chapter 191, Vehicles and Traffic, of the Rye City Code, Section 191-38, to extend the hours of meter operation from 6:00 p.m. to 9:00 p.m.

Councilwoman Parker said the idea behind the proposed local law is that many people are coming into Rye from out of town to go to the restaurants and extending the hours of meter operation could bring in additional revenue that could either be used to offset taxes or be put into the Central Business District parking fund.

Councilman Ball made a motion, seconded by Councilwoman Gamache and unanimously carried, to adopt the following Resolution:

**WHEREAS**, the Council wishes to amend Chapter 191, Vehicle and Traffic, Section 191-20, Parking time limited and Section 191-38, Parking in metered zones, of the Code of the City of Rye, for the purpose of expanding the meter operation hours from 6:00 p.m. to 9:00 p.m.; and

**WHEREAS**, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

**RESOLVED**, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on April 15, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

Section 2. Such notice of public hearing shall be in substantially the following form:

**PUBLIC NOTICE  
CITY OF RYE**

**Notice of Public Hearing on a proposed local law to amend Chapter 191, Vehicles and Traffic, Section 191-20, Parking time limited, and Section 191-38, Parking in metered zones, of the Code of the City of Rye, for the purpose of expanding the meter operation hours from 6:00 p.m. to 9:00 p.m.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on April 15, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposed local law to amend Chapter 191, Vehicles and Traffic, Section 191-20, Parking time limited, and Section 191-38, Parking in metered

zones, of the Code of the City of Rye, for the purpose of expanding the meter operation hours from 6:00 p.m. to 9:00 p.m.

Copies of said local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse, City Clerk

Dated: April 3, 2009

8. Consideration to set a public hearing for April 15, 2009 to adopt a local law amending Article 22, "Tax Administration" C22-1 "City Assessor; Powers and Duties" of the City Charter of the City of Rye

Mayor Otis said that the proposed change, which must be enacted within a certain timeframe, comes at the recommendation of City Assessor Noreen Whitty in order to have the City's assessment period match with State law.

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

**WHEREAS**, the Council wishes to amend Article 22, Tax Administration, C22-1, City Assessor; Powers and Duties, of the City Charter of the City of Rye; and

**WHEREAS**, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

**RESOLVED**, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on April 15, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

Section 2. Such notice of public hearing shall be in substantially the following form:

**PUBLIC NOTICE  
CITY OF RYE**

**Notice of Public Hearing on a proposed local law to amend Article 22, Tax Administration, Section C22-1, City Assessor; Powers and Duties, of the Charter of the City of Rye.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on April 15, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said

City, at which interested persons will be afforded an opportunity to be heard concerning a proposed local law to amend Article 22, Tax Administration, Section C22-1, City Assessor; Powers and Duties, of the Charter of the City of Rye.

Copies of said local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse, City Clerk  
Dated: April 3, 2009

Councilman Sack said he felt this was an appropriate time to make a pitch for the Board of Assessment Review, which is looking for members.

9. Consideration of referral to the Board of Architectural Review and City Consultant, the Special Permit Application (#TC011) submitted by MetroPCS New York, LLC to co-locate a wireless telecommunications facility on the roof top of 66 Milton Road

(This item was discussed prior to Agenda Item #6.)

Mayor Otis explained that the process is to refer the application to the Board of Architectural Review for review of aesthetic features and to a consultant for review of the cumulative frequencies emitted by the proposed facility to ascertain that they under the federal standard set by the FCC for safety.

*Anthony Gioffre, III, Esq. of the firm of Cuddy & Feder.*, representing the applicant, MetroPCS New York, LLC, said that he had held a pre-application conference with City Planner Christian Miller and Building Inspector Vincenzo Tamburro and understands the City's process.

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

**RESOLVED**, that the Special Permit Application (#TC011) submitted by MetroPCS New York, LLC to co-locate a wireless telecommunications facility on the rooftop of 66 Milton Road be referred to the Board of Architectural Review and City Consultant for review.

10. Update on the Recession Task Force from Council members Mack Cunningham and Paula Gamache

Councilman Cunningham said that after the last budget process, the majority of the Council felt that it was important to get the cycle going earlier and look at the expenses that face the City, not only in this fiscal year but outgoing. The Council asked the staff, who are working in conjunction with former City Comptroller Michael Genito as a consultant, to prepare a

detailed memo and outline regarding the challenges that this Council, as well as future Councils, will have in connection with capital improvements and fixed costs. He said that he and Councilwoman Gamache had met with staff to find out what they are doing in a broad stroke perspective. Staff are looking into current contracts with employees as well as other organizations and at issues that challenge property values and how it affects the tax rolls. He said it will be a detailed discussion and he wants to give time for the City to put together enough information to give the Finance Committee so they can look at the recommendations. Councilman Cunningham said the Council will have questions and the Finance Committee will want to review the report so he would like the Council to receive a final report with comments by June 15<sup>th</sup> prior to the beginning of the budget cycle in July. Councilwoman Gamache said that after last year's budget cycle and coming into an even more challenging year, the wise thing to do is start earlier in order to identify what the possibilities are and have a dialogue with the community so everyone is on the same page before the creation of the budget. She said the Council appreciates the amount of work that is being done by the staff. Mayor Otis added that he feels that the normal budget schedule is not the time to look at big picture policy changes and this Task Force affords an opportunity to evaluate options it may have sooner. Acting City Manager Culross asked that the March 31<sup>st</sup> deadline for the staff report be extended to April 24<sup>th</sup>. Councilman Pratt said that he has always been bothered by the short time span of the City budget process and believes the Task Force is important because the City may face many challenges due to reduction of elastic revenues such as interest income, sales tax revenues, utility taxes and state aid, which is one-third of the City's budget. The City cannot control what comes in, but can work to control what goes out. Councilman Cunningham suggested that an agenda item regarding possible savings that might be achieved through shared services be added for the upcoming joint meeting with the Board of Education.

11. Discussion of obstructions in the right of way

Mayor Otis began the discussion by noting that the Council had previously discussed this issue several months ago and expressed interest in a public information campaign, which he does not believe has happened. Councilman Sack said it is hard to disagree with the idea that rocks in the right-of-ways are not safe and that his idea was for the City to have a pilot program that picks one road, possibly a section of Forest Avenue, where it might have the most impact. Once a road is selected, a survey should be done to determine if the rocks are in the right-of-way and then the homeowners should be notified that the rocks should be removed and if they do not do so, the City will remove them. He said he felt that discussing the issue at Council meetings over the last months has served as public education. Corporation Counsel Plunkett advised that a title report might be required in addition to a survey. In response to a question about calculating the right-of-way by distance from the centerline of the roadway, Acting City Manager Culross said that could present a problem if there was a conflict because on many streets the right-of-way is more on one side than the other. He said that the City could start by asking residents to move the rocks but did not think the idea would be well received. He added that it is important for people to be shown what the problem with rocks is, because they believe they are doing something positive when they place them in the right-of-ways. Councilman Pratt said it was important that this issue be discussed earlier in a meeting after being well-advertised on the City website and in the written press prior to notifying people to remove the rocks. Councilman Ball said it was important to refer to the issue as obstructions in the right-of-ways and not just rocks because he

believes that non-mountable curbs are more dangerous than the rocks. Mayor Otis suggested putting the discussion over to the April 29<sup>th</sup> meeting.

12. Authorization for City Manager to enter into an Agreement for Emergency Medical Transport with the Village of Port Chester, the Village of Rye Brook and Port Chester-Rye-Rye Brook Volunteer Ambulance Corps, Inc  
Roll Call.

Corporation Counsel Kevin Plunkett said that the contract is for five years, but allows for a review after three years.

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

**RESOLVED**, that the City Manager is hereby authorized to enter into an Agreement for Emergency Medical Transport with the Village of Port Chester, the Village of Rye Brook and the Port Chester-Rye-Rye Brook Volunteer Ambulance Corps, Inc. for the period July 1, 2009 through June 30, 2014.

ROLL CALL

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

13. Resolution authorizing the Mayor to sign an employment agreement with Francis J. Culross to serve as Acting City Manager  
Roll Call.

Mayor Otis said that as a result of a Resolution passed by the Council on March 17, 2009, the City entered into a temporary contract with Mr. Culross to serve as Acting City Manager with compensation on a day by day basis.

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

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the Mayor to sign an employment agreement with Francis J. Culross to serve as Acting Rye City Manager effective March 18, 2009.

ROLL CALL

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

NAYS: None

ABSENT None

14. Resolution to transfer funds from contingency to Engineering for the Central Avenue Bridge replacement project

Roll Call.

(This item was taken out of order after Agenda Item #5)

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

**WHEREAS**, the City Council has authorized the replacement of the Central Avenue Bridge and the City's cost has increased due to a change in government funding, and these amounts in fiscal 2009 were not provided for in the adopted 2009 budget and,

**WHEREAS**, the General Fund Contingent Account has a balance of \$246,500, now therefore be it

**RESOLVED**, that the City Comptroller is authorized to transfer \$180,000 from the General Fund Contingent Account to the Engineering Department.

ROLL CALL

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

NAYS: None

ABSENT None

15. Bid Award for Street Materials (Bid #1-09)

Roll Call.

Acting City Manager Culross said it was recommended that the bid be awarded to the low bidders.

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

**RESOLVED**, that Bid #1-09, Street Materials, is hereby awarded to Putnam Materials for crushed stone (3/4 and 1 1/2) delivered, graded processed stone and sub-

base (recycled concrete) and to Peckham Materials Corp. for binder course Types 3 and 4, shim course Type 5, top course Types 6F and 7F, and asphaltic concrete curb mix; as the bidders offering the lowest price without adding transportation costs.

The bid tab is on the following page.

**BID 1-09**

**STREET MATERIALS**

**Bid #1-09**

NAME OF BIDDER		Putnam Materials		Peckham Materials Corporation		RCA Asphalt	
#	Items	PER TON		PER TON		PER TON	
		F.O.B.	Delivered	F.O.B.	Delivered	F.O.B.	Delivered
	Crushed Stone ¾"	No Bid	\$27.00	No Bid	No Bid	35.00/47.50*	No Bid
	Crushed Stone 1 ½"	No Bid	\$27.00	No Bid	No Bid	35.00/47.50*	No Bid
	Graded Processed Stone NYS 304.02	No Bid	\$22.25	No Bid	No Bid	No Bid	No Bid
	Sub-base NYS 304.6	No Bid	\$16.00	No Bid	No Bid	No Bid	No Bid
		PER C.Y.		PER C.Y.		PER C.Y.	
#	Items	F.O.B.	Delivered	F.O.B.	Delivered	F.O.B.	Delivered
403.13	Binder Course Type 3 3.5%	No Bid	No Bid	68.00/71.95*	No Bid	83.00/95.50*	No Bid
403.14	Binder Course Type 4 4.0%	No Bid	No Bid	68.00/71.95*	No Bid	No Bid	No Bid
403.15	Shim Course Type 5 8.25%	No Bid	No Bid	75.00/78.95*	No Bid	100.00/112.5*	No Bid
403.17	Top Course Type 6F 6.4%	No Bid	No Bid	68.00/71.95*	No Bid	90.00/102.5*	No Bid
403.19	Top Course Type 7F 7.0%	No Bid	No Bid	75.00/78.95*	No Bid	95.00/107.5*	No Bid
714.06	Asphaltic Concrete Curb Mix 7.5%	No Bid	No Bid	79.00/82.95*	No Bid	100.00/112.5*	No Bid

\*Mileage adjustment as per bid specifications.

ROLL CALL

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

NAYS: None

ABSENT None

16. Miscellaneous communications and reports

Councilman Cunningham said he wanted to comment on statements made earlier in the meeting. He said he believed that the elected officials and citizens of Rye are privileged to have the staff that the City has, particularly in the land use areas. They are professionals who work together in the best interests of the City. He finds it disappointing that people make statements against staff without facts or documentation. The City has a small but effective organization and staff should be recognized for the job they do.

Councilman Ball said the after the March 17<sup>th</sup> meeting he found a white myrye.com magnet affixed to his car. He said he likes a good gag and will keep it there.

17. Old Business

Mayor Otis said that it has been publically announced by Westchester County that the City will be one of the communities receiving the first funding from the County Flood Program for the sluice gate project. The money should be received within the next few months.

18. New Business

There was no new business to be discussed.

19. Draft unapproved minutes of the special meetings of the City Council held March 14, and March 17, 2009 and the regular meeting of the City Council held March 11, 2009

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 March 11, 2009 and the special meetings held on March 14, 2009 and March 17, 2009, as amended.

20. 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 12:27 a.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk