

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on July 15, 2009 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
ANDREW C. BALL
MACK CUNNINGHAM
PAULA J. GAMACHE
GEORGE S. PRATT
JOSEPH A. SACK
Councilmembers

ABSENT: CATHERINE F. PARKER

The meeting convened at 7:09 p.m. Councilman Ball made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn into Executive Session at 7:10 p.m. to discuss litigation and attorney/client matters. Councilman Ball made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn the Executive Session at 8:09 p.m. The regular meeting convened at 8:10 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.

Announcements

Mayor Otis began the meeting with the sad announcement of the passing of former Fire Chief John Wickham, a long-time community fixture, who had served his community in many ways including as both a professional and volunteer firefighter. The Mayor extended the condolences of the City to the family and asked for a moment of silence.

The Mayor said that the Rye Police Association has presented the City with copies of an historic picture that appears to be a civic celebration at the former pistol range at Bowman Avenue. PBA President Franco Campignone has asked for help in identifying many of the people in the undated photo. It will be available in the City Clerk's Office for anyone wishing to stop by and look at it in order to help identify not only those in the photo, but also the event and approximate date it was held.

Finally, the Mayor announced that the 100th Anniversary Centennial Celebration of Rye Town Park would be held at the Pavilion area of the park on Saturday July 17th beginning at 4:00 p.m.

Agenda Item # 12 was taken out of order.

3. Approval of the election of a new member to the Rye Fire Department

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

RESOLVED, that the Council of the City of Rye hereby approves the election of Max Billington to the Poningoe Engine & Hose Company approved at the June 2009 meeting of the Board of Fire Wardens.

4. Public hearing to revise the Rye City Code to allow for outdoor dining

Mayor Otis opened the public hearing and said that the basis of the proposed law was to reactivate an expired law that allowed outdoor dining in the City of Rye. City Planner Christian Miller explained that the proposed law was based largely on the prior law with some changes that include:

- This law is applicable only to the B2 Central Business District.
- The public notice and comment section of the law was revised to make it more efficient to process by allowing applicants to post notice in the establishment's window rather than noticing everyone within a 750 foot radius.
- The revised law references standards that the Planning Commission may utilize in approving permits such as conditions on the hours of operation, number of tables or other activities.
- The new law provides for a minimum width of a sidewalk or passable area of five feet to provide a basic means of passage for public safety.
- License Agreements will be required for use of City property requiring hold harmless agreements and insurance subject to review and approval by Corporation Counsel.
- Fees have been established. A \$500 application fee for all and \$100 per table for those requesting a License Agreement to use City property.

Council comments and questions included:

- How will this be enforced? (The applicant will be required to submit a plan with their application. The permit must be applied for annually so if the plan were violated it might not be approved for the following year. The City would have the ability to revoke a permit that involves use of City property. The primary enforcement officer would be the

Building Department but depending on the time of day could also be the Police Department.)

- Have any applications come in since the last City Council meeting? (One inquiry was received but applications have not been accepted prior to a law being adopted and requirements being set.)
- How does the City know there is a great demand for outdoor dining in the community? (Approximately six weeks ago, three to five establishments started putting tables outside and were not allowed to do so because the law had expired. There will be a better idea of demand when applications are filed.)
- Is five feet a large enough requirement in the Central Business District? (The Planning Commission will consider this in their review process. The law is a balance in order to allow for something the Council wanted to do.)
- The Planning Commission will do an on-site visit and determine if the space in question is practical for outdoor dining.
- Outdoor dining would be banned during special event days such as sidewalk sales or Halloween window painting.
- The permit could be revoked if the restaurant was sited for not removing garbage.
- Is this law fair to non-restaurant businesses? (They would not meet the requirements of the law.)
- Should the fees be higher than those proposed because it will allow restaurants to generate additional revenue? (The application fee is to cover the administrative costs of processing the application. The licensing fee suggested is comparable to the one charged in Larchmont but the Council could decide to charge more.)
- Has the Merchants Association stated their opinion on outdoor dining? A comment from them would be helpful.
- Should the legislation cover use of both public and private property? If the law doesn't pass, people with room on private property will not be able to use their own property.
- If the City goes forward with the law as written it will allow some establishments to receive permits for outdoor dining for a few months this year, but in the future the law can be revised to differentiate between public and private property.
- Many establishments may not comply with the requirements of the law and if the law is not adopted at this meeting it may not be beneficial to merchants for this year.
- The proposed law allows the right to apply for a permit for outdoor dining; it does not guarantee that a permit will be issued.
- Since there is no apparent unstoppable momentum for outdoor dining, it does not need to be addressed immediately.
- Would this law control the chairs that some businesses put out on the sidewalk? (The City controls the use of City property and can make reasonable accommodations for reasonable amenities that enhance the downtown but this law deals specifically with outdoor dining.)
- Councilwoman Parker, who is not at the meeting this evening and is also a downtown merchant, is supportive of the proposed law.
- This could be a positive for the downtown and should be tried to see how it goes.
- The fees could be raised for next year during the budget process in November.

Members of the public wishing to comment on the proposed local law included: *Sis D'Angelo, 110 Wappanocca Avenue*, and *Jeanne Sinnott, 131 Purchase Street*. Their comments included:

- There must be restrictions and room for people and dogs to walk on the sidewalks. (The Planning Commission will rule on applications on a case by case basis.)
- Why was the Rye Grill & Bar not allowed to use their own property? (Outdoor dining is currently not allowed by the Zoning Code.)
- Will outdoor dining be allowed for both lunch and dinner? (At the discretion of the Planning Commission after their review of the application.)
- Will there be extra police on foot patrol downtown if dining is allowed at lunch time when there are more people on the sidewalks? (The amount of traffic on the sidewalks will be considered by the Planning Commission during their approval process.)

Mayor Otis closed the public hearing.

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

WHEREAS, on June 10, 2009 the Rye City Council set a public hearing for July 15, 2009 on a local law amending §197-86 of the Code of the City of Rye to allow accessory seasonal outdoor customer seating; and

WHEREAS, the notice of hearing was circulated to the Westchester County Planning Board and abutting communities as required by Sections 277.61 and 277.71 of the Westchester County administrative code; and

WHEREAS, the City Council has reviewed the Full Environmental Assessment Form (EAF) dated June 18, 2009 and determines that the proposed action is consider a Type I; and

WHEREAS, the City Council is the only Involved Agency in connection with the proposed action; and

WHEREAS, the City Council conducted a noticed public hearing on July 15, 2009 and all those wishing to be heard were given the opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED, that the City Council designates itself as Lead Agency and based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact; and

BE IT FURTHER RESOLVED, that the City Council adopts Local Law #6-2009 amending §197-86 of the Code of the City of Rye to Allow Accessory Seasonal Outdoor Customer Seating; and

BE IT FURTHER RESOLVED, that the City Council amends the 2009 City Fee Schedule to add a fee for Seasonal Outdoor Customer Seating Permits in the amount of five-hundred dollars (\$500) and a Seasonal Outdoor Customer Seating License fee of one-hundred dollars (\$100) per table located on City property.

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

**CITY OF RYE
LOCAL LAW NO. 6 2009**

**A local law amending Chapter 197, Zoning, Section 197-86 of the Code of the City of Rye to
Allow Accessory Seasonal Outdoor Customer Seating**

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

Section 1. §197-86 Table of Regulations: Table B Business Districts-Use Regulations, Column 3, Permitted Accessory Uses, Row B-2 Central Business Districts, of the Code of the City of Rye is hereby amended to add the following new subsection:

- (4) Seasonal outdoor customer seating annual permit. The Planning Commission may annually permit seasonal outdoor customer seating and tables on a property and, to a limited degree, extensions onto abutting City property, subject to the following limitations:
 - (a) Outdoor customer seating shall only be permitted from April through October and shall require a new permit approved by the Planning Commission before each season. During the months of November through March, the tables, chairs and any related equipment must be stored inside of the building or removed from the site.
 - (b) The Planning Commission shall limit the area of outdoor customer seating such that it will not interfere in any way with fire exits or other requirements of the Building Code of New York State.
 - (c) The Planning Commission shall limit the area to be devoted to outdoor customer seating so that it will not interfere with access by the handicapped and shall maintain on any City sidewalk a safe, adequate and unobstructed passageway for pedestrians not less than five (5) feet in clear width from the edge of the outdoor seating area to the nearest obstruction.
 - (d) The outdoor area to be devoted to seasonal outdoor customer seating shall not be considered for the purpose of determining on-site parking requirements.

- (e) The Planning Commission may impose conditions and requirements as it deems appropriate, including, but not limited to size and configuration of the outdoor seating area; maximum number of tables and chairs; permitted hours of outdoor seating; type, size and color of tables and chairs; requirements for the daily removal of tables and chairs; limitations on the placement of tables during City-approved outdoor events, and/or standards for cleanliness and removal of debris.
- (f) The Planning Commission shall not issue a permit if it finds that the proposed outdoor seating would be incompatible with other uses on the property or an abutting property.
- (g) The Planning Commission may deny the issue of a permit if it finds that during the prior year the permit holder violated any condition of the permit, that during the prior year the applicant or the property owner provided or permitted outdoor seating without having obtained a permit or that there are outstanding notices of violation concerning the property or the applicant's use.
- (h) An insurance certificate naming the City as an additional insured in the amount of \$2 million and a signed and notarized indemnification and hold harmless agreement shall be provided for any seasonal outdoor customer seating approved by the Planning Commission on City property.

Section 2. **§197-86 Table of Regulations:** Table B Business Districts-Use Regulations, Column 2, Uses Permitted Subject to Additional Standards and Requirements, Row B-1 Neighborhood Business Districts, of the Code of the City of Rye is hereby amended to remove subsection 12, Retail use seasonal outdoor customer seating annual permit and subsection 13, Restaurant use seasonal outdoor customer seating annual permit.

Section 3. **§197-86 Table of Regulations:** Table B Business Districts-Use Regulations, Column 2, Uses Permitted Subject to Additional Standards and Requirements, Row B-2 Central Business Districts, of the Code of the City of Rye is hereby amended to remove subsection 6, Retail use seasonal outdoor customer seating annual permit and subsection 7, Restaurant use seasonal outdoor customer seating annual permit.

Section 4. This local law shall take effect immediately upon filing in the office of the Secretary of State.

ROLL CALL:

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

The local law was adopted by a vote of 5-1.

5. Public hearing to restrict parking on Mead Place

Mayor Otis opened the public hearing. City Manager Culross said the proposed local law was initiated at the request of residents of Mead Place who submitted a petition that was reviewed by the Traffic and Transportation Commission. The law will restrict parking on the North side of the street.

Council comment included:

- The Council has received 20 letters of support for the proposal.
- The situation is a result of the growth of the YMCA.
- Concerns have been expressed by public safety officials about the ability to get a fire truck down the street when people are parked on both sides.
- The Traffic and Transportation Committee issued a memorandum after discussion with neighbors regarding what side of the street should be restricted.

Mayor Otis asked if anyone from the public wished to comment. There being none he closed the public hearing.

Councilman Pratt made a motion, seconded by Councilman Sack to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO.7-2009**

A local law amending Chapter 191, Vehicles and Traffic, of the Code of the City of Rye by amending Section 191-19.1, Parking prohibited certain hours, by adding a section of Mead Place to the streets where parking is restricted during certain hours.

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

Section 1. Section 191-19.1 of Chapter 191, Vehicles and Traffic, of the Code of the City of Rye is hereby amended to read as follows:

§191-19.1. Parking prohibited certain hours.

No person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

Name of Street	Side	Hours	Location
Fairway Avenue [Added 2-28-2001]	West	When school is in session, from 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 3:30 p.m.	From Hewlett Avenue to Valleyview Avenue
Hewlett Avenue [Added 2-28-2001]	West	When school is in session, from 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 3:30 p.m.	Between the crosswalks extending from Robert Crisfield Place to the fire lane driveway entrance to the driveway exit
Mead Place	North	Monday through Saturday from 7:00 a.m. to 6:00 p.m.	Entire length of street
Parsons Street	South	7:30 a.m. to 8:30 a.m.	Between the Middle School and High School driveways

Section 2. This local law will take effect immediately upon filing in the Office of the Secretary of State.

ROLL CALL:

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

6. Public hearing to adopt a local law for Senior Citizen Rent Increase Exemption (SCRIE)

Mayor Otis opened the public hearing. Deputy Corporation Counsel Kristen Wilson said the proposed local law grants exemptions to rent increases to senior citizens (SCRIE) and disabled persons (DRIE). It has been adopted by several other municipalities in Westchester. The Council can control the income level for qualifying seniors. There is a set process that those who might qualify would have to go through with the Division of Housing and Community Renewal (DHCR) to get the exemption. The landlord will receive a credit for the amount of the exemption from the increase. The law only applies to properties controlled by the Environmental Tenant Protection Act (ETPA).

Council comment and questions included:

- Where does the credit to the landlord come from?
- What does abatement of taxes mean? Is there an economic implication to the City?

- The State allows the landlord to file for income tax credit for the missing rent increase.
- Are there any residents of Highland Hall who would qualify for DRIE who are not seniors? (No)
- The public hearing should be held open until the next meeting in order to determine who makes up the tax abatement.

Members of the public commenting included, *Jeanne Sinnott, Eva Schegulla and Doug Carey, all residents of 131 Purchase Street.* Their comments relating to the proposed local law included:

- Why is this needed? Senior citizens cannot be evicted if they are paying their rent. (The State gives municipalities the option to adopt protection for seniors from rent increases.)
- Why does it only apply to residents of Highland Hall? (Highland Hall is the only property covered by ETPA.)
- The owner applied for a permit for capital improvement increases. He has not received approval yet.
- What the Council has done in the past is appreciated and it is hoped the Council will help the seniors by passing this law.
- Adopting this law would be a proactive response to helping residents remain in their homes in Rye.
- Capital improvement increases are above the rent increases adopted by the Rent Guidelines Board in June.

The public hearing was kept open until the next meeting.

7. Public hearing on 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

Mayor Otis opened the public hearing. Tony Gioffre of the firm of Cuddy & Fedor, the attorneys representing MetroPCS, said the application meets the requirements under the Rye City Code for a special use permit and is classified as a highest priority classification for a wireless facility. The plan calls for six antennas to be mounted on the roof at 66 Milton Road in the vicinity of the T-Mobile installation. Materials have been submitted as required and a site visit was conducted with the Deputy Corporation Counsel Kristen Wilson and consultant Al Taglifere in attendance. Dick Comi of the firm of CMS, the City's consultant, said the application is a Number One choice in the community. A long-form SEQRA analysis has been done, which requires that the City declare itself as lead agency and declare a negative declaration under SEQRA. Since MetroPCS is a new carrier to the area that is offering a different type of service and serving a different type of clientele, CMS considers it a service plus for the community. However, they recommend the following conditions if the City grants the special use permit: a certificate of general liability insurance naming the City as an additional insured; a performance security bond be put up in the amount of \$25,000; and that after construction is completed measurements be taken on the rooftop to ensure that all of the Federal RF (radio frequency) emission standards are met.

Council comment and questions included:

- The City wants to ensure that the cumulative RF emissions of all carriers located at 66 Milton Road are below the federal limit. (This is why the consultant recommends that measurements be taken after the installation is completed.)
- How does the City know that current facilities at the location are not exceeding federal standards? (Any modifications of those facilities must come back to the Council for approval.)
- What would happen if the RF emissions were above the federal limit? (If the structure was in an area of the roof that could be barricaded from the public, it could be left, but if it impacted the entire roof, the entire structure would have to be taken down and brought into compliance.)
- Can any other facilities be located at this site? (There are no other carriers in the area at this time but Federal requirements say permits cannot be denied if the emissions are within their guidelines.)
- Municipalities do not have the ability to deny applications that meet the standards; they can only participate in discussions of where they are located.
- Does the applicant consent to the conditions? (Yes.)

Jerry Weinman, a resident of 66 Milton Road, said he had concerns about the application. He asked if the Council was satisfied that it would be safe. He also said that the last time equipment was installed it was very noisy and asked if it could be put anywhere else. Mayor Otis said that the only thing the City can do is apply the rules it has and is prohibited from going beyond federal standards and can only ask if these standards are being met. Councilman Pratt reiterated that the Council is requiring that additional testing be done after the facility is installed. Mr. Gioffre said that this installation, which will take approximately 30-45 days, would not be as noisy as the T-Mobile installation because they erected a parapet on the roof, which MetroPCS will be utilizing to hide their equipment. It was also noted that the equipment is backed up by battery and not a generator.

Mayor Otis closed the public hearing.

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

RESOLVED that the City Council declares its intent to be Lead Agency under SEQRA in connection with the application of MetroPCS New York, LLC for a special use permit to co-locate a wireless telecommunications facility on the roof of 66 Milton Road.

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

RESOLVED, that the City Council issues a negative declaration under SEQRA regarding the application of MetroPCS New York, LLC for

a special use permit to co-locate a wireless telecommunications facility on the roof of 66 Milton Road.

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

RESOLVED, that the application of MetroPCS New York, LLC for a special use permit to co-locate a wireless telecommunications facility on the roof at 66 Milton Road is approved with the following conditions: (1) a certificate of general liability insurance is provided naming the City as an additional insured; (2) a performance security bond is provided in the amount of \$25,000; and (3) after construction is completed measurements will be taken on the rooftop to ensure that all of the Federal RF (radio frequency) emission standards are met.

ROLL CALL:

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

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

James Flick, 67 Waters Edge, spoke about issues affecting residents living near Rye Town Park and Seaside Johnnies Restaurant. He said there are traffic problems and possible public safety issues created when people queue up to get into the beach parking lot as early as 8:15 a.m. and by those who come to the park in the evening to play volley ball. He requested that the City encourage Rye Town Park to provide for the safety of those who walk in the park. Additionally, music that is played at events in the Pavilion area can often be heard as far away as Bird Lane. He also said that he did not believe a new catering facility should be allowed to operate in the Pavilion. Since Seaside Johnnies had been at the park, the smell from the garbage dumpsters in the lot is unpleasant on hot evenings and the trucks that pick up the dumpsters arrive around 5:30 in the morning. He said the Council should take action to ensure the safety and quality of life of the residents in the area. Mayor Otis said all of the issues addressed have been part of ongoing discussions with the Town of Rye for years. He said there is no plan for a catering facility in the tower building. He also said that he has been aggressive with the Town Park Commission about parking issues and suggested that Mr. Flick attend the upcoming Rye Town Park Commission meeting on July 21st where they both could bring up these issues.

Robert Schubert, 980 Forest Avenue. came to discuss the issue of his pond. He again said he had done nothing wrong but has been damaged. Councilman Pratt said that during his recent visit to the pond he noted that water appeared to be coming into the pond from the French drain and going out through the sluice gate and that the pond appears to be "silting in". He suggested that the algae on the pond could be managed with barley hay and asked Mr. Schubert for his suggestions to remedy the situation. Mr. Schubert contends there needs to be more water

flowing into the pond to maintain it and wants the City to take action to restore his pond. Councilman Sack said that there have been developments during 2009 including reports from two experts and at this point he is looking for more developments or the situation should be considered at a standstill. He wants to know if the administration has an opinion on whether or not a permit should have been issued and what are the City's legal options to gain access to the Gates property without their permission to pursue the dye test option. He added that he believes this would allow the discussion of the issue to finally run its course. Corporation Counsel Plunkett said he believed the only option that would allow the City access to the Gates property without their permission was in an emergency situation. Mayor Otis ended by saying that Mr. Schubert and the Council have differing opinions about the City's responsibilities in the matter.

9. Consideration to set a public hearing for August 12, 2009 to amend Chapter 191 Vehicles and Traffic by amending Article IV "Removal and Storage of Vehicles" to the City Code of the City of Rye

Corporation Counsel Plunkett said that the local law under the proposed Subdivision B would give the City the authority to remove vehicles parked on any City street for more than 48 consecutive hours without an underlying traffic violation being issued prior to the commencement of the running of the 48 hour period.

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

WHEREAS, the Council wishes to amend Chapter 191, Vehicles and Traffic, of the Code of the City of Rye by amending Article IV "Removal and Storage of Vehicles; 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 August 12, 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, of the Code of the City of Rye by amending Article IV “Removal and Storage of Vehicles”.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 12th day of August, 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 Article IV “Removal and Storage of Vehicles” of the Code 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: July 28, 2009

10. Resolution ratifying the appointment of one member to the Emergency Medical Services Committee for a three-year term ending June 30, 2012

Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to approve the reappointment of Michael Borelli, the Village of Rye Brook Community Representative, to the Emergency Medical Services Committee for a three-year term ending June 30, 2012.

11. Designation of Nominating Committee for the Boat Basin elections and appointment of the Chairman of the Nominating Committee

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

RESOLVED, that the City Council of the City of Rye hereby designates George Szczerba (Permit Holder elected to the Nominating Committee in August 2008); Gregory Gavlik (Commission Member not running for re-election); and Frank Mangiamele (Permit Holder appointed by the Commission) as the Rye Boat Basin Nominating Committee for the 2009 Rye Boat Basin Commission elections, and further designates George Szczerba as Chair of the Nominating Committee.

12. Resolution to accept a donation from the VFW Post 7550 for repairs to the World War I Monument
Roll Call.

Jim Dianni, Commander of VFW Post 7550 said that the Post had been notified by both the national and state offices that the chapter was being disbanded due to failure to hold elections and the members wanted to donate the \$10,226.49 in their treasury to the City for restoration of the World War I monument. They requested that any money left over from that project be put aside for any future monuments honoring veterans of Operation Dessert Storm, the Iraq War and/or the War in Afghanistan.

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

RESOLVED, that the City of Rye hereby accepts the donation of \$10,226.46 from VFW Post 7550 to be used for the restoration of the World War I Monument or any future monuments built to honor veterans of Operation Dessert Storm, the Iraq War and/or the War in Afghanistan.

ROLL CALL:

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

13. Bid Award for Annual Street resurfacing (Contract #2009-04)
Roll Call.

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

RESOLVED, that **Contract #2009-04** for Annual Street Resurfacing is hereby awarded in the amount of \$607,553.75 to Bilotta Construction Corporation, the low bidder whose bid meets the specifications.

**CONTRACT #2009-04
ANNUAL STREET RESURFACING**

BIDDER	AMOUNT BID
Bilotta Construction	\$607,553.75

ELG Industries	\$776,650.00
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ROLL CALL:

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

14. Resolution to declare certain equipment in the Department of Public Works as obsolete
Roll Call.

City Manager Culross said that the following two pieces of equipment were “really” obsolete and no longer used:

- Scotchlite Vacuum Applicator, bar code number 000344, assigned to the Sign Shop.
- Drill Press, bar code number 000283, assigned to the Maintenance garage.

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

WHEREAS, the City has been provided with a list of equipment that the Department of Public Works has identified as being obsolete and has removed from service; and

WHEREAS, the Department of Public Works has recommended that said equipment be declared surplus; now, therefore, be it

RESOLVED, that said equipment is declared surplus; and be it further

RESOLVED, that authorization is given to the City Comptroller to sell or dispose of said equipment in a manner that will serve in the best interests of the City.

ROLL CALL:

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

14A. One appointment to the Rye Town Park Commission to fill a term expiring January 1, 2010

Mayor Otis said the Doug McKean has asked to step down from his position on the Rye Town Park Commission and Councilman Cunningham has agreed to fill out the remainder of the term.

Mayor Otis made a motion, which was carried by a voice vote of 5-0 with Councilman Cunningham recusing himself, to appoint Mack Cunningham to the Rye Town Park Commission to fill out a term expiring on January 1, 2010.

15. Miscellaneous communications and reports

Councilman Cunningham noting that the Council had received the Interim Financial Report that states the City's sales tax revenues are down by \$62,000, referred to an article in The Journal News stating that local sales tax revenues have decreased all over the County. He said that this was a reminder of the challenges the City will face in the next budget process and over the next eighteen months. Councilman Pratt reiterated that one-third of the City's budget is dependent on elastic revenues such as sales tax and, therefore, service levels could be affected.

Mayor Otis reported that the State Senate has passed the extension of the City's Hotel Occupancy Tax.

16. Old Business

Councilman Cunningham referred to a report from the Traffic and Transportation Committee regarding the traffic challenges on Midland Avenue from Palisades Road down to the Playland Parkway. He said it was a well put together report that allowed the Council to understand the multiple challenges of the corridor. Changes will be made to enhance site lines at the Palisade Road intersection by restricting parking. Mr. Cunningham added that the City has submitted projects that could increase pedestrian safety in the area as "shovel ready" projects for grant funds. He offered his thanks to Brian Dempsey, Chair of the Traffic and Transportation Committee, and Assistant City Manager Scott Pickup for their work.

Corporation Counsel Kevin Plunkett said that during the Executive Session on pending litigation, a decision was reached by the City Council that requires action by the Council. Councilman Pratt made a motion, seconded by Councilman Cunningham, to adopt the following Resolution:

RESOLVED, that the City Council hereby authorizes litigation counsel for the City of Rye in the pending litigation against the Village of Rye Brook and the developer of property on Bowman Avenue contiguous to City property to apply to the Appellate Division for an injunction to stop all work

being undertaken by the developer at the Bowman Avenue site.

ROLL CALL:

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

Councilman Sack said that since the last City Council meeting, the annual Grievance Day had been held for property owners to grieve their assessments and grievances are up 49%. He asked the City Manager to report to the City Council on how much that would impact next year's budget in terms of reserves.

17. New Business

Councilman Pratt said that recently when graduation parties were being held by residents of his street, the Police Department had asked that guests refrain from parking on both sides of the street in order to keep a passage clear for public safety vehicles but added that on July 4th cars were allowed to park on both sides of the street in order to attend the fireworks at Playland. He suggested that it might be time for the City to consider expanding the no parking zone for beach parking.

18. Draft unapproved minutes of the regular meeting of the City Council held June 10, 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 June 10, 2009, as amended.

19. Adjournment

There being no further business to discuss, Mayor Otis made a motion, seconded by Councilman Ball and unanimously carried, to adjourn the meeting at 12:15 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk