

APPROVED MINUTES of the Regular Meeting of
the City Council of the City of Rye held in City Hall on
August 7, 2001 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
CAROLYN CUNNINGHAM
ROBERTA DOWNING
ROSAMOND LARR
DOUGLAS MCKEAN
ARTHUR STAMPLEMAN
Councilmen

ABSENT:

ROBERT H. HUTCHINGS

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 of the status of the Rye Nursery acquisition

Mayor Otis asked the Corporation Counsel, Henry Neale, to report on his discussions with John C. Polera, Attorney for Tipo of Westchester, Inc., owners of Rye Nursery, concerning the adjustments to the contract suggested because the closing on the property has been postponed. Mr. Neale said the closing, originally scheduled for June 29, 2001, had already been postponed once (which is all the City is entitled to) to August 1, 2001 and that the Nursery is incurring additional costs such as mortgage payments, insurance costs and property taxes. He said the Nursery could force the City to close now, as it has signed an unconditional contract, but that they are willing to postpone the closing for 45 days provided the City 1) release the down payment; 2) the taxes be assumed by the City as of July 31, 2001, regardless of the actual closing date; and 3) the City pay interest on the full purchase price of \$2.3 million at the annualized rate of 10% per day. He said the total cost to the City will be \$19,250. The Mayor said Mr. Polera was both understanding and agreeable.

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

RESOLVED, the City Council authorizes the City Manager to agree to the following adjustments with Tipo of Westchester, Inc., owners of Rye Nursery, based upon the delay in the closing on the property:

(1) The 10% down payment previously paid by the City but held by the seller's attorney in escrow will be released to the sellers immediately. In the event the sale is not completed because of failure by the sellers to perform according to the contract, the City can make a claim upon them for return of the down payment.

(2) The closing adjustments anticipated by the contract will be computed as of midnight July 31st regardless of when closing actually occurs. Those adjustments are principally real property taxes and provides a savings for the sellers at no extra cost to the City because the City remains obligated for school and county taxes anyway, at least during the first year.

(3) The City will make an additional payment to the sellers attributable to interest on the purchase price at the annual rate of 10%. Based on preliminary calculations, the cost to the City for the month of August would be \$19,250. The actual calculation will be on a daily basis so if the closing were to occur in the middle of the month the amount estimated would be decreased by half.

(4) This agreement will remain in effect for 45 days.

ROLL CALL

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

NAYS:None

ABSENT: Councilman Hutchings

The resolution passed.

Councilwoman Larr asked what is planned at the end of 45 days and urged that if matters are still unresolved with the County that the City go ahead and buy the property at that time. Councilman Stampleman reiterated that the Mayor has been working on acquiring the property for over three years and that no one wants to see the sale fall through. Mayor Otis said he has heard that positive discussions are taking place on the County level and he is hopeful the matter will be resolved at the August 20th meeting of the County Board of Legislators so the City will be able to close immediately after August 20th.

Mayor Otis made a motion, seconded by Councilman Stampleman and unanimously carried, to adjourn to Executive Session at 8:15 P.M. to discuss a contractual matter.

The Council reconvened at 9:10.

4. Adjournment

There being no further business to discuss, Councilman Stampleman made a motion, seconded by Councilwoman Downing and unanimously carried, to adjourn the meeting at 9:11 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk