

*APPROVED MINUTES* of the Special Meeting of  
the City Council of the City of Rye held in City Hall on  
June 27, 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. Discussion regarding the status of the planning process for the Rye Recreation Master Plan including next steps, schedule, and other issues

Mayor Otis began the discussion by introducing Steven Meyers, Chairman of the Rye Recreation Commission, who recognized the other Commission members present and reviewed the three major elements of the Rye Recreation Master Plan as presented in April, 2000. He said the plan recommends 1) much needed new playing fields, 2) an expanded Damiano Center, and 3) the creation of a scenic trailway throughout Rye. He reported that, since the plan was presented, steps have been taken by the Commission on three fronts:

- 1) Public outreach. Surveys were sent out to all Rye households with a great 20% return; focus groups have met; a public forum was held in November, 2000; presentations have been made to many educational and civic groups; appearances made on "Eye on Rye"; tours given of the facility; and press coverage received.

Most importantly, a follow-up letter outlining the plan was published in the Rye Recreation Department's newsletter which was sent out to all Rye households.

- 2) Gathering of technical data. Three subcommittees have reviewed the following:
  - a) Damiano Center. This committee and Councilman Stampleman, as liaison, have worked with architect Rex Gedney to develop preliminary plan schematics which have been reviewed favorably by the Senior Citizens Group.
  - b) Playing fields. Test borings have been conducted at the Disbrow Park site ("Disbrow") which will be used as the architectural landscape plan is developed. Meetings have been held with other municipalities also planning fields, and the committee has worked with the staff to develop a Request for Proposal (RFP) to plan fields at both Disbrow and at the Rye Nursery site ("Nursery").
  - c) Trailways. Tom Fendler has been working with staff to develop a plan and plans are being made to apply for a Federal T21 Program grant for this portion of the project.
  
- 3) Timetable. A timetable has been worked out with staff to lead up to a bond referendum, possibly in March, which will enable the plan to be accomplished.

Mr. Meyers said the Commission has been involved in all steps and will continue to be so in the future. He concluded by thanking the Mayor and staff for their support and said the commission looks forward to moving this plan over the goal line.

Mayor Otis thanked the Commission for its hard work and said it was time to discuss the timetable for the referendum; the next steps to take before going to the public; and the impact on the community as the process goes forward.

- Timetable: He said that the recommendation by the Recreation Department was to hold a referendum in March, 2002. He reported that the Board of Education is contemplating a referendum to rebuild Milton School in October and the City would not want to hold two referendums at the same time. He reported that it is his understanding that no one is sure whether the school referendum will be able to take place in October so the City should explore moving the Recreation referendum up if the school's referendum is moved back. He said before doing so the Council would need to hear from the School Board and the Recreation Commission and would need to consult with the City's Finance Department.

Councilwoman Cunningham said she applauds the Commission's efforts to move ahead but she has concerns about the timing, and wants to make sure the March date is really a proposed date and not considered fixed. She said there are a lot of things in the community which need to be funded and she wants to be sure the Council is on the same page with the everyone else. Her concerns are to make sure the taxpayers are not faced with two bond

referendums at once and she urged that the Council and Commission stay in close contact. Councilman Stampleman said that having the date of the referendum flexible and able to move up if necessary is not only to be polite, but that the City will have more chance of having the referendum be successful if it is not being held at the same time as another.

- Next Steps: Mr. Meyers said that they need to work up a concrete plan and that the next steps should be to work up cost estimates. Councilman Hutchings said that having the actual costs were important and urged the Recreation Commission and staff to move forward. Mr. Meyers said that in all three areas these costs should be able to be done fairly quickly. The preliminary plans for Damiano are completed; the trailways can be done by staff; and the RFP to secure a Landscape Architect to develop plans and specifications for the development of athletic fields is ready.

Councilman Stampleman suggested going ahead with the RFP, but that it be amended so that design plans, specifications and costs for Disbrow are requested but that only construction cost estimates are requested for the Nursery. He also suggested that public outreach to the neighbors be explicitly "considered" in the scope of service for the RFP. Mr. Meyers said it was more cost efficient to do it all at once and the Mayor said that the neighbors would definitely be involved. Councilman McKean suggested that the response separate the plan costs and the construction costs so it is broken down and can be authorized as needed. The Mayor said that for the referendum the Council will need to know what it will cost to build a field at the nursery (including demolition of existing buildings) and that estimates on the wetlands portion of the plan should not be included in this response because the overall plan for the property is much more involved. Bill Rodriguez, Superintendent of Recreation, said they were interested in getting specific bids for both sites because they would like to move ahead with this portion of the plan regardless of the referendum.

City Manager Novak said the staff will proceed with the cost-gathering processes, following the timetable presented by the Recreation Department. She said the next step would be to appropriate the funds to hire the Landscape Architect selected as a result of the RFP process at the July 18th City Council Meeting, when the Council will also initiate the environmental review process.

#### 4. Discussion of Land Acquisition projects

Mayor Otis presented an up-date on the plans to purchase the Rye Nursery property, part of the \$3.1 million land acquisition plan which the Council has been working on for three years. He said that the cost of the Nursery property is \$2.3 million and that the City has been working with the County to obtain assistance under their Open Space Acquisition Program which has been established to help communities purchase land they might not otherwise be able to afford. He reported he had just been notified that the County will commit \$1,775,000 to the project (\$1.3 million directly related to the cost of purchase of the Nursery and an additional \$475,000 equivalent to the cost of providing intersection

upgrades on two county roads [Midland Avenue and Wappanocca Avenue] which the County will turn over to the City as part of the agreement).

He told the Council that it is his understanding that because the County is providing the money by issuing a bond they will be "tenants in common", but that this will be a City of Rye park and the City will control the park. He said that control of the park is the key issue. He added that because the County will be supplying some of the money, the City will not be able to bar anyone from the park, but it will be up to the City to schedule the use. The Mayor said that it was time to have a reasonable and calm discussion, but it was also necessary to draft an Intermunicipal Agreement (IMA) between the City and County spelling out the details of the agreement in the next two weeks so that it can be submitted to the County Board of Legislators at their next meeting. He said all Council members are committed to the purchasing of the property to protect it from having a large building or a cluster of "McMansions" on the site and they are working out the best way to do this. He also said that on the state level, he had been told by the President of the Environmental Facilities Corporation that our bridge loan had been qualified and the money should be available in the next few months.

Councilwoman Downing agreed that everyone on the Council wants the property for much needed additional passive and recreational space, but not everyone agrees that it should be in partnership with the County. She said that the information received from the County regarding the nature of its assistance came as a surprise; that use of the phrase "tenants in common", with the County owning 77% of the property, is not only counter to discussions the Council has had but would compromise the autonomy of the City which historically (on such issues as the Golf Club and the Boston Post Road) has chosen to remain completely autonomous. She said that linking the transfer of the streets to the land purchase also came as a surprise and is a very real and unexpected "string." She said that there was not a great history of County cooperation, so entering into an agreement as tenants in common is disturbing. She also said it appears the City is assuming all responsibility for the streets but will have to check with the County if any changes are to be made. She stated there was no time to review the documents and more time was needed to discuss the issues.

Councilman Hutchings said he agreed with Councilwoman Downing; that he was very concerned with the "strings" he sees attached; and was shocked to learn that the County's contribution was in the form of a bond rather than a grant asking for assistance in buying land for playing fields. He said that Rye had, as far back as building the high school, historically turned down assistance from the State and County because it was preferable to keep the control and power by doing projects ourselves rather than agree to unacceptable conditions. Councilwoman Larr said that there was a concern that the offer from the County specifies the land be a public park which would be open to all County residents. She said she is concerned about what "strings" are attached and inquired what would happen if the County decided they would like a playground on the park rather than a ball field. She wanted to know if such an arrangement was binding in perpetuity or if it can be changed.

Corporation Counsel Henry Neale explained the legal concept of "tenants in common". He said it describes the rights and obligations existing when two or more persons or corporations own a single parcel of land together; the owners each have a proportionate share of the income and expenses

attributable to the land but none of them may assert exclusive control over any part of the land, even a part that has a size which corresponds to the owner's proportionate interest. He explained that each of the owners has an undivided interest in the whole property. He said the documents prepared by the County being discussed consist of a draft proposed report by a Committee of the County Board of Legislators and a proposed Act that perhaps may be adopted by the County Board. He said the proposed Act is the important document because it is essentially the authorization by the County Board allowing the County to make an Intermunicipal Agreement (IMA) with the City related to the Rye Nursery Property. Apparently the Agreement (IMA) has not yet been prepared. He recommended that any decision by the City Council be deferred until the proposed Agreement has been prepared and reviewed carefully.

Mayor Otis responded to the foregoing comments by saying that inclusion of the streets was detailed in a memo to the Council on March 19th which said "additional funding from Westchester County - In addition to the above \$750,000 which is a fair estimate given our discussions, there is room to raise their stake. We have a number of issues on the table. They have indicated that they do not want to participate in the Anderson property but would participate more fully in the other two. We have also discussed Rye taking back Midland Ave. and Wappanacca Ave. in exchange for additional funds towards traffic lights and our land acquisition package." He also noted that on May 16th it had been noted that the City would not be able to bar anyone from the park, but that this was the only restriction. He said that control is the main issue and that the terms of control will be worked out in the IMA. He said the County doesn't want to be involved in how the park is run and the issue of ownership (i.e., being tenants in common) is simply because they are bonding the project rather than granting money. He added that once we own the streets any decisions regarding them are Rye's to make and the County need only be copied about the plans. He reiterated that the key to the plan lies in the IMA document and reminded everyone that the first reason for purchasing the property was not for the playground, but to be able to restore the wetlands. He said a park is a public place; that he does not see strings attached to the offer; that we need the park land; he is confident that the City can work it out with the County to achieve an agreement which will be good for Rye; and he is sure the County will be cooperative, and if not, the City can turn down the offer.

Councilman Stampleman agreed with the Mayor and, in response to Councilman Hutchings, mentioned that Rye had used the Army Corps of Engineers to dredge but he agreed that the City had not accepted other outside offers because of the conditions imposed. He said that we don't know the conditions of this offer until the IMA is drafted. Councilwoman Cunningham said she, too, was concerned about the "tenants in common" term, but felt it would not be so much of an issue if the future responsibilities can be adequately spelled out in the IMA. She said the important issue was who will control the park; that she felt the County was anxious to help Rye reclaim the wetlands on the property; that this was the kind of support the city had been looking for; and if they can work out the details in the agreement she felt the City should accept the offer. Councilman McKean said he felt that the documents before the Council already indicated that Rye will be in control; that grants would be the same as bonding; and for him, there were no surprises. He added that he felt it was important to move forward quickly.

The Mayor concluded the Council's discussion by reiterating that this is the beginning of the process; that he is confident they will be able to work out a good agreement which will allow the City to maintain its autonomy; and that, if not, the City can turn it down. Councilwoman Downing suggested that going forward it might be helpful to involve the City Manager in future negotiations by taking her with him to various meetings. The Mayor said she has been involved and had weighed in with her opinions and that staff will be heavily involved during the creation of the IMA. Councilman Stampleman said he felt the responsibility to set policy lies with the Council and he would not be in favor of changing the process of having Council members speak directly with other elected officials. Councilman Hutchings said people should be able to decide what should be done at public hearing. The Mayor agreed that the Council should hear from the residents and opened the discussions to those in the audience wishing to be heard.

- John Nemsick, 39 Elmwood Avenue, asked how a County resident would go about getting use of the playing fields. The Mayor said they would do as they do now and go to the Recreation Department and ask. He said that the County has not told the City what they should do, but that customarily preference is given to Rye Residents. Mr. Nemsick also asked at what point would the County will be able to give us money and own less of the property. The Mayor said that the County's preference is to bond so if we don't want them to bond the offer will be withdrawn. He pointed out that there are lots of areas (Edith Read Sanctuary, Playland, the Marshlands) within the boundaries of Rye which are owned and operated by the County. Councilman McKean mentioned the Rye Town Park agreement where Rye has only two votes out of six on the Commission.
- The Clerk read a letter from Paul Benowitz, long-time Rye resident, who said that the proposal to acquire the Nursery property is one of the most positive, forward thinking actions taken by the City in recent memory; that the Nursery property has historically acted as a flood absorbent; that it saves the property from development which would have devastating effects on flooding and sewage; and that the idea of envisioning hoards of people "outside of Rye" on the playing field is preposterous.
- Robert Marrow, 6 Rye Road, asked if the City bought the property without County assistance would the Council bar county users. The answer from the Council was that it would not.
- Mary Ann Gontin, 8 Elmwood Avenue, suggested that the Council find out if there are other agreements between the County and municipalities which include the "tenants in common" clause and urged the Council to check out their experiences. Councilwoman Cunningham said she thought this was an excellent idea and that Glenwood Lake had a similar agreement.
- Richard Runes, Kirby Lane North, said he was concerned that the issue was being politicized and that in his opinion the solution will be achieved by having the lawyers (the City's and the County's) negotiate a good agreement. He urged everyone to be less passionate and more businesslike.

- Kathy Delguersio, Milton Road, said it was clear that you don't get anything for nothing and asked why the Council would give away the property. She also asked them to consider the potential of increased crime and traffic which would occur if a park were co-owned with the County.
- Michael Klemens, 9 Charlotte Street, said that Rye had been trying to protect this land for 20 years. He commended the Council for their efforts, but said he was concerned about control by the county over the restoration of the wetlands and urged the Council to make sure the IMA includes rules for the wetlands so that there is programmatic flexibility and independence for all parts of the property. He also asked if having County and State funds makes it harder, down the road, to seek funding from private grants.
- Joseph Murphy, Franklin Avenue, said he had faith in the Council and urged the Council not to lose their vision which is really common sense.
- Doug Carey, 131 Purchase Street and a member of the Rye Recreation Commission, said that they had been able to do wonderful things at Gagliardo Park with two County grants and had had a very positive experience working with the County.
- George Ilse, Rye resident and Chair of the Westchester County Parks Board, agreed that the City needs fields and was an advocate of acquiring park land, but he had seen many agreements and they all (whether for bonds or for grants, from the State or County) involve many conditions. He urged the Council to be very careful and examine the agreement closely as it seems to him the County is not giving Rye control and responsibility but is telling Rye what it must do. The Mayor reiterated that if the IMA did not give the City autonomy he would not recommend accepting the offer.

Mr. Ilse also asked why there was such a rush to get this issue settled. The Mayor said the City has a contract to buy the property, and while the City could use its own money to close, it would be nice to have other money available at the time of the closing. He said that the City would be receiving a bridge loan in October and they could defer settlement of this offer, but he prefers to move the process along. He said that the County Board of Legislators would be meeting on July 23<sup>rd</sup> and if they had the completed IMA by then they could make the decision to move ahead. Councilwoman Larr asked if the County had the same waiting period after approving a bond as the City. The Mayor said it was his understanding that once the bond is agreed upon, the actual money can be available almost immediately.

- Don Dolce, Wappanocca Avenue, welcomed having the City take over this road and stated the area residents would love to see a park at the empty gas stations end of the street. He said there are many who would contribute to the creation of such a park by buying that part of the street from the City, and he looks forward to seeing progress on this matter.

Councilwoman Larr said that there should be no question that everyone on the Council is in favor of the purchase of the property; and that all of them serve on the Council having run on a platform to "Keep Rye Rye"; and that they are all trying to do what they feel is best for all the citizens of Rye. Councilman Hutchings said that the discussion was not meant to be partisan, but was about fiduciary responsibility.

The Mayor thanked everyone for their input and said that a special meeting would need to be held in two weeks so that the draft of the Intermunicipal Agreement could be reviewed. The Mayor made a motion, seconded by Councilman McKean and unanimously carried, to hold a special meeting during the early part of the week of July 9<sup>th</sup>, depending upon best attendance and the availability of RCTV coverage.

5. Designation of the Chairman of the Nominating Committee for the Boat Basin elections

Mayor Otis designated Mr. Frank Mack as chairman of the Nominating Committee for the Boat Basin elections.

6. Designation of the Chairman of the Nominating Committee for the Rye Golf Club elections

The Mayor designated Mr. Vincent Marconi as chairman of the Nominating Committee for the Rye Golf Club elections.

7. Appointment to the Conservation Commission/Advisory Council for a three-year term

Councilman Stampleman made a motion, seconded by Councilwoman Cunningham and unanimously carried, to appoint James McGee to the Conservation Commission/Advisory Council for a three-year term.

8. Consideration of request from residents of Loewen/Barbara Courts for controlled traffic on Saturday, July 14, 2001 for a Block Party on Loewen/Barbara Courts

Councilman Stampleman made a motion, seconded by Councilman McKean and unanimously carried, to approve a request from residents of Loewen/Barbara Courts for controlled traffic on Saturday afternoon, July 14, 2001 for a Block Party on Loewen/Barbara Courts.

Councilman McKean asked if Miller & Van Eaton, P.L.L.C., proposed consultants for a telecommunications proposal from Sprint Spectrum, L.P. had ever done business in New York State. The City Manager said she would look into it.

There being no further business to discuss, Councilwoman Cunningham made a motion, seconded by Councilman McKean and unanimously carried, to adjourn to executive session at 10:35 P.M. to discuss a personnel matter.

The Council reconvened at 11:35 P.M.

9. 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 11:36 P.M.

Respectfully submitted,

Susan A. Morison  
City Clerk