

***APPROVED MINUTES*** of the Regular  
Meeting of the City Council of the City of Rye held in  
City Hall on March 6, 2002 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor  
FRANKLIN J. CHU  
ROBERT S. CYPHER  
CAROLYN CUNNINGHAM  
ROBERT H. HUTCHINGS  
ROSAMOND LARR  
DOUGLAS MCKEAN  
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

John Hobbins, 75 Oakland Beach Avenue, addressed the Council to obtain help for his on-going efforts to get Con Edison to remove a double phone pole from in front of his house. He said he had tried; that Mr. Lyons of Con Edison had given him many unfulfilled assurances; City Manager Julia Novak had tried, but to no avail; and he considers the myriad of double poles throughout the City a form of littering. He said it appears the old poles have wires of other services, but Con Edison owns the poles (on City property) and he needs help. Councilwoman Larr suggested the Council contact Eugene McGrath, President of Con Edison and a Rye resident. Mayor Otis assured Mr. Hobbins they would try to solve the problem. Mr. Hobbins also requested additional police monitoring of his street, especially during the summer months when there is a lot of speeding traffic.

Bill Lawyer, 15 Hillside Place and board member of Federated Conservationists of Westchester County, urged the Council to attend the March 8<sup>th</sup> informational meeting at the White Plains Library on the Indian Point situation and to refrain from voting on any resolution until after hearing the issues.

Milton Okin, Rye resident, said he was very concerned about Indian Point and urged the Council to consider it carefully and recognize how terrible this problem could be.

Marie Schiraldi-Cattau again addressed the Council urging them not to vote on any resolution until hearing more from “the other side”, saying she was not an adequate spokesman and that the mayor of Buchanan and the Entergy representative had had more of a hearing. She and Diane Strully from Mamaroneck both said the meeting on Friday, which will make an effort to present all sides of the issue, is very important. The Mayor said they had invited last meeting’s speakers to give a brief presentation, but it had been longer than anticipated. Councilwoman Cunningham said she was going to attend the meeting to learn more and had postponed presenting a resolution until afterwards. Councilman Hutchings said he had found the Mayor of Buchanan convincing and was ready to present a resolution and move on. Ms. Schiraldi reiterated her plea for postponing the resolution.

Steven Meyers, Chairman of the Rye Recreation Commission, reported the voters had defeated the Recreation Bond Referendum by the narrowest of margins, but the needs of the Recreation Department remain (dilapidated space, too few fields, no dedicated space for Senior Citizens). He said the committee would be analyzing what happened, looking at what to do next, and, like General McArthur, they “shall return” to the Council with a plan. He thanked everyone who voted for the bond issue, and thanked the Council and staff, especially Bill Rodriguez and his staff. Everyone on the Council thanked Mr. Meyers, all his volunteers, and all the staff for their hard and good work. Mayor Otis said the vote reflects a divide in the community, perhaps due to the economy and the desire to look for fiscal responsibility. He said that the public should know that some of the information circulated was somewhat misleading and that the recreation plan was fiscally responsible in that they didn’t ask for all they need. He said the message is clear that the plan will have to be scaled back and, said Councilman McKean, be developed in increments rather than big bites. The Mayor said the Council will look forward to moving ahead to seek alternatives quickly. Councilman Cypher expressed his belief that having a place to play is a necessity rather than a frill and added his word of thanks to everyone.

4. Discussion and instructions to staff regarding the intersection of Boston Post Road and Barlow Lane

Mayor Otis announced that he, Councilman Chu, City Manager Novak, and City Engineer Mottarella had had a conference call during which they had come to a consensus concerning a solution to the Boston Post Road/Barlow Lane intersection and whether or not to install a traffic light. At the request of the Mayor, Councilman Chu reported on the four-point plan that has the full support of the staff, Traffic and Transportation Committee and the various homeowners’ associations.

1. Install a stop bar pavement marking at the Stop sign on Barlow Lane where it meets the Boston Post Road (BPR) so that cars will have to come to a stop before getting to the BPR.
2. Install reflectors on both the northeastern and southeastern walls to increase the nighttime visibility at the intersection to BPR traffic.
3. Install cat eyes and test the viability of yellow bollards on the double yellow line at the BPR to increase visibility, during day and night.
4. Install flashing beacons on the BPR 100 feet north and south of the BPR/Barlow Lane intersection so that people will slow down.

The Council thanked everyone for reaching the compromise and said the solutions appear geared toward the types of accidents that have occurred and also produced considerable savings to the City.

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

**RESOLVED**, that the Council accept the compromise proposal for the Boston Post Road/Barlow Lane intersection and that the funds heretofore appropriated for the traffic signal project be de-authorized.

**ROLL CALL**

AYES: Mayor Otis, Councilmen Chu, Cunningham, Cypher, Hutchings  
McKean and Larr

NAYS None

ABSTAIN None

The resolution passed

5. Discussion and instruction to city staff regarding the restoration of the Vietnam and Korean War Veterans Memorial

At the request of the Mayor, City Manager Novak reported that the staff has worked with the vendor to find more reasonable options to fixing up the War Memorial outside City Hall. The solution is to redo the Vietnam and Korean War Memorials only, and she recommended accepting a proposal to furnish and install an etched plaque with dark oxidized lettering at a cost of \$4,550. She said she would touch base with the American Legion and hoped to have the project completed by Memorial Day.

Councilman Cypher made a motion, seconded by Mayor Otis, to adopt the following resolution:

**RESOLVED**, that the City Manager be authorized to transfer \$6,000 from the General Fund Contingency account to the Community Beautification account to cover the cost of replacing the plaques for the Vietnam and Korean War Memorials at a cost of \$6,000.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cunningham, Cypher, Hutchings,  
McKean and Larr

NAYS None

ABSTAIN None

The resolution passed.

5a. Appeal of Rye Police Association Freedom of Information request denial by the City for access to Comp Time Overtime claims

Corporation Counsel Henry Neale addressed the Council on behalf of the respondent, the Police Department, regarding an appeal submitted to the Mayor and Council by Timothy Chittenden, President, Rye Police Association, related to Officer Chittenden's request for certain Police Department records. Mr. Neale reminded the Council that the respondent always has the burden of proof to explain the denial of F.O.I.L. requests. He told the Council his letter of February 1, 2001 regarding the F.O.I.L. request did not deny access to the requested records, but stipulated that first Officer Chittenden would have to submit \$59.50 to the City of Rye in payment for a prior request. Subsequently, the letter stated Officer Chittenden would be given copies of the requested documents at the standard \$.25 per page plus an extra \$.50 per page for any needing redaction. Councilman Cypher confirmed, and Councilwoman Cunningham agreed, that the City has the right to set reasonable fees and Councilman Chu asked if the \$.50 was, in fact, enough to charge in this situation. Councilman McKean was concerned that the Council was being asked to deny something that was not really a denial, but Mr. Neale said there was a need to respond to the request.

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

**RESOLVED**, that the request from Timothy Chittenden, President, Rye Police Association, in regards to a F.O.I.L request that he not be required to pay the City for past charges and not be charged an additional \$.50 for pages which need redaction be denied based on the fact that the request is a continuation of prior requests and the City has the right to set reasonable fees.

ROLL CALL:

AYES: Councilmen Chu, Cunningham, Cypher, Hutchings and Larr

NAYS None

ABSTAIN: Mayor Otis and Councilman McKean

ABSENT: None

The resolution passed.

6. Approval of the election of David Jackson and David Brand to the Milton Point Engine and Hose Company as new members of the Rye Fire Department

Councilman Cypher made a motion, seconded by Mayor Otis and unanimously carried, to approve the election of David Jackson and David Brand into membership by the Milton Point Engine and Hose Company. The memberships were approved by the Board of Fire Wardens at its February 11, 2002 meeting.

7. One appointment to the Planning Commission to fill the term ending January 1, 2003, by the Mayor with Council approval

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the appointment of Martha L. Monserrate to the Planning Commission to complete the one-year term of Brian Spillane expiring January 1, 2003.

7a. Designation of Chairman of the Commission on Human Rights

Mayor Otis designated Patrick McGunagle as Chairman of the Commission on Human Rights.

8. Approval of a supplemental appropriation of \$30,000 from the retained earnings of the Building and Vehicle Maintenance Internal Service Fund for the decontamination and restoration of the Police Pistol Range

City Manager Julia Novak explained that the bid for the renovation of the Police Pistol Range had come in at \$254,000 rather than the budgeted amount of \$225,000, so additional funds need to be appropriated before accepting the one bid received for the project. There was concern that there was only one bidder, but Manager Novak explained that not many people build such ranges as specialized materials are needed. She reminded the Council that the original estimate for the Pistol Range had been \$400,000.

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

**WHEREAS**, the fiscal 2002 budget for the Building and Vehicle Fund provided for a project known as the "Police Pistol Range"; and,

**WHEREAS**, it has been determined that additional funding in the amount of \$30,000 will be required to complete the project; and

**WHEREAS**, the City Comptroller has advised that there are sufficient funds in the Building and Vehicle Fund retained earnings to provide for the additional project costs; now, therefore be it

**RESOLVED**, that the City Comptroller is authorized to increase the Building and Vehicle Fund Pistol Range Project by \$30,000 using Building and Vehicle Fund retained earnings as the source of funds.

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cunningham, Cypher,  
Hutchings and Larr

NAYS: Councilman McKean

ABSENT: None

The resolution passed.

9. Bids for Police Pistol Range

City Manager Novak repeated that only one bid had been received, as follows:

**CONTRACT #2002-01**

**POLICE PISTOL RANGE**

<b>NAME OF BIDDER</b>	<b>SECURITY</b>	<b>AMOUNT BID</b>

Caswell Detroit Armor Company 720 Industrial Drive Unit 112 Cary, Illinois 60013	Bid Bond	\$254,000
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Councilwoman Larr made a motion, seconded by Councilman Cypher, to adopt the following resolution:

**RESOLVED**, that Contract #2000-01, "Police Pistol Range," be and is hereby awarded in the amount of \$254,000 to the sole bidder meeting specifications, Caswell Detroit Armor Co., in accordance with the recommendation of the City Engineer.

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cunningham, Cypher,  
Hutchings and Larr

NAYS: Councilman McKean

ABSENT: None

The resolution passed.

10. Bids for Handicapped Bathroom at Disbrow Park

City Manager Novak presented the bids for the handicapped bathroom at Disbrow Park, specifically requested by the Rye Little League since 1994. She said it will be housed in the Disbrow Park office, but will be accessible to the field and that the following bids had been received:

**CONTRACT #2002-03**

**HANDICAPPED BATHROOM AT DISBROW PARK**

<b>NAME OF BIDDER</b>	<b>SECURITY</b>	<b>AMOUNT BID</b>
K-Con Site Developers, Inc. 225 Orienta Avenue Mamaroneck, New York 10543	Bid Bond	\$28,900
Torlina Construction Company Inc. P.O. Box 692 Harrison, New York 10528	Certified Check \$1,895	\$37,900

Alfred Services, Inc. 109 Maple Avenue Rye, New York 10580	Certified Check \$2,000	\$39,800
Seabury Enterprises L.L.C. 525 North Broadway, Suite 218 White Plains, New York 10603	Bid Bond	\$48,600
Fourmen Construction Inc. 1134 Main Street Peekskill, New York 10566	Bid Bond	\$67,000
N. Picco & Sons Contracting Company, Inc. 154 East Boston Post Road Mamaroneck, New York 10543	Bid Bond	\$89,900
Wager Contracting Company Inc. 308 Main Street New Rochelle, New York 10801	Bid Bond	\$102,753
O'Hara Contracting Inc. 815 McLean Avenue Yonkers, New York 10704	Certified Check \$5,250	\$105,000

Councilman McKean expressed concern about the vast range of the estimates, but Manager Novak said the City was pleased that the low bid was below the Engineer's estimate; that a performance bond had been received; and the City was fortunate that so many were interested in the job.

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

**RESOLVED**, that Contract #2002-03, "Handicapped Bathroom at Disbrow Park" be and is hereby awarded in the amount of \$28,900 to the low bidder meeting specifications, K-Con Site Developers, Inc., in accordance with the recommendation of the City Engineer.

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cunningham, Cypher,  
Hutchings, Larr and McKean

NAYS: None

ABSENT: None

The resolution passed.

11. Miscellaneous communications and reports

Mayor Otis mentioned that April 24<sup>th</sup> had been proposed as a date for the Council to meet with the Rye Neck School Board, and March 13<sup>th</sup> as a date for a workshop to discuss potential uses of the Friends Meeting House. The Council agreed these dates were fine.

Councilwoman Cunningham said she was pleased that it looks as if Rye has enough in the code to enforce water restrictions. Manager Novak said she was meeting with the New York American Water Company and other municipalities and will report back. Corporation Counsel Henry Neale said the fines for water use violations were set in 1981 and would need a public hearing to be changed. Manager Novak reported that the well at the golf course could not be used to water the course.

Councilwoman Cunningham requested the City Manager to send the Council the request from the Rye Arts Center for use of the Village Green for a jazz concert.

12. Old Business

Although Councilwoman Cunningham requested any resolutions concerning Indian Point be postponed until the following meeting, Councilman Hutchings said he would like the Council to consider a resolution he had drafted on the subject, saying it had been agreed upon at the prior meeting that the Council would consider resolutions at this meeting. The Mayor said it was not customary to present resolutions requiring a vote under "Old Business" and that they should have their own agenda item. He indicated the Council could consider it tonight or the presentation of the resolution could be postponed until the next meeting so that both this one and Councilwoman Cunningham's (which she had postponed writing until after she attended an informational meeting on March 8<sup>th</sup>) could be considered together. Councilman Hutchings said he thought enough conversation about Indian Point had taken place and asked that his resolution be considered tonight. Councilman Cypher concurred. Councilman McKean said he felt the public had not been properly notified and the Mayor said he found the current version woefully inadequate, ignoring evacuation plans, terrorism and energy conservation.

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

**WHEREAS** the section of the proposed resolution reading "WHEREAS, the City of Rye does not possess the expertise to competently assess and balance such

complexities” assumes the inability of the Council to learn enough to have an adequate understanding of the nature of the Indian Point problems, now therefore be it

**RESOLVED**, that said section be stricken from the resolution.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham and McKean

NAYS: Councilmen Chu, Cypher, Hutchings and Larr

ABSENT: None

The motion did not pass by a vote of 4 to 3.

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

**WHEREAS**, the issue of the public safety related to the Indian Point Power Plant has been raised, and

**WHEREAS**, the City Council of Rye is committed to the public safety of the citizens of the City of Rye,

**WHEREAS**, the City Council recognized the complexity of the issue such as the amount of electrical power the Indian Point Plant generates that could not be replaced in the near future, and other issues such as evacuation plan effectiveness, and

**WHEREAS**, the City of Rye does not possess the expertise to competently assess and balance such complexities, now be it therefore

**RESOLVED**, that we support the Westchester County Executive, Andrew Spano, in his judgment that the Indian Point Power Plant be kept open, and be it further

**RESOLVED** that the City of Rye looks forward to the ongoing initiatives committed by County Executive Andrew Spano to improve the economic, power, and public safety needs of Westchester County, as the County of Westchester possesses the resources to balance the needs of public safety with the economic well being of Westchester County and the City of Rye in a rational and balanced manner.

ROLL CALL:

AYES: Councilmen Chu, Cypher, Hutchings and Larr

NAYS: Mayor Otis, Councilmen Cunningham and McKean

ABSENT: None

The resolution passed by a vote of 4 to 3..

13. New Business

Councilwoman Cunningham congratulated the City, and the Mayor in particular, for using volunteers to do some of the work on the fee study, thereby saving the City \$20,000.

14. Draft unapproved minutes of the regular meeting of the City Council held on February 27, 2002

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the minutes of the City Council meeting held February 27, 2002 as amended.

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to adjourn to Executive Session at 10:18 P.M. to discuss a contractual matter.

15. Adjournment

There being no further business to discuss, Councilman McKean made a motion, seconded by Councilwoman Cunningham and unanimously carried, to adjourn the meeting at 11:37 P.M.

Respectfully submitted,

Susan A. Morison  
City Clerk