

MINUTES of the Regular Meeting of the
City Council of the City of Rye held in the City
Hall on May 13, 1998 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
CAROLYN C. CUNNINGHAM
ROBERTA DOWNING
ROBERT H. HUTCHINGS
ROSAMOND LARR
KATHLEEN E. WALSH
Councilmen

ABSENT:

ARTHUR STAMPLEMAN

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

Mrs. Ellen DeNooyer, 20 Fordham Avenue, expressed concern about the condition of the parking lot in Car Park 1 and, especially, the area behind the former Greeley House which is an eyesore.

Mayor Otis noted that the Council discussed this matter at the beginning of the year and an effort has been made to improve this condition. However, the City is not responsible for cleaning-up private property. The Mayor thanked Mrs. DeNooyer for her interest and concern for the City and said there would be a follow-up on this issue.

3. Report on the Village Green Process from the Planning Commission, with a special hearing on the choices being discussed for the location of an addition for the Rye Free Reading Room

Mayor Otis said the Planning Commission held two valuable visioning sessions last Fall for community input on the Village Green (the Green). The proposed additions to the Rye Free Reading Room (the Library), the YMCA, and the Locust Avenue Fire House may all impact the Green. The Mayor said the purpose of this meeting is to hear a report from the Planning Commission on the Village Green Process; to listen to a presentation on the three alternatives for the proposed library addition and then to receive the public's comments regarding the Village Green and the Library proposal.

Dr. Michael Klemens, chairman of the Planning Commission, said a year ago the Planning Commission was presented with two or three projects that could have a potential impact on the Green. The Commission felt that this presented a unique opportunity for planning rather than reacting. A study was commissioned. After the report was received, two visioning sessions were held with the public and much information was received. The next phase was to develop a Request For Proposal for studies on traffic, landscaping, flooding, and hydrology. Today, there have been no formal applications but there have been a series of informal reviews with both the Library and the YMCA. He said this meeting is another opportunity for public input. The Planning Commission and the City Council had site visits with the library and the YMCA and alternative proposals have been discussed with both. The Locust Avenue Firehouse study was just received. Also, the Planning Commission has given the library some clear direction to go to the south side, however, there has been no formal application from the Library to date.

Councilwoman Walsh noted that the goal is to have balance between expansion and its impact on the Green.

Mayor Otis acknowledged receiving letters from Mr. David Parsons and Mr. James Nash opposing the library's expansion plans.

Mr. Martin Edelman, member of the Board of Trustees (the Board) for the Rye Free Reading Room, gave a brief history of the origin of the Rye Free Reading Room and compared it to today's library which services the entire community of the City of Rye. Since May, 1996, the Library has been successful in raising over two million dollars from residents who agree with the Board of Trustees that the library must provide more services. These funds will be used for a new addition which will provide space for library programs and community activities and to procure updated materials and equipment. Mr. Edelman briefly described the three alternate proposals for the addition to the Library as follows:

- Northern expansion was thought to be architecturally appropriate, accessible to the children and the handicapped, and provided easy access from the addition to the children's room. Other alternatives were explored when issues and concerns arose.
- The Over-the-Brook solution was attractive and interesting but incredibly more expensive.
- The new southern proposal would expand into the existing parking lot.

He indicated that the Board has worked with the Planning Commission and it was determined (in an informal review) that the northern exposure was not appropriate.

Mr. Edelman introduced Mr. Bill Simmons, architect for Dennis Noskin Architects, PC.

Mr. Simmons explained the Library's three options by using illustrations of each. In a question and answer period, Mr. Simmons and Mr. Edelman clarified the following:

NORTHERN EXPANSION

- The Board prefers the northerly plan because it functions easier; is more accessible; and safer.
- The proposed northern addition would extend approximately 75 feet from the existing building.
- The proposed ramp could be concealed with appropriate plantings and landscaping.
- The Planning Commission's primary objection to this option is the proposed new wing's encroachment on the Green.
- There was no consideration given to moving the location of the library because its present central location is vital and used frequently by children and senior citizens who can walk to and from the village.

"OVER THE BROOK" SOLUTION

- This seemingly looked like a good choice because it would not impact on the Green nor would it take away any parking spaces. However, it was very expensive, too complicated, and would involve rebuilding much of the interior of the old building.
- The Board has directed Mr. Simmons to abandon the "over the brook" possibility.

SOUTHERN EXPANSION

- The most current solution would be extending the addition into the parking lot at the south end of the existing building.
- This option has not been presented to the Planning Commission because it is still being developed.
- This southern addition would permit all library functions and would preserve parking.

- The southern addition suffers primarily in terms of aesthetics.

- There is less opportunity to make it compatible to the original building.
- There would be handicapped accessibility from the parking lot.
- Children would utilize a passageway to go from the southern addition to the children's room. The architect noted that this is less convenient which is why the northern addition was originally selected.
- The parking lot will require reconfiguration which might add two parking spaces.
- The southern expansion would be more expensive than the northern option.

Councilwoman Walsh explained that Part II of the Planning Commission consultant's report would contain specifications for the technical studies. Mr. Patrick Cleary, the Planning Commission's consultant, has completed his drafts of the scope for a traffic study, landscape master plan, and a hydrology study. Relative to the technical hydrology studies, the engineering firm will be looking at both northern and southern proposals to assess the impact on the brook and the flood plain. She expressed the hope that the landscape master plan would address the issues from the visioning sessions and the comments received from Mr. Cleary.

In response to a question from the audience, Mr. Edelman said that approximately \$50,000 has been spent on additional studies. He said that after tonight's meeting and assessment of comments received, the Board of Trustees of the Rye Free Reading Room will submit a formal application to the Planning Commission. This application will probably be for the southern option since the Planning Commission's informal review sessions have not supported the northern expansion.

Mr. Paul Rheingold noted that aesthetics and harmony call for the addition to be at the north end where it does not detract from the property. He said the southern expansion will be an eyesore for years to come.

Members of the audience

- urged the members of the Planning Commission to reconsider their position about the northern expansion,
- complimented the Library staff and members of the Board for all their work on fund raising and planning,

- noted that there would be continuity and an improved flow of service from the northern end,
- said the Green should be preserved and not lose its integrity, and
- noted that the money was raised for the northern addition.

Councilwoman Cunningham said that during the visioning sessions many residents insisted on maintaining open space.

Mrs. Diane Moran, chairman of the Landmarks Advisory Committee, supported the southern addition because it would be less intrusive on the Green and would balance the building.

Mayor Otis said it is very valuable to the City Council and the Planning Commission for the public to continue to articulate reasons for supporting one or the other alternative. He noted that tonight is not the last opportunity to address this issue; letters can be forwarded to the City Council and the Planning Commission and those documents will be shared with everyone involved in the process.

The Mayor expressed his appreciation to everyone who contributed to this discussion.

4. Consideration of request of Joyce and Morton Coleman to close Forest Avenue from Manursing Avenue to Grace Church Street on Sunday, June 14, 1998, during their daughter's wedding

Mayor Otis said that he and the Coleman Family are working in conjunction with the Police Department to resolve this issue and at the same time comply with state law.

5. Discussion of Town of Rye Supervisor Morabito's proposal on wine at Rye Town Park

Mayor Otis informed the public that The Town of Rye has requested the Rye City Council's support for legislation to allow wine (in addition to beer) to be served at the Rye Town Park (the Park). He announced that copies of a letter regarding this matter were sent to approximately 750 households in the vicinity of the Park and that copies were available at this meeting. He said if the City of Rye agrees to this change, then the Council would insist on having a periodic right to terminate the use of wine if the City is not satisfied with the results. He said the purpose of this agenda item is to get feedback from interested parties on allowing wine in the Park. Residents in the proximity of the Park have until the end of May to submit their comments. If the majority of residents support this issue, it would then be submitted to the State for home rule legislation.

Mr. Irwin Lefkowitz, 38 Oakwood Avenue, said that the profit margin on wine is greater than on beer. He questioned whether the Sand Bar Restaurant would be willing to share those profits with the Park.

Mr. Douglas McKean, member of the Rye Town Park Commission, suggested several ways to increase revenue sources at the Park, such as, renting out the pavilion and renegotiating the Sand Bar's lease based on higher profits if wine is permitted.

In response to a question posed by Mrs. Linda Lefkowitz, 38 Oakwood Avenue, Mr. Dennis Buckley, member of the Friends of Rye Town Park, said that the snack stand at the northern end of the Park operates in conjunction with the other concession.

Mr. Dennis Buckley indicated that he was neither for nor against serving wine in the Park; he supports the interest of Rye. He expressed concern about the Park's \$72,000 deficit at the beginning of the season. He noted that instituting the sale of wine may have a negative effect on police protection and on lifeguards since it could increase the number of alcohol related rescues. He also expressed concern about some serious violations and suggested that the lessee live up to the contractual agreement, especially, concerning the Sand Bar's hours of operation and expanding his business into the roadway.

The Mayor indicated that he shared the same concerns and has asked for an opinion from the Rye Town attorney about these issues. The Mayor has addressed the issue of the impact that wine will have on the lifeguards with Superintendent Moribito and he is awaiting his response.

In response to a question posed by Police Officer John Wood, Mayor Otis said that the open container law will be enforced; both the security people for the Park and the Rye Police will play a stronger role and the lessee will be asked to adhere to the contract.

A brief discussion focused on scheduling a meeting on allowing wine in the Park and drafting the necessary legislation for the home rule message.

Councilwoman Walsh made a motion, seconded by Councilwoman Cunningham, to continue to receive comments from the residents with the intention of voting on a draft home rule message at a meeting to be held between now and the next scheduled meeting.

ROLL CALL:

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

NAYS:None

ABSENT: Councilman Stampleman

The motion carried.

6. Request from County Executive Spano for resolution on sales tax exemption issue.

Councilman Hutchings indicated that there is confusion with regard to the sales tax exemption issue. He noted that many people are accustomed to the one-week moratoriums. This issue, however, is the State's removal of the tax permanently on \$100 clothing purchases. This could start to make quite a dent in the monies available to the City. The State should be required to fund the monies that they are taking away in some other way.

Councilman Hutchings made a motion, seconded by Councilwoman Cunningham, to adopt the following resolution.

WHEREAS, the City of Rye receives significant revenue from our share of the County sales tax, and

WHEREAS, this revenue helps lessen the property tax burden on our residents, and

WHEREAS, this is one of the few non-property tax revenue sources that municipalities have, now therefore be it

RESOLVED, that the Rye City Council opposes Westchester County opting into the sales tax exemption on clothing unless the state provides revenue sharing to hold local governments harmless for lost sales tax revenues.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Stampleman

The resolution passed.

7. Discussion of fence regulations

Mayor Otis initiated a discussion on the fence regulations. The City Council focused on the following:

grandfathering non-conforming fences;
maintenance of fences;
enforcement of fence regulations; and
a possible fence permit system.

It was decided that there should be further deliberation on the fence regulations before drafting any changes.

8. Authorization for the Mayor to file an application with the New York State Thruway Authority for participation in the noise abatement program

Mayor Otis acknowledged the receipt of the May 8, 1998 letter from the New York State Thruway Authority apprising him about the City of Rye's participation in the noise abatement program. The Mayor indicated that the general choices would be wooden fencing or nothing in the near future since the City of Rye is not high on the priority list for concrete barriers. He said the proposed area for the noise barriers is between Central Avenue and Purchase Street. The deadline for submitting the data sheet is May 29, 1998.

A discussion ensued on:

- soliciting opinions from residents living near the proposed barriers;
- the cost and height of wooden fencing;
- the value of wooden fencing in terms of noise absorption;
- the life expectancy of wooden fences; and
- the need to have some concrete measures to evaluate and compare the noise levels of the concrete barriers and the wooden fences.

Because of the time constraints for submitting the data sheet, the Council decided to authorize the Mayor to file an application with the New York Thruway Authority and simultaneously write to all residents who might be impacted by this project.

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

RESOLVED, that the City Council authorizes the Mayor to file an application with the New York State Thruway Authority for participation in the noise abatement program.

ROLL CALL:

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

NAYS:None

ABSENT: Councilman Stampleman

The resolution passed.

9. Authorization for the City Manager to enter into a license agreement between the City of Rye and Robert Powers and Marcia Powers, owners of property at 15 Greenhaven Road, for the installation of a storm pipe in the right-of-way of Greenhaven Road for a distance of approximately 50 feet and connecting to the existing storm manhole on Greenhaven Road

City Manager Culross recommended the City of Rye's entering into a license agreement with Robert and Marcia Powers, owners of property at 15 Greenhaven Road, for the installation of a storm pipe in the right-of-way of Greenhaven Road for a distance of approximately 50 feet and connecting to the existing storm manhole on Greenhaven Road. He said this approval should be conditioned on the submission of a map (prepared by a licensed surveyor) indicating where the drain is located in the right-of-way.

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

RESOLVED, that the City Manager is hereby authorized to enter into a license agreement between the City of Rye and Robert and Marcia Powers, owners of property at 15 Greenhaven Road, for the installation of a storm pipe in the right-of-way of Greenhaven Road for a distance of approximately 50 feet and connecting to the existing storm manhole on Greenhaven Road

ROLL CALL:

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

NAYS:None

ABSENT: Councilman Stampleman

The resolution passed.

10. Authorization to apply for a 50/50 matching grant in the amount of \$80,000 from the New York Department of State Local Waterfront Revitalization Program Environmental Protection Fund for the construction of a Coastal Education Discovery Room as part of the Rye Nature Center's Building Project

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

WHEREAS, the New York State Department of State is soliciting Waterfront Revitalization Grant Applications, pursuant to Title 11 of the Environmental Protection Fund; and

WHEREAS, the City of Rye wishes to support the construction of a Coastal Education Discovery Room as part of the Rye Nature Center's Building Project, now therefore be it

RESOLVED, that the City Council of the City of Rye hereby authorizes Chantal Speglevin to apply for a 50/50 matching grant in the amount of \$80,000 from the New York State Department of State Local Waterfront Revitalization Program Environmental Protection Fund for the construction of a Coastal Education Discovery Room as part of the Rye Nature Center's Building Project

ROLL CALL:

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

NAYS:None

ABSENT: Councilman Stampleman

The resolution passed.

11. Consideration of proposed local law amending Chapter 197-86, Zoning, with respect to seasonal outdoor seating accessory to retail and restaurant uses

Councilwoman Walsh apprised the Council that Local Law #5-1996 which permitted seasonal outdoor customer seating accessory to permitted retail and restaurant uses contained a sunset provision which enabled the Planning Commission to monitor its success. During the 1996-97 trial period, The Black Bass Restaurant was the only applicant for this permit. This proposed local law would re-enact the seasonal outdoor accessory seating with another sunset provision until November 1, 2000. She expressed the hope that the Council would readopt this law and schedule a public hearing before the next scheduled Council meeting.

After some discussion of appropriate dates, it was decided to schedule a Special Council Meeting on Wednesday, May 27, 1998.

Councilwoman Walsh made a motion, seconded by Councilwoman Larr and unanimously carried, to adopt the following resolution:

WHEREAS, a proposed local law entitled “a local law amending Chapter 197-86, Zoning, 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 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 May 27, 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 Law
amending Chapter 197-86, Zoning,
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 City Council of the City of Rye on the 27th day of May, 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 Chapter 197-86, Zoning, with respect to seasonal outdoor seating accessory to retail and restaurant uses”.

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 Walsh

NAYS:None

ABSENT: Councilman Stampleman

The resolution passed.

12. Two appointments to the Whitby Castle Committee

Councilwoman Downing made a motion, seconded by Councilwoman Cunningham, to approve Mayor Otis' recommendation of Mr. Nicholas Everett, Board of Architectural Review and Mr. Russell Cecil, Landmarks Advisory Committee, to the Whitby Castle Committee.

ROLL CALL:

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

NAYS:None

ABSENT: Councilman Stampleman

The motion carried

13. Bids for Street Materials

City Manager Culross noted that the original bid specifications for street materials had a discrepancy in prices and did not include a mileage cost. Therefore, he recommended that the City Council reject all bids.

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 rejects all bids for Street Materials, Bid #1-98.

ROLL CALL:

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

NAYS:None

ABSENT: Councilman Stampleman

The resolution passed.

14. Draft unapproved minutes of the regular meeting of the City Council held April 29, 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 April 29, 1998 as submitted.

15. Miscellaneous communications and reports

There were no miscellaneous communications and reports to be reported.

16. Old Business

There was no old business discussed.

17. New Business

Councilwoman Larr gave a status report on the May 11, 1998 CONNECTIONS meeting. She suggested that the City Council prioritize transportation alternatives.

18. Adjournment

Councilwoman Cunningham made a motion, seconded by Councilwoman Walsh and unanimously carried, to adjourn into executive session to discuss Home Depot litigation and personnel matters at 11:45 P.M.

The Council reconvened at 12:20 A.M.

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr to authorize an application to the Court of Appeals for leave to appeal the unanimous Appellate Division Second Department's Affirmance of Justice Clowhey's ruling in the Home Depot Case. The application would seek permission to appeal to the Court of Appeals, the State's top court.

ROLL CALL:

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

NAYS: Councilwoman Walsh

ABSENT: Councilman Stampleman

The motion carried.

There being no further business to discuss, the meeting was adjourned at 12:25 A.M.

Respectfully submitted,

Alice K. Conrad
City Clerk