

MINUTES of the Regular Meeting of  
the City Council of the City of Rye held in City  
Hall on March 3, 1999 at 8:00 P.M.

PRESENT:

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

1. Pledge of Allegiance

Mayor Otis invited the audience to join the Council in the Pledge of Allegiance.

2. Roll Call

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

The following agenda item was taken out of order.

6. Consideration of request that the City assume responsibility for the walkway across a portion of City Car Park No. 2 to Theodore Fremd Avenue

Mayor Otis acknowledged the February 22, 1999 memorandum from City Manager Culross regarding a sidewalk license for 32 Elm Place.

Mr. Dennis Noskin, 32 Elm Place, explained that he no longer wishes to maintain and insure the sidewalk from 32 Elm Place to Car Park No. 2 to Theodore Fremd Avenue. He respectfully requested that the City assume responsibility for the sidewalk. He informed the Council that he was not a part of the original agreement and asked for relief from his insurance obligation and liability for this area.

The Corporation Counsel said that this sidewalk serves a public function and that acceptance of the sidewalk by the City is not an issue for the Planning Commission.

Councilwoman Walsh recommended that the City Engineer inspect the sidewalk to determine its condition.

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

**RESOLVED**, that the City hereby assumes the responsibility for the walkway across a portion of City Car Park No. 2 to Theodore Fremd Avenue contingent on the inspection of the City Engineer that the sidewalk is in good condition.

ROLL CALL:

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

NAYS: None

ABSENT: Councilwoman Downing

The resolution passed.

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

There was no one wishing to address the Council on matters that did not appear on the agenda.

At this point in the meeting, Mayor Otis announced that the City of Rye has filed an Article 78 Proceeding in the matter of the proposed Home Depot development for failure to address adequately traffic concerns of the City of Rye in the new site plan approval process.

The Mayor indicated that the City was hopeful that there could be a reasonable traffic mitigation plan to address Rye's traffic concerns. The Port Chester Village Planning Commission has not (through its SEQRA process) fully analyzed and worked with the materials presented by the City of Rye. The only option for the City was to file an Article 78 suit to protect the City's interest and achieve the goal of adequate and appropriate traffic mitigation.

The Mayor stated that the City had commissioned a ramp feasibility study showing that a ramp directly from I-287 is feasible and a reasonable mitigation. He noted that the City continues to pursue every effort to try and receive State approval for a ramp from Interstate I-287 to Midland Avenue.

The Mayor distributed a copy of the Notice of Petition and Affidavits by the Mayor and the City's traffic consultant, Mr. Bernard Adler.

5. Public hearing on proposed cost assessment on the benefited properties of the Rockridge Road Sewer District Improvements

Mayor Otis opened the public hearing. The Mayor acknowledged the February 11, 1999 memorandum from City Manager Culross regarding the completion of the Rockridge Road Sewer District Improvements Project at a total cost of \$132,435.

City Manager Culross noted that this project was completed earlier than anticipated and under budget by 26%. He explained that the purpose of the hearing was to certify the sewer district and to allocate the cost among the property owners. He said that those who benefited from this improvement had until April 30, 1999 to pay the amount due without interest. The first payment would be due on February 1, 2000. He recommended that the Council establish an interest rate of 7.5% for a 20-year term.

Mr. Alan Dash, 17 Rockridge Road, made the following comments:

- He did not receive the final plans for the project until the last day.
- The 7.5% interest rate is too high.
- The project was not properly managed.
- The cost estimate for the private hook-up was \$15,000.
- The City should have leverage to make the contractor negotiate with the homeowners for the hook-ups instead of hiring a private plumber.

City Manager Culross explained that the City was only responsible for the street right-of-way portion of the project and that the contractor had no obligation for private property.

Mrs. Susan Bragg, 8 Rockridge Road, explained that she contracted on her own. She apprised the Council that at the beginning of the project she invited all of the neighbors to meet with Mr. Petrucelli, the contractor. Only the people who attended the meeting contracted with Mr. Petrucelli on an individual basis.

Mrs. Mary Partington, 6 Rockridge Road, respectfully requested that the Council consider reducing the 7.5% interest rate.

City Manager Culross explained that the City is not legally permitted to extend its Triple A rating to residents. He explained that the City Comptroller based the interest rate on the current fifteen- to thirty-year mortgage rates. In the past, special assessments have never been extended beyond ten years. The twenty-year time frame was at the request of the neighbors. He explained that there is no administrative overhead included in the total project cost of \$132,435. Further, there was no interest cost included in the first 18 months. Regarding the issue of the City negotiating private hook-ups, the City is not permitted to go on private property. He also explained that the cost of re-paving the road was not included in the assessment and will be absorbed by the City.

With respect to project cost, Mr. Culross explained that the neighbors selected the project design which minimized the total cost. The alternative design not selected might have resulted in a lower hook-up cost to Mr. Dash, due to the topography.

There was general discussion among the Council members with regard to the interest rate and the term of the loan.

The Mayor closed the public hearing.

Councilman Stampleman made a motion, seconded by Councilwoman Walsh, to approve the following resolution:

**RESOLVED**, that the City of Rye approves the cost assessment on the Rockridge Road Sewer Project, certifies the Sewer District, and established an interest rate of 7.5% over twenty years as a repayment schedule.

ROLL CALL:

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

NAYS: None

ABSENT: Councilwoman Downing

The resolution passed.

Councilwoman Downing arrived at this point of the meeting.

7. Consideration of request from Bell Atlantic-New York Telephone Company for an easement to place underground conduit along the westerly side of Disbrow Park

Mayor Otis acknowledged the February 22, 1999 memorandum from City Manager Culross, transmitting a request from New York Telephone Company to place an underground conduit in Disbrow Park. The Mayor explained that this alienation of parkland would require State legislative approval. He said he would want to consult with Monroe Telecommunications regarding this request, and the enactment of an ordinance for the use of the City's right-of-way and possible revenue for this use.

In response to Councilwoman Cunningham's query, City Manager Culross explained that he had City staff redo the map to clarify the location of the conduit. He explained that all but 100 feet has already been placed and this would replace an overhead line which would be serving Rye and County facilities.

Mayor Otis stated that he will pursue both the parkland issue and the possible revenue from the right-of-way.

8. Resolution transferring \$42,561 from the General Fund Contingent Account to the Capital Projects Fund for the Highland Road Sewer Repair

Mayor Otis acknowledged the February 23, 1999 memorandum from City Manager Culross regarding an emergency repair to the Highland Road Sewer. The City Manager respectfully recommended that \$42,561 be transferred from the General Fund Contingent Account to the Capital Projects Fund for the Highland Road Sewer Repair.

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

**WHEREAS**, emergency repairs to the Highland Road Sewer, estimated in the amount of \$42,561, are required; now, therefore, be it

**RESOLVED**, that the City Comptroller is authorized to establish a budget in the Capital Projects Fund for the Highland Road Sewer Project; and be it further

**RESOLVED**, that the City Comptroller be authorized to transfer \$42,561 from General Fund Contingent Account to the Capital Projects Fund to fund the Highland Road Sewer Project.

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolution passed.

9. Designation of the Chairman of the Traffic and Transportation Committee, by the Mayor

Mayor Otis requested a postponement of any action on this matter until the next Council meeting.

10. Consideration of request of American Red Cross in Westchester County to fly their flag in the City during March

Mayor Otis acknowledged the February 16, 1999 communication from Mr. Robert L. Lenseth, Chief Executive Officer of the American Red Cross in Westchester requesting permission to fly the American Red Cross flag during the month of March in honor of its centenary. The Mayor noted that the American Red Cross is a partner in *Project Impact* and the City would like to honor this request, if possible.

There was some general discussion of the most appropriate location for the flag and the importance of having input from the American Legion on its placement.

Mayor Otis made a motion, seconded by Councilwoman Larr and unanimously carried, to authorize the City Manager, in consultation with the American Legion, to determine the appropriate location for the City of Rye to fly the American Red Cross Flag during the month of March.

11. Resolution opposing S.2113 regarding the siting of wireless telecommunications equipment

Prior to the meeting, Mayor Otis distributed the following documents:

- A draft resolution regarding the State legislation preempting the authority of local governments to regulate the siting of wireless telecommunication,
- Senate bill S.2113 and memo,
- Memorandum from Scenic Hudson opposing S.2113, and
- Memoranda from NYS Association of Counties, NYS Association of Towns, Environmental Advocates, and the Adirondack Council opposing the 1998 version of this bill.

Mayor Otis explained that Senate Bill S.2113 would affect one of the City's local laws by taking away the authority granted by the Federal government to regulate the siting of wireless telecommunications equipment and would also restrict fees. One of the changes proposed would increase the limit for towers in residential areas to 150 feet which would be 40 feet higher than provided in Rye's law. He urged the Council's support of the proposed resolution opposing this legislation.

Mayor Otis made a motion, seconded by Councilwoman Downing and unanimously carried, to approve the following resolution:

**WHEREAS**, municipal home rule in local planning and land use is highly valued by local governments in New York State; and

**WHEREAS**, the Federal Telecommunications Act of 1996 affirmed the authority of local governments to regulate the placement and construction of wireless telecommunications equipment and facilities; and

**WHEREAS**, local governments should be free to exercise that authority as they do with other local land use determinations; and

**WHEREAS**, efforts to restrict local home rule in this area are inconsistent with land use policies in New York State; and

**WHEREAS**, legislation has been introduced in the New York State Senate, S.2113, which would preempt local home rule in this area, remove the ability of local governments to enact their own local siting laws, interfere with the authority of local governments to set reasonable fees, and remove authority granted in federal law; and

**WHEREAS**, the siting of wireless telecommunications equipment raises important land use and aesthetic concerns traditionally determined at the local level; now, therefore, be it

**RESOLVED**, that the City Council of the City of Rye strongly opposes S.2113 and recommends the defeat of this, or any legislation, that restricts the authority of local governments to exercise their prerogative over land use, protect community character and maintain the local decision-making consistent with the long history of New York law; and be it further

**RESOLVED**, that copies of this resolution be forwarded to our representatives in the State Senate and State Assembly, the legislative leaders of each house, the New York State Conference of Mayors, the New York State Association of Counties, the New York State Association of Towns, the Westchester Municipal Officials Association, the Westchester County Executive, and the Westchester County Board of Legislators.

12. Consideration of the request of the Midland School PTO to use city streets for their Midland School Parade on Saturday, April 10, 1999

Mayor Otis acknowledged the February 19, 1999 communication from Mrs. Sheryl Stroud Fultz, the 1999 Midland Fair co-chair, requesting permission to use City streets for the Midland School Parade.

Councilman Stampleman made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the request of the Midland School PTO to use City streets for the Midland School Parade on Saturday, April 10, 1999.

13. Draft unapproved minutes of the regular meeting of the City Council held February 17, 1999

Councilman Stampleman made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the minutes of the regular meeting of the City Council of February 17, 1999, as amended.

14. Miscellaneous communications and reports

A. Councilman Hutchings noted that the RCTV Committee has been reviewing the Policies and Procedures for Rye Cable Television (RCTV) as they relate to political programming during elections and will submit a recommendation by the next Council meeting.

Councilman Hutchings informed the Council that RCTV had completed its review of other communities in the area with regard to the televising of City Council meetings. They have met with five different communities and learned some of their problems as well as their successes. The report will be reviewed next Wednesday and will then be presented to the Council.

Councilman Hutchings noted that the most popular show on RCTV is the police show. He complimented Police Officer Gary Olivier for his dedicated work on the program. Councilman Hutchings informed the Council that Fire Inspector James Dianni has agreed to do a similar program for the Fire Department.

B. Councilwoman Walsh apprised the Council that the Rye Golf Club Commission (RGCC) discussed the possibility of having a commission member appointed to the Whitby Castle Committee. Since Terri Silverman, manager of the Rye Golf Club, was not present at the commission meeting, this matter will be discussed in the future by the RGCC.

C. Councilman Stampleman stated that he and Mayor Otis attended a press conference hosted by County Executive Andrew Spano who announced support for the website of the Westchester Coalition Against Bigotry and Bias. This coalition is available for communities to pressure the State for anti-hate legislation.

D. Mayor Otis acknowledged receiving a letter dated February 24, 1999 from the NYS Thruway Authority announcing that Rye will be receiving the wooden fencing as part of its noise barrier program. The work will be contracted out this summer and finished by year-end. These wooden fences will be located between Central Avenue and Purchase Street (on the northbound side of I-95) and between Central Avenue and Boston Post Road (on the southbound side of I-95). The Mayor stated that this will be communicated to the residents through the City's next newsletter.

The following agenda item was taken out of order.

4. Report of the County Legislator



County Legislator George Latimer began his remarks by expressing his appreciation to Councilman Hutchings for his *Eye on Rye* interview which appeared on RCTV this week.

He then presented his quarterly report by providing updates on the following topics:

Westchester County Airport

The latest test results for Blind Brook in relation to the run off from Westchester County Airport have been forwarded to the City of Rye. He noted that thus far, the tests have detected no further de-icing chemicals in the water. The County will be staying on top of this issue and will be sharing the results with the municipal governments that are affected.

Playland Parkway Bridge

Westchester County Department of Public Works will undertake the replacement of the Playland Parkway Bridge and that funds have been allocated for this construction. He noted that the west channel is blocked and believes that this could exacerbate the flooding problem upstream.

Mayor Otis asked if the design had been completed. He indicated that it would be appropriate for the City to be involved in the design process since under *Project Impact*, the City would be looking at flood implications with this type of structure.

Bee-Line Bus Route 76

The mini-bus Route 76 has been operating in Rye for the past ninety days. It is Mr. Latimer's intent to lobby for a standard bus that would go directly from the train station to Playland during the summer season, and not interfere with the mini-bus route. He suggested that the City Council send a letter in support of this strategy because it would strengthen his position.

Sales Tax Extension

Mr. Latimer requested the City Council's endorsement of the County's lobbying efforts in Albany for the 1% County Sales Tax Extension.

Playland

The County Department of Parks, Recreation and Conservation has given permission to allow free parking on June 23rd and July 28th, at the south parking lot in Playland for the Rye Town Park concerts. This will allow elderly, handicapped, or people with small children to park their cars closer to the Rye Town Park for the concerts on those evenings.

Extension of the 1991 Property Tax Stabilization and Relief Act

Mr. Latimer acknowledged that Rye's taxes increased even though there was an overall reduction in County taxes. He is negotiating a phase-in period for a policy change, especially for those municipalities which have been negatively impacted.

#### Human Rights

In response to Councilman Stampleman's query, Mr. Latimer said there is a proposal for the formation of a Human Rights Commission at the County level. However, there is some strong opposition. There will probably be a public hearing in 60 to 90 days on the proposal. He encouraged the Council to send letters of support for this commission.

Mr. Latimer expressed his best wishes to Corporation Counsel Gardella on his retirement. He said he has respected Mr. Gardella as a dedicated professional.

On behalf of the City Council, Mayor Otis expressed his appreciation to County Legislator George Latimer for his report and his interest in the City of Rye.

#### 15. Old Business

A. Councilman Stampleman acknowledged the February 11, 1999 communication from the Village of Port Chester regarding a resolution supporting the passage of S.2492 (Satellite Dish Companies).

Mayor Otis explained that this is federal legislation. Presently, direct TV carriers are prohibited from carrying local programming which this law would allow them to do.

B. Councilman Stampleman acknowledged the February 16, 1999 memorandum from Mr. Robert Matarazzo, Westchester County Deputy Commissioner-Solid Waste in the Department of Environmental Facilities regarding the suspension of the organic waste transfer program.

City Manager Culross stated that this suspension will defer the City's being in the organic waste process until there is a place for disposal. He explained that there would be no impact on the budget.

C. Councilwoman Cunningham acknowledged the Notice of Complete Application from the NYS Department of Environmental Conservation dated February 19, 1999, concerning the American Yacht Club.

Councilwoman Walsh said that the Planning Commission has scheduled this matter for a public hearing.

#### 16. New Business

A. Mayor Otis announced that there will be a Special Meeting of the City Council on Friday, March 5, 1999 at 8:15 A.M. for the purpose of interviewing for the position of Corporation Counsel.

Councilwoman Cunningham suggested that the applicants be asked for a sample of their writing which could be forwarded after the interview.

B. Councilman Stampleman questioned if there was any action on his suggestion to change the Oath of Office. The Mayor will forward a copy of the New York State form to the Council.

C. Councilwoman Cunningham informed the Council that the Rye Interfaith Council has received a \$5,000 grant for a taxi subsidy program for seniors. The Interfaith Council is developing the details of the program and would welcome suggestions from the Council on how to implement this grant.

17. 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 9:25 P.M.

Respectfully submitted,

Alice K. Conrad  
City Clerk