

***APPROVED MINUTES*** of the Regular Meeting  
of the City Council of the City of Rye held in City Hall on  
September 5, 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. Residents may be heard who have matters to discuss that do not appear on the agenda

There were no residents who wished to be heard.

4. Public hearing on proposed local law amending Article 21, Financial Procedures, of the Charter of the City of Rye by modifying Paragraph D of Section 21-9, Bond resolutions

Mayor Otis opened the public hearing and asked City Manager Novak if she had any comments on the amendment. She explained that the City Charter outlines the conditions under which the City Council can issue bonds. Some bonds require voter approval, however, there are a series of exceptions for bonds that can be issued without having to go through the different limitations that are placed upon our own abilities through the Charter. The proposed amendment to the Charter adds an

exception which allows the City to take advantage of the opportunity for funding available to the City through the Environmental Facilities Corporation (EFC) which was

established by the state to make loans to municipalities for projects that have a positive effect on the environment. The amendment provides for a specific type of borrowing of which the City would like to avail itself. This exception would simply preserve the option for the City to proceed with a previously authorized application to borrow \$3.1M from the EFC for the Land Acquisition Project.

Mayor Otis said that the language used in the proposed local law was drafted by the City's outside bond counsel; it was done to facilitate borrowing the council has already voted to pursue; and that this change puts the City back on track in terms of liquidity by the end of October. The application is on the October agenda of the EFC Board meeting to finalize the no interest bridge loan which would be available to us for a period of 20 months to 3 years.

Councilwoman Downing said she read that the EFC is running out of funds, and although she supports this change in the local law, it may not be realistic to think that the EFC has adequate funding to support the City's grant at this point. It may not be a revenue stream that the City will be able to use. Councilwoman Larr said Mr. Kelly, president of the EFC, stated in his letter which was sent to all municipalities, that at this time there are no funds available; looking forward into the 2001-2002 budget, things are looking flat and there are no guarantees. Councilman Hutchings said that this is an option the City couldn't afford not to support because we have no idea whether or not it will be necessary to go to the EFC to acquire a loan. If the City did not apply it would not get it. It is important to be in the position to pursue it, if necessary.

In order to clarify Mr. Kelly's letter, Councilwoman Cunningham added that given the current state of the New York State budget and depending upon how they resolve it, this may or may not be an issue. The budget has not been finalized, and the legislature has enacted a baseline budget that undermines existing state programs, but the Governor has proposed corrective legislation. The lack of sufficient state appropriations may preclude the EFC from funding all projects on their Intended Use Plan and this could prevent the EFC from funding this project. Mayor Otis said that he spoke with Mr. Kelly for a clarification of his letter and Mr. Kelly recommended that the City proceed and pass the Charter provision amendment; that the letter was sent to the municipalities prior to the beginning of negotiations in order to put them on alert as to the status of the state budget; but that negotiations are taking place now between the Governor and the legislative leaders.

There being no further comments, the Mayor closed the public hearing.

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

**CITY OF RYE  
LOCAL LAW 3-2001**

**A local law amending Article 21, Financial Procedures,  
of the Charter of the City of Rye modifying Paragraph D  
of Section C21-9, Bond Resolutions**

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

**Section 1. Paragraph D of Section C21-9 of the Charter of the City of Rye is hereby amended to read as follows:**

D. The provisions of this section shall not apply to bond resolutions authorizing the issuance of bonds for the payment of judgments, or compromised or settled claims against the city, or awards or sums payable by the city pursuant to a determination by a court, or an officer, body or agency in an administrative or quasi-judicial capacity or authorizing the issuance of obligations to be sold to the New York State Environmental Facilities Corporation or any successor thereto.

**Section 2. This local law is adopted subject to referendum on petition as provided in Section 24 of the Municipal Home Rule Law of the State of New York.**

ROLL CALL

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

NAYS:None

ABSENT: None

The motion carried.

5. Discussion of financing options for the acquisition of the Rye Nursery property

City Manager Novak stated that she was seeking direction from the Council should the funding from the County not be available. She stated she had prepared a variety of options should this happen such as: using our own liquidity which she does not recommend; negotiating with the seller of the Rye Nursery in terms of another delay in closing; or having a referendum.

Mayor Otis said that the option he would like to seek is to have the County Board of Legislators approve the IMA agreement (purchase of the Rye Nursery Property for park use) at their meeting on September 10, 2001. There were five requests that the Council ask the County to include in the IMA; four requests for changes in language which were agreed upon right away and now the County has agreed to the fifth change, which was the inclusion of a reciprocal material default provision and a provision that would allow the City, in case of default by either party, to have the option to buy out the County's interest; terminate the IMA and gain full ownership by paying back the County. The County's attorney stated that material default provision and the option to buy out the County's share of the property if they default could be included in the deed to the property. Mayor Otis feels the County money is forthcoming if the City Council can agree upon the five changes in the IMA.

Councilman Hutchings stated, as he has in the past, that he continues to be worried about the sovereignty issue regarding the property; the terms of the buyback of the property should the County default (County pays no interest), the affordable housing commitment the County is seeking from Rye; and the possibility that the money from the Environmental Facilities Corporation may not be available. Councilman Hutchings recommended that the City withdraw from both the County and State and finance the purchase of the Rye Nursery through its own resources.

Councilwoman Cunningham urged the Council to come to an agreement as the County money may still be available. She said that outside funding for this property is necessary so that the burden of the cost of the purchase does not fall on the taxpayers. There are other projects the City must fund, so the City should take advantage of outside funding when possible. She said she feels that the IMA gives Rye legal control over this property regarding design, development, scheduling and maintenance.

Councilwoman Larr stated she supports the acquisition of the Rye Nursery, but feels the people of Rye should decide upon the funding through a referendum. She said that Section 6.4 of the IMA is not a buyout clause at Rye's option, but a default buyout clause contingent upon the County's defaulting. If the County defaults, it will have 90 days to cure the problem and still own the land. She continues to find the agreement unsatisfactory, and feels that City of Rye should buy the land with its own funds.

Councilman McKean said that it would take time to go to a referendum, and meanwhile monthly penalties are accruing at \$19,000 per month. The money that we will receive from the County is money that the residents of Rye, along with the residents of other municipalities, have paid to the County through taxes. If the City were to purchase the land using its own resources, it could mean a one-time, one-year tax increase of 18% in taxes.

Councilman Stampleman said that by having the "default clauses," we have an opportunity to ensure that the County does not default by interfering with our activities. The financial implications, should the City have to buy the property using their own resources, are serious. If we have to pay \$1.8M to purchase this property over and above the amount we were planning to bond, we would have to take that amount out of our general fund balance. That would reduce year-end cash balances by 25%; undesignated reserves by 50% and a key financial ratio to about 7%. This would leave only

about \$400,000, rather than the usual \$1.5 million, available for capital expenditures and would require an increase in taxes. He observed the Council had been informed of the need for assistance numerous times and requested that he not continue to be misquoted on the subject.

Councilwoman Downing said that it is important to her that the ownership of the Rye Nursery land be 100% in our control, and that the County not be involved. She added that she had concern about the 18% tax increase figure she has been hearing about. City Manager Novak said that it is her understanding that if we took the amount needed to complete the purchase, it would translate into a one-time, one-year tax increase of 18% in order to replenish the reserves that the City would be expending if it closes the acquisition of the property with cash. Manager Novak said that if the City were to bond the entire land acquisition project (which is \$3.1M over 20 years) it would be roughly 3% for the duration of the 20 years. Councilwoman Downing wondered if combining the Rye Nursery bond referendum with the Recreation Master Plan referendum might lessen the amount of tax increase to the Rye residents.

Mayor Otis reiterated that the establishment of the City's control is clear in the IMA agreement; that the City should accept the County money (\$1,775,000) and added that the idea of merging the Rye Nursery acquisition with the Recreation Master Plan referendum could overprice an otherwise affordable referendum and risk losing three to four years of hard work on the Recreation Master Plan.

City Manager Novak asked the Council again what direction they wanted her to pursue if the County money does not come through. Mayor Otis indicated that the City should close with the EFC money should the County money fall through at the September 10, 2001 County Legislator's meeting and authorize Corporation Counsel to speak to the representative of the Rye Nursery about extending the closing date until the liquidity of the EFC loan money occurs enabling the City to close with no interest loan money. Corporation Counsel pointed out that the closing date has already been extended to September 15, 2001 and there are complicating factors such as a seller who wants his money, a referendum which could have SEQR implications and a Finance Law that prohibits bonding retroactively.

Councilwoman Larr said that the County is going to sell bonds to raise this money, therefore the burden will be on the taxpayers of the County because County taxes will increase. Councilman Stampleman said that the cost will not be exclusive to the residents of Rye, but shared by all the County residents. Mayor Otis added that the County knows communities cannot afford to fund these kinds of projects and that Rye should take advantage of the assistance. Manager Novak asked the Council if she should look at bond referendum requirements in order to be prepared. Mayor Otis said that the City should be prepared, but reiterated that he does not want to jeopardize the Recreation Master Plan referendum by merging the two bonds. Also, the City needs to check with the Rye City School District because they have a bond issue pending.

Dr. Michael Klemens, 9 Charlotte St, addressed the Council regarding the Rye Nursery Land Acquisition and expressed fear that the City may lose the opportunity to buy the property. He asked the Council to continue to focus on ways to acquire the property as their actions will have an impact on the future of this land.

Mr. Tony Spaeth, 6 Kirby Lane, read a letter that he was sending to the local media on September 6, 2001. He said that the 18% increase that was discussed becomes a cost of \$381 per taxpayer based on 4,719 tax paying properties. Mr. Spaeth said we are County residents and this is County money being returned to us.

In summary, City Manager Novak said the City will pursue the EFC money; she will look at preliminary steps should this go to referendum; and the City would not make any contact with the seller until after the September 10, 2001 County Legislators meeting. Mayor Otis added that Corporation Counsel has been authorized to speak to the seller about extending the closing date after the September 10<sup>th</sup> meeting should there be a need.

6. Resolution transferring \$28,751 from the General Fund Contingent Account to the Capital Projects Land Acquisition Project

City Manager Novak stated that this transfer from the General Fund Contingency to the Capital Projects Fund is necessary to cover the adjustments for the postponement of the closing date of the Rye Nursery of August 31, 2001 through September 15<sup>th</sup>. This only covers the amounts accrued up to that date. After this transfer is made, there will be slightly less than \$17,000 remaining in the account. Approximately \$135,000 has been used in addition to this \$28,000 to support the various pieces of the land acquisition this year.

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

**WHEREAS**, the City is in contract to purchase the property known as the Rye Nursery Property, and

**WHEREAS**, the City Council has agreed to pay to the seller of the Rye Nursery property 10% per annum interest on \$2.3 million for each day from August 1, 2001 until the closing date; and

**WHEREAS**, the estimated total cost of such interest payments is estimated to be \$28,751; now, therefore, be it

**RESOLVED**, that the City Comptroller is authorized to transfer \$28,751 from the General Fund Contingent Account to the Capital Projects Land Acquisition Project.

ROLL CALL

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

NAYS:None  
ABSENT: None

The resolution passed.

7. Consideration of revised procedures for Freedom of Information Law Requests

Mayor Otis stated that the staff had prepared revised rules and procedures for the implementation of FOILS and opened the floor for discussion. Councilwoman Cunningham said that according to the law we have 10 days to make a determination on an appeal. Section 8E of the revised procedures states "however, if there is no regular meeting of the City Council scheduled during that period, the appeal should be held at the next regular meeting held after receiving the appeal." She asked Corporation Counsel, J. Henry Neale, if this was in line with the state law. Mr. Neale said that the time periods for response of appeals are goals, standards and targets (*Floyd v. Maguire*); not limits. Failure to act within that time period is not a violation of the law, nor is it grounds for any sort of remedy or relief. The rule is what is reasonable under the circumstances. There have been very few appeals; however, if concerned, the "however clause" (Section 8E) in the proposed draft could be removed, and the Council could decide to schedule special meetings to hear appeals when the next regular meeting is more than 10 business days away. Mayor Otis said the issue is whether or not we state in the outline of our rules a procedure that contradicts the 10-day rule in the Freedom of Information Law, and another issue is what should be the practice. Mayor Otis would like to have special meetings to hear appeals, in order to comply with the state law.

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

**RESOLVED**, to strike part of Section 8E of the City of Rye's revised rules and procedures for compliance with the New York State Freedom of Information Law beginning "however, if there is no regular meeting of the City Council scheduled during that period, the appeal shall be determined at the next regular meeting held after the receipt of the appeal"

ROLL CALL

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

NAYS:None  
ABSENT: None

City Manager Novak added that the City's FOIL procedures are very important; but had not been revised since 1977, and she feels that the clarification of the rules and the new form that will be used will be helpful in processing FOIL requests. Councilman Stampleman asked if the staff have been given enough guidance when turning requests down. He suggested that each department consider the special factors related to their departments and identify their reasons for not giving out information. Corporation Counsel said that the department heads come to him or the City Manager, who is the Records Officer, and that they are guided by the statute. Mayor Otis thanked the Task Force Committee: Police Commissioner William R. Connors, Corporation Counsel J. Henry Neale, City Clerk Susan A. Morison and Charles Peretz, Assistant to the City Manager for their hard work in developing the revised rules and procedures.

Councilman Stampleman made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the procedures for Freedom of Information Law requests as amended.

Procedures for Public Access to the Records of the City of Rye

Section 1. Purpose and scope

- (a) These regulations are established pursuant to Article 6 of the Public Officers Law, known as the Freedom of Information Law.
- (b) These regulations provide the procedures by which records of the City of Rye may be obtained, for inspection and copies thereof obtained.
- (c) Personnel of the City of Rye shall furnish to the public the information and records required by law and those which were furnished to the public prior to enactment of the Freedom of Information Law, subject to the conditions contained in subdivision 2 of Section 87 of the Freedom of Information Law, or other provisions of law.

Section 2. Designation of records access officer.

- (a) The City Manager shall be the Records Access Officer responsible for assuring compliance with these regulations, and designates the following persons as additional records access officers:
  - 1. The City Comptroller for all records in the Department of Finance.
  - 2. The City Assessor for all records in the office of the City Assessor.
  - 3. The Building Inspector for all records in the Department of Buildings.
  - 4. The City Engineer for all records in the Department of Public Works.
  - 5. The City Planner for all records in the offices of the Planning Commission and City Planner.
  - 6. The Police Commissioner for all records in the Department of Police.
  - 7. The City Clerk for all records in the office of the City Clerk and for all other records of the City of Rye not previously mentioned.

- (b) The records access officers shall be responsible for assuring appropriate response to public requests for access to records. The records access officers shall assure that appropriate personnel are adequately instructed in and properly perform the functions described in Sections 6 and 7 of these regulations and shall supervise the administration of these regulations.

Section 3. Designation of fiscal officer.

The City Comptroller is designated the fiscal officer, who shall certify the payroll and respond to requests for an itemized record setting forth the name, address, title and salary of every officer or employee of the City of Rye.

Section 4. Location

Records shall be available for public inspection and copying at the office of the records access officers at City Hall, Boston Post Road, Rye, New York, or at the location where they are kept.

Section 5. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours regularly open for business except that all records must be returned to their proper custodian at least five minutes before closing time. The City's hours of operation from Memorial Day through Labor Day shall be 8:30 A.M. to 4:30P.M, Monday through Friday except holidays. The hours of operation for the remainder of the year shall be 9:00 A.M. to 5:00 P.M., Monday through Friday, except holidays.

Section 6. Request for public access to records

- (a) Requests for records shall be in writing as specified by the records access officer. However, the custodian of the records has discretion to waive the requirement for written requests in appropriate circumstances.
- (b) Officials shall respond to a request for records no more than five business days after receipt of the request. At a minimum, this response will acknowledge receipt of the request and provide an approximate date when a reply will be made.
- (c) A request for access to records should be sufficiently detailed to identify the records. Where possible, the requester should supply information regarding dates, titles, file designations or other information which may help identify the records.
- (d) 1. A current list, by subject matter, of all records produced and retained in accordance with the Department of Education's State Archives Schedule MU-1, shall be maintained by each records access officer by the City Clerk or the appropriate records access officer and shall be available for public inspection and copying. The list shall be sufficiently detailed to permit the requester to identify the file category of the records sought.

2. The subject matter list shall be updated periodically and the date of the most recent updating shall appear on the first page. The updating of the subject matter list shall not be less than semiannual.
3. A duplicate copy of such current subject matter list shall be filed by each records access officer with the City Clerk who shall consolidate and maintain all such current lists. Each records access officer shall keep a copy of these regulations with the subject matter list.
- (e) Appropriate personnel of the City of Rye shall assist the requester in identifying requested records.
- (f) Upon locating the requested records, the appropriate personnel of the City of Rye shall, as promptly as possible, and within the time limits set in subsection (b) above, either:
  1. Make the records available for inspection, or
  2. Deny access in whole or part, and explain in writing the reasons therefor.
- (g) Upon failure to locate records, the appropriate official shall certify that:
  1. The City of Rye is not the legal custodian of the requested records; or,
  2. The requested records, after diligent search, cannot be found.

Section 7. Inspection and copying of records.

- (a) A person who has requested access to the public records of the City of Rye shall be given full opportunity to see and inspect such records unless access is denied as provided in Section 8 herein.
- (b) The requester may also make a copy of the records he/she inspects. No record may be removed from the office where it is located without written permission of the person in charge of the office at that time.
- (c) Upon request and payment of the established fee, if any, the appropriate officer or employee shall prepare and deliver a transcript of such records.
- (d) Upon request and payment of the established fee, if any, an appropriate official of the City of Rye shall certify as correct a transcript prepared by the custodian of the records.

Section 8. Denial of access to records.

- (a) Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the City Council. Appeals must be filed within 30 days of the issuance of such notice.

- (b) If requested records are not provided promptly, as required in Section 6(b) of these regulations, such failure shall also be deemed a denial of access. In such cases, appeals must be filed within 30 days of the date by which the records were to be made available.
- (c) The City Council shall hear and determine appeals from denial of access to records.
- (d) The time for deciding an appeal by the City Council shall commence upon receipt of written appeal identifying:
  - 1. The date of the appeal.
  - 2. The date and location of the requests for records.
  - 3. The records to which the requester was denied access.
  - 4. Whether the denial of access was in writing or was by failure to provide records promptly as required by Section 6 (b).
  - 5. A copy of the written denial, if any.
  - 6. The name and return address of the requester.
- (e) The appeal shall be determined within ten business days of the receipt of the appeal. Written notice of the determination shall be served upon the person requesting the record, the person requesting the exception and the Committee on Open Government. The notice shall contain a statement of the reasons for the determination.
- (f) A person requesting an exception from disclosure, or an agency denying access to a record, shall in all appeal proceedings have the burden of proving entitlement to the exception.
- (g) A proceeding to review an adverse determination upon appeal may be commenced pursuant to Article 78 of the Civil Practice Law and Rules in accordance with all applicable provisions of the law.

Section 9. Fees.

- (a) Except as otherwise specifically authorized by law, or by established practice prior to September 1, 1974, there shall be no fee charged for:
  - 1. Inspection of records;
  - 2. Search for records;
  - 3. Any certification pursuant to this part.
- (b) The fee for a photocopy transcript of records shall be 25 cents per single sided page for pages not exceeding 9 by 14 inches.
- (c) The fee for photocopies of records exceeding 9 by 14 inches per page or any non-paper format (such as computer disk, microfilm, etc.) shall be the actual costs of reproduction, which shall be

deemed to be the average unit cost for making such a photocopy, excluding fixed costs such as operator salaries, except when a different rate is otherwise prescribed by statute.

- (d) The fee for a transcript that is typed, handwritten, or otherwise prepared by hand shall cover the clerical time involved in making the transcript, including comparison for accuracy.

Section 10. Public Notice.

A notice containing the job title or name and business address of the records officers and the appeal body shall be posted in the Office of the City Clerk. A copy of these rules will be kept in the custody of each records officer and be made available for inspection upon request.

Section 11. Severability.

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

8. Consideration of application for a Special Use Permit by Nextel of New York, Inc. to locate a wireless telecommunications facility at 32 Elm Place

Mr. Ira Saroff, attorney for Synder & Synder LLP, on behalf of Nextel of New York, Inc, d/b/a/ Nextel Communications, addressed the City Council regarding Nextel's request to locate 12-panelled antennas behind a stealth enclosure on the roof of an existing building located at 32 Elm Place together with a 280 sq. ft. equipment room located in the parking area of the existing building.

Councilman Hutchings said that he did not see a map of the coverage of this new location and reiterated that Milton Point has inadequate reception for cell phones. Mr. Saroff said that the map will be submitted with the application, but that it is important to know that the coverage in Rye may not be good because there is high use of cell phones making the demand too great for the capacity of the present number of facilities rather than the extent of their coverage being the issue.

Mayor Otis stated that he had concerns about the selection of the location; the elevation of the building, as it seemed to be in a low area, and that the site did not conform to the City's priority system based upon our local law to use existing structures, but also upon using commercial properties abutting I-95. Mr. Saroff said that this facility is in the vicinity of I-95 and the purpose of the facility will be primarily to service the I-95 corridor.

Councilwoman Cunningham asked if a map of the locations could be provided and Councilman McKean asked to have several issues clarified; particularly one that the Council had heard about Nextel's signals being so strong that they could knock out the City's emergency response radios. While

he supports cellular service and coverage in general, he is concerned about compromising other things. Mr. Saroff said that Nextel will not interfere with any emergency service or electronic service because it must operate within a narrow frequency range to be in compliance with its FCC license. Councilman McKean also said that this is a new installation rather than a co-location and the City should consider what impact this may have overtime as it could become a co-location site. Councilwoman Downing questioned the site as the neighborhood is not typical of any of the locations the City has used before.

Councilman Stampleman made a motion, seconded by Councilwoman Larr and unanimously carried, to begin the review process of the application and to require a pre-application meeting.

9. Consideration of application for a Special Use Permit by Nextel of New York to locate a wireless telecommunications facility at 411 Theodore Fremd Avenue

There were no further questions or comments.

Councilman Stampleman made a motion, seconded by Councilwoman Larr and unanimously carried to, begin the review process of the application and to require a pre-application meeting.

10. Approval of amendment of Section 191-12, Vehicles and Traffic, of the Code of the City of Rye to designate a full-stop for traffic on Coolidge Avenue at Wilson Drive and on Wilson Drive at Coolidge Avenue

Mayor Otis said that this comes as a request of the Traffic and Transportation Committee and by request of some of the neighbors. Councilwoman Cunningham is concerned that putting in a third four-way stop on Coolidge may have a negative effect, but she supports the addition if the Traffic and Transportation Committee recommends it. City Manager Novak said that if there are too many stops or a non logical place for a stop sign, people will ignore it, however, this is a traffic calming measure that is used which can discourage people from cutting through simply because it becomes inconvenient.

Councilman McKean made a motion, seconded by Councilwoman Cunningham and unanimously carried, to approve the amendment of Section 191-12, Vehicles and Traffic, of the City Code of the City of Rye to designate a full stop for traffic on Coolidge Avenue at Wilson Drive and on Wilson Drive at Coolidge Avenue.

11. Approval of an amendment of the Rye Community Television Special Revenue Fund by appropriating \$5,000 from the fund balance and increasing expenditures in a like amount for the purpose of upgrading the non-linear editor/live production switcher

City Manager Novak explained that this is an opportunity to upgrade technology before it becomes obsolete and it would be in the City's best interest to make this appropriation. There are funds in the Cable TV Fund for this purpose. Councilman Hutchings said that the switch under

discussion is located in City Hall and is used for switching from one person to another during City Council meetings and for editing shows.

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

**RESOLVED,** that the City Comptroller is authorized to appropriate \$5,000 from the Cable TV fund balance and increasing expenditures in a like amount for the purpose of upgrading the non-linear editor/live production switcher.

ROLL CALL

AYES: Mayor Otis, Councilmen Cunningham, Downing, Hutchings,  
Larr, McKean and Stampleman  
NAYS: None  
ABSENT: None

12. Approval of the election of Joseph Sutton to the Poningo Engine and Hose Company and of Suzy Allman to the Milton Point Engine and Hose Company as new members of the Rye Fire Department

Councilman Stampleman made a motion, seconded by Councilman McKean and unanimously carried, to approve the election of Mr. Joseph Sutton and Ms. Suzy Allman to the Milton Point Engine and Hose Company as new members of the Rye Fire Department

13. Three appointments to the Boat Basin Commission, by the Council, for two-year terms expiring January 1, 2004

Councilman Stampleman made a motion, seconded by Councilman McKean and unanimously carried, to approve the appointments of Theodore Konopka, Edward Collins and Richard Dempsey to the Boat Basin Commission for two-year terms expiring January 1, 2004.

14. Designation of one member to the Boat Basin Nominating Committee

Councilman Stampleman made a motion, seconded by Councilman McKean and unanimously carried, to designate Mr. Kenneth Funck as a member of the Boat Basin Nominating Committee.

15. Five appointments to the Rye Golf Club Commission, by the Council, for two-year terms expiring January 1, 2004

Councilwoman Cunningham made a motion, seconded by Councilman McKean and unanimously carried, to approve the appointments of William Scully, Dan Devito, Bruce Boehmcke, Frank Adimari and Ian Dunn to the Rye Golf Club Commission for two-year terms expiring January 1, 2004.

16. Designation of two members to the Rye Golf Club Nominating Committee

Councilwoman Cunningham made a motion, seconded by Councilman McKean and unanimously carried, to approve the designation of Adrienne Belluscio and Susan Bisceglia to the Rye Golf Club Nomination Committee.

17. One appointment to Board of Assessment Review for a five-year term, by the Council

Councilman McKean made a motion, seconded by Councilwoman Cunningham and unanimously carried, to approve the appointment of Mr. David Olson for a five-year term expiring September 30, 2006.

18. Consideration of request of residents of Mead Place to hold a *Block Party* on Saturday, September 22, 2001, with a rain date of September 23rd.

Councilman McKean made a motion, seconded by Councilwoman Larr and unanimously carried, to approve a request from the residents of Mead Place for controlled traffic on Saturday, September 22, 2001 from 1:00 PM to 5:00 PM (rain date Sunday, September 23, 2001).

19. Consideration of request from Christ's Church for controlled traffic on Rectory Street on Sunday, September 23, 2001, for its Annual "Welcome Back" Parish Picnic

Councilwoman Downing made a motion, seconded by Councilman McKean and unanimously carried, to approve the request from Christ's Church to close Rectory Street to traffic on Sunday, September 23, 2001, from 9:00 AM to 3:00 PM for its annual "Welcome Back" Parish Picnic.

20. Bids for Dredging & Ancillary Work at the Municipal Boat Basin

Councilwoman Downing said that only one bid came in at \$40.00 per cubic yard and it was expected to come in at \$14.00-\$15.00 (maximum \$20.00) per cubic yard. The whole project should have been about \$170,000, therefore, the recommendation is to rebid sometime next year.

The following bid was received:

**DREDGING & ANCILLARY WORK AT THE MUNICIPAL BOAT  
BASIN  
Contract No. 2001-12**

NAME OF BIDDER		Jay Cashman Inc.		
#	Items	Qty.	Unit	Total
1	Mobilization	Lump Sum	\$70,000.00	\$70,000.00
2	Demobilization	Lump Sum	\$30,000.00	\$30,000.00
3	Maintenance dredging of the boat basin entrance channel with transportation and disposal to the central Long Island disposal site	3,500 c.y.	\$39.00	\$136,500.00
4	Removal and re-driving of existing anchor mooring piles	15 ea.	\$1,200.00	\$18,000.00
5	Provide in-kind all damaged timber piles and install to the tip and cut-off elevations as currently exists	5 ea.	\$1,600.00	\$8,000.00
	Contractor's Total			\$262,500.00
	Engineer's Total			\$262,500.00
	Exceeds Low Bidder (#)			\$0.00
	Exceeds Low Bidder (%)			0%

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

**RESOLVED**, that the City Council of the City of Rye hereby reject the bid received for Contract# 2001-12, Dredging & Ancillary Work at the Municipal Boat Basin.

21. Draft unapproved minutes of the special meeting held August 13, 2001, the regular meeting of the City Council held August 15, 2001, and the special meetings held August 24th and August 28th, 2001

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to adopt the minutes of the special meeting of August 13, 2001, as amended.

Councilwoman Larr made a motion, seconded by Councilwoman Cunningham and unanimously carried, to adopt the minutes of the regular meeting of August 15, 2001, as amended.

Councilman Stampleman made a motion, seconded by Councilman McKean and carried unanimously, to adopt the minutes of the special meeting of August 24, 2001, as amended.

Councilwoman Cunningham made a motion, seconded by Councilwoman Downing and carried unanimously, to adopt the minutes of the special meeting of August 28, 2001, as amended.

22. Miscellaneous communications and reports

Councilwoman Larr reported that she had spoken to a gentleman who was concerned about the amount of traffic on the Boston Post Road. He suggested that Rectory Street be made one-way going up the street, not down. Councilwoman Downing said that trucks are still parked there. City Manager Novak said they are being monitored, but there is no restrictive parking for commercial vehicles on this street. City Manager Novak and Councilwoman Downing both stated that the safety issue of the children crossing the street was important.

23. Old Business

- Councilman Stampleman said he had fears about the impact of the Boston Post Road retaining wall construction on the traffic as it is located in the center point of the City. He suggested that there should be a discussion with the Traffic & Transportation Committee. City Manager Novak said she has asked for this issue to be placed on the September 13, 2001 agenda of the committee specifically for a recommendation for a plan. Mayor Otis said this will probably require a comprehensive traffic diversion plan. Councilman McKean added that the contractor is not obligated to come up with a traffic plan if it was not part of the original bid, and said that additional funds may be needed to complete this project.
- Councilwoman Downing and Councilwoman Cunningham inquired about the follow-up on the “noise ordinance” especially referring to construction hours. Mayor Otis inquired about the “dynamite and explosives” ordinance and suggested that the City Clerk seek information from other municipalities.
- Councilwoman Downing asked if the review of the taxi issues will be on the next agenda. Councilwoman Cunningham said, she and Marion Shea, of the Rye Interfaith Committee, are gathering information regarding the taxi voucher participation. Mayor Otis had several questions regarding zoning, participation in the voucher system by taxi drivers, altering zones and increase in taxi rates.

- Councilwoman Downing inquired about a four-way stop sign at the corner of Dearborn and Forest Avenues. Mayor Otis said the Traffic & Transportation Committee has looked at this before and that there was a fear of rear ending because this was a place where people would not expect to stop. The City Manager said this may be another area for the installation of “cat eyes”.
- Councilwoman Larr said that there still seems to be a problem with the rebate for parking at Rye Town Park for people dining at *Seaside Johnnie's*. Mayor Otis said he would look into this issue.
- Mayor Otis stated that the Governor had signed the bill on August 29<sup>th</sup> approving *Seaside Johnnies'* liquor license

24. New Business

- Councilman Stampleman reported that the City's water company, New York American Water, was being acquired by another firm. City Manager Novak said that the office is moving from Port Chester to Bridgeport Ct. Councilman Stampleman suggested that this would be a good time to discuss any questions we may have.
- Mayor Otis and Councilwoman Downing spoke with Mr. Chris Hansen of the “Daily Item” regarding the legal matter filed by former Mayor John Carey against the City; questioning the legality of signage posted by the City at the Rye Town Dock.
- Councilman McKean said that there is a typo in the Rye City Code on P. 6807, Section 68-11; first line should read “are not structural in nature nor for alterations “**or**” improvements” not “**of**” improvements.

Councilwoman Cunningham made a motion, seconded by Councilwoman Downing and unanimously carried, to adjourn to executive session at 11:10 PM to discuss a contractual matter.

The council reconvened at 12:08 P.M.

25. Adjournment

There being no further business to discuss, Councilwoman Downing made a motion, seconded by Councilman McKean and unanimously carried, to adjourn the meeting at 12:09 PM.

Respectfully submitted,

Diane C. Moore  
Deputy City Clerk