

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on December 16, 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

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 began the meeting by taking Agenda Item 8A out of order.

Resolution accepting the resignation of the Corporation Counsel and appointing an interim Corporation Counsel

Mayor Otis said that Corporation Counsel Kevin Plunkett, who has ably served the City since 2002, has been appointed Deputy County Executive for Westchester County by Rob Astorino, the incoming County Executive. Mr. Plunkett will resign his position as Corporation Counsel effective December 31, 2009. In order to maintain continuity of legal representation, Kristen Kelley Wilson, who has been Deputy Corporation Counsel, will be appointed as Interim Corporation Counsel, pending a determination of the incoming Mayor and Council regarding the position.

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

RESOLVED, that the City Council of the City of Rye, hereby accepts the resignation of

Kevin J. Plunkett as Corporation Counsel effective December 31, 2009 at 11:59 p.m. and hereby appoints Kristen Kelley Wilson as Interim Corporation Counsel effective January 1, 2010.

ROLL CALL:

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

NAYS: None

ABSENT: None

Mayor Otis offered the congratulations of the Council to both Mr. Plunkett and Ms. Wilson and presented Mr. Plunkett with gifts. Mr. Plunkett said that Rye is a special community and offered his thanks to Mayor Otis, the Members of the City Council he has served with during his term and to the dedicated City Staff.

Mayor Otis then presented gifts to outgoing Councilmen Ball, Cunningham and Pratt, calling them dedicated individuals who have worked extremely hard on behalf of the City. Councilwoman Parker presented gifts to Mayor Otis and Councilmen Ball, Cunningham and Pratt on behalf of herself and Councilwoman Gamache and Councilman Sack. She said it had been a privilege and honor to work with all of them and that the City had benefited from Mayor Otis' 12 years of hard work. Councilwoman Gamache also said it had been a privilege to work with the outgoing Council members, calling them an intelligent, thoughtful and engaged group. She thanked Mayor Otis for all he had accomplished for the City saying he left it a better place. Councilman Sack echoed the feelings of his colleagues and added that unless and until people sit at the Council dais they do not know how difficult the job can be and said the Mayor fulfilled his role and ran the meetings with aplomb, serving with honor and distinction. He thanked Councilman Cunningham for his willingness to engage in a discussion on the issues and asked him to be a guest on an episode of Eye on Rye; Councilman Pratt for his knowledge and strong opinions, which benefited the dynamic of the Council by defining issues; and Councilman Ball, who he called the model Council Member because of his diligence, consideration and courtesy.

Mayor Otis then made the following statement:

“Tonight is my last meeting after twelve years as Mayor. If there is one sentiment I would like to pass along, it is thanks and appreciation to many people, especially the people of the City of Rye.

“I want to start with the people who work for the City of Rye: the police department, fire department, City Hall, public works, recreation, all of the City employees.

“We are very lucky that we have a City staff whose standard is to strive for excellence, for dedication, for professionalism.

“The people who work for the City care very much about trying to do a good job for the residents and meet the demands that any community asks of their local government. We are blessed with great people and great department heads. Frank Culross, it has been an honor to work with you and benefit from your leadership.

“On behalf of all the people who have served on the Council over the past twelve years, on behalf of all of the people of the City of Rye, I thank the people who work for the City of Rye. They deserve our appreciation. It has been an honor to work with them.

“I also thank the people who volunteer for the City on the boards and commissions, over 125 tremendous individuals. Not only is significant time put in, but also free help for the City and free help for all the taxpayers because these volunteers often provide services that other communities provide through staff: such as our Rye Senior Advocacy Committee, our Conservation Commission and our Traffic and Transportation Committee. These volunteers are saving the taxpayers money and providing service to the community.

“Thank you to all the not-for-profits, all of the volunteers, the people who work in the schools, and everyone who works together to serve Rye. Rye is very special because of our rich community fabric and all of the cooperation that brings.

“Of most importance, I want to thank my wife Martha who has generously supported my efforts and the time I have put in. Martha has been a tremendous servant for Rye for making it possible for me to serve for twelve years.

“Lastly, I would like to thank the Citizens of Rye. I have had so much fun doing this for twelve years. In case you can't tell, I enjoy it.

“I enjoy it because I wanted to get things done for the community. I look back on the twelve years, the rebuilding of Whitby Castle, the rebuilding of two firehouses, parkland acquisition, new athletic fields, the Rye Senior Advocacy Committee, the Traffic and Transportation Committee, many good safety improvements, creative ideas and countless other improvements. Helping bring in outside funds has brought me great satisfaction.

“In Rye we are always trying to find ways to help this City do better because this is a great community that can always do better.

“I have enjoyed every minute of it. Thank you to the people of Rye for twelve years of allowing me to do this job. I loved doing it. I owe you a great debt.

“I love this town and I want this town to continue to do great things in the future. I care what happens to Rye. I think that has shown over the years and I care going forward. Thank you very much.”

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

Several residents offered remarks of appreciation to the outgoing Council Members.

- *Gerry Seitz, 141 Kirby Lane*, said he had not always agreed with them when they served on the Council together, but respected their points of view. He said Mayor Otis put a great deal of dedication and effort into the job.
- *Henry King, 76 Coolidge Avenue*, thanked them for listening to him and supporting his concerns.
- *Joe Murphy, 57 Franklin Avenue*, said he was grateful for their service and outstanding dedication.
- *Maurio Sax, 39 Sonn Drive*, said he has always admired those who serve the community without pay and carry out their civic responsibilities with distinction and honor. He said Mayor Otis has led the community through difficult times and his legacy will live on. Councilman Cunningham was always prepared to explain issues; Councilman Pratt's oratory will be missed, as will Councilman Ball's mastery of words and eloquence.
- *George Latimer, 47 Wainwright Street*, came to offer thanks, saying they had worked side-by-side with him over the years in many different contexts. He said Rye is not about the bricks and mortar, but about individuals such as Andy Ball, George Pratt, Mack Cunningham and Steve Otis as well as others who have served before them and will serve in the future and take time away from their families in order to serve their community.

Doug Carey, 131 Purchase Street, said that several people from the Arcade building are concerned about their residences because it has changed ownership. Some residents have been forced out of the building and others have received 15% and higher rent increases, which is contrary to the Memorandum of Understanding for apartment owners. He asked if the Memorandum of Understanding was still in operation and, if so, is the Arcade Building on Purchase Street part of the agreement. City Manager Culross said that he did not believe the Arcade Building was ever a part of the Memorandum of Agreement, which is a voluntary agreement for the owners of the buildings who have signed on to it. Mr. Carey urged the Council to work diligently to preserve the affordable housing that is available in the City.

Ed Schindo, 39 Helen Avenue, asked for an update on the status of his request to get Rye Golf Course policies changed regarding closing on Monday and driving carts on the fairways. Mayor Otis said that the Rye Golf Club Commission weighed the issues presented by Mr. Schindo and, although the Commission discussed the issues Mr. Schindo raised, their decision has not been changed. Councilman Sack said that historically the City Council has been reluctant to get involved in day-to-day operations of the Golf Club, but always has an interest in making sure that Boards and Commissions operate fairly and justly. He suggested the issue could be revisited in the New Year and possibly a compromise could be reached.

4. Public hearing to designate the three parking spaces on the north side of Elm Place closest to Theodore Fremd Ave as fifteen minute parking spaces.

Mayor Otis opened the public hearing by saying the genesis of the proposal was to free up spaces near a retail business located at the outside of the core of the Central Business District. He said it fits into the exception that applies to other areas that have 15-minute parking restrictions. Councilman Cunningham, who placed the item on the agenda, said he believed this proposal is important because it is on the perimeter of the Central Business District; the three spaces involved are separated by a driveway; the dynamics of businesses in the area is changing; the area was affected by the 2007 floods and will be affected again by the capital project to reconstruct the Theodore Fremd Avenue wall. He said he believed 15-minute parking would help this area of Elm Place and the businesses located there.

Council comments included:

- This request for 15-minute parking is different than the last proposal the Council considered because it will facilitate the ability of a business to do business during the reconstruction project.
- This is spot zoning and does not look at the big picture. A formal policy might be needed.
- This is necessary during the period of construction because a business might be shut down.
- People who want to park longer than 15 minutes can go into the lots.
- People would rather park in free spaces than in the lots.
- Unlike spot zoning, this just changes the amount of time people are allowed to park and it makes sense for this location.
- It may be difficult to enforce because it requires a presence in the area, which will mean a reduced presence somewhere else.
- When a new Parking Enforcement Officer (PEO) is hired, they will be able to address this change.
- This will help a business that will be affected by the construction project.
- The new Council can review the situation at the end of the construction.
- The area is changing and parking will not turn over as quickly as in the past.
- A 15-minute restriction makes more sense in this area than in other areas that are restricted to 15 minutes.

The only member of the public commenting on the proposed local law was *Eric Moy, 36 Elm Place, owner of Fong's Cleaners*. He said that Elm Place has flooded twice since the pay stations were instituted; people constantly park for more than an hour and he feels there is a lack of enforcement which has caused his business to suffer because his customers are only in his store for five or ten minutes. He said he is also concerned about another major capital project affecting his business.

Mayor Otis closed the public hearing.

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

**LOCAL LAW
CITY OF RYE NO. 9 OF 2009**

**A Local law to amend Chapter 191 “Vehicles and Traffic” by amending Article III
“Parking Regulations” to the City Code of the City of Rye.**

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

Section 1. Chapter 191 “Vehicles and Traffic” is hereby amended by amending Article III “Parking Regulations” as follows:

§ 191-20. Parking time limited.

D.

One-hour limit. The parking of vehicles is hereby prohibited in the following locations for a period longer than one hour between the hours of 7:00 a.m. and 6:00 p.m., except on Sundays:

Name of Street	Side	Location
Cowles Avenue		
Elm Place	South	
Elm Place	North	Entire North side except three spaces closest to Theodore Fremd Avenue
Haviland Lane	West	
Hillcrest Lane	Both	
Locust Avenue	Both	From easterly end of Mead Place to Theodore Fremd Avenue
Mead Place	Both	Westerly portion off Locust Avenue
Mead Place	East	Easterly portion off Locust Avenue
Purchase Street	Both	From Boston Post Road to Natoma Street
Purdy Avenue	Both	From Third Street to First Street
School Street	West	
Theodore Fremd Avenue	South	From Elm Place to the entrance to Car Park No. 2
Third Street	Both	From Commuter Parking Area to a point 100 feet north of Purdy Avenue

E.

Fifteen-minute limit. The parking of vehicles is hereby prohibited in the following locations for a period longer than 15 minutes between the hours of 7:00 a.m. and 7:00 p.m., except on Sundays:

Name of Street	Side	Location
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Boston Post Road	East	From Central Avenue to Rectory Street
Elm Place	North	Three spaces on North side closest to Theodore Fremd Avenue
Forest Avenue	West	From southwest driveway of service station to Elmwood Avenue
Purchase Street	East	From Elizabeth Street southerly for 140 feet
Purdy Avenue	North	From the east side of the post office property to Third Street
Theodore Fremd Avenue	South	From Elm Place to the entrance to Car Park No. 2
Third Street	East	From Purdy Avenue to the post office driveway
Third Street	West	From Purdy Avenue to a point 100 feet north thereof

Section 2. Severability

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

Section 3.

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, Parker, Pratt and Sack
 NAYS: None
 ABSENT: None

Agenda Items 5 and 6 were discussed together.

5. Public hearing to amend Chapter 53, "Architectural Review" of the Code of the City of Rye by amending §53-3 "Meetings and Procedures of Board" regarding noticing requirements for applications and to rescind Chapter 68-8(G) "Building and Demolition Permits".

Mayor Otis opened the public hearing by saying that this agenda item, as well as agenda item 6, resulted from a resident, Thomas O'Connor, bringing a situation to the attention of the Council regarding his contention that he did not receive notice of a project abutting his property that was coming before the Board of Architectural Review (BAR). The Corporation Counsel was asked to look into the issues of firmer ways to notice abutters as well as who has standing to appeal to the Zoning Board of Appeals. Draft local laws were prepared that included signage requirements for the BAR and were circulated to the Boards and Commissions. Based upon

comments from the BAR, a revised law was drafted that eliminated the signage requirement. The current local laws for consideration codify the existing rules used for BAR notification with the addition of requiring certified mail return, receipt notice to abutters (agenda item #5) and applying the same change regarding notice by certified mail to abutters to other land use boards (agenda item #6).

Mr. O'Connor said he believed the proposed changes to the City Code would be a great service to the residents of Rye. He believes all service to abutters should be by certified mail, and the benefit far outweighs any additional cost to the applicant. He also suggested that an abutter be given leave to appeal a decision made by a Board if they did not receive notice. Mayor Otis said the Council has decided that the issue of standing to appeal is more complex than that of the noticing requirements and, therefore, should be considered by the incoming Council. Deputy Corporation Counsel Wilson added that agenda item #6 included some "clean up" work that codified additional General City Law publication requirements that are already the practice of the City.

Council comment and questions included:

- Will the certified mail process slow the hearing process down if the return receipt cards are not all received prior to a meeting? (It will not stop the process, the return receipt cards along with a certificate of mailing from the post office is just a way to provide proof to the City that notification was attempted.)
- The return receipt cards protect the applicants from people saying they did not receive notice.
- This matter has come before the Council very quickly, possibly too quickly to act upon at this meeting. This issue should be discussed more fully in order to consider all viewpoints.
- The effective date of the law is not until March 30, 2010; the incoming Council can reverse it if they feel this Council acted in haste.
- If the goal is to make sure people are noticed, the Council should take the time to get it right the first time.
- The prime building season begins in the spring. It makes sense to act now and have something in place prior to then that enacts precautions, which help other residents.
- This is not a major change; it just refines the current process.
- The Council has not heard from the Building Inspector.
- Does this fix the right problem? Is the problem noticing, or whether the Code protects the interests of the neighbors well enough?
- The scaled back proposal for agenda item #5 was the result of comments received.
- There should be continuity among the Boards regarding noticing requirements.
- There is no additional burden being put on architects.
- People sometimes don't read the notices they receive.

Members of the public commenting on the proposed local laws included architects *Paul Benowitz* and *Gretchen Meili* and builders *Joe Lorono* and *Marta Kotyza*. Their comments included:

- Notification requirements differ in other communities because they differentiate between the responsibilities of the various boards and what they do.
- There is a big difference between applications for zoning changes that come before the Zoning Board of Appeals and applications to the BAR, which come to the Board “As of right”.
- A post office certificate of mailing would be acceptable.
- The appearance is that things are being pushed through. If the proposed laws have such merit, they should be held over until next year.
- The proposed changes for BAR requirements are “Draconian”.
- The Council should have consulted with the architects and the Building Department.
- The current noticing distance for BAR is not 500 feet.
- Why change the law for one person who says he wasn’t notified?
- The proposed law is vague and needs further discussion.
- Some of the restrictions added by the proposed law will affect architectural practices by adding more work.

Mayor Otis said the intent of the proposed law regarding the BAR requirements was to match what is currently done now in terms of noticing distance, with the additional requirement of certified mail to abutters. He suggested removing the section of the draft law that referred to a noticing distance of “500 feet of the perimeter of the property” and replacing it with “as described by the rules of the Building Department.” A suggestion was made by Councilman Pratt to table the discussion and revise the draft of the proposed local law regarding BAR Regulations to delete the reference to 500 feet and change the certified mail requirement to a certificate of mailing requirement. The other members of the Council agreed to continue the public hearings, with Councilwoman Parker asking that they be placed on the next agenda.

6. Public hearing to amend the Code of the City of Rye Chapters and Sections: §170-6(F) “Subdivision of Land, Procedures for Tentative Approval of Preliminary Layout”; §170-7(C) “Procedures for Approval of Subdivision Plat”; §197-7 “Zoning, Site Development Plan”; §197-10 “Zoning, Uses Permitted Subject to additional Standards”; §197-81(F) “Zoning Appellate Jurisdiction of Board”; §195-5(C) “Wetlands and Watercourses, Public Hearings and Public Notification by Applicant”; §196-15 “Wireless Communications Facilities, Public Hearings Required”, regarding noticing requirements

This item was discussed in conjunction with agenda item #5 above.

7. Resolution to adopt the 2010 Budget and establish the 2010 tax levy and 2010 tax rate Roll Call

Mayor Otis thanked the City Manager, the Department Heads and the Recession Task Force for their work, which resulted in a 1.56% tax increase, one of the lowest of any municipality in Westchester.

Councilman Pratt said the Council working with the administrative staff and the Finance Committee did the best they could to get the budget down as low as possible. He said the budget was a result of the Council coming out of the last budget process determined to take a different

road. He said that the budget does not change the fact that 2/3's of revenue comes from property tax and 1/3 from elastic revenues, which go up and down. The actual budget is lower than the 2008 and 2009 budgets. He added that all budgets have risk and that this budget was about as tight as it could get without cutting service levels.

Councilwoman Gamache read the following memorandum from the Finance Committee:

“The Finance Committee is writing in support of the adoption of the proposed 2010 budget of the City of Rye that will be voted upon at the December 16, 2009 meeting. The "reset" budget approach utilized by City Manager Frank Culross was most appropriate in the difficult economic times that we are faced with. Comptroller Jean Gribbins did an excellent job in pulling together and presenting the budget proposal and in responding to the Finance Committee's questions at our two budget review meetings. We would also like to formally acknowledge the tremendous contribution that the Mayor and City Council made throughout the budget process.

“Jean Gribbins also was most helpful in preparing the streamlined Rye Citizens Budget Report that the Finance Committee requested be prepared by City Staff in the format provided by Finance Committee. The Citizens Budget Report for the 2010 Budget was different from prior years' reports, in that it compared the proposed 2010 Budget to the most recent 2009 Forecast, rather than the 2009 Budget. The Finance Committee's goal is to have an informed public that can obtain a quick overview of the City Manager's Budget Proposal without the need to read the several hundred page budget document, and we believe that the Citizens Budget Report is integral to the success of this goal.

“Because of conflicting schedules of Committee members, we were unable to fully vet among the Committee members, a number of long-term issues that we discussed initially with Frank Culross and Jean Gribbins at our budget review meetings. These include (a) continuing the activities of the recessionary task force or a similarly constituted group, with citizen input, to broadly examine the level of services that citizens would be willing to do without in return for a zero/low tax increase budget. This is particularly important should the current economic conditions linger or worsen and/or New York State aid be significantly reduced; (b) the need to work with our local State Senate and Assembly representatives and other interested parties for legislative relief from Albany to stem the tide of benefit entitlement increases; (c) financing of the 1037 Boston Post Road bullet payment; and a number of other topics. The Committee looks forward to discussing these matters, and others, with the incoming Mayor and City Council in early 2010.

“The Committee wishes to express its thanks to the current City Council for its support and implementation of the various Finance Committee recommendations, particularly, that of the establishment of the recessionary task force that proved so valuable in 2009.”

Councilman Sack said he had learned two lessons from dealing with last year's budget process: (1) focus on the big things, and (2) it is difficult to cut services or even talk about cutting services. He said that for 2010 it is unreasonable to assume a 0% increase for unions and, therefore, salaries may be under-budgeted. The Recession Task Force came up with \$800,000 in cuts by deferring \$400,000 in capital expense and deciding to bond for an additional \$400,000. The harder decisions regarding cutting services are being left to the next Council. He said he had no faith that the City would receive what it has budgeted for from the State. He added that the City has yet to receive back any of the money it loaned for the purchase of the Bird property and was not sure if the City could expect to get it back in this economic environment. He said he believed the City was overestimating revenues and underestimating expenses for 2010 and believed a 1.56% increase will come back to "haunt" the City next year.

Councilman Cunningham said that when the revenues for mortgage tax were received at the end of the first quarter, there would be an indication if the City was on budget in terms of that revenue projection. He said it was important for the City to work with their State legislators to make sure that the City gets its fair share of state revenue.

City Manager Culross said that the Budget Resolution before the Council incorporates the changes the City Council recommended after the public hearing.

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

WHEREAS, on November 9, 2009 the 2009 Tentative Budget was presented to the City Council, and,

WHEREAS, since November 9, 2009 the City Council has discussed possible amendments to the 2010 Tentative Budget, now, therefore be it

RESOLVED, that the tentative budgets and fee schedules as presented in the 2010 Tentative Budget be amended as follows:

Increase General Fund Revenues:

Parking Enforcement - Fines and Forfeitures – Increase \$61,000 from \$350,000 to \$411,000

Increase General Fund appropriations:

Parking Enforcement – Salaries & Wages and Employee Benefits and Taxes – Increase \$61,000 from \$146,151 to \$207,151

The increase in Revenues and Expenses, which net to zero, will fund an additional Parking Enforcement Officer, to add evening and weekend parking enforcement.

Capital Project Fund Changes:

Transfer from the Capital Projects Fund to General Fund Fund balance for completed projects of \$48,730.

Transfer from the Building & Vehicles Fund to General Fund Fund balance for completed projects of \$35,680.

Transfers to the Capital Projects Fund from the General Fund for:
Completion of Design work on Purchase St/Purdy/Theodore Fremd Intersection
\$15,000
Forest Avenue Safe Routes to School \$25,000
Boston Post Road Safe Routes to School \$44,000

Resulting in a net increase of Fund Balance in the General Fund of \$410.

Capital Projects Fund Changes:
Addition of the following projects, to be funded by the General Fund:
Completion of Design work on Purchase St/Purdy/Theodore Fremd Intersection
\$15,000
Forest Avenue Safe Routes to School \$25,000
Boston Post Road Safe Routes to School \$44,000
Bringing the total Capital Projects Fund Appropriations to \$7,723,260, of which
\$891,000 will be funded from the General Fund, \$5,660,260 will be funded from
Federal and State Grants and Aid, and \$1,172,000 will be funded with new debt.

Building & Vehicle Fund Changes:
Gagliardo Park Restroom and Storage project will be reduced by \$80,000 from
\$180,000 to \$100,000, funded by 2002 Recreation Bond proceeds.
Addition of Friends Meeting House Improvements project for \$125,000, which will
be funded by 2002 Bond proceeds.
Bringing the total Building and Vehicle Resources Required to \$511,500, and
changing the Bonds (2002 Recreation Bonds) sources of funding from \$306,500 to
\$351,500.

The General Fund, Cable TV Special Revenue Fund, K.T. Woods Permanent Fund,
Debt Service Fund, Capital Projects Fund, Boat Basin Enterprise Fund, Golf Club
Enterprise Fund, Risk Retention Internal Service Fund and Building and Vehicle
Maintenance Internal Service Fund, are hereby adopted as amended for the fiscal year
ending December 31, 2010, and be it further

RESOLVED, that the City Council does hereby certify to the City
Comptroller the 2010 City of Rye tax rate of \$139.52 per \$1,000 taxable assessed
valuation and the 2010 City of Rye tax levy of \$19,433,844 and be it further

RESOLVED, that the City Council does hereby direct the City Comptroller
to apportion and extend against each taxable property listed upon the assessment roll
at the tax rate certified in this resolution to produce the tax levy certified in this
resolution, and to render tax notices for, and receive and collect, the several sums so
computed and determined, with interest as provided by law, and any special
assessments heretofore authorized and approved.

ROLL CALL:

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

The Resolution passed and the 2010 Budget was adopted.

7A. Resolution repurposing the 2002 Recreation Bond funds in accordance with the adopted Building & Vehicles budget for 2010
Roll Call

City Manager Culross said this Resolution is the funding mechanism for portions of the Building and Vehicle Fund that was amended in the Budget Resolution, the Damiano Building improvements, the Gagliardo Park restroom and storage and the Friends Meeting House project. It is proposed that these projects be paid for by repurposing \$351,500 from the \$476,000 remaining unallocated from the \$2.9 million proceeds of the 2002 Recreation Bond funds. It has been reviewed by bond counsel, who says it is an appropriate repurposing of the money. Mayor Otis said the reason the funds are being used this way at this time is at the recommendation of outside bond counsel who have advised that the remaining 2002 Recreation Bond funds can no longer be left in a bank account and must be spent on recreation projects.

John Carey, 860 Forest Avenue asked if the bond counsel had put his advice in writing. He said he believed they were disregarding the Local Finance Law because \$414,000 of the money that was restricted to City park and recreation buildings was being spent on a Town of Rye building. He also said there was no language in the resolution expressly authorizing that the bond money be used for the Damiano Building, Gagliardo Park and Friends Meeting House projects. City Manager Culross said that bond counsel had put their recommendation in an email. He said regarding the issue of the Rye Town Park, which was authorized at a previous meeting, bond counsel offered an opinion saying that because of the 1907 special legislation relative to Rye Town Park that obligates the City pay for 40+% of the capital improvements to the park, it would be an appropriate use of bond funds. Councilman Sack said he was surprised that the opinion of bond counsel came in the form of an email but it came from one of the preeminent municipal finance firms in the country. He asked if there was an option on paying the money back. Councilman Pratt said that the bonds were serial bonds that cannot be called and used to repay principle. He added that the clock to expend the bonds has expired, requiring that the bonds be used. He advised future Councils not to issue bonds with language that is so specific that it does not allow the money to be used for a different project.

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

WHEREAS, the City issued \$2,900,000 principal amount general obligations to finance the cost of additions to and the reconstruction of various City-owned buildings for park and recreational purposes pursuant to a \$4,400,000 aggregate principal amount serial bond resolution adopted by the City Council on April 10, 2002; and

WHEREAS, after completion of such park and recreational building addition and reconstruction project, \$476,000 of the \$2,900,000 proceeds of obligations issued by the City for such object or purpose remain unspent; and

WHEREAS, the City Council has adopted the Building and Vehicle Budget for 2010, which included 3 projects to be funded with unspent proceeds of the above 2002 Borrowings as follows:

Damiano Building Improvements	\$126,500
Gagliardo Park Restroom & Storage	100,000
Friends Meeting House	<u>125,000</u>
Total use of unspent Proceeds	\$351,500

WHEREAS, the unspent proceeds of the 2002 Borrowings is now \$124,500.

NOW, THEREFORE, be it resolved by the City Council of the City of Rye, New York, anything in the Charter of the City to the contrary notwithstanding, as follows:

1. **RESOLVED**, that pursuant to section 165.00(a) of the Local Finance Law and section 11 of the General Municipal Law, a portion of the proceeds originally in the amount of \$2,900,000 constituting a part of obligations of the City issued pursuant to a \$4,400,000 aggregate principal amount serial bond resolution adopted by the City Council on April 10, 2002, now unspent and not needed for the object or purpose (the construction and reconstruction of City-owned buildings for park and recreational purposes), hereby shall be (i) deposited in a single special account of the City in a bank or trust company located and authorized to do business in New York, (ii) not at any time commingled with other funds of the City, and (iii) expended and applied only to the cost of an object or purpose similar to and of the same period of probable usefulness as the object or purpose for which the such part of said obligations were issued, all in lieu of applying said unspent proceeds to annual debt service on said obligations. In connection with the issuance of said obligations, the City Council hereby ratifies, approves and confirms the powers delegated to the City Comptroller, as chief fiscal officer of the City, contained in said bond resolution.

2. **FURTHER RESOLVED**, that prior to the expenditure of said unspent proceeds, the City Council shall conduct applicable environmental compliance proceedings under the NYS Environmental Quality Review Act with respect to the environmental and climate change impact of said similar object or purpose.

ROLL CALL:

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

The Resolution was adopted by a vote of 6-1.

8. Resolution establishing accounting for gross and net revenues generated from the Central Business District parking pay stations and use of City funds for capital projects in the Central Business District

Mayor Otis said this issue of utilizing pay station revenue for capital projects in the Central Business District (CBD) had been discussed at various meetings during the budget process and that he and Councilman Cunningham would be presenting two different resolutions. The Mayor proposed that the City Comptroller maintain an accounting of gross revenues and net operating income for each year generated by the pay stations; maintain a list of capital projects within the CBD that have been authorized by the Council, and included a report of that information in the annual CIP and Budget. He said this would provide a tool for the City to see if, on an annual basis, there was a fair approximation of spending CBD revenues for CBD projects. This would not create a separate fund, which would raise the tax rate.

Councilman Cunningham said he was following up on what Councilwoman Parker had proposed at previous meetings. He said there were two major capital projects proposed for the CBD in the 2010 budget including State mandated traffic signal work and pedestrian safety improvements. He said that the funds generated by pay station revenue allow these improvements to be done. He said he supports a CBD savings account benefit fund as proposed by Councilwoman Parker and proposed that \$50,000 of the net revenue from the pay stations be put into an Unreserved CBD Savings Account, with the balance of the money designated to the General Fund. He said the CBD should directly benefit from the quarters, while the General Fund fine revenues will benefit from parking tickets written by the new Parking Enforcement Officer (PEO).

Council comments and questions included:

- Thanks to the Mayor and Councilman Cunningham for coming up with options that allow the City to take care of infrastructure needs.
- It is not known what future Councils will do relative to the CBD. The Savings Account will allow projects to continue if future Councils don't want to fund CIP projects.
- The first proposal does not tie the hands of a future Council, but provides information on how the money is being spent.
- Would there be tax consequences to the Savings Account proposal? (It takes \$50,000 of revenue out of the General Fund appropriation and would increase the tax rate by \$.50 per \$1,000.)

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

RESOLVED, that effective January 1, 2010, \$50,000 net revenue generated by the City's parking stations and meters will be assigned to unreserved Central Business District fund, with the balance of station and meter net revenues credited to the City General Fund.

ROLL CALL:

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

The Resolution failed by a vote of 5-2.

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

WHEREAS, it is the goal of the City that funds generated from the central business district parking pay stations in the central business district, minus expenses, shall be used to fund capital projects in the central business district, now, therefore, be it

RESOLVED, that within the general fund the City Comptroller shall maintain an accounting of gross revenues and net operating income generated for each year by the parking pay stations; and be it further

RESOLVED, that the City Comptroller shall also maintain a list of capital projects within the central business district that have been authorized by the City Council; and be it further

RESOLVED, that the City's annual CIP and annual City Budget shall include a report of this information for use by the City Council and the public; and be it further

RESOLVED, that the City Council will use this information as part of the capital planning process to track parking revenues and provide a basis to assign capital project commitments to the central business district on an ongoing basis.

ROLL CALL:

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

The Resolution was adopted by a vote of 6-1.

8A. Resolution accepting the resignation of the Corporation Counsel and appointing an interim Corporation Counsel.

This agenda item was taken out of order at the beginning of the meeting.

9. Resolution authorizing the City Comptroller to make the necessary year-end closing transfers
Roll Call

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

RESOLVED, that the City Comptroller is hereby authorized to make the necessary 2009 fiscal year-end budget transfers in city accounts, provided a list of such transfers is furnished to the City Council after completion of such transfers.

ROLL CALL:

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

NAYS: None

ABSENT: None

10. Resolution to authorize participation in Westchester County contracts
Roll Call

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

WHEREAS, by Act No. 8-1983, The County Board of Legislators authorized the County Purchasing Agent to act as Purchasing Agent for any city, town, village, school district or other unit of local government within the County of Westchester County, provided that said unit of local government by act, ordinance or resolution authorizes the County Purchasing Agent to act as its Purchasing Agent for items purchased by the County, and empowering designated officers and employees to sign requisitions, and further directing the proper official of local government to audit and pay County bills for the cost of County services within thirty (30) days after the receipt of said bill by the local government, and to provide the County with such insurance coverage as may be required by the County's Director of Risk Management, NOW, THEREFORE, be it

RESOLVED, that the County Purchasing Agent is hereby authorized to act as Purchasing Agent for the City of Rye, New York on a continuing basis, and be it further

RESOLVED, that the City Manager, the Assistant City Manager, the City Comptroller, and/or the City Engineer are hereby authorized to sign appropriate requisitions, and be it further

RESOLVED, that the City Comptroller is hereby authorized and directed to audit and pay County bills for the cost of County services within thirty (30) days after receipt of said bills, and be it further

RESOLVED, that the City Comptroller is hereby authorized to secure and provide to the County of Westchester any and all insurance required by the County's Director of Risk Management, in Accordance with County Act No. 8-1983.

ROLL CALL

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

11. Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2010
Roll Call

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

RESOLVED, that the Mayor be and hereby is authorized to execute an agreement with the Rye Free Reading Room to furnish library services for 2010.

ROLL CALL

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

12. Resolution to amend changes to local law amending Chapter 191, Vehicles and Traffic, of the Rye City Code by amending Section 191-20, Subsections D and E, to temporarily change public parking on Theodore Fremd Road, from a one-hour limit to a fifteen-minute limit for the duration of the construction on Elm Place
Roll Call

Due to the adoption of Agenda Item #4, this item was not acted upon.

13. Consideration to set a public hearing to restrict parking on Midland Avenue
Roll Call

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

WHEREAS, the Council wishes to amend Chapter 191, Vehicle and Traffic, Section 191-19, "No parking any time", of the Code of the City of Rye to prohibit parking on the East side of Midland Avenue from Ellis Court to Grace Church Street; 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 January 20, 2010 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 laws.

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

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing to amend Chapter 191 of the Code of the City of Rye, Vehicles and Traffic, by amending Section 191-19, "No parking any time", to prohibit parking on the East side of Midland Avenue from Ellis Court to Grace Church Street.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 20th day of January, 2010 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 191-19 of the Code of the City of Rye to prohibit parking on the East side of Midland Avenue from Ellis Court to Grace Church Street.

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

Dawn F. Nodarse
City Clerk
Dated: January 13, 2010

ROLL CALL:

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

ABSENT: None

14. Acceptance of grant award from the State of New York in the amount of \$10,000 for Fire Department equipment.
Roll Call

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the acceptance of a grant in the amount of Ten Thousand dollars (\$10,000.00) from the State of New York to be utilized by the Fire Department to purchase floato pumps for the rescue boat.

ROLL CALL

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

15. Resolution fixing January 6, 2010 as the first regular meeting and the organizational meeting of the City Council for 2010.

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

RESOLVED, that January 6, 2010 is hereby fixed as the first regular and the organizational meeting of the City Council.

16. Miscellaneous communications and reports

Mayor Otis said he attended a meeting set up by the New York State Department of Transportation regarding the 287 Corridor. He said there are plans for a dedicated bus route along 287 that will go underneath 287 behind the Kohl's Shopping Center and along the railroad to the Port Chester train station.

Councilman Sack reported that there will be a blood drive on Friday, December 18th from 10:00 a.m. to 4:00 p.m. at the Locust Avenue Firehouse.

Councilman Pratt reported that Rye High School was ranked number 59 in the Country by US News and World Reports.

Councilman Cunningham said that he wanted to offer his thanks to Councilmembers Sack, Gamache and Parker for performing an extension of their community service by serving on the Council and wished them the best going forward. He said there will always be challenges facing City Councils. During his time on the Council there have always been struggles because dollars are limited and it is a challenge to protect the City's fund balance because it is a savings account that helps weather the City through storms. He said he has confidence that with the staff in place that this will continue. He said he appreciated the passion that Councilman Pratt brought to his term on the Council and that his guidance on municipal finance will be missed. He said it was a pleasure to serve with Councilman Ball and considered the passage of ETPA to protect affordable housing in Rye a highlight. He added that Mayor Otis showed great leadership after the 2007 floods by working with the Federal Government and the County and hopefully the Bowman Avenue project will bring abatement to the situation. He said it was an honor serving with the Mayor and that his ability to secure outside funding for the City will be his legacy. He closed by saying that there isn't a finer group of people than those who work for the City and people should be reminded that they are cornerstones in the community.

Councilman Ball said he felt that even in moments that he did not enjoy, he felt that he and his colleagues endeavored to do the job to the best of their ability and in a manner consistent with their oaths. He said it is the City staff that makes the City work and he wished that the public had a better appreciation for what they do and added that he had learned a lot from the Department Heads. He said he appreciated the kind words from his colleagues and the public and said his role now was to get out of the way, but would be nearby if his help was needed. He ended by offering his thanks to the other members of the Council for working with him.

Councilman Pratt said he had been involved in three elections since 2001, served with 18 different elected officials on both the School Board and City Council. He said he boils politics down to five people, two will like you regardless of what you do, two will dislike you regardless of what you do and one who either makes you a winner or loser. He offered the best of luck to the three remaining Councilmembers. He had learned to expect the unexpected because the job of an elected official always turns out different than you thought it would be. There will be many issues that will arise that will offer an opportunity to work together and find issues of commonality. He said the issue that served as a catalyst for his getting involved in the community was the installation of permanent lighting at the High School. He said there has never been a term of any Council where there has not been a big issue to deal with and it is the responsibility of elected officials to deal with the cards that are dealt to them by working with others who may have been voted in for different reasons. Rye has faced tough things in the past and has managed to get through it. He offered his thanks to the other members of the Council. He said he believed he grew as an individual during his time on the Council and said that cooperation between the remaining Council members and the incoming Council was in the best interests of the community.

17. Old Business

There was no old business to be discussed.

18. New Business

There was no new business to be discussed.

19. Draft unapproved minutes of the Budget Workshop held on November 30, 2009 and the regular meeting of the City Council held on December 2, 2009

Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried to approve the minutes of the budget workshop held on November 30, 2009 and the regular meeting held on December 2, 2009.

20. Adjournment

There being no further business to discuss, Mayor Otis made a motion, seconded by Councilman Sack and unanimously carried, to adjourn the meeting at 12:40 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk