

MINUTES of the Regular Meeting of the
City Council of the City of Rye held in City Hall
on April 2, 1997 at 8:00 P.M.

PRESENT:

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

ABSENT: EDWARD B. DUNN, Mayor

1. Roll Call

Since Mayor Dunn was unable to attend this meeting, Councilman Collins presided according to Section 6-7 of the Charter of the City of Rye. Acting Mayor Collins called the meeting to order; a quorum was present to conduct official City Business.

2. Old Business

There was no old business discussed.

3. Public hearing on proposed local law establishing a moratorium on application for telecommunications antenna installations

Acting Mayor Collins opened the public hearing.

Mr. Thomas Mollen, president of the Blind Brook Lodge Cooperative (BBLC), informed the Council that BBLC has been negotiating with Bell Atlantic-NYNEX to install a cellular antenna on its building. Since this has been an ongoing process, he asked that BBLC be exempt from the moratorium.

Acting Mayor Collins explained that the moratorium would be in effect for six months and questioned whether this limited amount of time would be a hardship.

In response to Councilwoman Cunningham's question, Mr. Mollen explained there were many open meetings with the residents of Blind Brook Lodge and there was very little opposition about installing an antenna. He informed the Council that a contract has already been signed.

Robert Gaudio, Esq., representing Bell Atlantic-NYNEX, explained that his client was opposed to a moratorium. He offered to work with the City in developing the guidelines which would be used for cellular antennae. He noted that Bell Atlantic-NYNEX is required by law to provide cellular service. He informed the Council that a use variance application for this antenna is pending before the Zoning Board of Appeals. He explained that this was a very simple antenna affixed to an existing building and not a stand alone tower. Mr. Gaudio noted that Section 704 of Telecommunications Act requires that applications should not be unreasonably delayed. He added that if the moratorium is adopted, then his application should be grandfathered, or at least the moratorium should be decreased to three months. He explained that cellular service is an essential public service providing a backup for police and fire emergency services.

Councilman Hutchings explained that the purpose of the moratorium was for the Council to understand the technology and its effect on the community in the future. He said that as an elected official he would be very uncomfortable voting on something that he did not completely understand.

Councilwoman Walsh said that the Council is trying to enact a local law which would not require a use variance for installation of a cellular phone antenna.

Mr. Gaudio circulated a photograph among the Council members which demonstrated how unobtrusive the proposed antenna would be.

Councilman Latwin made the following comments:

- He would be willing to draft a proposed local law.
- The City has the right to regulate the siting of antennae under the Telecommunications Act.
- If the Council adopts a law, it could possibly eliminate applying for a use variance from the Zoning Board of Appeals.
- The six-month limit is an outside limit, not a minimum.
- Section 704 of the Telecommunications Act states that if the City is planning to regulate the siting of antennae, it cannot discriminate between providers of functionally equivalent services. If the Council were to exempt Bell Atlantic-NYNEX, then all other providers would have to be exempt. Otherwise, the Council would be discriminating against other petitioners.

Discussion focused on:

Bell Atlantic-NYNEX's pending ZBA application
The possibility of limiting the moratorium to three months
Bell Atlantic NYNEX's request for an exemption to the moratorium

In response to Councilwoman Walsh's question, Corporation Counsel Gardella stated that if the moratorium is passed, the Board of Appeals would not entertain the pending application.

Councilman Latwin stated that the following are his thoughts on what could be incorporated into a cellular antennae law:

1. definition of cellular antenna Section of 197;
2. change the permitted uses as-of-right to include cellular antennae in B6 within 200 feet of I-95 or I-287; B4 and B5, provided antenna is not in the required front yard.
3. permit cellular antennae that are:
 - (A) located wholly within any structure that exists on the date of the enactment of the law as-of-right. This would allow use of existing towers such as Playland's Music Tower, the Osborn cupola, Blind Brook Lodge's tower, Rye Town Park's towers, and church steeples;
 - (B) on City property. (Councilwoman Cunningham added State property as well.); or
 - (C) in other zones in Rye provided the BAR finds on the building permit application that:
 - (i) the cellular antenna is not visible from neighboring residential properties; or
 - (ii) the placement and construction of the cellular antenna is wholly integrated into the existing decor of the building so as to make its presence not significantly noticeable from the adjoining properties. This would cover Blind Brook Lodge's proposal and other wrap around or "stick on" antennae that are blended in.

Acting Mayor Collins closed the public hearing.

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

CITY OF RYE

LOCAL LAW NO. 4-1997

A local law establishing a moratorium on applications for telecommunications antennae installations.

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

Section 1. Legislative intent. Monopoles, lattice towers, and other telecommunications antennae installations are not permitted under present zoning provisions of the Code of the City of Rye. Such installations are necessary to provide effective cellular phone and other similar service, a service which has been found to be a public utility by the courts. However, those installations pose a serious aesthetic threat to the City's residential character and could adversely affect neighboring property values. Therefore, the purpose of this moratorium or stop gap zoning measure is to provide the City Council and other related City agencies time to study and implement proposed zoning changes which would permit such installation within certain zoning districts in the City while at the same time maintaining the essential residential character of the City. Those zoning changes also would be designed to protect the City's natural features, establish standards for the safe provision of telecommunications consistent with applicable federal and state regulations, and promote the health, safety and general welfare of the City of Rye.

Section 2. During the time period described in Section 4 of this local law, the City Council and the Planning Commission of the City of Rye and other appropriate agencies and officers of the City shall study and review planning and zoning concepts, relevant telecommunication needs, model regulations, and regulations adopted by other communities in furtherance of the purposes set forth in Section 1 of this local law.

Section 3. During the time period described in Section 4, under the zoning and other provisions of the Code of the City of Rye, no application for a building permit or site plan approval, or use variance or other necessary City approval for a monopole, lattice tower or other telecommunications antennae installations, including cellular antennae installations, shall be entertained by the City, the Planning Commission, the Board of Appeals, or the Board of Architectural Review.

Section 4. This local law shall take effect immediately upon filing with the Secretary of State and shall be in effect for a period of six (6) months from the date of such filing with the Secretary of State.

ROLL CALL:

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

NAYS: None

ABSENT: Mayor Dunn

The local law was adopted.

Councilwoman Walsh suggested that the legislation on cellular antennae be drafted in a timely fashion.

Corporation Counsel Gardella will draft the proposed local law on cellular antennae for Council consideration.

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

There was no one wishing to discuss matters that do not appear on the agenda.

5. Discussion of proposed local law regarding Alternative Veteran's Exemption

Acting Mayor Collins noted that a public hearing was conducted on March 19, 1997 where veterans groups supported this legislation. He also stated that some Council members disclosed at that time that they might have a conflict of interest.

Corporation Counsel Gardella said that all Council members have a right to vote on this type of general application law. However, he said those Council members who might be impacted by this legislation should make a disclosure in connection with exemption or involvement.

Both Councilwoman Walsh and Acting Mayor Collins disclosed that they could benefit in some way from the passage of this legislation.

Councilman Burke added that everyone should be aware that the legislation would be for the maximum permitted under the law.

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

**CITY OF RYE
LOCAL LAW NO. 5 -1997**

**A local law amending Chapter 177, Taxation, of the Code of the City of Rye
by adding thereto provisions dealing with Alternative Veterans' Exemption**

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

Section 1. Chapter 177 of the Code of the City of Rye is hereby amended by the creation of Article II, Section 177-16 to read as follows:

Article II

177-16. Alternative Veterans' Exemption.

Veterans qualifying for a tax exemption under the Alternative Veterans' Exemption provided in Section 458-a of the Real Property Tax Law, shall be exempt from taxation by the City of Rye to the maximum extent permitted by Section 458-a subsection 2 paragraph (d) subparagraph (ii).

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

ROLL CALL:

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

NAYS: None

ABSENT: Mayor Dunn

The local law was adopted.

6. Consideration of request of J. Lamberti Automotive, Inc. d/b/a Rye Brook Service, for a license to continue the use of a portion of the City's right-of-way in front of 997 Boston Post Road for the existence and maintenance of gasoline pumps and use of the area in relation to the use of the gasoline pumps and access to the garage

Linda Whitehead, Esq., representing J. Lamberti Automotive, Inc. d/b/a Rye Brook Service, stressed that Rye Brook Service has served the residents of the City of Rye since 1910 and has always been in the City's right-of-way. She respectfully requested the City grant her client the use of a portion of the City's right-of-way in front of 997 Boston Post Road for the

existence and maintenance of gasoline pumps and use of the area in relation to the use of the gasoline pumps and access to the garage. Before the Boston Post Road Beautification Project is completed, she is requesting that a few parking spaces be allowed abutting the building structure for the convenience of customers who drop their cars off late at night or very early in the morning when the shop is not opened.

An extensive discussion focused on:

overnight parking in the City's right-of-way,
possible alternatives to parking, and
Councilman Latwin's amendments to the proposed license agreement.

Councilwoman Cunningham made a motion, seconded by Councilwoman Walsh to authorize the City Manager to enter into a license agreement with J. Lamberti Automotive, Inc., d/b/a Rye Brook Service with certain terms discussed and agreed upon by the City Council.

ROLL CALL:

AYES: Acting Mayor Collins, Councilmen Burke, Cunningham
Hutchings, Latwin and Walsh
NAYS: None
ABSENT: Mayor Dunn

The motion carried.

7. Adoption of County tax rate for 1997

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

RESOLVED, that the tax rates for the amounts of County, Blind Brook Sewer District, Mamaroneck Valley Sewer District, Refuse Disposal District and Water District No. 4 charges for the fiscal year beginning January 1, 1997, shall be as follows:

<u>County</u>	
Levy	\$10,155,710
Taxable Assessed Value	128,691,129
Taxable Rate per \$1,000 Assessed Value	78.915

Blind Brook Sewer District

Levy	\$1,610,836
Taxable Assessed Value	133,498,017
Taxable Rate per \$1,000 Assessed Value	12.067

<u>Mamaroneck Valley Sewer District</u>	
Levy	\$309,510
Taxable Assessed Value	18,722,617
Taxable Rate per \$1,000 Assessed Value	16.531
<u>Refuse Disposal District No. 1</u>	
Levy	\$1,303,675
Taxable Assessed Value	131,262,734
Taxable Rate per \$1,000 Assessed Value	9.932
<u>Water District No. 4</u>	
Levy	\$45,039
Taxable Assessed Value	138,001,604
Taxable Rate per \$1,000 Assessed Value	0.326

and it is further

RESOLVED, that the Council does hereby certify to the City Comptroller the above stated levies and tax rates for the County, Blind Brook Sewer District, Mamaroneck Valley Sewer District, Refuse Disposal District and Water District No. 4 charges, and the City Comptroller is hereby directed to apportion and extend against each taxable property listed upon the assessment roll of the City of Rye for 1996 at the rates specified, the amount of taxes required, to produce the total sums certified and to render tax notices for, and receive and collect, the several sums computed and determined, and, it is further

RESOLVED, that the tax warrant of the County be signed by the Mayor and directed to the City Comptroller to collect the amount of said taxes with interest as provided by law and any special assessment heretofore authorized and approved.

ROLL CALL:

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

NAYS: None

ABSENT: Mayor Dunn

The resolution passed.

8. Schedule a joint meeting of the City Council and the Rye City School District Board of Education for Saturday, April 12, 1997, at 10:00 a.m. in the Mayor's Conference Room at City Hall

Councilwoman Cunningham and Councilman Hutchings suggested that the following items be added to the agenda for the joint meeting of the City Council and the Rye City School District Board of Education:

Midland School oil leak,
final school population and budget projections, and
partnership with the school on RCTV.

Councilman Latwin made a motion, seconded by Councilman Burke and unanimously carried, to schedule a joint meeting of the City Council and the Rye City School District Board of Education for Saturday, April 12, 1997 at 10:00 A.M. in the Mayor's Conference Room at City Hall.

9. Schedule regular meeting of the City Council held annually at the Square House for May 7, 1997

Councilman Hutchings made a motion, seconded by Councilwoman Cunningham and unanimously carried, to schedule an annual meeting of the City Council at the Square House for May 7, 1997.

10. Designation of the official polling places of the City of Rye for all elections and authorization for the City Clerk to request a waiver of accessibility requirements for Milton School Gymnasium which does not meet the accessibility standards for the handicapped

Councilwoman Cunningham made a motion, seconded by Councilwoman Walsh and unanimously carried, to designate the official polling places of the City of Rye.

RESOLVED, that the Council of the City of Rye hereby designates the following locations as the official polling places for all the elections.

District No.	1	-	The Osborn, Main Lobby
District No.	2	-	The Osborn, Main Lobby
District No.	3	-	City Hall, Lobby, 1051 Boston Post Road
District No.	4	-	City Hall, Lobby, 1051 Boston Post Road
District No.	5	-	Milton School Gymnasium, Hewlett Avenue
District No.	6	-	Milton Firehouse, Milton Road

District No.	7	-	Damiano Recreation Center, Midland Avenue
District No.	8	-	Damiano Recreation Center, Midland Avenue
District No.	9	-	Disbrow Park, Public Works Building, (Old Garage) Oakland Beach Avenue
District No.	10	-	Rye Middle School Gymnasium
District No.	11	-	City Hall, Lobby, 1051 Boston Post Road
District No.	12	-	Osborn School Lobby, Osborn Road
District No.	13	-	Disbrow Park, Public Works Building, (Old Garage) Oakland Beach Avenue
District No.	14	-	Milton School Gymnasium, Hewlett Avenue

RESOLVED, that the Council of the City of Rye hereby authorizes the City Clerk to request a waiver of the accessibility requirements for Milton School Gymnasium which does not meet the accessibility standards for the handicapped.

11. Approval of the election of new members to the Rye Fire Department

Councilman Burke made a motion, seconded by Councilman Latwin and unanimously carried, to accept Mr. James Groglio to the Poningoe Hook and Ladder Company and Mr. Tod Chittenden to the Poningoe Engine and Hose Company of the Rye Fire Department.

12. Bids for one (1) Water Injector Aerator

The following bids were received:

**Bid 1-97
 One Water Injector Aerator
 Opening March 24, 1997
 Bid Tabulation**

Company	Bid Security	Amount Bid
Turf Products Corp. 157 Moody Road Enfield, CT. 06083	Certified check \$1,048.95	\$20,979.
Wilfred Mac Donald 2 Terminal Rd. Lyndhurst, New Jersey 07071	Bid Bond	\$19,990.

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

RESOLVED, that the award for One Water Injector Aerator for the Rye Golf Club is hereby awarded to Wilfred MacDonald, the lowest bidder meeting specifications, in the amount of \$19,990.00.

ROLL CALL:

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

NAYS: None

ABSENT: Mayor Dunn

The resolution passed.

13. Bids for Pool Decking at the Rye Golf Course

The following bids were received for Pool Decking at the Rye Golf Course:

NEW MAIN AND WADING POOL TRAFFIC
MEMBRANE SURFACE
RYE GOLF CLUB

Contract No. 9704

Company	Bid Security	Bid Amount
Structural Contracting Services, inc. 100 Pearl Street Mt. Vernon, NY 10550-1725	BB	\$67,288.00
Princeton Restoration Corp. 1311 Lakeland Ave. Bohemia, NY 11718	BB	\$90,750.00
Culbertson Restoration of NY LTD.	BB	\$64,750.00

12-E West Main Street Elmsford, NY 10523		
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Councilwoman Cunningham made a motion, seconded by Councilman Burke, to adopt the following resolution:

RESOLVED, that the award for the new main and wading pool traffic membrane surface at Rye Golf Club is hereby awarded to Culbertson Restoration of NY LTD., the lowest bidder meeting specifications, in the amount of \$64,750.00.

ROLL CALL:

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

NAYS: None

ABSENT: Mayor Dunn

The resolution passed.

14. Bids for Street materials

The following bids were received for Street Material:

BID TABULATION ON FOLLOWING PAGES

Bid No. #2-97
Street Materials

NAME OF BIDDER	Plaza Materials - Yonkers	John Gozo, Jr., Contractor	Peckham - W.P.
	Security Check \$100.00	Security Bid Bond	Security Check \$100.00

#	Items	F.O.B.	Del.	F.O.B.	Del.	F.O.B.	Del.
	3/4" Crushed Stone	16.00			15.22		16.00
	1 1/2" Crushed Stone	16.00			15.42		16.00
	Graded Processed Stone NYS 304.02				13.82		14.50
	Road Sand				12.42		
403.13	Binder Course Type 3 3.5%	37.50				33.75	
403.14	Binder Course Type 4 4.0%	36.50				33.75	
403.15	Shim Course Type 5 8.25%	42.00				34.25	
403.17	Top Course Type 6F 6.4%	38.50				33.75	
403.18	Top Course Type 7F 7.0%	39.50				34.25	
714.06	Asphaltic Concrete Curb Mix 7.5%	44.00				35.75	
702.0700	Asphalt Filler/50 Gallon Drum						
	Kraftco Asphalt Rubber Plus in 30 lb. Bags						\$.80/ lb.
407.0101	Water-based Tack Coat/ 60 Gallon Drum					\$125/per drum	

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Bid No. #2-97
 Street Materials

NAME OF BIDDER	Carriere & Sons- Port Chester	Canal Asphalt - Mt. Vernon	
		Security Check \$100.00	Security Check \$
	Security Check \$ none		

#	Items	F.O.B.	Del.	F.O.B.	Del.	F.O.B.	Del.
	3/4" Crushed Stone	Defective bid, no Security					
	1 1/2" crushed Stone						
	Graded Processed Stone NYS 304.02						
	Road Sand						
403.13	Binder Course Type 3 3.5%			38.30			
403.14	Binder Course Type 4 4.0%			38.40			
403.15	Shim Course Type 5 8.25%						
403.17	Top Course Type 6F 6.4%			38.60			
403.18	Top Course Type 7F 7.0%			38.60			
714.06	Asphaltic Concrete Curb Mix 7.5%						
702.0700	Asphalt Filler/50 Gallon Drum						
	Kraftco Asphalt Rubber Plus in 30 lb. Bags						
407.0101	Water-based Tack Coat/ 60 Gallon Drum						

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

RESOLVED, that the award for the all crushed stone, graded processed stone and road sand is hereby awarded to John Gozo, Jr. Contractor and for all black top materials, Kraftco Asphalt Rubber and water-based tack coat to Peckham Materials Corp., the lowest bidders meeting specifications, in the amount cited in the bid tabulation.

ROLL CALL:

AYES: Acting Mayor Collins, Councilmen Burke, Cunningham
Hutchings, Latwin and Walsh
NAYS: None
ABSENT: Mayor Dunn

The resolution passed.

15. Draft unapproved minutes of the regular meeting of the City Council held March 19, 1997

Councilman Burke made a motion, seconded by Councilman Cunningham and unanimously carried, to accept the minutes of the City Council Meeting of March 19, 1997 as amended.

16. Miscellaneous communications and reports

A) Councilwoman Walsh noted that the Rye Rotary Club has requested a proclamation to declare May 2, 1997 as Rabbi Robert Rothman Day in the City of Rye.

Councilman Burke made a motion, seconded by Councilman Latwin and unanimously carried, to prepare a proclamation to declare May 2, 1997 as Rabbi Robert Rothman Day in the City of Rye.

B) Councilman Hutchings announced there will be an organizational meeting of the Friends of Whitby Castle on Thursday, April 3, 1997 at 8:00 P.M. in the Council Chambers to promote a positive vote for the Whitby referendum. He extended an invitation to the Council members to attend this meeting.

17. New Business

Acting Mayor Collins informed the Council that Dr. Edward Kaplan has resigned from the Rye Recreation Commission.

18. Adjournment

There being no further business to discuss, the meeting was adjourned at 10:10 P.M.

Respectfully submitted,

Alice K. Conrad
City Clerk

