

MINUTES of the Regular Meeting of the City
Council of the City of Rye held in City Hall on May 1,
1996 at 8:00 P.M.

PRESENT:

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

ABSENT: None

As has been a tradition in the City of Rye for many years, the first regular meeting of the City Council in the month of May is held at the Square House. Mayor Dunn welcomed the following:

Former City Officials:

The Honorable John Carey
The Honorable John Alfano
The Honorable James Flick

Former Mayor John Carey told the Council members that they have a wonderful opportunity to help people in Rye by exhibiting that government can be friendly.

Acting City Court Judge John Alfano stressed the importance of participation in the upcoming Memorial Day services to be held on May 27, 1996 on the Village Green. He told the Council that Memorial Day is more than just a celebration of a three-day weekend; it is time to celebrate America and its citizens.

Former Councilman James Flick said that it is important to reminisce about the rich history of the City of Rye.

Members of Rye Fire Department:

1st Assistant Chief Ronald Angiello

2nd Assistant Chief Walter Roode

Members of Boards, Commissions and Committees:

Joseph R. Viger
George Goering, Chairman
John P. Gregg, Chairman
Marjorie Bancel

Board of Architectural Review
Boat Basin Commission
Cable Television Commission
Cable Television Commission

Charlotte Schneider	Cable Television Commission
Doris Blank	Cable Television Commission
James Hakanjin, Chairman	Commission on Human Rights
Ameet Kumar Goyal	Commission on Human Rights
Dennis Buckley	Conservation Commission/Advisory Council
Nancy Stampleman	Landmarks Advisory Committee
Richard Mecca	Planning Commission
Stephen Meyers, Chairman	Recreation Commission
Bart DiNardo	Recreation Commission
Vincent Marconi, Chairman	Rye Golf Club Commission
George Ilse	Rye Town Park Commission

Mayor Dunn introduced Mr. David Byrnes, the new director of the Rye Historical Society.

City Manager Culross introduced the following City of Rye department heads:

Christopher J. Bradbury	Assistant to the City Manager
Joseph M. Carlucci	Gen. Foreman, Department of Public Works
Alice K. Conrad	City Clerk
James Dianni	Fire Inspector
Peter T. Fox	Boat Basin Supervisor
Richard M. Gardella	Corporation Counsel
Michael A. Genito	City Comptroller
James D. Kenny	RCTV Coordinator
Edye Kershner	City Assessor
George Mottarella	City Engineer
Adolph Orlando	Building Inspector
William A. Pease	Police Commissioner
Frederick E. Zepf	City Planner

Mayor Dunn presented the following address regarding the proposed Home Depot project in Port Chester:

“I have chosen this historic location to set forth why we in Rye feel so strongly that the present Home Depot proposal is not in the interest of our citizens. Tonight, I am not going to make the legal arguments which form the foundation of our lawsuit against the Village of Port Chester but rather to explore the more fundamental beliefs involved.

“This City Council, and its predecessors for many years previously, together with the citizens of Rye, have taken seriously their responsibility to safeguard the ‘quality of life’ in our community. Numerous excellent decisions have been made. These would include the establishment of the Rye Golf Club and the Rye Marina, the tight zoning standards we have set on ourselves, the money we have spent on maintaining our infrastructure, housing stock, and our school system. Perhaps one of the most interesting decisions was taken in the 1950’s when Rye assumed the responsibility for control and maintenance of the Boston Post Road. Anyone traveling through Mamaroneck, then Rye, then Port

Chester will notice the effect of that decision. It means we must pay the expenses for the maintenance of the road, but it has certainly been justified by the preservation of our 'quality of life.'

"The proposal to build Home Depot on Midland Avenue in Port Chester drew opposition in Rye because one of the principal routes to the store will be through the City of Rye. All traffic coming from the northern and western part of the County will funnel across Route I-287, out Exit 11 onto the Boston Post Road headed south. It will turn left at Peck Avenue and then left again on Midland Avenue. Thus, Rye is directly impacted by the proposal for the Home Depot in Port Chester.

"This stretch of the Boston Post Road and Peck Avenue has been the subject of considerable effort over a number of years to protect our 'quality of life.' At the present time, we are attempting to acquire the fields east of Boston Post Road, across from Rye Country Day School, for expanded athletic facilities for the use of Rye Country Day School, the Rye City School District, and Rye City. We have budgeted and will soon install a new traffic light at the intersection of Cedar Street and the Boston Post Road to slow the high speed movement of traffic through the area. We have attempted, not wholly successfully, to eliminate heavy truck traffic from turning left from the Post Road onto Peck Avenue.

"Peck Avenue itself is primarily a residential street. At the upper end, it is the border of the houses along Hidden Spring Lane. At the lower end, it has the largest apartment development in the City, totaling 162 residential units. Peck Avenue is already strained by traffic going to and from the train station parking plaza.

"For over ten years, the citizens of Rye fought to limit the development on the Avon property, thereby limiting our own tax revenues, in order to protect the quality of Peck Avenue.

"Our concern is that much of the hard work we have done over the past many years can be undone by a poorly thought-out development in a neighboring community, a development which literally is on our border.

"Let me review briefly the type of development we are discussing. The proposed Home Depot store and accompanying garden center fall into the category currently referred to as 'Big Box' retailers. Other such retailers would include Sam's Club and Price Co. The proposed 'Big Box' retailer will be open Monday through Saturday from 7:00 A.M. to 10:00 P.M. and on Sunday from 9:00 A.M. to 6:00 P.M. It would service contractors as well as retail customers directly from its store. Peak traffic could reach 1100 vehicle trips per hour, and perhaps more. There would be parking for 537 cars.

"Most frightening of all, it is a common retailing technique to place two or more of these stores plus a series of smaller shopping facilities in a particular area. Thus, Home Depot may well be the first of a major 'Big Box' shopping development on Midland Avenue.

"To visualize what we may be facing, one should drive past the vast open space at the corner of the Boston Post Road and Weyman Avenue in New Rochelle where two 'Big Box' retailers will soon be located.

“Is our opposition to this project unwise from another point of view? Specifically, our ‘quality of life’ is better to the extent that Port Chester is a thriving municipality. Perhaps Home Depot would make such a sufficient contribution to the economic well-being of Port Chester that we should not oppose it.

“Based on our analysis, this does not appear to be the case. Incremental property tax revenues would only be approximately \$100,000 annually. Two hundred fifty jobs would be created, but it is not clear that all these jobs would be filled by Port Chester residents. On the negative side, the competing stores in Rye, Port Chester, and particularly the Caldor shopping center, may suffer substantially.

“(It is important to note that under New York State Law, Port Chester, as a village, does not benefit directly from sales tax generated within its borders as do cities such as New Rochelle and White Plains.)

“There is a solution to our concerns, actually proposed originally by members of the Village Board in Port Chester. It would be possible to construct a new exit on I-287 which would be located between the existing Exit 11 and the point of merger with I-95 Northbound. This ramp would land on the east side of Midland Avenue just south of the current I-95 bridge. Although technically in Rye, traffic routed this way would be northbound on Midland Avenue and could proceed directly to the Home Depot store and eventual ‘Big Box’ retailer zone without significantly interrupting the quality of life in Rye. Unfortunately, this suggestion has been given very little consideration by the Village of Port Chester or Home Depot. Apparently, they are so anxious to locate the Home Depot in the immediate future that longer term appropriate measures have not been studied.

“Will we prevail in our lawsuit? That’s hard to predict. We were successful in our first lawsuit and, as a result, have postponed the project but not reformed its review by the Village.

“The Port Chester Village Board is charged by law to take into consideration the adverse impacts of this project and to set appropriate mitigation. Virtually nothing has been offered to help mitigate the potential damage to our ‘quality of life.’

“We are up against formidable opposition. Home Depot, which, as a matter of corporate policy, does not want to have a local municipality block its development plans, has retained a large New York City law firm and a politically-connected Westchester law firm to support their original counsel in this process. The choreography of the application process for the zoning change and the relevant environmental findings has been carried out with an eye to following appropriate procedure. In view of the unwillingness of the Port Chester Village Board to consider our traffic issues seriously, we have to believe that the substance of the decision making has not been as profound as the procedural attempt guided by the many legal counsels. Based on recent freedom of information filings, we have learned that Home Depot has spent over \$200,000 so far for Village consultants to prepare these findings and to provide for their legal defense.

“We must hope that the court will support the logic of our position.

“I have spent this much of your time on this matter as I do believe it is important to our citizens. Based on the preceding logic, the City Council has authorized the filing of our lawsuit against the Village of Port Chester for approving the necessary zoning changes. We will pursue this suit actively and take any other appropriate legal actions to protect our interests. In addition, a group of Port Chester and Rye citizens, including the Rye Citizens Committee, is pursuing a parallel lawsuit.”

The meeting at the Square House was adjourned at 8:35 P.M.

The Council reconvened at City Hall at 8:50 P.M.

1. Roll Call

Mayor Dunn called the meeting to order; a quorum was present to conduct official City business.

2. Old Business

There was no old business to be discussed.

3. Public hearing on proposed local law amending Article III of Chapter 177 of the Rye City Code Senior Citizens' Exemption by amending Section 177-25 and Section 177-26

Mayor Dunn opened the public hearing.

There being no one who wished to address this proposed local law, Mayor Dunn closed the public hearing.

Councilman Latwin made a motion, seconded by Councilwoman Walsh, to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO. 3-1996**

**A local law amending
Article III of Chapter 177 of the Rye City Code
Senior Citizens' Exemption
by amending Section 177-25
and Section 177-26**

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

Section 1. Section 177-25 and Section 177-26 of Article III of Chapter 177 of the Rye City Code are hereby amended and replaced with new Sections 177-25 and 177-26 to read as follows:

§ 177-25. Exemption stated

Pursuant to § 467 of the Real Property Tax Law, real property owned by one (1) or more persons, each of whom is sixty-five (65) years of age or over, or real property owned by husband and wife, or by siblings, one (1) of whom is sixty-five (65) years of age or over, shall be exempt from taxation by the City of Rye to the extent permitted by the schedule of exemptions contained in § 467 of the Real Property Tax Law. In addition, persons meeting the above described age requirements who own shares in a residential cooperative corporation shall be exempt from taxation by the City of Rye to the extent permitted and pursuant to the terms of paragraph 3(a) of § 467 of the Real Property Tax Law.

§ 177-26 Conditions of exemption

No exemption shall be granted:

A. If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the maximum sum permitted by the schedule of exemptions contained in § 467 of the Real Property Tax Law. Where title is vested in either the husband or wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income,

salary or earnings and net income from self-employment but shall not include supplemental security income, a return of capital, gifts or inheritances.

B. Unless the owner shall have held an exemption under this section for his previous residence and unless the title of the property shall have been vested in the owner or one (1) of the owners of the property for at least twelve (12) consecutive months prior to the date of making application for exemption. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption.

C. Unless the property is used exclusively for residential purposes.

D. Unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property.

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

ROLL CALL:

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

NAYS:None

ABSENT: None

The local law was adopted.

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

There were no residents who wished to be heard at this time.

5. Consideration of request for a license to use a portion of the City's right-of-way abutting 11 Kirby Lane North for parking

Mayor Dunn acknowledged the April 25, 1996 memorandum from Mr. Joseph Chira and the April 26, 1996 memorandum from City Manager Frank Culross regarding Mr. Chira's request for a license to use a portion of the City's right-of-way abutting 11 Kirby Lane North for parking.

Councilwoman Walsh informed the Council that City Engineer George Mottarella's concerns were addressed. She suggested that Mr. Chira submit a legal description and a measured drawing for the license.

In response to an inquiry from Councilman Latwin, City Manager Culross said that the neighbors have not been notified about this request for a license to use a portion of the City's right-of-way abutting 11 Kirby Lane North.

Corporation Counsel Gardella added that the benefit of a license gives the City an opportunity to require insurance and protection against a possible liability suit to use the right-of-way.

Councilwoman Walsh informed the Council that due to the configuration of the street, it would be helpful to notify the neighbors.

Councilman Latwin made a motion, seconded by Councilman Burke and unanimously carried, to defer this item to the next Council meeting scheduled for May 15, 1996, pending Mr. Chira's:

- notifying the neighbors
- submitting a formal description of the area which would be covered by such a license and a measured drawing of the proposed area, and finally
- clarifying whether or not this proposed license would provide a substitute for current parking and not an additional parking area.

6. Consideration of request of the Rye Chamber of Commerce for permission to hold its annual sidewalk sales on July 25, 26 and 27, 1996

Councilman Latwin reported that the April 29, 1996 Chamber of Commerce meeting had the largest attendance in the past three years. He suggested scheduling some Eye on Rye programs to encourage patrons to shop in Rye.

Councilman Collins made a motion, seconded by Councilwoman Cunningham and unanimously carried, to approve the request of the Rye Chamber of Commerce to hold its annual sidewalk sales on July 25, 26, and 27, 1996.

7. Draft unapproved minutes of the combined meeting of the City Council and School Board held April 13, 1996 and the regular meeting of the City Council held April 17, 1996

Councilman Collins made a motion, seconded by Councilwoman Cunningham and unanimously carried, to approve the minutes of the combined meeting of the City Council and School Board held April 13, 1996, as submitted.

Councilwoman Cunningham made a motion, seconded by Councilman Collins and unanimously carried, to approve the minutes of the regular meeting of the City Council held April 17, 1996, as submitted.

8. Miscellaneous communications and reports

A. Councilman Hutchings said that Mayor Dunn's remarks regarding the proposed Home Depot project were appropriate. He informed the Council that he was in Norwalk, Connecticut last week during the grand opening of Home Depot and encountered a major gridlock situation.

B. Councilman Hutchings informed the Council that a member of the Rye City School Board expressed concern about the resolution passed by the Council at the April 17, 1996 meeting regarding Cable Television and has requested that representatives of the School Board and the City Council document a responsibility procedure regarding RCTV after the completion of franchise negotiations.

C. Councilwoman Cunningham acknowledged receipt of the April 19, 1996 letter from the Department of Transportation regarding a Route 1 Corridor Study.

City Manager Culross explained that the Route 1 traffic study encompasses the corridor from the Bronx to the Connecticut state line. He explained that the next step would lead to making various safety improvements on the Boston Post Road which are eligible for state and federal funds.

D. Councilwoman Walsh said that the Council has received a number of communications regarding traffic on Playland Parkway and construction on I-95. Councilwoman Walsh suggested placing these items on the agenda for a future Council meeting to afford interested residents an update on the status of these issues.

Mr. Christopher Bradbury, assistant to the City Manager, advised the Council that the Thruway construction was on schedule and should be completed by the end of the year. He added that the NYS Thruway Authority has been cooperative in setting up meetings to address residents' concerns. Within the next two weeks, the Thruway Authority will schedule another meeting with the residents to address such issues as noise, traffic, property maintenance, and environmental issues.

Councilwoman Walsh commended the City staff for being an excellent liaison between the New York State Thruway Authority and neighborhoods. She suggested trying to identify a work schedule for the County's work along Playland Parkway and encouraged having a liaison for the County's project.

Councilwoman Cunningham acknowledged the April 18, 1996 memorandum from Westchester County Department of Public Works regarding the Playland Parkway speed limit. She called the findings unsatisfactory and unconvincing. Councilwoman Cunningham added that perhaps the Council should request further details regarding safety in that area.

Mayor Dunn suggested that perhaps the speed limit could remain at 40 m.p.h. on the portion of Playland Parkway up to Milton Road, and lowered from Milton Road to Playland which is a residential area.

It was decided to include this matter on the agenda of the next Council meeting. Additionally, County Legislator George Latimer, Mr. George Ilse, and the PTO of Milton School will be notified.

E. Councilman Burke expressed appreciation to Mr. Richard Mecca for taking pictures of the City Council.

F. Councilwoman Walsh advised the Council that a memorandum and flyers announcing Community Unity Day on May 19, 1996 will be distributed.

9. New Business

A. City Manager Culross updated the City Council on the status of the sewer rehabilitation. He said that the City is waiting for a Westchester County resolution on how this sewer rehabilitation project will be financed.

B Mayor Dunn asked that the final copy of the speech on Home Depot be distributed to the Council in Friday's packet.

10. Adjournment

Councilman Collins made a motion, seconded by Councilman Hutchings and unanimously carried, to adjourn the meeting.

There being no further business to discuss, the meeting was adjourned at 9:15 P.M.

Respectfully submitted,

Alice K. Conrad
City Clerk