

MINUTES of the Regular Meeting of the City  
Council of the City of Rye held in City Hall on June 19,  
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

1. Roll Call

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

2. Old Business

Mayor Dunn reported that as a result of the discussion of Playland Parkway's speed limit at the May City Council meeting and the letter sent to Westchester County, the matter is now on the agenda for the Westchester County Commission of Parks, Recreation, and Conservation Board meeting scheduled for June 20, 1996.

3. Public hearing on proposed local laws amending Chapter 197, Zoning, of the Code of the City of Rye, for the purpose of permitting apartment houses/multi-family residential uses in the B-1 Neighborhood District located on the westerly side of Boston Post Road between Purchase Street and Purdy Avenue

Mayor Dunn opened the public hearing.

Mr. Rex Gedney, architect for Mr. & Mrs. Robert Olivier, explained that the proposed zoning amendment is consistent with the current neighborhood use along the Boston Post Road between Purchase Street and Purdy Avenue. The proposal, which supports multi-family housing located in a B-1 zone, would also bring existing properties into conformity. Mr. Gedney added that the Planning Commission supports this rezoning petition.

Mrs. Patricia Larkin, 25 Smith Street, expressed concern about drainage, sewer lines, and possible contamination of soil due to oil/gas tanks that were formerly on the Olivier's property.

Mrs. Susan Schack expressed concern about how this proposed amendment would affect her family's property located at 1103 Boston Post Road.

Councilwoman Walsh assured Mrs. Schack that this amendment would result in no change in the use of her family's property.

Mayor Dunn explained that all controls that relate to supervising new construction will be in place and that a change in zoning does not weaken protection of any residence during new construction.

Councilwoman Walsh explained that the proposed zoning would be beneficial to the existing nonconforming properties along this particular strip by reducing the extent of their nonconformity. She added that there is still an opportunity for residents to make their concerns known to the Planning Commission.

Mr. Gedney added that this rezoning would give property owners more flexibility regarding the use of their properties.

There being no further discussion, Mayor Dunn closed the public hearing.

Councilwoman Walsh identified two incorrect references to the "B-2 Central Business Districts", in Section 2 and 3 of the proposed local law. She said it should be changed to "B-I Neighborhood Business Districts".

Corporation Counsel Gardella said that Municipal Home Rule Law states that a law must be in its final form before it is acted upon. Therefore, the Council postponed action on this proposed local law until the July 17, 1996 Council meeting.

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

A. Mr. James Flick, former Councilman, thanked the City Council, City Manager, and City staff for their efforts in arranging the replacement of the Bradford Avenue pedestrian foot bridge.

B. Mrs. Peggy Saunders, Blind Brook Lodge, thanked the Mayor and the City Council for their efforts in helping improve safety of the pedestrian crosswalk on Milton Road. However, she added that more enforcement is needed to deter speeding in that area.

Councilman Latwin apprised Mrs. Saunders of the status of the Boston Post Road Beautification Project.

C. Mr. Mack Cunningham, 502 Forest Avenue, requested that the Council review his application for replacing an existing fence on his property which was denied by the Zoning Board of Appeals (ZBA). He requested that the Council consider property owners, like himself, whose property borders commercial properties/parking areas and allow them more flexibility with regard to the fence ordinance.

Corporation Counsel Gardella explained that the ZBA is an independent agency.

After a brief Council discussion, Councilwoman Walsh made a motion, seconded by Councilman Burke and unanimously carried, that the City Council request that the Building Inspector and City Planner consult with the chairman of the Zoning Board of Appeals in order to more fully understand the problems that have arisen in regard to the fence ordinance and report their recommendations to the City Council.

D. Mrs. Ann McCarthy, 60 Summit Avenue, presented a petition signed by residents of West Rye requesting asphalt resurfacing of the concrete roads in the area in order to reduce the noise of traffic. This matter was given to the City Manager for consideration.

5. Discussion of Tri-State Inspection Agency's request to provide electrical inspection services

Ms. Karena Donato, Tri-State Inspection Agency, requested that the Council amend the City of Rye's Code to allow Tri-State Inspection Agency to provide electrical inspection services in the City. She added that the New York Board of Fire Underwriters was written into most local laws during the Sixties and the designation of one agency was anti-competitive and in violation of the Donnelly Act. The consensus of the Council was to have the City Manager contact the Building Inspector to review this matter and to consider drafting a local law.

6. Discussion of resolution adopted June 6, 1996 by the Rye Town Park Commission

Mayor Dunn stated that the City Council had received a copy of the June 6, 1996 Rye Town Park Commission (RTPC) resolution which passed 4-1. On June 18, 1996, there was another meeting of the RTPC where an alternate resolution of the Mayor's was proposed and discussed. This alternate resolution amended the resolution of June 6, 1996, with a resolve paragraph that the RTPC request a State Comptroller's Municipal Advisory Review Team ("SMART") review. SMART is a program of the Office of State Comptroller, at the request of RTPC, the State Comptroller would send a team to review the operations of Rye Town Park and present a written report of findings and recommendations. Unlike an audit, SMART is voluntary and its focus is on management techniques to improve revenues and decrease expenditures.

As the RTPC received the resolution and supporting documents that evening, the motion was tabled until the Rye Town Park Commission's special meeting scheduled for 6:30 P.M. Monday June 24, 1996.

An extensive discussion focused on:

the purpose of the SMART Program,

the question of whether or not some of the 1994 capital expenditures were properly incurred,

payment of the 1994 deficit by Rye Town,

surplus funds from previous years,

the December, 1994 Council resolution that no payment of a deficit be paid without the vote of the City Council,

the 1994 Audit of Rye Town Park not being completed until January 1996 and that the City was apprised in March that there was a deficit for 1994,

the proportionate share of Rye City and the Town of Rye for Rye Town Park,

management of the park, and

the need to work collectively from a constructive standpoint.

7. Discussion of adding the Rye Chronicle as an official newspaper for the City

Councilman Collins proposed that the Rye Chronicle be added as an official newspaper of the City of Rye. After a brief discussion, Councilman Collins made a motion, seconded by Councilman Burke, and unanimously carried to designate the Rye Chronicle as an official newspaper for the City of Rye.

Councilman Hutchings commended Councilman Collins for his interest in expanding the information capabilities for the citizens of Rye.

8. Review of Financial Goals, Policy Statements, budget development assumptions and guidelines by the City Council

City Manager Culross explained that the budget calendar provides an opportunity for the City Council to review its Financial Goals and Financial Policy Statements at the June Council meeting and to discuss budget development assumptions and guidelines with the City Manager.

Mayor Dunn proposed that the City Manager strive to prepare a budget with a zero percent tax increase and that he review the first six months of 1996 in an attempt to forecast year-end results.

9. Acceptance of Billington Court as a public street

Councilman Collins made a motion, seconded by Councilwoman Cunningham, to adopt the following resolution:

**WHEREAS**, on February 26, 1988, Greenacres Associates, the developer of the Greenacres Subdivision, filed a deed for the transfer of ownership of Billington Court to the City of Rye, in the County Office of Land Records, as required by their subdivision approval, thereby offering the street and its related sanitary sewer, storm drain and street lights for dedication as a public street, subject to their satisfactory construction of the street and related improvements, satisfaction of all other requirements of the subdivision approval, and the acceptance of dedication by the City Council thereafter, and

**WHEREAS**, the Planning Commission has released the subdivision performance bond and has recommended acceptance of the street, and

**WHEREAS**, the City Engineer has recommended acceptance of the street, and

**WHEREAS**, the City has been advised that there are outstanding utility company bills relating to the subdivision fire hydrants and street lights, and

**WHEREAS**, the Owners of Subdivision Lots #1 - #4 executed a "Declaration of Street Light Maintenance Easement" on March 7, 1996, for the purpose of offering the street lights located on their Lots as public street lights, now, therefore, be it

**RESOLVED**, that the dedication of Billington Court and its related sanitary sewer, storm drain and street lights as a public street, sanitary sewer, storm drain and street lights be and the same hereby are accepted, subject to the payment of all outstanding utility company bills, and, be it further

**RESOLVED**, that the dedication of Billington Court and its related sanitary sewer, storm drain and street lights as a public street, sanitary sewer, storm drain and street lights be and the same hereby are accepted, subject to the conditions set forth in the following documents;

Deed to Billington Court, dated February 25, 1988, Filed on February 26, 1988, in the County Office of Land Records in Liber 9123 Page 86,

Declaration of Landscaping Agreement, dated February 25, 1988, Filed on February 26, 1988, in the County Office of Land Records in Liber 9123 Pages 62 - 66,

Declaration of Surface Water Control Easement, dated February 25, 1988, Filed on February 26, 1988, in the County Office of Land Records in Liber 9123 Pages 55 - 60, and

Declaration of Protective Covenants, Conditions and Restrictions, dated March 3, 1988, Filed on April 1, 1988, in the County Office of Land Records in Liber 9152 Pages 55 - 72,

which documents were required as a condition of the subdivision approval and have been filed in the County Office of Land Records, and, be it further

**RESOLVED**, that the dedication of Billington Court and its related sanitary sewer, storm drain and street lights be and the same hereby are accepted, subject to filing of the "Declaration of Street Light Maintenance Easement" by the Lot Owners who executed said easement in the County Office of Land Records, said easement having been executed on March 7, 1996, by the Owners of Subdivision Lots #1 - #4, and, be it further

**RESOLVED**, that the official date of this acceptance of the street and its related sanitary sewer, storm drain and street lights, with the exceptions heretofore set forth, shall be the day that the City Comptroller receives a cash payment to the City equal to the current outstanding utility company bills plus the amount the utility companies estimate will accrue from the last billing date to the day the cash payment is posted, which funds shall be used by the City Comptroller to pay the outstanding utility company bills, prorated to the date of the acceptance of the street, said cash payment to the City shall be made after the aforementioned "Declaration of Street Light Maintenance Easement" is filed in the County Office of Land Records. Any surplus funds that may remain after the utility company bills have been paid shall be returned by the City Comptroller to the person or persons who made the cash payment to the City.

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolution passed.

Since agenda items 10 and 11 were similar in nature, the City Council considered them together.

10. Consideration of proposed local law amending Section 170, Zoning, of the Code of the City of Rye, with respect to increases in site plan preliminary application fees
  
11. Consideration of proposed local law amending Section 170, Subdivision of Land, of the Code of the City of Rye, with respect to increases in subdivision preliminary application fees

Mayor Dunn explained that a change in state law now requires that notices of public hearings on preliminary applications be published in the official local newspaper. Prior to this, public notices on preliminary applications were only mailed to the property owners within 500 feet of the property. As this new publication cost is an out-of-pocket expense, as opposed to an administrative staff cost, an increase in the fees would be appropriate and would necessitate an amendment to the Rye City Code. The Mayor also apprised the Council that there is research presently being conducted which would consolidate fees in a separate part of the code. The Council agreed to postpone action on the proposed local laws until the research on all fees is completed.

Councilman Latwin made a motion, seconded by Councilwoman Walsh and unanimously carried to table consideration of the proposed local law amending Section 170, Zoning, of the Code of the City of Rye with respect to increases in site plan preliminary application fees and proposed local law amending Section 170, Subdivision of Land, of the Code of the City of Rye with respect to increases in subdivision preliminary application fees until the research on all fees is completed.

12. Consideration of proposed local law amending Section 197-86 of the Code of the City of Rye, with respect to seasonal outdoor seating accessory to retail and restaurant uses

Councilwoman Walsh said the topic of seasonal outdoor seating accessory to retail and restaurant uses is an outgrowth of the Planning Commission's research and general discussions on ways to improve the character, vitality, and flavor of the Central Business District. In summary, she said that the proposed local law would:

amend the Rye City Code by allowing a seasonal outdoor customer seating accessory to permitted retail and restaurant uses,

have a Sunset Provision to monitor the success of this new Central Business District feature during the next two seasons,

include considerations that the Planning Commission would apply in reviewing and granting seasonal annual permits,

identify standards, such as, not obstructing access to the facility and storing seats or counters during the remainder of the year,

allow the Planning Commission to grant a seasonal annual permit for outdoor seating in this particular defined area (CBD),

give control and flexibility to try to increase the vitality of the CBD, and

would prohibit seating on public sidewalks or in parking areas.

Councilwoman Cunningham suggested expanding the period for outdoor seating to April.

Mr. Richard Mele, owner of the Black Bass Grille, expressed concern about the vibrancy of the downtown area. He said that outdoor dining would add to the character of the area. He respectfully requested that the Black Bass Grille be included in the experiment.

The consensus of the Council was to refer the suggestions to expand the season to include April and to include the B-1 Neighborhood Business District on both sides of the Boston Post Road from City Hall south to Central Avenue to the City Planner for further consideration.

Councilman Latwin made a motion, seconded by Councilwoman Cunningham, to approve the following resolution:

**WHEREAS**, the Rye City Council, at the suggestion of the Rye City Planning Commission, proposes to amend Chapter 197, Zoning, for the purpose of permitting limited seating as a use accessory to a permitted retail use in the B-2 Central Business District, now, therefore, be it

**RESOLVED**, that the Rye City Council finds that a federal agency is not involved, and, be it further

**RESOLVED**, that the Rye City Council finds that there are no other involved agencies, and, be it further

**RESOLVED**, that the Rye City Planning Commission has prepared Part 1 of a Short Environmental Assessment Form, and has provided a suggested Part 2 and Part 3, and, be it further

**RESOLVED**, that the Rye City Council has reviewed and approved Part II and III of the Full Environmental Assessment Form, and, be it further

**RESOLVED**, that the Rye City Council finds that the proposed action is an unlisted action, and, be it further

**RESOLVED**, that based on the Short Environmental Assessment Form and the criteria set forth in SEQR the Rye City Council finds that the proposed action will not have a significant adverse effect on the environment, and, be it further

**RESOLVED**, that the Rye City Council has prepared a negative declaration for the proposed action containing a written statement in support of a negative declaration of environmental significance, and, be it further

**RESOLVED**, that the City Clerk is hereby authorized and instructed to complete the certification block of the Short Environmental Assessment Form, and, be it further

**RESOLVED**, that the Rye City Council hereby makes a negative declaration pursuant to SEQR, and, be it further

**RESOLVED**, that the City Clerk is hereby authorized and instructed to file notice of the negative declaration pursuant to SEQR.

ROLL CALL:

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

NAYS:None

ABSENT: None

The resolution passed.

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

**WHEREAS**, a proposed local law entitled "A local law amending Section 197-86, of the Code of the City of Rye with respect to seasonal outdoor seating accessory to retail and restaurant uses" has heretofore been introduced at this meeting and placed before the Mayor and each Council Member, and

**WHEREAS**, it is now desired to call a public hearing on such proposed local 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 July 17, 1996, 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 law.

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

**NOTICE OF PUBLIC HEARING ON A PROPOSED LOCAL LAW  
AMENDING §197-86 OF THE CODE OF THE CITY OF RYE  
WITH RESPECT TO SEASONAL OUTDOOR SEATING  
ACCESSORY TO RETAIL AND RESTAURANT USES**

Notice is hereby given that a public hearing will be held by the Council of the City of Rye on the 17th day of July, 1996, at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which time interested persons will be afforded an opportunity to be heard concerning three versions of a proposed local law entitled "A local law amending §197-86 of the Code of the City of Rye with respect to seasonal outdoor seating accessory to retail and restaurant uses." The three versions are identified as Draft Versions "A", "B" and "C". Said local laws will permit the Planning Commission, by approval of an annual seasonal permit, to allow permitted retail and restaurant uses to provide accessory seasonal outdoor customer seating.

Copies of said proposed local laws may be obtained from the Office of the City Clerk.

Alice K. Conrad  
City Clerk

Dated:

13. Acceptance of a gift to the Rye Nature Center in the amount of \$900 from the Junior Section of the Women's Club of Rye to fund the purchase of adjustable tables and chairs for the Center's preschool program and approval of an amendment to the 1996 Rye Nature Center Special Revenue Fund budget in that amount

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

**RESOLVED**, that the City Council hereby accepts a gift to the Rye Nature Center in the amount of \$900 from the Junior Section of the Women's Club of Rye to fund the purchase of adjustable tables and chairs for the Center's preschool program, and be it further

**RESOLVED**, that the 1996 Rye Nature Center Special Revenue Fund budget be amended as follows:

Increase Account 27.4.07.27.7730.2705 from \$1,500. to \$2,400.

Adjust Account 27.5.07.27.7730.2201 from \$ 520. to \$1,420.

ROLL CALL:

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

NAYS:None

ABSENT: None

The resolution passed.

14. Appointment of three members to the Emergency Medical Services Committee for one year, two-year and three-year terms

Councilwoman Walsh made a motion, seconded by Councilman Hutchings and unanimously carried, to approve the appointment of Mr. Michael Borelli for a three-year term ending June 30, 1999; Ms. Susan Brown for a two-year term ending June 30,1998; and Mr. John W. Reavis, Jr. for a one-year term ending June 30, 1996 to the Emergency Medical Services Committee.

15. Appointment of Nominating Committee for the Boat Basin elections and designation of Chairman

Councilman Burke made a motion, seconded by Councilman Collins and unanimously carried, to approve the appointment of Mr. Ted Konopka, Mr. Richard Dempsey, and Mr. Paul Hackett to the Nominating Committee for the Boat Basin elections and the designation of Mr. Ted Konopka as chairman.

16. Appointment of Nominating Committee for the Golf Club elections and designation of the Chairman

Councilwoman Cunningham made a motion, seconded by Councilman Burke and unanimously carried, to approve the appointments of Mr. Edward J. Schindo, Mr. John Sposato, Mr. Richard Verille, Mr. Lou Sellstrom, and Mrs. Maxine Gleason to the Nominating Committee for the Golf Club elections and the designation of Mr. Richard Verille as chairman.

17. Consideration of the request from residents of Grapal Street for controlled traffic on July 29, 1996 for a Block Party

Councilman Latwin made a motion, seconded by Councilwoman Walsh and unanimously carried, to approve the request from residents of Grapal Street for controlled traffic on July 29, 1996 for a Block Party.

18. Bids for Sidewalk Repairs

Mayor Dunn acknowledged the June 14, 1996 memo from City Engineer, George Mottarella, stating that he had received and tabulated ten bids for Contract No. 9602, Sidewalk Repairs. Since he had hoped to have one contractor for all the bid items, it was difficult to determine the low bidder because there were different bidders with lower unit prices for different items of work. He, therefore, recommended that all the bids be rejected. This item will be rebid with stated quantities which will make the determination of the lowest bidder more precise.

Councilman Collins made a motion, seconded by Councilwoman Cunningham and unanimously carried, to reject all bids for Contract No. 9602, Sidewalk Repairs, and to rebid this contract.

19. Bids for Street Resurfacing

The following bids were received:

**BID TABULATION IS ON SEPARATE PAGES**





Councilman Collins made a motion, seconded by Councilwoman Walsh, to adopt the following resolution:

**RESOLVED**, that Contract No. 9603, Street Resurfacing, is hereby awarded to Bilotta Construction Corp., the lowest bidder meeting specifications, in the amount of \$116,872.50, and be it further,

**RESOLVED**, that the total project cost of \$250,000 which was budgeted for 1996 permits the City Engineer to resurface additional streets.

ROLL CALL:

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

NAYS:None

ABSENT: None

The resolution passed.

20. Draft unapproved minutes of the special meeting of the City Council held May 29, 1996

Motion was made by Councilman Burke, seconded by Councilwoman Cunningham and unanimously carried, to approve the minutes of the special meeting of the City Council held May 29, 1996 as amended.

21. Miscellaneous communications and reports

A. Mayor Dunn acknowledged the June 19, 1996 memo from City Manager Culross offering to donate a Dell 325 SX computer (Serial #15MTW ) to the City of Rye Police Department.

Councilman Burke made a motion, seconded by Councilman Hutchings, to accept the City Manager's donation of a Dell 325 SX computer (Serial #15MTW ) to the City of Rye Police Department.

ROLL CALL:

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

NAYS:None

ABSENT: None

The motion carried.

B. Councilwoman Cunningham acknowledged the receipt of the June 12, 1996 letter to the Board of Architectural Review regarding Skylights.

C. Councilman Latwin informed the Council that he had discussed the question of satellite "dish" antenna with the Corporation Counsel. Both agreed that the Federal preemption action requires a new look at the City of Rye's zoning regulation on satellite dish antennas.

Councilwoman Cunningham and Councilman Latwin were volunteered to review the City of Rye's satellite dish laws in light of the new federal law and regulations and report to the Council at the July 17, 1996 meeting.

D. Councilman Burke reported that at the last meeting of the Boat Basin Commission, City Comptroller Michael A. Genito answered questions and concerns that the Commission had regarding financial reporting. He commended Mr. Genito for his clarity and professionalism in addressing all the concerns.

E. Councilwoman Cunningham announced that there will be a Whitby Castle Committee meeting on Thursday, June 20, 1996 at 7 P.M. in the third floor conference room. She urged Council members to attend this meeting.

F. Mayor Dunn announced that Mrs. Mary Louise Murray-Johnson has invited the members of the Council to attend the dedication ceremony of the benches and plantings memorializing her late husband, Colonel Lewis Allen Johnson, M.D., on July 4, 1996 at 11:00 A.M.

G. There was no objection from the City Council for Mayor Dunn to issue proclamations from time to time for prominent local citizens.

22. New Business

There was no new business to be discussed.

23. Adjournment

Councilman Latwin made a motion, seconded by Councilman Burke and unanimously carried, to adjourn into executive session to discuss personnel and litigation at 11:00 P.M.

The Council reconvened at 11:45 P.M.

There being no further business to discuss, the meeting was adjourned at 11:50 P.M.

Respectfully submitted,

Alice K. Conrad  
City Clerk