

APPROVED MINUTES of the Regular Meeting of
the City Council of the City of Rye held in City Hall on
June 13, 2001 at 8:00 P.M.

PRESENT:

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

ABSENT: None

1. Pledge of Allegiance

Mayor Otis called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor Otis asked the City Clerk to call the roll; a quorum was present to conduct official city business.

3. Presentation by the Rye YMCA Gymnastic Team

Mayor Otis welcomed Georgia Kalayjian-Murphy who said the YMCA, known for its many programs, was proud to be able to extend their reach way beyond Rye to Romania where the gymnastics team was able to train, learn and forge a bond between the City of Rye and Deva, Romania. She introduced Robert Winter, the YMCA's gymnastics coach, who described the wonderful experience everyone had, including a visit to the President's castle. He showed home videos which included the reading of the proclamation sent from the Council to Deva. The Mayor thanked the YMCA for the presentation and said that Rye was looking forward to welcoming the Romanian gymnasts for a return visit.

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

Mayor Otis said that although this was not a public hearing, there were several citizens who wished to be heard on the general subject of the proposed land swap between American Yacht Club (AYC) and the Rye Town Dock. He said that the actual presentation by American Yacht Club was confined to a specific part of the issue and that he would entertain other comments before the presentation, but not afterwards.

Tom Tobin, 45 Bradford Avenue spoke in favor of the swap, saying that when his children were younger he would have loved to have had a place like the proposed new park to bring them because the dock is dangerous and underwater half the time. He urged everyone to work together to address the issues so the swap can be accomplished.

Edward Beane, Esq. from Keane & Beane, P.C., representing the members of Shenorock Shore Club (SSC), addressed the Council concerning some key documents which he submitted to the Clerk. He said the documents transcend the issues of the swap in that they deal with the issues of titles, zoning and ownership of Stuyvesant Avenue and that the real issue boils down to the need for three zoning changes (from R1 to Club, from R1 to Parkland, and the de-mapping of Stuyvesant Avenue). He said the statutes say that if a street has been used long enough for public purposes, it becomes a public street and that Stuyvesant Avenue has been used as a public street for over 150 years. He urged the various title companies to sit down and address all the title and ownership issues so well described by Monroe Mann's letter of 1/31/01 to the Town of Rye. He reiterated that any swap will entail many local, State and Federal reviews and approvals including a SEQRA review.

William Ball, former City Councilman and long-time Rye resident, reported that an official "Save the Rye Town Dock Association" has been formed so that all families can continue to enjoy the pleasures of having the dock. He said he had personally been involved with the efforts of AYC to obtain the dock in 1973. He said it failed because the Council at the time was sensitive to the legal issues - the same ones being raised today. He said that he feels that AYC's continuing desire to own the dock is testimony to its value. He hopes this Council will recognize the historic value of the dock and preserve it for the future.

John Carey, former Mayor and 45 year resident of Rye, said he loves the dock and inquired what law allows signs placing it off limits after dark to be put up.

Joe Burbeck, Rye resident and an AYC member, said he had hosted some of the open houses at the proposed new park. He said that adults sitting on the dock unanimously preferred the grassy area while teenagers prefer the rocks. He left the audience to decide which is the better land use for Rye.

David Schwartz-Leeper, 44 Allendale Drive, said he had decided, based on the merits of both submissions (AYC and SSC), that the land swap would be the best solution to a problem and urged the Council to act in favor of the proposal. He said it created better and more space and solved the problem of crowds congregating at the dock.

John Linder, 21 Green Street and a member of the "Committee to Save the Dock," said that Rye prides itself on its library, parks, and even a golf course, so why not save the dock for the benefit of everyone. He said that the Rye Marina no longer allows fishing and asked the Council not to give the dock away.

Robert Schubert, a "dock neighbor" from Forest Avenue, said everyone should try and address the "ulcer" that the dock has become and work together to make this tiny portion of Rye as good as the rest of the City.

Peter Stern, Stuyvesant Avenue, testified that, as a physician, safety is of paramount concern and he finds the dock totally unsafe at anytime. He also finds the traffic unbearable, especially during the summer and urged the Council to accept the offer of a new park which will provide a chance to view the sunset from a shady bench.

Andrew Ball, 37 year resident, said that after much deliberation he had decided to oppose the swap. He said that despite the many issues raised, the real issue is whether AYC should be encouraged to expand its exclusivity. He said the issue of tidiness is simply a question of who picks up the trash; that the safety issue can be addressed by the rehabilitation of the dock; and that the use of public space by undesirable elements is inevitable and will not be remedied by a move down the road. He said he felt that AYC's advertisement showing a perfect bucolic setting was somewhat misleading and urged that the dock be preserved so that those less affluent people who like to fish will have a place to go.

Steven McDonald said that his family had lived in Rye for 5 generations, each of which had learned to appreciate the dock, and urged that the dock be preserved so the next generation can learn to appreciate it as well.

Mayor Otis thanked everyone for their comments and said that the City is still in the information-gathering phase and is waiting for a compilation of documents and opinions from the various Boards and Commissions as well as a memorandum of law from the Corporation Counsel to guide the City as it goes forward. He said that the City had received a survey from AYC and he understands the Town of Rye is also weighing all the issues, doing a survey, and may be hiring their own consultant.

5. Presentation by the American Yacht Club

Mayor Otis said that the Council would now hear a presentation by the American Yacht Club (AYC) which describes the land swap proposal in more detail. He introduced William Null from Cuddy & Feder & Worby, counsel for AYC. Mr. Null said they hoped to leave the Council with a more detailed sense of the issues. He said that AYC unquestionably owns the Gibbons property and that, in his firm's opinion, the land is contiguous to the rest of the AYC property. He also said that there was no question that Stuyvesant Avenue is a public road. He said the issue tonight is how to balance the offer to increase valuable waterfront property with other issues, noting that, should the application go

forward, it would of course be subject to SEQRA. He pointed out that the negotiations for the dock in 1973 involved buying the dock rather than swapping land, and the city fathers at that time felt that waterfront access was more meaningful than money and that today's offer is something very different.

The first presenter was Gerhard Schwalbe from Divney, Tung, Schwalbe, LLP who described the benefits of the proposed new park versus the advantages of a reconstructed dock (as proposed by Shenorock Shore Club [SSC]). He said the park, with very few improvements needed, would be more diverse than the dock; that it would provide access to informal off-road parking for 10, rather than 6, cars; a turnaround on Stuyvesant Avenue; an opportunity to launch small boats; and more linear, continually useable waterfront footage (ca. 400' vs. 100'). He said while Shenorock's proposal would provide good fishing and benches, it is not as diverse; that permits would be required to provide launching of boats; and that if the pier were raised to above the high tide level, it would have to provide for the flow-through of water or it would create a barrier which could cause increased erosion of AYC land during storms.

Dr. Ronald Abrams, a professor at Long Island University and a consultant for Dru Associates, reported on recreational fishing. He said the topography (i.e., where you can cast) is about the same (4' average depth) at both the dock and the proposed park. The ecology is more diverse with a greater array of habitats in the park area. The current flow is similar at the end of the dock and on the park's promontory. The fish species are the same in both areas as is the access (which would be even better if a 60' wooden pier were constructed). In conclusion, he said the proposed park could provide similar, if not better fishing to more people at any given time.

Mr. Stan White discussed the structural issues presented by SSC saying he felt the cost would be closer to \$240,000 rather than \$120,000; that permits would not only be required but hard to get in a timely manner; and that pilings would be necessary in order not to negatively impact AYC. He said that, in his opinion, the proposal for a land swap is far superior to reconstruction of the dock.

Mr. Null concluded by thanking everyone for their consideration and said that he hoped it would be part of a continuing dialog. In response to a question from Councilman Stampleman as to whether AYC is proposing to install a dock at the new park, Mr. Null said it could be open for discussion. Councilman Stampleman also asked about AYC's plans to install a docking system on the south part of the Gibbons property. Mr. Null said that there are no plans at the moment, but that there is a possibility they could be revived in the future.

The following agenda item was taken out of order

13. Resolution honoring John P. Gregg, outgoing Chairman of the Rye Cable Television Committee, for his dedicated service to the City of Rye

Mayor Otis asked the audience to remain while the Council honored John P. Gregg, outgoing Chairman of the Rye Cable Television Committee (RCTV), and turned the podium over to Councilman Hutchings, Council liaison to RCTV. Councilman Hutchings said the Cable Committee had requested that a proclamation be prepared honoring Mr. Gregg for his outstanding and dedicated work. He said that because of Mr. Gregg, with his clear and precise agendas, Rye has the best public, government and school access in the county.

Councilman Hutchings made a motion, seconded by Councilman Stampleman and unanimously carried, to adopt the following proclamation:

***WHEREAS,** The City of Rye is a proud community which reflects upon its colonial origins even as it looks to the future with confidence and dignity; and*

***WHEREAS,** the strength of the City of Rye is derived from the commitment and intelligence of its dedicated citizenry; and*

***WHEREAS,** John Gregg is among its noble citizens, for he has devoted his caring and his acumen to expanding the voice of the people of the City of Rye through his service and leadership on the Rye City Cable Commission and its successor organization, the Rye City Cable Committee; and*

***WHEREAS,** John Gregg, after many years of devoted and exemplary service to the City of Rye, is leaving its environs in search of a simpler life in a bucolic setting;*

***NOW, THEREFORE BE IT RESOLVED,** the Rye City Council pauses in its deliberations to express its great appreciation and respect for the many contributions made by John Gregg to the City of Rye, and to wish him well in his retirement.*

Signed and sealed this 13th day of June, 2001.

SEAL

*Steven Otis
Mayor*

Mr. Gregg said that his work on the Cable Commission had not always been easy, but it was rewarding and he thanked the City Council and City Manager for their never failing support.

6. Proposed local law amending Chapter 76, Dogs, of the Code of the City of Rye by adding Section 76-6, Removal of feces left by dogs, and Section 76-7, Penalties for violation of Section 76-6

Mayor Otis said that Counsel had drafted an amendment to an existing law which would provide civil penalties for dog owners not removing feces left by their dogs. The public hearing having been completed at the Council Meeting of May 16, 2001, Councilwoman Larr made a motion, seconded by Councilman Stampleman and unanimously carried, to adopt the addition of sections 76-6 and 76-7 to the following local law:

**CITY OF RYE
LOCAL LAW 2-2001**

**A local law amending Chapter 76, Dogs,
of the Rye City Code by creating new
Section 76-6, Removal of feces left by dogs,
and Section 76-7, Penalties for Violation of
Section 76-6.**

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

Section 1. Chapter 76, Dogs, of the Rye City Code is hereby amended to read as follows:

§ 76-1. Running at large prohibited.

No person owning, harboring or having the custody and control of a dog shall permit such dog to be at large in the City of Rye, elsewhere than on the premises of the owner, except it be on the premises of another person with the knowledge and assent of such other person.

§ 76-2. When leash required.

The owner, harborer or person having the custody and control of a dog in the said City of Rye which is not on the premises of the owner or upon the premises of another person with the knowledge and assent of such person shall control and restrain such dog by a chain or leash not exceeding eight feet in length.

§ 76-3. Penalties for offenses.

Every person convicted for a violation of this chapter (except § 76-6) shall, for the first conviction thereof, be punished by a fine of not less than \$15 nor more than \$25; for a second such conviction within one year after the first conviction, such person shall be punished by a fine of not less than \$25 nor more than \$50 or by imprisonment for not more than five days; and upon a third or subsequent conviction within one year after the first conviction, such person shall be punished by a fine of not less than \$50 nor more than \$75 or by imprisonment for not more than 15 days.

§ 76-4. Redemption of dogs seized.

The owner of an unlicensed dog whose dog has been seized may redeem the dog, pursuant to the provisions of § 118 of the Agriculture and Markets Law, by producing to the person seizing the dog a license for the dog and by paying to the City Clerk the sum of \$25. The owner of a licensed dog whose dog has been seized may redeem the dog, pursuant to the provisions of § 118 of the Agriculture and Markets Law, by paying to the City Clerk the sum of \$10.

§ 76-5. Additional license fees.

In addition to the annual fee specified under § 110, Subdivision 1(a) and (b), of the Agriculture and Markets Law, there shall be an additional fee of \$10 for each dog license issued thereunder.

§ 76-6. Removal of feces left by dogs.

Any person who owns, harbors or has the custody of any dog shall remove promptly any feces left by such dog at any place within the City except upon private property with the consent of the owner of such property; provided, however, that this provision is not applicable to a blind person while actually using a guide dog licensed as such pursuant to the Agriculture and Markets Law. In no event shall any feces be deposited in storm or sanitary sewers or drains.

§ 76-7. Penalties for Violation of § 76-6.

Every person found to have violated § 76-6 of this chapter shall be liable for a civil penalty of not less than \$15 nor more than \$25; for a second such determination within one year after the date of the prior violation, such person shall be liable for civil penalty of not less than \$25 nor more than \$50; and upon a third or subsequent determination within one year after the date of the first violation, such person shall be punished by a penalty of not less than \$50 nor more than \$75.

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

ROLL CALL

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

NAYS:None

ABSENT: None

The resolution passed.

7. Resolution Authorizing New York Clean Water State Revolving Fund (CWSRF) Application and Project Financing and Loan Agreement in the amount of \$3.1M for the acquisition of properties known as Rye Nursery, Friends Meeting House, and 8 Belmont Avenue in the City of Rye

Mayor Otis said that a resolution authorizing an application for a \$3.1 million loan from the New York Clean Water State Revolving Fund (CWSRF) involved the acquisition of the properties known as Rye Nursery, Friends Meeting House, and the Anderson property at 8 Belmont Avenue on Beaver Swamp Brook. He said it is a project that has been in the works for 3 years; that he is very excited about the increasing interest from both the State and the County, and he is optimistic that both will be delivering their monetary support in the near future. He added, however, that this bridge loan, which is for three years at no interest, will be necessary now so that the City can go through with the purchase of these parcels of land prior to receipt of the anticipated State and County support. He said the CWSRF fund was developed for just this purpose and urged the Council to approve the resolution to make the application.

Councilman Hutchings said he is a great supporter of the land acquisition but is uncomfortable with the current state of the financing and the fact that the only assurance the City has at the moment is an oral commitment and a handshake. He said he was concerned that, should the funding not come through as anticipated and the City be left holding the bag, our AAA rating would be affected.

Councilman Stampleman said that the Council had proceeded with the land acquisition plan knowing that all parts of the financing might not be in place by the time of the closing and that the process should not be stopped in mid-stream. He said that he sees no risk with the bridge loan; that the application for the County funds is far along and that even if the State portion of the funding should not happen, the City's finances, according to the last audit, are in good shape with our cash and undesignated surplus positions extremely strong and able to handle any short fall, either in the short run or over the next three years. He said this is a great opportunity to provide more fields and the Council needs to proceed.

Councilwoman Larr, also on the Audit Committee with Councilman Stampleman, said she agreed with Councilman Hutchings, and asked the Mayor if he had anything in writing. The Mayor said he was confident the County portion would be received soon, perhaps even before the loan is received as the contracts are in the process of being written up. He said that the State officials are also working closely with the City and that it is possible that the City will get even more than the anticipated \$900,000. He reiterated that the loan is appropriate; that the City's bond rating will not be affected; and that, in the unlikely case no money comes through, the City has the money to pay for these properties without affecting taxes. He assured the Council that he would not be proceeding if he didn't feel the City was on sound footing.

Norm McMaster, Rye resident, addressed the Council by saying he has the same concerns as Councilman Hutchings and asked what conditions would be imposed on the use of the property if the City received State assistance. He also asked if the City would lose its leverage with the State if they obtain the bridge loan. The Mayor said that no restrictions have been imposed by the County and that if there were any strings attached by the State, the Council would have plenty of time to review them and decide what to do. He said this loan would have a positive effect on the future negotiations and that it was possible the Rye Nursery project may even be the basis for a pilot project.

George Pratt, member of the Finance Committee with extensive bond experience, congratulated the Council for their long-term vision and willingness to acquire the properties at the right price for the good of the community. He said he is sensitive to the Council's fiduciary responsibility, but he feels that this is a wise investment, especially with 2 out of 3 parcels able to be resold at any time, and that the Council should not let the fact that there is a temporary short fall cloud the long-term vision. He said that the intention of the State in creating the CWSRF fund was to help in just such situations.

Councilman Hutchings reiterated that he was in favor of the project and said he thought the Mayor had done a marvelous job, but that so much of the funding had been arranged personally he wondered what would happen if the process could not be completed by the Mayor because there is no documented commitment. He said that he was just raising a red flag as to the concern over losing the City's bond rating. Councilman McKean said he thought that concern should have been allayed after listening to Councilman Stampleman and asked what the alternatives to the bridge loan would be. Councilwoman Downing agreed that there was little choice but to go ahead, but suggested that the Council proceed more conservatively going forward by adding a contingency clause to the contracts for the Friend's Meeting House and Belmont Avenue properties, especially in light of the fact that the State has already turned the City down for another \$500,000 grant. She said it was important to be cautious and that receipt of the grant money was the important factor.

Mayor Otis said he would like to move ahead with the contracts for the other properties and suggested that the contingency be based on the arrival of the CWSRF loan. He feels the Council will know the schedule within several days. He said that even in the unlikely event the State only contributes \$300,000, the City would only be responsible for 42% of the total purchase price which was, from the start, the "worst case" scenario. He said he was confident that the State will do well by us, especially as

the funding is being considered in several areas. Corporation Counsel Neale suggested that the Council discuss contract contingencies in Executive Session. Councilwoman Cunningham said she saw no downside in voting for the resolution. Councilman Hutchings said he would vote for the resolution but urged the City to slow down. Councilwoman Downing urged the Council to remember that additional money would be necessary to make the Nursery property usable. Councilman Stampleman said this has always been assumed and Councilman McKean agreed but said that would happen over time as the Recreation Master Plan moves ahead.

Councilman McKean made a motion, seconded by Councilman Stampleman, to adopt the following:

**RESOLUTION AUTHORIZING CWSRF APPLICATION
AND PROJECT FINANCING AND LOAN AGREEMENT
New York Clean Water State Revolving Fund**

WHEREAS, The City of Rye herein called the "Borrower", after thorough consideration of the various aspects of the problems and study of available data, has hereby determined that the project generally described as: **PROPERTY ACQUISITION** and identified as CWSRF Project Numbers(s) C (to be determined) herein called the "Project", is desirable and in the public interest, and to that end it is necessary that action preliminary to the construction of said Project be taken immediately; and

WHEREAS, the United States, pursuant to the Federal Water Quality Act of 1987 (as such may be amended from time to time, the "Water Quality Act"), requires each State to establish a water pollution control revolving fund to be administered by an instrumentality of the state before the state may receive capitalization grants under the Water Quality Act; and

WHEREAS, the State of New York has, pursuant to the State Water Pollution Control Revolving Fund Act, Chapter 565 of the Laws of New York 1989, as amended (the "CWSRF Act") established in the custody of the New York State Environmental Facilities Corporation (the "Corporation") a water pollution control revolving fund (the "Fund") to be used for the purposes of the Water Quality Act; and

WHEREAS, the Corporation has been created, reconstituted and continued pursuant to the New York State Environmental Facilities Corporation Act, as amended being Chapter 744 of the Laws of 1970, as amended, and constituting Title 12 of Article 5 of the Public Authorities Law and Chapter 43-A of the Consolidated Laws of the State of New York, and constitutes a public benefit corporation under the laws of

the State of New York, being a body corporate and politic with full and lawful power and authority to provide financial assistance from the Fund; and

WHEREAS, the Corporation has the responsibility to administer the Fund and to provide financial assistance from the Fund to municipalities for eligible projects, as provided in the CWSRF Act; and

WHEREAS, the CWSRF Act authorizes the establishment of a program for financial assistance for planning, design and construction of eligible projects;

NOW, THEREFORE, BE IT RESOLVED BY The City of Rye as follows:

1. The filing of an application for CWSRF assistance in the form required by the Corporation in conformity with the CWSRF Act is hereby authorized, including all understandings and assurances contained in said application.
2. The following person is directed and authorized as the official representative of the Borrower to execute and deliver an application for CWSRF assistance, to execute and deliver the Project Financing and Loan Agreement and any other documents necessary to receive financial assistance from the Fund for the Project, to act in connection with the Project and to provide such additional information as may be required and to make such agreements on behalf of the Borrower as may be required: **JULIA D. NOVAK, CITY MANAGER**
3. The official designated above is authorized to make application for financial assistance under the CWSRF Program for either short-term or long-term financing or both.
4. One (1) certified copy of this Resolution shall be prepared and sent to the New York State Environmental Facilities Corporation, 50 Wolf Road, Room 508, Albany, New York 12205-2603.
5. This Resolution shall take effect immediately.

ROLL CALL

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

NAYS:None

ABSENT: None

The resolution passed.

8. Scheduling of a public hearing on the Special Use Permit Application by Sprint Spectrum, L.P., to locate a wireless telecommunications facility at 511 Theodore Fremd Avenue

Mayor Otis said that Sprint Spectrum, L.P. has an application to locate a wireless telecommunications facility at 511 Theodore Fremd Avenue which is the Con Edison Building. Councilman Stampleman said that all his questions had been answered by the City Manager and he was prepared to move in favor of scheduling the public hearing. Robert Gaudioso, from Synder & Snyder, o/b/o Sprint, said the cables would not be seen and the antenna would be located in the flagpole as part of a stealth design. The location meets the preferred site of being near the highway, as outlined in the City Code.

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

WHEREAS, a special permit application for permission to locate a telecommunications facility at 511 Theodore Fremd Avenue 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 application, 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 July 18, 2001 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 application.

Section 2. Such notice of public hearing shall be in substantially the following form:

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing on a special permit application by Sprint Spectrum, L.P. to locate a telecommunications facility at 511 Theodore Fremd Avenue

PLEASE TAKE NOTICE that, pursuant to Chapter 196 of the Code of the City of Rye (Wireless Telecommunications), the Rye City Council has scheduled a public hearing for Wednesday evening 8:00 P.M., July 18, 2001 in the Council Room of the Rye City Hall on the following matter:

Sprint Spectrum, LP, has applied for a special permit approval for the purpose of installing a wireless telecommunications facility on a property located at 511 Theodore

Fremd Avenue. The property is known on the Rye City Tax Map as Sheet 146.10, Block 1, Lot 70, and is located in the B-6 General Business District, a "C" City of Rye Parking District, and appears to be located in the "C" Flood Insurance Rate Zones. All information pertaining to this matter is available at the City Clerk's Office in Rye City Hall. Contact Susan Morison, City Clerk (967-7371) if you require assistance in reviewing this matter. Any person interested or affected will be given an opportunity to be heard.

June, 20, 2001

City Clerk

9. Consideration of application for a Special Use Permit by Sprint Spectrum, L.P., to co-locate a wireless telecommunications facility at 66 Milton Road

Mayor Otis asked the Council to consider the request from Sprint Spectrum, L.P. to co-locate a wireless telecommunications facility at 66 Milton Road. He said pursuant to Chapter 196 of the City Code, the City Council has the ability to waive the pre-application meeting and the option of retaining expert assistance for the review of a particular application. He said the City staff has recommended that a pre-application meeting be held and that the consultant selected should be Miller & Van Eaton, P.L.L.C. which has been unanimously identified by staff as having provided the most comprehensive response to a recent Request For Qualifications.

Councilman Stampleman said that he favored having a pre-application meeting but, although not wedded to the current consultant, would like to retain Monroe Telcom Associates as the consultant for this request because it is for an additional co-location on a site already reviewed by Mr. Monroe. He said he felt it was unfair to a new consultant to have to review cumulative RF wave analyses. He also questioned whether, as lawyers, Miller & Van Eaton would have the proper expertise. He requested written references on all of the potential new consultants now so the Council can be ready when the next non-co-located request arrives.

Councilwoman Cunningham said she was not opposed to changing but agreed the Council should not change now because of the co-location factor and that she, too, would like to see written recommendations from Miller & Van Eaton and CBG Communications, Inc. in Philadelphia. Councilman McKean agreed with the request for references and asked if there was a summary of oral recommendations. When the City Manager said there was not, he stated there should be summaries of verbal recommendations in writing. Mayor Otis said he thought it was important that we have our own experts and that the frequency issues be reviewed by an outside consultant. Mr. Gaudioso, Snyder & Snyder, said that his client, Sprint, did not care what the City decides as they have their own consultant and will assure the Council that the proposal will meet the requirements of the FCC criteria. In answer to a question from Councilwoman Cunningham, he said that the cumulative impact of the new installation at the site was no where near the frequency limit. He said he was familiar with Mr. Monroe, but not with Miller and Van Eaton or the other firms mentioned. The Mayor said that it was apparent that both

Councilmen McKean and Stampleman would like more information in anticipation of the next application.

City Manager Novak said that the purpose of the City's consultant is to advise and review the RF study, rather than conduct it, so there would be no down side to coming in on an existing project. She said that Miller & Van Eaton are lawyers but have a technical component, CompCom, Inc., a well qualified engineering consulting firm. She said Miller & Van Eaton come highly recommended and have an excellent national reputation. She said the staff did the research on other consultants at the request of the Council and everyone feels strongly that their recommendation of Miller & Van Eaton is the right one. She said she wished the Council had raised any questions they had earlier so that the process could proceed as quickly as possible. Councilmembers Downing, Hutchings, and Larr said that the Council should listen to the recommendation of the staff they all consider to be excellent. Councilman McKean said he was not elected to "rubber stamp" things either, and he was not sure they had gotten all the information they needed, but in light of the unanimous recommendation perhaps the new consultant should be given a try. Councilman Stampleman did not agree.

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

RESOLVED, that a pre-application meeting be held and that the City of Rye retain the services of Monroe Telecom Associates, Inc. as a consultant for the City.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, and Stampleman

NAYS: Councilmen Downing, Hutchings and Larr

ABSENT: None

ABSTAIN: Councilman McKean

The vote was a tie and the resolution did not pass.

Councilwoman Downing made a motion, seconded by Councilwoman Larr, to adopt a resolution to hold a pre-application meeting and retain the services of Miller & Van Eaton as a consultant for the City. Councilman Stampleman made a motion, seconded by Councilman McKean, to amend the motion as follows:

RESOLVED, that the City Manager obtain written references for Miller & Van Eaton prior to hiring the firm as a consultant.

ROLL CALL

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

NAYS:None

ABSENT: None

The amendment passed.

The Council voted on the following resolution as moved by Councilwoman Downing, seconded by Councilwoman Larr and as amended upon motion by Councilman Stampleman:

RESOLVED, that a pre-application meeting be held and that the City of Rye retain the services of Miller & Van Eaton as a consultant on a trial basis with the condition that the written recommendations obtained are satisfactory to the Council.

ROLL CALL

AYES: Downing, Hutchings, Larr, McKean and Stampleman

NAYS:Mayor Otis, Councilwoman Cunningham

ABSENT: None

The resolution passed.

10. Acceptance of a gift to the City of Rye in the amount of \$777.24 from E. John Rosenwald, Jr. for the purchase of trash receptacles and approval of an amendment to the 2001 General Fund budget in that amount

The Mayor said that Mr. John Rosenwald had offered to purchase two attractive and more suitable trashcans to replace the wire mesh containers at the Mill Pond. Councilman Hutchings made a motion, seconded by Councilwoman Downing, to adopt the following resolution:

WHEREAS, Rye Resident John Rosenwald is interested in providing a more aesthetically appealing trash receptacle for the area around the Mill Pond on Kirby Lane; and

WHEREAS, the Department of Public Works researched and identified a suitable receptacle to replace the open wire-mesh receptacles currently at this location; and

WHEREAS, the City of Rye is honored and appreciates Mr. Rosenwald's generosity and his interest in providing a more aesthetically pleasing receptacle at this picturesque location; now, therefore, be it

RESOLVED, that the City of Rye accepts a gift from E. John Rosenwald, Jr. in the amount of \$777.24 for the purchase of trash receptacles at this location; and be it further

RESOLVED, that the 2001 General Fund Budget be amended by increasing revenues and increasing appropriations in the amount of \$777.24 for this purpose.

ROLL CALL

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

NAYS:None

ABSENT: None

The resolution passed.

11. Designation of Nominating Committee for the Boat Basin elections and appointment of the Chairman

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

RESOLVED, that the City Council of the City of Rye hereby designates Alan Caminiti, Frank Mack, and Frank Mangiamele as the Rye Boat Basin Nominating Committee for the 2001 Rye Boat Basin Commission elections.

The appointment of a chairman was postponed until the next meeting.

12. Designation of Nominating Committee for the Rye Golf Club elections and appointment of the Chairman

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

RESOLVED, that the City Council of the City of Rye hereby designates Vincent Marconi, Ann Saracino, Joe Groglio, Sue Bisceglia and Virginia Garvin as the Rye Golf Club Nominating Committee for the 2001 Rye Golf Club Commission elections.

The appointment of a chairman was postponed until the next meeting.

13. Resolution honoring John P. Gregg, outgoing Chairman of the Rye Cable Television Committee, for his dedicated service to the City of Rye

This agenda item was moved to earlier in the meeting. (See page 5.)

14. Designation of the Chairman of the Rye Cable Television Committee, by the Mayor

The Mayor designated Mrs. Doris Blank as Chairman of the Rye Cable Television Committee to replace Mr. John P. Gregg who is retiring.

15. Consideration of the request of the Rye Merchants Association to hold its annual sidewalk sale from Thursday July 26, 2001 to Saturday, July 28, 2001

Councilman McKean made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the request of the Rye Merchants Association to hold a sidewalk sale from Thursday, July 26, 2001 to Saturday, July 28, 2001.

16. Consideration of the request from residents of Elmwood and Oakwood Avenues for controlled traffic on Saturday, July 21, 2001 for a *Block Party* on Elmwood Avenue, with a rain date of Sunday, July 22, 2001

Councilwoman Downing made a motion, seconded by Councilman Hutchings and unanimously carried, to approve a request from residents of Elmwood and Oakwood Avenues for controlled traffic on Saturday, July 21, 2001, with a rain date of Sunday, July 22, 2001, for a Block Party on Elmwood Avenue.

17. Consideration of request of Rye YMCA to use the Village Green on eight Tuesdays, June 19 and 26, July 3, 10, 14, and 31, and August 7 and 14, 2001, from 10:00 a.m. to 11:00 a.m. for their Summer Musical Tots Classes

Mayor Otis referred to a request from Scott Reynolds, Physical Education Director of the Rye YMCA, asking permission from the City Council to use the Village Green on Tuesdays from 10:00-11:00 A.M. for their Summer Musical Tots Classes because the usual space at the YMCA will be under construction.

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

RESOLVED, that the Rye YMCA is authorized to use the Village Green to conduct their Summer Musical Tots Classes from 10:00 - 11:00 A.M. on Tuesdays, starting on June 19 and ending on August 14, 2001.

18. Consideration of request of Helping Hands for the Hungry and Homeless, Inc. of Rye to use the Village Green on August 14, 2001, for their Empty School Bag Project

The Mayor asked the Council to consider an annual request from Helping Hands for the Hungry and Homeless, Inc. to use the Village Green for their annual Empty School Bag Project. He said that this program will not conflict with the Summer Musical Tots Class also being held on the Village Green.

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

RESOLVED, that Helping Hands for the Hungry and Homeless, Inc. of Rye be allowed to use the Village Green on August 14, 2001 from 8:30 AM to noon for their Empty School Bag Project.

19. Consideration of the request of the American Diabetes Association to use city streets for their annual America's Walk for Diabetes on Sunday, October 21, 2001

Councilwoman Larr made a motion, seconded by Councilwoman Cunningham and unanimously carried, to approve the request of the American Diabetes Association to use City streets for its annual America's Walk for Diabetes on Sunday, October 21, 2001.

20. Resolution authorizing an increase of \$165,000 for the Boston Post Road Retaining Wall Capital Project and a transfer of \$35,000 from the General Contingency Account to Capital Projects Fund for the Boston Post Road Retaining Wall Project

Mayor Otis asked the Council to consider the two options submitted to construct the Boston Post Road Retaining Wall saying that one was for the basic look (Base Bid) and one was for the more aesthetically pleasing, but more expensive version (Alternative B). He said the acceptance of the base bid on the bid tabulation would require an additional allocation of \$65,000 and that the acceptance of the Alternate B bid on the bid tabulation would require an additional allocation of \$200,000.

Councilman Hutchings said that as the wall was at the entrance to Rye and the Central Business District and across the street from the World War I Memorial, he thought having an aesthetically pleasing wall was well worth the allocation of the additional funds.

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

WHEREAS, the City desires to reconstruct the Boston Post Road retaining wall in an aesthetically pleasing manner; and

WHEREAS, the bids received for this project will require that an additional \$200,000 be appropriated in order to award the bid; now, therefore, be it

RESOLVED, that the City Comptroller be authorized to increase the capital project for the Boston Post Road Retaining Wall by \$200,000; and be it further

RESOLVED, that \$165,000 shall come from the General Fund Balance designated for Capital Projects, and \$35,000 be transferred from Contingency.

ROLL CALL

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

NAYS:None

ABSENT: None

The resolution passed.

21. Bids for Boston Post Road Retaining Wall

Mayor Otis asked the City Manager to discuss the bids for the Boston Post Road Retaining Wall. She said the following bids had been received and that the City Engineer has recommended the low bidder be awarded the contract in the base bid amount. She said that \$454,835 had already been appropriated in the Capital Improvement Plan and, with the additional \$200,000 just appropriated, the project is now fully funded. She recommended the Council accept the recommendations of the City Engineer to adopt the low bid for the Base Bid amount plus color staining (Alternate B). The Council questioned the size of the inspection charge, and requested that these costs be carefully monitored.

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

RESOLVED: that Contract #2001-09, "Boston Post Road Retaining Wall" be and is hereby awarded to ELQ Industries, Inc. for the Base Bid amount plus color staining of \$560,465 plus 5% contingency of \$28,000 plus Inspection costs of \$60,000 for a total of \$648,465.

ROLL CALL

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

NAYS:None

ABSENT: None

The resolution passed.

Mayor Otis said that when the project is started it would be nice to invite Representative Ron Tocci to see it as he was instrumental in obtaining some funding last year.

The bid tabulation is on pages 21 - 23.

The following bids were received:

**Boston Post Road Retaining Wall
Contract No. 2001-09**

NAME OF BIDDER			ELQ Industries, Inc.		Bilotta Construction Corp.		Tensco Construction Co.	
#	Items	Qty.	Unit	Total	Unit	Total	Unit	Total
2100-1	MOBILIZATION	Lump Sum	13,000.00	13,000.00	15,000.00	15,000.00	42,000.00	42,000.00
2100-2	SITE PREPARATION	Lump Sum	5,000.00	5,000.00	15,000.00	15,000.00	65,000.00	65,000.00
2100-3	SURVEY & STAKEOUT	Lump Sum	5,000.00	5,000.00	6,350.00	6,350.00	10,000.00	10,000.00
2100-4	MAINT. & PROT. OF TRFFC.	Lump Sum	32,000.00	32,000.00	10,000.00	10,000.00	15,000.00	15,000.00
2200-1	EARTH EXCAVATION	425 cu. yd.	30.00	12,750.00	30.00	12,750.00	49.00	20,825.00
2200-2	ROCK EXCAVATION	375 cu. yd.	110.00	41,250.00	180.00	67,500.00	175.00	65,625.00
2200-3	SELECT FILL	125 cu. yd.	35.00	4,375.00	40.00	5,000.00	88.00	11,000.00
2351-1	STEEL SLEEVES	3 ea.	1,550.00	4,650.00	3,500.00	10,500.00	3,250.00	9,750.00
2510-1	POURED CONCRETE RETAINING WALL	250 cu. yd.	564.00	141,000.00	750.00	187,500.00	715.00	178,750.00
2510-2	POURED CONCRETE FOOTING	250 cu. yd.	376.00	94,000.00	510.00	127,500.00	495.00	123,750.00
2510-3	UNDERDRAIN FILTER TYPE 1	325 cu. yd.	40.00	13,000.00	34.00	11,050.00	85.00	27,625.00
2510-4	CONCRETE SIDEWALK	1700 sq. ft.	5.00	8,500.00	10.00	17,000.00	4.50	7,650.00
2510-5	CONCRETE CURB	700 ln. ft.	15.00	10,500.00	24.00	16,800.00	21.00	14,700.00
2510-6	TYPE 1 SUBBASE	50 cu. yd.	38.00	1,900.00	35.00	1,750.00	75.00	3,750.00
2510-7	TYPE 4 BASE COURSE	130 tons	75.00	9,750.00	80.00	10,400.00	69.00	8,970.00
2510-8	TYPE 6F WEARING COURSE	55 tons	90.00	4,950.00	80.00	4,400.00	75.00	4,125.00
2710-1	NEW MANHOLE	1 ea.	2,000.00	2,000.00	1,400.00	1,400.00	1,750.00	1,750.00
2710-2	CATCH BASINS	4 ea.	1,800.00	7,200.00	1,800.00	7,200.00	1,750.00	7,000.00
2710-3	CRUSHED STONE	150 cu. yd.	31.00	4,650.00	35.00	5,250.00	59.00	8,850.00
2710-4	DRAIN INLETS	2 ea.	1,750.00	3,500.00	800.00	1,600.00	2,500.00	5,000.00
2710-5	6" DIA. PERFORATED PIPE	315 ln. ft.	14.00	4,410.00	10.00	3,150.00	15.00	4,725.00
2710-6	14" DIA. HDPE PIPE	355 ln. ft.	25.00	8,875.00	86.00	30,530.00	69.00	24,495.00
2910-1	TOPSOIL	20 cu. yd.	45.00	900.00	30.00	600.00	75.00	1,500.00

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2910-2	SEEDING	1000 sq. ft.	0.18	180.00	1.00	1,000.00	1.50	1,500.00
	Contractor's Total			433,340.00		569,230.00		663,340.00
	Engineer's Total			433,340.00		569,230.00		663,340.00
	Exceeds Low Bidder (#)			----		135,890.00		230,000.00
	Exceeds Low Bidder (%)			----		31.36%		53.08%
Contractor's Total With - WALL FINISHING Alternate A Integrally Dyed Concrete w/Form Liner				560,465.00		709,630.00		739,840.00
Contractor's Total With -WALL FINISHING Alternate B Form Liner w/Color Staining				560,465.00		709,630.00		823,090.00
Contractor's Total With -WALL FINISHING Alternate C Stone Veneer and Capstone				701,940.00		809,230.00		1,147,340.00

Bid Tab Continued

NAME OF BIDDER			Hudson Canyon Construction		N. Picco & Sons			
#	Items	Qty.	Unit	Total	Unit	Total	Unit	Total
2100-1	MOBILIZATION	Lump Sum	37,680.00	37,680.00	25,000.00	25,000.00		
2100-2	SITE PREPARATION	Lump Sum	8,160.00	8,160.00	12,000.00	12,000.00		
2100-3	SURVEY & STAKEOUT	Lump Sum	7,200.00	7,200.00	8,500.00	8,500.00		
2100-4	MAINT. & PROT. OF TRFFC.	Lump Sum	21,300.00	21,300.00	62,000.00	62,000.00		
2200-1	EARTH EXCAVATION	425 cu. yd.	83.00	35,275.00	40.00	17,000.00		
2200-2	ROCK EXCAVATION	375 cu. yd.	200.00	75,000.00	200.00	75,000.00		
2200-3	SELECT FILL	125 cu. yd.	16.50	2,062.50	80.00	10,000.00		
2351-1	STEEL SLEEVES	3 ea.	3,565.00	10,695.00	1,600.00	4,800.00		
2510-1	POURED CONCRETE RETAINING WALL	250 cu. yd.	852.00	213,000.00	850.00	212,500.00		
2510-2	POURED CONCRETE FOOTING	250 cu. yd.	540.00	135,000.00	700.00	175,000.00		
2510-3	UNDERDRAIN FILTER TYPE 1	325 cu. yd.	46.00	14,950.00	85.00	27,625.00		
2510-4	CONCRETE SIDEWALK	1700 sq. ft.	7.00	11,900.00	10.00	17,000.00		
2510-5	CONCRETE CURB	700 ln. ft.	25.40	17,780.00	30.00	21,000.00		
2510-6	TYPE 1 SUBBASE	50 cu. yd.	46.00	2,300.00	95.00	4,750.00		

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2510-7	TYPE 4 BASE COURSE	130 tons	195.00	25,350.00	80.00	10,400.00		
2510-8	TYPE 6F WEARING COURSE	55 tons	210.00	11,550.00	75.00	4,125.00		
2710-1	NEW MANHOLE	1 ea.	3,350.00	3,350.00	3,500.00	3,500.00		
2710-2	CATCH BASINS	4 ea.	3,000.00	12,000.00	3,000.00	12,000.00		
2710-3	CRUSHED STONE	150 cu. yd.	25.00	3,750.00	70.00	10,500.00		
2710-4	DRAIN INLETS	2 ea.	5,766.00	11,532.00	3,000.00	6,000.00		
2710-5	6" DIA. PERFORATED PIPE	315 ln. ft.	27.20	8,568.00	45.00	14,175.00		
2710-6	14" DIA. HDPE PIPE	355 ln. ft.	25.63	9,098.65	35.00	12,425.00		
2910-1	TOPSOIL	20 cu. yd.	57.00	1,140.00	100.00	2,000.00		
2910-2	SEEDING	1000 sq. ft.	0.25	250.00	2.00	2,000.00		
	Contractor's Total			678,711.15		749,300.00		
	Engineer's Total			678,891.15		749,300.00		
	Exceeds Low Bidder (#)			245,551.15		315,960.00		
	Exceeds Low Bidder (%)			56.66%		72.91%		
Contractor's Total With - WALL FINISHING Alternate A Integrally Dyed Concrete w/Form Liner				762,681.15		996,800.00		
Contractor's Total With -WALL FINISHING Alternate B Form Liner w/Color Staining				761,151.15		951,800.00		
Contractor's Total With -WALL FINISHING Alternate C Stone Veneer and Capstone				898,711.15		869,300.00		

22. Miscellaneous communications and reports

Councilwoman Cunningham mentioned that she had received a nice letter from Paul Richards thanking the Council on behalf of Restaurant Associates, Food Service providers at Whitby Castle, for the Historic Preservation Award. Councilwoman Larr mentioned a letter praising City Planner Christian Miller for his expertise and willingness to share his time.

23. Old Business

Councilman McKean mentioned that a request from Nextel to locate a telecommunications antenna on the top of Whitby Castle required some looking into and he suggested that they, in turn, look into finding a spot to co-locate.

Councilman Stampleman followed up on former Mayor Carey's inquiry about the legal basis for having the various signs now posted at the Rye Town Dock. Councilman McKean asked if there is a law in the City's code authorizing such signs. Corporation Counsel Neale said that the signs were placed on Town of Rye property at the request of the Town, as expressed by resolution adopted by the Rye Town Board, acting in accordance with their local laws and regulations. Mr. Neale said the process that resulted in the placement of those signs was initiated by representatives of the American Yacht Club who assured City officials that residents of Hen Island would not object. He said that the signs erected at the request of the Town were intended to assist the Rye Police by providing a basis for enforcement of reasonable regulations upon the use of the Rye Town Dock. Mr. Neale will follow up with Mr. Carey.

Councilwoman Cunningham responded to a memorandum from City Manager Novak which suggested a budget workshop during the summer by saying that there usually was no collective input from the Council prior to election day during an election year but that each person should take responsibility to give their individual input to the City Manager during the budgeting process.

24. New Business

Councilman McKean reported that those dining at Seaside Johnnie's are parking on the side streets rather than pay the \$3 beach parking fee charged by Rye Town Park and the neighbors wondered if something could be done about this. Mayor Otis said that residents are also complaining about the lack of street parking during summer for their guests, but in April there were complaints about beach goers parking on the streets. He said the City has the right to set up a residential permit parking system for the area and suggested the staff look into this. Councilman McKean agreed. Manager

Novak said that the last time this issue came up the request was withdrawn when the residents were reminded that the State law requires that 20% of the parking permits issued must be to non-residents.

Mayor Otis said that the Ceres Garden Club will be celebrating their 50th Anniversary this year and asked the Council to consider honoring them. Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the following proclamation:

***WHEREAS,** The Ceres Garden Club of Rye was founded in 1951 as an outgrowth of the Garden Section of the Rye Woman's Club and a year later became affiliated with the Federated Garden Clubs of New York State and its parent, the National Council of State Garden Clubs, Inc.; and*

***WHEREAS,** members of the Ceres Garden Club are encouraged to express their love for flowers and plants through the art of arranging and to increase their knowledge of horticulture; and*

***WHEREAS,** these purposes over the years have broadened as the many dedicated club members have devoted their time and efforts to provide valuable services to the Rye community and have worked to increase concern for the preservation of our environment; and*

***WHEREAS,** since 1963, the Ceres Garden Club has provided the City of Rye with the beautiful flowering baskets hung on the lamp posts throughout the Central Business District; and*

***WHEREAS,** the contributions of the Ceres Garden Club to the City of Rye include the planting of trees, the donation of benches, landscaping of community landmarks including the Rye Free Reading Room and the Rye Historical Society; and*

***WHEREAS,** the annual sale of greens and Christmas wreaths on the Square House porch has become a community tradition, enabling the club to support its many civic and community activities;*

***NOW, THEREFORE BE IT RESOLVED,** the Rye City Council pauses in its deliberations to congratulate the Ceres Garden Club on its Fiftieth Anniversary and to express appreciation for the many contributions made by the club and its loyal members which enhance the beauty of the City of Rye and so many of its landmarks.*

Signed and sealed this 13th day of June, 2001.

SEAL

_____ *Steven Otis, Mayor*

25. Draft unapproved minutes of the regular meeting of the City Council held May 16, 2001

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 on May 16, 2001 as amended.

Councilman Stampleman said that contrary to past practice of releasing the minutes of summer meetings the Friday prior to the next meeting, he would like the minutes distributed with the packet distributed the second Friday following the meeting, as per the agreement reached during the April 4, 2001 Council Meeting.

Councilwoman Cunningham made a motion, seconded by Councilman McKean and unanimously carried, to adjourn to executive session at 11:26 P.M. to discuss real estate acquisitions.

The Council reconvened at 12:40 A.M.

26. Adjournment

There being no further business to discuss, Councilman McKean made a motion, seconded by Councilman Stampleman and unanimously carried, to adjourn the meeting at 12:41 A.M.

Respectfully submitted,

Susan A. Morison
City Clerk