

MINUTES of the Regular Meeting of
the City Council of the City of Rye held in
City Hall on February 18, 1998 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
CAROLYN C. CUNNINGHAM
ROBERTA DOWNING
ROBERT H. HUTCHINGS
ROSAMOND LARR
ARTHUR STAMPLEMAN
Councilmen

ABSENT: KATHLEEN E. WALSH

1. Roll Call

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

2. 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.

Agenda items #9 and #10 were taken out of order.

9. Appointment of one member to the Master Plan Task Force by the Mayor with Council approval

Councilman Stampleman made a motion, seconded by Councilwoman Larr, to approve the Mayor's appointment of Mr. William Dunne to the Master Plan Task Force.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, Downing,
Hutchings, Larr and Stampleman

NAYS: None

ABSENT: Councilwoman Walsh

The motion carried.

10. Approval of the election of new member to the Rye Fire Department

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr, to approve the election of Mr. Robert Cypher, Jr. to the Rye Fire Department.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, Downing,
Hutchings, Larr and Stampleman

NAYS: None

ABSENT: Councilwoman Walsh

The motion carried.

3. Report of the County Legislator

County Legislator George Latimer reported on the following:

Bee-Line Bus Route 76

County Legislator Latimer recognized that there has been some debate regarding this route. Several suggestions received so far include changing the bus route to Playland Parkway and substituting a mini-bus for this route. A meeting is scheduled for February 24 , 1998 at 7:30 P.M. at the Milton School Gymnasium for input on the Route 76 Bee Line bus.

Sewer District Repair

District sewer repairs have been mandated by the State Consent Order. Mr. Latimer has asked County Executive Spano to establish a steering committee to implement the County District Sewer Plan. County Executive Spano said that the County would have a direct role in funding the sewer repairs. It would be much less expensive for the residents of Rye if the repairs were funded through this sewer district mechanism. The result will be a cleaner Long Island Sound.

In response to an inquiry from Councilman Hutchings, County Legislator Latimer said that it is too early to determine how disruptive the work would be to residents since it depends upon the type of improvements which have to be done.

State and County Legislative Package

Within a week the State and County Legislative Package will be complete. Copies will be distributed to the Council.

Playland

There will be a new manager at Playland Amusement Park. Mr. Latimer is committed to having a meeting to discuss issues of noise, fireworks, entertainment, and other concerns or complaints. He acknowledged a request to adjust the traffic light at Playland Parkway and Milton Road.

Home Depot – Midland Avenue street widening

The County would not advocate any change on a county road located within a municipality without the consent of the municipality.

Budgets in Brief

Copies have been forwarded to the Council and are available for public review.

Mayor Otis said the City of Rye is very fortunate to have Mr. Latimer as our County Legislator and commended him for always maintaining contact with our City as well as other municipalities.

County Legislator Latimer presented a proclamation to Corporation Counsel Gardella for receiving the 1997 Award for Public Service in Local Government. Mr. Latimer said the County appreciates and recognizes Mr. Gardella's achievements.

Mayor Otis reported that the first meeting of the Traffic and Transportation Committee is scheduled for February 26, 1998 at 7:30 P.M. in the Mayor's Conference Room.

4. Discussion of schedule and process for review of power blowers, noise, and related issues

Mayor Otis said the purpose of this general public discussion is to ascertain what should be done to amend the City's current ordinance on power blowers, noise, and related issues. He said that the first step would be to survey other municipalities in Westchester to determine whether or not there are things that can be done to improve the situation in Rye.

Councilwoman Cunningham suggested that a decibel meter be used to take readings of various equipment.

City Manager Culross said that the Police Department has a decibel meter and a simulation could be done to determine the noise level of several machines being used simultaneously.

Mayor Otis said it is important to gather public comment on this issue soon in order to address concerns for 1998.

Councilman Hutchings said focus should be placed on noise in general, not just power blowers.

Mayor Otis noted that the previous City Council established a guideline regarding how many pieces of equipment can be used simultaneously by landscapers.

Councilwoman Cunningham suggested researching equipment companies to see if there have been any improvements on making these machines quieter.

Councilwoman Larr added that some responsibility lies with the homeowner, not just the landscapers.

Councilman Stampleman suggested asking the Conservation Committee/Advisory Council to study this issue.

In closing, Mayor Otis said this matter would be an agenda item for a future meeting.

5. Consideration of proposed local law amending Section 108-18 of Article III of the Rye City Code by adding Subsection D concerning retaining walls

Councilwoman Cunningham explained that the proposed local law amending Section 108-18 of Article III of the Rye City Code by adding Subsection D concerning retaining walls, would require retaining walls of a certain height to be approved by the Board of Architectural Review (BAR). She said that the BAR has discussed the proposed local law and supports this amendment.

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

WHEREAS, a proposed local law entitled "A local law amending Section 108-18 of Article III of the Rye City Code by adding Subsection D" has heretofore been introduced at this meeting and placed before the Mayor and each Councilman, 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 March 4, 1998 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:

**PUBLIC NOTICE
CITY OF RYE**

**Notice of Public Hearing on Proposed Local Law
amending Section 108-18 of Article III of the Rye City Code by adding Subsection D**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 4th day of March, 1998, 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 the proposed local law entitled "A local law amending Section 108-18 of Article III of the Rye City Code by adding Subsection D".

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

City Clerk

Dated:

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, Downing,
Hutchings, Larr and Stampleman

NAYS: None

ABSENT: Councilwoman Walsh

The resolution passed.

6 Consideration of amendment to the Rules and Regulations of the Planning Commission adopted pursuant to Chapter 195, Wetlands and Watercourses, increasing the application fee from \$250.00 to \$350.00

Mayor Otis stated that the Council increased the application fees last December in the 1998 budget. He said the Council is now being asked to approve this amendment to the rules and regulations of the Planning Commission.

Councilman Stampleman made a motion, seconded by Councilwoman Cunningham, to approve the amendment to the Rules and Regulations of the Planning Commission adopted pursuant to Chapter 195, Wetlands and Watercourses, increasing the application fee from \$250.00 to \$350.00.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, Downing,
Hutchings, Larr and Stampleman

NAYS: None

ABSENT: Councilwoman Walsh

The motion carried.

7. Consideration of the application for a permit to install a wireless telecommunication facility at 350 Theodore Fremd Avenue

Christopher Fisher, Esq. of Cuddy & Feder & Worby, representing AT&T Wireless Services, requested the Council's approval to install a wireless facility to provide cellular communications in a portion of the City of Rye. Mr. Fisher explained that a panel antenna would be installed on the roof of 350 Theodore Fremd Avenue, an office building located in a B-1 commercial zoning district. This building is surrounded by commercial and residential properties. He added that the relevant documents have been submitted and he expressed the belief that he had complied with the City of Rye Code Chapter 196.

Mr. Shawn Powers, Radio Frequency Engineer with AT&T Wireless Services, explained that the site was designed to improve signal coverage on I-95 and in Rye to provide quality service.

In response to Mayor Otis, Mr. Fisher said that AT&T has traditionally not consented to a performance bond as a requirement. It was his belief that a form of security is not necessary given the very limited nature of the facility.

Corporation Counsel Gardella stated that the law requires either a performance bond or the consent of the owner of the property. Any cost incurred by the City for the removal of the facility would become a lien on the property.

Mayor Otis said that the details of AT&T's preference for owner consent have not been formally submitted.

Councilwoman Cunningham expressed concern regarding the height of the antenna.

Mr. Fisher clarified that the height of the antenna would be 6 ft. and would be located at the back of the building. He added that AT&T's practice is to install antennas which are aesthetically pleasing.

Councilwoman Cunningham initiated a discussion about applied vs. a roof mounted facility. She suggested that the language of the definitions in Chapter 196, Wireless Telecommunications, be revisited.

In closing, Mayor Otis tabled this matter until all documentation is received and reviewed. He further explained that appearance before other Boards or Commissions is simultaneous and not in sequence.

8. Report on early warning system for flood events proposed for Long Island Sound

Mayor Otis reported that he attended a meeting regarding the proposed establishment of an early warning system for flood events on Long Island Sound. He explained that this proposed system would entail the National Weather Service and The US Geological Survey setting up monitoring devices throughout Long Island Sound to obtain more sensitive information regarding storms and flooding. The cost of this system would be paid for by New York State. A planned site for one of these devices is Mamaroneck Harbor. The Mayor will circulate copies of the literature on the early warning system to the members of the Council. He said the fact that the City of Rye has a Hurricane/Coastal Storm Emergency Plan indicates that the City is on top of the latest technology.

11. Proclamation for honorees for The Boy Scout Ceremony being held February 25, 1998

Mayor Otis asked the City Clerk to refine the proclamation to include the names of the boys being honored.

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to accept the following proclamation:

***WHEREAS**, the City Council of the City of Rye is proud to recognize the Boy Scouts as an organization which contributes significantly to the quality of life in our community, and*

***WHEREAS**, scouting influences a boy's character development and involves parents and other interested adults during this formative period, and*

***WHEREAS**, the goal of scouting is to instill value, encourage leadership, and develop good citizens, and*

***WHEREAS**, Johnny Archibald, Jeffrey Bartow, Wesley Calo, Ian Cotino, Nick Gontin, David Jahnke, Sam Kaplan, Adam McReddie, Greg Powell and Steven Ramsey have faithfully fulfilled the requirements of Cub Scouts and now crossover to Boy Scouts at this Blue and Gold Dinner Ceremony, now, therefore be it*

***RESOLVED**, that the City Council of the City of Rye hereby commends and congratulates these young boys for their dedication to the principles of scouting and wishes them much success in all their future endeavors.*

12. Consideration of the request of the Rye Little League to use city streets for their Opening Day Parade on Saturday, April 25, 1998, with a rain date of Sunday, April 26, 1998

Councilman Hutchings made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the request of the Rye Little League to use city streets for the Opening Day Parade on Saturday, April 25, 1998, with a rain date of Sunday, April 26, 1998.

13. Draft unapproved minutes of the regular meeting of the City Council held February 4, 1998, and the special meeting held February 13, 1998

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the minutes of the regular meeting of the City Council held February 4, 1998, as amended.

Councilman Hutchings made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the minutes of the special meeting of the City Council held February 13, 1998, as submitted.

14. Miscellaneous communications and reports

A. Councilwoman Cunningham said there may be a possibility that the Rye Friends Meeting House will be sold at some point in the future. Councilwoman Larr, liaison to the Landmarks Advisory Committee (LAC), said LAC is already aware of this matter.

B. Councilwoman Cunningham made a motion, seconded by Councilman Hutchings and unanimously carried, to approve the request of the New York Department of Public Service to reserve the City Council Chambers for hearings with the New York-American Water Company, Inc., on March 4 and 5, 1998, from 9:00 A.M. to 5:00 P.M.

15. Old Business

A. Councilman Stampleman suggested that the homeowners on Taylor Lane in the Village of Mamaroneck, whose sewers are connected to the Rye City sewer system, be charged a fee which is adjusted annually in line with the increases in the Consumer Price Index.

City Manager Culross explained that Rye's agreement with the Village of Mamaroneck is for a fixed dollar amount; any changes would involve a new agreement.

Mayor Otis suggested reflecting upon all of the pros and cons of this issue before any decisions are made.

B. In response to an inquiry from Councilwoman Larr, City Manager Culross said that he is reviewing appropriate signage for the Milton Road-Grace Church Street traffic circle. Mayor Otis added that all traffic issues and communications will now be forwarded to the Traffic and Transportation Committee.

C. Councilman Stampleman suggested that the Council be kept up-to-date on the year 2000 compliance issue.

City Manager Culross said that there is a committee currently working on this issue.

D. Councilman Stampleman raised concern about the construction of larger homes on smaller lots with the new construction replacing attractive older homes.

Councilwoman Cunningham noted that the Planning Commission had looked into this matter during the 1980's.

Corporation Counsel Gardella said that because land is so expensive, it is necessary for some people to build larger homes in order to be cost-effective. He added that it is difficult to legislate "taste".

16. New Business

There was no new business to be discussed.

17. Adjournment

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to adjourn into executive session to discuss Home Depot litigation and personnel matters at 9:55 p.m.

Councilman Stampleman made a motion, seconded by Councilwoman Larr and unanimously carried, to return to public session at 11:20 P.M.

Councilwoman Larr made a motion, seconded by Councilwoman Cunningham, to authorize the City Manager to engage Lankler, Siffert & Wohl, LLP as Special Counsel for the purpose of conducting an investigation into allegations of police misconduct at a fee not to exceed \$50,000.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, Downing,
Hutchings, Larr and Stampleman

NAYS: None

ABSENT: Councilwoman Walsh

The motion carried.

Councilwoman Larr made a motion, seconded by Councilwoman Cunningham and unanimously carried to adjourn at 11:25 P.M.

Respectfully submitted,

Alice K. Conrad
City Clerk