

**MINUTES** of the Regular Meeting of the City  
Council of the City of Rye held in City Hall on January  
22, 1997 at 8:00 P.M.

**PRESENT:**

EDWARD B. DUNN, Mayor  
JAMES K. BURKE  
CAROLYN C. CUNNINGHAM  
ROBERT H. HUTCHINGS  
JOSEPH L. LATWIN  
KATHLEEN E. WALSH  
Councilmen

**ABSENT:** Edward J. Collins

1. Roll Call

Mayor Dunn called the meeting to order; a quorum was present to conduct official City Business. Mayor Dunn announced that Councilman Collins is on vacation.

2. Old Business

There was no old business discussed.

3. Public Hearing on a proposed Local Law amending Chapter 197-50 to the Code of the City of Rye, Fences and Terraces, with respect to fence heights (No.12-29)

The Mayor declared the hearing opened.

The Council considered an amendment to the Code of the City with respect to fence heights resulting from the request of residents to erect fences along their property lines.

Mr. John Rossini, 164 Highland Road, addressed the Council stating that the City recognized a safety problem and has acted upon that problem some time ago by installing a guard rail along Highland Road. He expressed the feeling that the City should be responsible for installing a fence at that location since he believed that this is City property.

Councilman Latwin said that the referenced property is located at the intersection of Mohawk Street and Highland Road. On the corner of Highland Road, the street rises and the grade changes to about 12 feet. He said that this property is owned by the Fulenwidars and not the City. He said there is a variance pending before the Board of Appeals and the property owners are awaiting a legislative resolution to this issue.

Mr. Mack Cunningham, Forest Avenue, said that he has reviewed the proposed local law and would encourage the Council to pass it since it addresses the initial concerns that he has with his property bordering commercial property. He thanked the Council for taking this action.

Councilman Latwin said that he had discussed this matter with the Board of Appeals and the consensus was to proceed with the legislative action rather than dealing with variances on a case by case basis. Councilman Latwin made the following amendments to the proposed local law; to put an "or" between A and B, and between B and C, and for clarity to list the exceptions rather than stating them in paragraph form.

Corporation Counsel Gardella said since Councilman Latwin's changes were not substantive, the City Council could vote on the proposed local law.

Councilman Walsh noted that the City Planner and the Planning Commission are working on changes to the Code which would combine all the fence regulations in one section. She indicated that it would be preferable not to delay the applicants before the Board of Appeals, and that the Council might want to go ahead with this change and do the more administrative changes later.

The Mayor declared the hearing closed.

Councilman Cunningham made a motion, seconded by Councilwoman Walsh, to adopt the following local law.

## **CITY OF RYE**

### **LOCAL LAW NO. 1-1997**

A local law amending Chapter 197-50, Fences and terraces, of the Code of the City of Rye.

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

Section 1. §197-50. Fences and terraces, is hereby amended to read as follows:

Except as provided in §197-49, the provisions of §197-47 shall not apply to fences, hedges or walls:

- (A) not over four (4) feet high above the average natural grade within thirty-five (35) feet of a street property line; or
- (B) not over six (6) feet high above the average natural grade and placed within 1 foot of the property line that abuts I-95 or I-287; or
- (C) not more than six (6) feet high above the average natural grade and placed within 1 foot of the property line that abuts property in a business district that is actually used as a business, provided that the fence, hedge or wall shall not exceed four (4) feet in height from the roadway to the nearer of the structure on the lot or the structure on that adjoining business lot; or
- (D) not over six (6) feet high above the average natural grade where the fence, hedge or wall is:
  - (1) within one foot of the property line;
  - (2) within ten (10) feet from a roadway on a corner lot; and
  - (3) the average natural grade at the location of the fence, hedge or wall is at least four (4) feet higher than the average natural grade on the property within six (6) feet from the fence, hedge or wall; or to terraces, steps, uncovered porches or other similar features not over three (3) feet high above the level of the floor of the ground story in the required front yard.

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

ROLL CALL:

AYES: Mayor Dunn, Councilmen Burke, Cunningham,  
Hutchings, Latwin and Walsh

NAYS: None

ABSENT: Councilman Collins

The Local Law was adopted.

4. Public Hearing on a proposed Local Law amending Chapter 167-50 of the Code of the City of Rye, Repair of Sidewalks (No. 12-30)

Mayor Dunn declared the public meeting opened.

In response to Mr. Kenneth Myers' queries about liability to the homeowner and Section 167-47, City Manager Culross explained the City's procedure for sidewalk repair and clarified the following:

Section A which includes the five day notice is existing legislation;  
Section B, the amendment under consideration, would shift sidewalk liability to abutting property owners.

The reference to Section 167-47 pertains to the removal of ice and snow

Both Mrs. Susan Schack and Mr. Kenneth Myers pointed to the language in the existing law and questioned whether the five day notice requirement was sufficient to allow residents to make the necessary repairs.

Councilwoman Cunningham expressed similar concerns.

The staff was asked to prepare a report concerning liability, the sidewalk repair procedures, and the notification process.

Councilman Latwin made a motion, seconded by Councilman Burke, to adopt the following Local Law.

**CITY OF RYE  
LOCAL LAW NO.-2- 1997**

A local law amending Chapter 167-50, Repair of Sidewalks, of the Code of the City of Rye.

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

Section 1. Section 167-50, Repair of Sidewalks, is hereby amended to read as follows:

§ 167-50. Repair of Sidewalks.

- (A) It shall be the duty of the Department of Public Works to require the owner of property abutting upon a street to repair or replace any sidewalk in front thereof that is required to be repaired or replaced. Where the owner of such property shall fail or neglect to repair or replace such sidewalk for five (5) days after notice to do so has been served upon the owner, either personally or by mailing the same to the name of the last known owner thereof as the same appears on the assessment roll of the City of Rye for the last calendar year, the Department of Public Works shall repair or replace such sidewalk, and a statement for one hundred percent (100%) of the cost incurred thereby shall be served upon the owner, either personally or by mailing the same to the name of the last known owner thereof as the same appears on said assessment roll. If the owner of the property shall fail to pay the same within fifteen (15) days after demand, the City Assessor shall, in the preparation of the next assessment roll, assess such amount upon such property, and the same shall be levied, collected and enforced in the same manner as taxes upon said property for city purposes are levied, collected and enforced.
- (B) In the event that personal injury or property damage shall result from the failure of any owner or other responsible person to comply with the provisions of this section and section 167-47 above, the owner and such other person shall be liable to all persons injured, or whose property is damaged directly, or indirectly thereby, and shall be liable to the city to the extent that said city is required by law or by any court to respond in damages to any injured party.

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

ROLL CALL:

AYES: Mayor Dunn, Councilmen Burke, Cunningham,

Hutchings, Latwin and Walsh

NAYS:None

ABSENT: Councilman Collins

The Local Law was adopted.

Mayor Dunn noted that he recently had two separate individuals involved in development in the City of Rye comment on the planning and approval process in the City and he made a note in the record offering these compliments to staff.

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

There were no residents present who had matters to discuss that did not appear on the agenda.

6.. Discussion of proposed Finance Committee

Mayor Dunn briefly discussed the responsibilities of the proposed Finance Committee and announced that he would prepare a resolution for the next meeting to establish this Committee officially.

Councilman Latwin suggested that the reference to quarterly financial statements should be changed to periodic.

Mayor Dunn felt that the financial statement is an important planning tool for the City, especially for the first and second quarter and that the reference to quarterly was significant.

Councilman Latwin suggested that a clarification should be made in the Functions areas No. 1, to include a reference to revenues and Mayor Dunn suggested the wording be adjusted to read, "revenue and expenditure policies and financial policies," and that he would prepare a resolution for the next meet incorporating this change.

7. Resolution concerning proposed appointments for Council consideration and approval

Councilwoman Cunningham introduced a resolution concerning notification on appointments for Council consideration.

Councilman Latwin suggested that the resolution be amended to include the word "Committee," and also that the reference to "Friday packets" be changed to the word "weekly packets."

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

**RESOLVED**, that, to the maximum extent feasible, all nominations of new members for Board, Commission, and Committee appointments with background information be presented by the Mayor to the Council members in the weekly or Friday packet before the meeting at which the nominations are to be considered for approval and appointment.

8. Review of Final Scoping Document for High Point Village Project in the Village of Rye Brook

City Manager Culross explained that the Village of Rye Brook has proposed to develop a 400 unit housing project on the old Highpoint Hospital site. Rye Brook has circulated its Final Scoping Document. In 1978, the Town of Rye (now, the Village of Rye Brook) proposed a large scale development. The City of Rye expressed concern about the size of this development and its potential for significant surface water runoff. In response to this concern, the Town of Rye prepared and signed an agreement that the construction would include measures mitigating any surface water runoff to the downstream properties. The location of this new proposal from Rye Brook is in the same location and could have the same potential impact on the City of Rye. The City Manager recommended that the City of Rye formally advise the Village of Rye Brook about the previous agreement.

Mayor Dunn suggested that City Manager Culross write a letter apprising the Village about the City of Rye's concerns and that our staff keep Council informed about development of this project.

9. Approval of a supplemental appropriation of \$8,000 from the Police Trust Fund to the Police Department budget for the purpose of purchasing defibrillators.

City Manager Culross noted that the reference to the Police Trust Fund in his January 15, 1997 memo on Defibrillators, should be changed to the Police Agency Fund.

Councilman Burke commented that this was a small amount of money to be spent on something that would be of such great benefit as a life saving tool.

Councilman Burke made a motion, seconded by Councilman Hutchings, to adopt the following resolution:

**RESOLVED**, that the City Council of the City of Rye hereby approves the supplemental appropriation of \$8,000 from the Police Agency Fund to the Police Department budget of the General Fund for the purpose of purchasing defibrillators.

ROLL CALL:

AYES: Mayor Dunn, Councilmen Burke, Cunningham,  
Hutchings, Latwin and Walsh

NAYS: None

ABSENT: Councilman Collins

The resolution passed.

10. Authorization to pay the balance of Union Free School District taxes as of December 31, 1996

Councilman Cunningham made a motion, seconded by Councilman Burke, to approve the following resolution.

**RESOLVED**, that the City Comptroller be, and is hereby authorized to pay the balance of Rye Neck Union Free School District taxes as of December 31, 1996, in the amount of \$49,233.42 in accordance with Section 22.9 of the City Charter.

ROLL CALL:

AYES: Mayor Dunn, Councilmen Burke, Cunningham,  
Hutchings, Latwin and Walsh

NAYS: None

ABSENT: Councilman Collins

The resolution passed.

11. Consideration of a request of the Milton School PTO to have Hewlett Avenue posted as a one-way street from 10:00 A.M. to 4:00 P.M. on Saturday, March 15, 1997 in conjunction with the Milton School Fair

A. Councilman Latwin made a motion, seconded by Councilman Cunningham and unanimously carried, to approve the request of the Milton School PTO to have Hewlett Avenue posted as a one-way street from 10:00 A.M. to 4:00 P.M. on Saturday, March 15, 1997 in conjunction with the Milton School Fair.

B. Council action in support of Little League Day on April 12, 1997

Councilman Latwin requested that a letter be prepared in support of Little League request that April 12, 1996 be designated as Mel Allen Day, and to grant permission to use the City Streets for the Little League's annual parade.

Councilman Latwin made a motion, seconded by Councilman Hutchings and unanimously carried, to approve the Little League request to declare April 12, 1997 as Mel Allen Day in the City of Rye and grant the request to use the City streets for its annual parade.

12. Appointment to the Commission on Human Rights for a three-year term, by the Mayor

Councilman Cunningham made a motion, seconded by Councilman Latwin, and unanimously carried, to approve the Mayor's appointment of Mrs. Janis Solomon to the Commission on Human Rights for a three-year term expiring January 1, 2000.

13. Draft unapproved Minutes of the Regular Meeting of the City Council held January 8, 1997

Councilman Burke made a motion, seconded by Councilman Cunningham and unanimously carried, to approve the minutes of the regular and organizational meeting of the City Council held January 8, 1997, as amended.

14. Miscellaneous communications and reports

A. Councilman Hutchings reported that the Friends of RCTV are enthusiastic about selling house numbers as a potential revenue source. They are currently exploring supply sources and establishing a marketing plan. He said that this will identify residences without house numbers and also be a fundraiser for the Friends of RCTV.

B. Mayor Dunn acknowledged the January 3, 1997 memo from City Engineer George Mottarella on the proposed reconstruction on Purdy Avenue/Smith Street and solicited comments from the Council.

City Manager Culross explained that this capital improvement project is very complicated and will have a significant impact on the community. The reconstruction of Purdy Avenue and the traffic signal will eliminate parking and make it one-way for three or four weeks. This street will be closed completely for one day for re-paving. Currently, designers are being solicited and the target date for this project will probably be sometime in August.

Councilman Burke stressed the importance of notifying the public and businesses as soon as plans are more complete.

Mayor Dunn asked the newspaper representatives present at this meeting if a map were provided would they reproduce it in the paper for the convenience of residents.

C. Councilman Latwin referenced the January 8, 1997 Council meeting discussion with regard to bringing the Code of the City as it relates to the Board of Appeals into conformity with recent changes in N.Y.S. law. The Board of Appeals has established a special committee which will study the issue and report to the Council sometime in February. It was suggested that this matter be placed on the agenda for a Council meeting in March.

15. New business

There was no new business discussed.

16. Adjournment

Councilman Cunningham made a motion, seconded by Councilman Burke and unanimously carried, to adjourn into executive session to discuss litigation at 9:30 P.M.

The Council reconvened at 11:15 P.M.

There being no further business to discuss, the meeting was adjourned at 11:20 P.M.

Respectfully submitted,

Alice K. Conrad  
City Clerk