

MINUTES of the Regular Meeting of
the City Council of the City of Rye held in
City Hall on April 15, 1998 at 8:00 P.M.

PRESENT:

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

ABSENT: ROBERT H. HUTCHINGS
KATHLEEN E. WALSH

1. Roll Call

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

2. Unveiling portrait of Former Mayor Edward B. Dunn

Mayor Otis said honoring former mayors has been a tradition in Rye for many years. Since 1927, sixteen individuals have held the title of Mayor of Rye. He expressed his appreciation to all who have served in this capacity for their time, expertise, and commitment to the community throughout the years.

Former Councilman James Flick said that the word “thoughtful” describes former Mayor Dunn because he was always thinking about how to make the community better for Rye residents. He was grateful for being asked to participate in this ceremony.

Former Councilman Edward Collins said it is very appropriate to honor former Mayor Dunn on “Income Tax Day” because throughout his term he was a “tax fighter”.

Former Mayor Warren Ross quipped that the only thing better than being Mayor of the City of Rye is being a former Mayor.

Former Mayor John Carey noted that a similar tradition exists in Rye, England, where all former mayors from the 1200’s to the present day are memorialized.

Councilmen Stampleman and Larr said they were proud to have served with former Mayor Dunn.

Councilwoman Cunningham commended former Mayor Dunn for his thoughtfulness, civility, and caring about the community.

Mayor Otis expressed his appreciation to former Mayor Dunn for his assistance during his transition period as mayor. He added that there is a special unity between the former and present Council because each desires to make Rye a better place. Mayor Otis then unveiled the portrait of former Mayor Dunn. Former Mayor Dunn thanked the Council with whom he served, City Manager Culross, and Corporation Counsel Richard Gardella for all their expertise and assistance.

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

Mr. Nicholas Everett, chairman of the Board of Architectural Review (BAR), said that the BAR has been aware of an increasing number of properties where the house has been enlarged and intrudes into the existing setbacks or the house has been torn down and replaced by a larger house on the site. The BAR has expressed concern that the character of the City of Rye is being altered because the open space between houses is being reduced. The BAR is respectfully requesting that the City Council be aware of what is happening in Rye.

Mayor Otis said the Master Plan Task Force which is updating the City's comprehensive plan, is researching this issue. It can be quite controversial because property rights are involved.

In response to an inquiry from Councilman Stampleman, Corporation Counsel Gardella said Beverly Hills California has adopted a house bulk regulation. He promised to forward a copy of this law to the Council in the Friday packet.

Councilwoman Cunningham said that issue requires extensive public discussion.

Councilman Stampleman suggested asking every board, commission, and committee involved in land use regulation to review this matter and report to the Council.

Mayor Otis said this is an important, legally complicated and controversial planning issue. One pressure stems from residents needing bigger homes. A memo will be sent to the appropriate boards, commissions, and committees to review and comment on this matter. Mayor Otis expressed his appreciation to Mr. Everett for bringing this important planning issue to the Council's attention.

4. Resolution proclaiming April 24, 1998 as Arbor Day in the City of Rye

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

ARBOR DAY PROCLAMATION

- WHEREAS,** Arbor Day is now observed throughout the nation and the world, and
- WHEREAS,** trees can reduce soil erosion, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and
- WHEREAS,** trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community, and
- WHEREAS,** trees are a source of joy and spiritual renewal, and
- WHEREAS,** the City of Rye has been recognized as a Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways,

NOW, THEREFORE, I, Steven Otis, Mayor of the City of Rye, do hereby proclaim April 24, 1998 as
ARBOR DAY

in the City of Rye, and I urge all citizens to support efforts to care for our trees and woodlands and to support our city's community forestry program, and

FURTHER, I urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

DATED this twenty-fourth day of April.

Mayor

5. Consideration of request for approval to install two stone walls, a cobble stone curb, some steps, and shrubs in the City right-of-way abutting property located at 33 Stuyvesant Avenue and Overhill Avenue and authorization for the City Manager to enter into a license agreement for this purpose

Mr. Richard Horsman, architect for the residents of 33 Stuyvesant Avenue, informed the Council that notices (using the BAR's notification plan) were sent to the adjacent neighbors according to the Council's directive. He informed the Council that at this point in time, neither comments nor objections regarding this proposal were received from neighbors.

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

RESOLVED, that the City Manager be and is hereby authorized to enter into a license agreement with the residents of 33 Stuyvesant Avenue for the purpose of installing two stone walls, a cobble stone curb, some steps, and shrubs in the City right-of-way abutting property located at 33 Stuyvesant Avenue and Overhill Avenue.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmen Hutchings and Walsh

The resolution passed.

6. Continuation of public hearing on proposed local law establishing a moratorium on applications for telecommunications antennae installations

In explaining the minor changes to the proposed local law, Councilwoman Cunningham said the City's aesthetic concerns about telecommunications antennae installations have been addressed and an application fee of \$7,500 for consulting costs has been added.

Mr. Christopher B. Fisher, attorney with Cudder & Feder & Worby, a law firm representing AT&T, opposed the proposed moratorium because he was unaware that the City was contemplating such a law. He said he did not have an opportunity to review the proposed law, its language nor was he able to assess the impact it could have on his pending application or an application which will be submitted shortly.

Corporation Counsel Gardella pointed out that the proposed moratorium would not apply to AT&T's application currently before the Council.

Mayor Otis confirmed that fact and said the City will continue to accept applications which will be processed according to the new legislation. He also apprised Mr. Fisher that this matter has been an agenda item for the past three or four meetings and the subject of a public hearing.

Councilwoman Cunningham informed Mr. Fisher that a copy of the proposed moratorium is available for public review.

In response to Mr. Fisher's objection to the proposed consulting costs, Mayor Otis said the City realizes the need to hire technical consultants who would analyze the application and the City would charge back that fee to the applicant.

Councilwoman Cunningham made a motion, seconded by Councilwoman Downing, to adopt the following local law:

CITY OF RYE

LOCAL LAW NO. 5-1998

A local law establishing a moratorium on permits 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 regulated by Chapter 196 of the Code of the City of Rye adopted on October 8, 1997. Such installations are necessary to provide effective cellular phone and other similar service. However, those installations pose aesthetic concerns to the City's residential character and could compromise the character of

surrounding neighborhoods or areas. Since adoption of Chapter 196, the City has received two applications for the installation of new wireless telecommunication facilities. Based upon this experience, the City Council has determined the need to revise or replace this Chapter to more effectively protect the health, safety, and welfare of the community. Therefore, the purpose of this moratorium 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 the City while at the same time maintaining the essential residential character of the City. This moratorium is not meant to be prohibitive or exclusionary in nature. Zoning changes 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 and in order for the City Council to enact any required legislation resulting therefrom.

Section 3. During the time period described in Section 4, under the zoning and other provisions of the Code of the City of Rye, applications 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 accepted by the City, the Planning Commission, the Board of Appeals, or the Board of Architectural Review; however, in accepting an application during the period of this moratorium it must be accompanied by \$7,500.00 for consulting costs to assist the City in evaluating the application; the balance of any unexpended monies will be returned to the applicant; and if a permit is issued it will be issued pursuant to any changes in the Code. However, all applications filed on or before April 15, 1998 are not subject to the moratorium and will be reviewed as provided for by Chapter 196.

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 four (4) months from the date of such filing with the Secretary of State.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmen Hutchings and Walsh

The local law was adopted.

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

Christopher B. Fisher, Esq., on behalf of AT&T Wireless Services, apprised the Council that he had forwarded a draft lease addendum provision which addresses the City of Rye's requirement for removal of abandoned or unused telecommunication facilities consonant with Section 196-5 (C) (1) (d) of the Wireless Telecommunications Facilities Act. He said that the landlord would be the person responsible for maintenance and operational issues. He concluded by saying he has presented a letter from the landlord who has consented to a lien on the property as an alternative to a bond.

Corporation Counsel Gardella said that AT&T has satisfactorily fulfilled all the requirements for the application for a permit to install a wireless telecommunication facility at 350 Theodore Fremd Avenue.

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

RESOLVED, that the City Council of the City of Rye hereby approves the application of AT & T Wireless Services for a permit to install a wireless telecommunication facility at 350 Theodore Fremd Avenue in the City of Rye.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmen Hutchings and Walsh

The resolution passed.

8. Resolution concerning indemnification of City Council persons

Corporation Counsel Gardella explained that this resolution allows the City to protect its elected officials.

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

WHEREAS, Chapter 145 of the Rye City Code provides for the defense and indemnification of city officials, including indemnification for punitive and exemplary damages, in connection with acts performed in good faith by those officials and within the scope of their employment, powers or duties; and

WHEREAS, members of the City Council and the Mayor are public officials covered by Chapter 145 and are entitled to all the defense and indemnification benefits provided to such public officials by that chapter; and

WHEREAS, the actions taken by the Mayor and members of the City Council in connection with the Home Depot controversy and litigation were taken in good faith and within the scope of their powers and duties; and

WHEREAS, the Corporation Counsel of the City of Rye has specifically endorsed the above stated findings; therefore, be it

RESOLVED, that the City Council confirms that the former Mayor and former members of the City Council as well as the present Mayor and present members of the City Council, including:

Edward B. Dunn
James K. Burke
Edward J. Collins,
Carolyn Cunningham
Robert Hutchings
Joseph Latwin
Kathleen Walsh
Steven Otis
Roberta Downing
Roz Larr
Arthur Stampleman

are entitled to the benefits of Chapter 145 and to the specific defense and indemnification provisions contained in § 145-3 of the Rye City Code in connection with actions taken by those public officials in relation to the Home Depot project in Port Chester and resulting litigation.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmen Hutchings and Walsh

The resolution passed.

9. Resolution concerning Garden Drive Sewer Easement

City Manager Culross said that the Garden Drive sewer is failing badly and is in need of replacement. He apprised the Council that 50% of the cost of this project would be funded through the City's budget and the other 50 % by special assessment to the property owners over a ten-year period.

Corporation Counsel Gardella pointed out that what is being offered to the Council is a property easement.

Discussion focused on the two property owners who did not sign the easement and the special assessment which runs with the property.

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

WHEREAS, the City plans to reconstruct a branch sanitary sewer line for Garden Drive homes; and

WHEREAS, a permanent easement is required to perform such reconstructive work; and

WHEREAS, a number of residents have granted such a permanent easement to the City for a branch sewer improvement; and

WHEREAS, the City Engineer has recommended acceptance of the permanent easement grant; now, therefore, be it

RESOLVED, that the permanent sewer easement, which is described in the attached easement document, is accepted and City staff is directed to record that permanent easement.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmen Hutchings and Walsh

The resolution passed.

10. Approval of the election of the Fire Chief, 1st Assistant Fire Chief, 2nd Assistant Fire Chief, and of new members of the Department

Mayor Otis expressed appreciation for the hard work and dedication of the Rye Fire Department.

Councilwoman Cunningham made a motion, seconded by Councilman Stampleman, to approve the election of George Ballantoni, Chief, Walter Roode, 1st Assistant Chief and Vincent Ballantoni, 2nd Assistant Chief.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmen Hutchings and Walsh

The motion carried.

11. Two appointments to the Conservation Commission/Advisory Council for two-year terms expiring January 1, 2000 and one appointment for a three-year term expiring January 1, 2001, by the Mayor with Council approval

Councilwoman Cunningham made a motion, seconded by Councilman Stampleman, to approve the appointments of Ms. Martha Monserrate and Mr. Joseph P. Murphy for two year terms expiring January 1, 2000, and Ms. Thistle Cone for a three year term expiring January 1, 2001, to the Conservation Commission/Advisory Council.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmen Hutchings and Walsh

The motion carried.

Councilwoman Cunningham added that the City is fortunate to have members with strong environmental backgrounds.

12. Consideration of request to use City streets and the City Hall parking lot on Saturday, September 19, 1998 for the *Boston=>New York AIDS Ride*

Councilwoman Larr made a motion, seconded by Councilwoman Downing and unanimously carried, to approve the request to use City streets and the City Hall parking lot on Saturday, September 19, 1998 for the Boston=>New York AIDS Ride

13. Draft unapproved minutes of the regular meeting of the City Council held April 1, 1998

Councilman Stampleman made a motion, seconded by Councilwoman Downing and unanimously carried, to approve the minutes of the regular meeting of the City Council held April 1, 1998 as amended.

14. Miscellaneous communications and reports

A. Councilman Stampleman complimented Mr. Christopher Bradbury, assistant to the City Manager, for his response to the City Council's request to send a survey to surrounding communities regarding services available to senior citizens.

B. Councilwoman Cunningham acknowledged the receipt of the March 30, 1998 communication from Rye Brook regarding the Doral Arrowwood/Pfizer Conference Center proposed site plan. Having discussed this issue with the City Manager, Councilwoman Cunningham suggested forwarding comments on the draft scope by the April 17th deadline.

City Manager Culross and Councilwoman Cunningham will draft a letter stating, for the record, that the City of Rye is concerned about drainage and water quality.

Mayor Otis injected that the letter should contain a statement that the City is in support of the Watershed Advisory Committee 3 principles and it is hoped that they will utilize those principles in analyzing the project.

C. Councilwoman Downing reported on the Boat Basin Commission's decision to build a sedimentation basin at the mouth of Blind Brook. The objective is not to dredge so frequently. This decision is based on the recommendation of the Ocean and Coastal Consultants, Inc. An alternative would be to place a ramp down to the basin to scope out the sediment periodically. The commissioners have questioned the procedure to accomplish this alternative.

Corporation Counsel Gardella said that the State controls all waters and probably the Army Corps of Engineers would also be involved.

City Manager Culross said there are several issues; such as, budgetary control, upland disposal, and transportation. He said it is a very complicated issue.

Councilwoman Downing will forward a copy of this report to the Council in the Friday packet.

D. Councilman Stampleman reported that he and Mayor Otis met with the chairman of the Finance Committee to discuss the committee's future activity. A meeting is scheduled for April 28, 1998 to discuss the audit when it is received. Several of the following issues will be discussed in the future:

- reducing the limits on concentrating our CD placements in any one prime bank,
- using credit cards for payment to the city to a limited extent,
- looking for other revenue sources other than from Rye taxpayers, and
- advising transactions regarding Whitby Castle.

E. Councilwoman Cunningham acknowledged the March 21, 1998 letter from several residents of Grapal Street who registered a number of concerns about drainage. The City Manager will ask the City Engineer for a report on this issue.

F. Councilwoman Downing commended the BAR for its continued efforts to benefit the City.

G. Councilwoman Larr questioned the effectiveness of the present signs at the traffic circle near the Firemen's monument. She suggested that they might be replaced by rotary signs.

Mayor Otis and Mr. Roger Perry, chairman of the Traffic and Transportation Committee, taped an *Eye on Rye* program at the traffic circle. Unfortunately, City tradition is still dominant over State law regarding traffic patterns at the circle.

Councilwoman Downing expressed the feeling that the circle is not a true traffic rotary. Through the suggestion of Mr. Nicholas Everett, she said the situation could be improved by installing traffic islands and additional signs.

H. In response to Councilman Stampleman's query, Mayor Otis said the public hearing on power blowers will be scheduled for the June City Council meeting. Topics for discussion at this meeting would include registration for landscapers, a seasonal ban on power blowers, and noise guidelines.

I. City Manager Culross responded to Councilman Stampleman's question by saying the agenda for the School Board meeting will be circulated in this Friday's packet. Agenda items will include discussion of increased enrollment and the joint intermunicipal agreement with the School District on field use and follow-up on RCTV.

Councilwoman Cunningham suggested having a status report on the oil spill.

15. Old Business

It was confirmed that the public hearing on the library's various alternative expansion plans will be scheduled for May 13, 1998.

16. New Business

A. Corporation Counsel Gardella respectfully asked the Council to schedule a public hearing for April 29, 1998 to consider a proposed local law which would extend a tax exemption to veterans living in a cooperative.

Councilwoman Cunningham made a motion, seconded by Councilwoman Downing and unanimously carried, to adopt the following resolution.

WHEREAS, a proposed local law entitled "A local law amending Section 177-16 of Article II of the Rye City Code" 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 April 29, 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 177-16 of Article II of the Rye City Code**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 29th day of April, 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 177-16 of Article II of the Rye City Code."

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

City Clerk

Dated:

B. Councilwoman Downing acknowledged a communication from a resident regarding the fence ordinance. After a brief discussion on the present code regulating fences, Mayor Otis supported reviewing the fence ordinance legislatively.

24. Adjournment

There being no further business to discuss, Councilman Stampleman made a motion, seconded by Councilwoman Larr and unanimously carried, to adjourn the meeting at 9:50 p.m.

Respectfully submitted,

Alice K. Conrad
City Clerk