

***APPROVED MINUTES*** of the Regular  
Meeting of the City Council of the City of Rye held in  
City Hall on May 15, 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. Presentation by the Vice Chair of the Finance Committee on the Enterprise Funds

This agenda item was not heard.

4. Proclamation Proclaiming National Senior Health and Fitness Day in the City of Rye

Mayor Otis read the Proclamation proclaiming that May 29, 2002 will be National Senior Health and Fitness Day in the City of Rye.

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



## **PROCLAMATION**

*WHEREAS, the President of the United States has designated May as Older Americans Month and National Physical Fitness and Sports Month; and*

*WHEREAS, it is appropriate to honor our mature citizens for their many contributions to the vitality and strength of our community; and*

*WHEREAS, the United States Surgeon General has determined that regular physical activity results in significant health benefits and improved quality of life for older adults; and*

*WHEREAS, all older adults can participate in activities that improve and maintain their health;*

***NOW, THEREFORE, BE IT RESOLVED** that all citizens be urged to support the efforts of local organizations that encourage older adults to enhance their lives through physical activity; and*

***BE IT FURTHER RESOLVED** that the Rye City Council pauses in its deliberations to proclaim Wednesday, May 29, 2002 as National Senior Health & Fitness Day in the City of Rye, County of Westchester, State of New York.*

*Signed and sealed this 15th day of May, 2002.*

SEAL

---

Steven Otis

*Mayor*

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

Mr. Paul Hackett, member of the Traffic and Transportation Committee, thanked the city for their cooperation and services regarding the third annual Bicycle Rodeo scheduled for May 18, 2002 at the Rye High School/Middle School parking lots. He invited all to attend and said that child car seat inspections have been added to the events this year.

Mayor Otis announced that he has been installed as Treasurer of the Westchester Municipal Officials Association and that former Councilman Arthur Stampleman has been appointed by the Westchester County Board of Legislators Committee on Budget and Appropriations to serve on their Citizens Budget Advisory Committee (CBAC) which provides advice in areas of accounting, budgeting, finance and/or municipal operations.

6. Continuation of public hearing on the Special Use Permit Application TC 006 by Nextel of New York, Inc., d/b/a Nextel Communications to locate a wireless telecommunication facility at 32 Elm Place

The Mayor reconvened the public hearing which began at the May 1, 2002 city council meeting regarding the Special Use Permit Application TC006 by Nextel of New York, Inc., d/b/a Nextel Communications to locate a wireless telecommunication facility at 32 Elm Place. Mr. Ira Saroff from Synder & Synder, LLP, representing Nextel, presented revisions of the application to the Council. Mr. Saroff said that the antennas (about 2ft. high) would be lowered so that they would rise 3" above the railing, rather than 9", minimizing the visibility of the antennas from the street and that the color of the equipment would match the railing. In response to Councilman McKean's suggestion (at a previous meeting) to redesign the railings so that the antennas do not look like antennas, Mr. Saroff said that encasing the antennas into a new railing would be prohibitively expensive. Councilman McKean felt that the revisions that Nextel proposed were minimal and asked that the equipment be installed below the coping on the building so that the equipment is all one color and texture. Mr. Chris Olsen, Radio Frequency Consultant for Nextel, in response to Councilwoman Larr's question, said that antenna usually have a 1 ft. clearance, but he feels the 3" clearance will be enough. Councilman Cypher reminded the Council that the city is guided by state and federal laws and that this application seems to be a good balance between necessity and aesthetics. He also added that this will provide service to the Fire and Police Departments as well as emergency calls from I-95.

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

**RESOLVED**, that the Council approve the application of Nextel (TC006) to locate a wireless telecommunications facility at 32 Elm Place, with the condition that the equipment be of one color and texture and installed below the coping on the building.

ROLL CALL:

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

NAYS: Councilman McKean

ABSENT: None

The resolution was carried by a 6-1 vote.

7. Consideration of the adoption of the Homeland Security Advisory System (HSAS)

City Manager Novak reported that the Federal Office of Homeland Security has created the Homeland Security Advisory System (HSAS) to provide a framework to standardize alert systems so that government officials and members of the public will be better informed regarding terrorist threats. The New York State Office of Public Security has adopted a parallel system, and has recommended that all localities do the same.

Councilman McKean made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the adoption of the Homeland Security Advisory System (HSAS).

8. Consideration of the request of the County Executive, Andrew Spano, for support of sales tax proposal

County Executive Andrew Spano proposed, in his State of the County address, a 1% increase in the sales tax charged in communities that participate in the County tax program. This proposal would distribute 75% of the tax increase to the County and 25% to municipalities and school districts. Under the existing tax, the County receives 50% and the local communities and school districts receive 50%. Mayor Otis said that the County is still open for negotiation, and after a lengthy discussion, the resolution was deferred.

9. Consideration of the resolution in opposition to S6737/A9663 regarding municipal right-of-ways

In 1999, the Rye City Council passed a resolution opposing state legislation pre-empting local wireless telecommunications equipment siting laws. A new effort has been made by the telecommunications industry to pre-empt local decision making. S.6737/A.9663 has been introduced to pre-empt local authority over municipally owned land and rights-of-way. The New York State Conference of Mayors and Municipal Officials recommend opposing the new law.

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

**WHEREAS**, the municipal home rule in local planning and land use is highly valued by local governments in New York State; and

**WHEREAS**, local control of municipally owned property, easements and right-of-ways has been valued in New York state; and

**WHEREAS**, local governments should be free to exercise their authority as they do with other local land use determinations; and

**WHEREAS**, efforts to restrict local home rule in this area are inconsistent with land use policies in New York State; and

**WHEREAS**, legislation has been introduced in the New York State Legislature, S.6737/A.9663, which would preempt local home rule in this area; now there, be it

**RESOLVED**, that the City Council of the City of Rye strongly opposes S.6737/A.9663 and recommends the defeat of this, or any legislation, that restricts the authority of local governments to exercise their prerogative over municipally owned property, easements and right-of-ways consistent with the long history of New York law; and be it further

**RESOLVED**, that copies of this resolution be forwarded to our representatives in the State Senate and State Assembly, the legislative leaders of each house, the New York State Conference of Mayors, the New York State Association of Counties, the New York State Association of Towns, the Westchester Municipal Officials Association, the Westchester County Executive, and the Westchester County Board of Legislators.

10. Consideration of proposed local law amending Chapter 197, Zoning, Article VIII, Table of Regulations, Section 197-86 of the code of the City of Rye by adding a new paragraph to Table of Regulations: Table A Residence Districts - Use Regulations, Column 2, Uses Permitted Subject to Additional Standards and Requirements (Subject to the requirements and provisions of 197-10) for RA-1 Districts

At the request of the City Council, the Planning Commission, at its April 23, 2002 meeting, reviewed the petition of Lazz Development, LLC to amend the RA-1 Garden Apartment District to permit relief from some of the existing bulk and dimensional standards in connection with the construction of moderate-income housing. Lazz Development is asking for a proposed amendment to

permit the construction of up to nine moderate-income units on property located on Cottage Street and Edgar Place. Christian Miller, City Planner, said that the previous language describing eligible properties and their relationship to an interstate has been changed to specify an eligible property needs to be on Theodore Fremd or Cottage Street. The revised text, like the original one, would not permit RA-1 Garden Apartment District properties on Midland Ave. Mr. Miller asked the Council to set a hearing on June 12, 2002 to consider the new local law.

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

**WHEREAS**, a proposed local law amending Chapter 197, Zoning, Article VIII, Table of Regulations, Section 197-86 of the Code of the City of Rye, by adding a new paragraph to Table of Regulations: Table A Residence Districts – Use Regulations, Column 2, Uses Permitted Subject to Additional Standards and Requirements (Subject to the requirements of provisions of 197-10) for RA-1 Districts has 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 June 12, 2002 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purposed 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 proposed local law amending Chapter 197, Zoning, Article VIII, Table of Regulations, Section 197-86 of the Code of the City of Rye by adding a new paragraph to Table of Regulations: Table A Residence Districts – Use Regulations, Column 2, Uses Permitted Subject to Additional Standards and Requirements (Subject to the requirements and provisions of 197-19) for RA-1 Districts**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 12th day of June, 2002 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning the proposed local law amending Chapter 197, Zoning, Article VIII, Table of Regulations, Section 197-86 of the Rye City Code by adding a new paragraph to Table of Regulations: Table A Residence District – Use Regulations, Column 2, Uses Permitted Subject to Additional Standards and Requirements (Subject to the requirements and provisions of 197-19) for RA-1 Districts.

Copies of said local law may be obtained from the office of the City Clerk.

11. Authorization for the City Manager to enter into a cooperation agreement with the County of Westchester for participation in the Urban County Consortium to qualify for Community Development Block Grant funds for FY 2003-2005

City Manager Novak reported that it was time to requalify for Community Development Block Grant funds for FY2003-2005

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

**RESOLUTION AUTHORIZING THE CITY OF RYE TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF WESTCHESTER FOR THE PURPOSE OF UNDERTAKING A COMMUNITY DEVELOPMENT PROGRAM.**

**WHEREAS**, the Secretary of Housing and Urban Development of the United States is authorized, under Title I of the Housing and Community Development Act of 1974 as amended, and Title II of the National Affordable Housing Act of 1990, as amended, to make grants to states and other units of general local government to help finance Community Development Programs; and

**WHEREAS**, Section 99-h of the General Municipal Law of the State of New York grants to any municipal corporation the power, either individually or jointly with one or more municipal corporations, to apply for, accept and expend funds made available by the federal government, either directly or through the State, pursuant to the provisions of any Federal law which is not inconsistent with the statutes or constitution of this State, in order to administer, conduct or participate with Federal government in programs relating to the general welfare of the inhabitants of such municipal corporation; and

**WHEREAS**, the Community Development Act of 1974 as amended, Title II of the National Affordable Housing Act of 1990, as amended, and any "Eligible Activities" thereunder are not inconsistent with the statutes or Constitution of the State, and

**WHEREAS**, a number of municipalities have requested Westchester's participation, and the County of Westchester has determined that it is desirable and in the public interest that it make application for Community Block Grant funds and HOME funds as an Urban County; and

**WHEREAS**, participation by the County of Westchester as an Urban County in the Community Development Program requires that City of Rye and the County of Westchester cooperate in undertaking, or assisting in undertaking, essential community development and housing activities, specifically those activities authorized by statutes enacted pursuant to Article 18 of the New York Constitution, and

**WHEREAS**, this Board deems it to be in the public interest for the City of Rye to enter into a Cooperation Agreement with the County of Westchester for the aforesaid purposes,

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Rye be and hereby is authorized to execute a Cooperation Agreement between the City of Rye and the County of Westchester for the purposes of undertaking a Community Development Program pursuant to the Housing and Community development Act of 1974 as amended and Title II of the National Affordable Housing Act of 1990, as amended.

12. Authorization for the City Manager to enter into an Inter-Municipal Agreement with the County of Westchester to indemnify members of the Rye Police Department who provide instruction at the Westchester County Police Academy

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

**RESOLVED**, that the City Council hereby authorizes the City Manager to enter into an Inter-Municipal Agreement (IMA) with the County of Westchester to indemnify members of the Police Department who provide instruction at the Westchester County Police Academy.

13. Authorization of the City Clerk to loan four voting machines to the Rye City School District for School Board Elections on Wednesday, May 15 - 22, 2002

Mayor Otis asked the Council to consider the annual request of the Rye City School District to use four of the City's voting machines for the Board of Education elections.

Councilman Hutchings made a motion, seconded by Councilman McKean and unanimously carried, to authorize the City Clerk to loan four voting machines to the Rye City School District for Student and School Board Elections from May 15-22, 2002.

14. Resolution naming election personnel for the special election of the qualified voters of the City of Rye to be held on June 11, 2002

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

**A RESOLUTION NAMING ELECTION PERSONNEL FOR THE  
SPECIAL ELECTION OF THE QUALIFIED VOTERS OF THE CITY OF  
RYE, WESTCHESTER COUNTY, NEW YORK, CALLED FOR JUNE 11,  
2002, IN ACCORDANCE WITH SECTION C21-9 OF THE CHARTER OF  
SAID CITY.**

**WHEREAS**, the City Council of the City of Rye, Westchester County, New York, on April 10, 2002 adopted a bond resolution authorizing the issuance of \$4,400,000 serial bonds of said City to pay the cost of implementing the Recreation Master Plan subject to a referendum in accordance with the provisions of Section C21-9 of the Charter of said City; and

**WHEREAS**, a special election of the qualified voters of said City for the purpose of submitting a proposition for the approval or disapproval of said bond resolution has been duly called for June 11, 2002; now, therefore, be it

**RESOLVED**, by the City Council of the City of Rye, Westchester County, New York, as follows:

**Section 1.** The following named persons, selected from the list of election inspectors for general election purposes pursuant to the Election Law, are hereby appointed as election inspectors in the polling place for the special election called for June 11, 2002 for the purpose of approving or disapproving the bond resolution of the City of Rye, Westchester County, New York, referred to in the preambles hereof:

Election Inspectors

Adele Arrigale  
Lucy Luckhart  
Nancy Kobelt  
Judy Ryen  
Ann Coughlin  
Carmel Loddo  
Pat Patterson  
Anna Farrell  
Susan Kyle  
Bill Farrell  
Joseph Pryor

**Section 2.** This resolution shall take effect immediately.

15. Approval of an amendment to the 2002 General Fund Recreation Programs budget increasing Recreational Activity Fees and increasing Miscellaneous Service Contracts, each in the amount of \$8,565

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

**WHEREAS**, certain recreational activities expenditures have exceeded their fiscal 2002 appropriations, and,

**WHEREAS**, these additional expenditures are offset by additional recreational activity revenues,

**NOW, THEREFORE BE IT RESOLVED**, that the fiscal 2002 General Fund Recreation Programs budget is amended by increasing Recreational Activity Fees and increasing Miscellaneous Service Contracts, each in the amount of \$8,565.

ROLL CALL:

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

NAYES: None

ABSENT: None

16. Approval of supplemental appropriation of \$25,000 from the 2002 General Fund Contingent Account to the 2002 Building and Vehicle Maintenance Internal Service Fund Milton Firehouse Project to provide for the purchase of furnishings

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

**WHEREAS**, furnishings are required for the newly-renovated Milton Firehouse; and

**WHEREAS**, insufficient funds exist in the Milton Firehouse Renovation Project to provide for the purchase of such furnishings; and

**WHEREAS**, sufficient funds do exist in the General Fund Contingent Account; now, therefore be it

**RESOLVED** that the City Comptroller is authorized to transfer \$25,000 from the General Fund Contingent Account to the Building and Vehicle Fund Milton Firehouse Project to provide for the purchase of Milton Firehouse furnishings, amending the fiscal 2002 budgets for the General Fund and the Building and Vehicle Funds as required to reflect this transaction properly.

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolution carried.

17. Consideration of the request of the Rye Youth Council to hold its Annual Block Party on Saturday, June 8, 2002, at the multi-purpose area of Recreation Park

Mayor Otis asked that the Recreation staff be alerted to sensitivity of the neighbors regarding noise as bands will be present and complimented the staff for their past efforts regarding this event.

Councilman Hutchings made a motion, seconded by Councilwoman Larr and unanimously carried, to grant the request of the Rye Youth Council to hold its Annual Block Party on Saturday, June, 8, 2002 at the multi-purpose area of Recreation Park.

18. Bids for Video Editing Equipment

Bid specifications were sent to seven vendors and only one responded before the deadline. Councilman McKean expressed concern that only one bid was received and that this is a pattern that troubles him.

Councilman Hutchings said the RCTV was gradually making the changeover from linear to digital equipment, and in response to Councilwoman Cunningham's question said that the equipment does have warranties.

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

**RESOLVED**, that Bid #4-02, is hereby awarded to B&H Photo-Video Inc., the sole bidder meeting specifications, in the amount of \$14,773.00.

**BID #4-02**

**VIDEO EDITING EQUIPMENT**

NAME OF BIDDER		B&H Photo-Video Inc.	
SECURITY		Certified Check \$738.65	
Item	Quantity	Unit Price	Total Price
Apple POWER MAC G4 Dual 1GHz, 2x2MB L3, 512MB SDRam, 80GB HD, SuperDrive, GeForce4 MX, 56K Modem, Gigabit Ethernet or equivalent	1	2850.00	2850.00
Apple Cinema Display 22" or equivalent	1	2450.00	2450.00
Apple Final Cut Keyboard - Post-Op USB Keyboard or equivalent	1	115.00	115.00
Apple Shuttle Pro NLE Controller, or equivalent	1	89.00	89.00

IBM IDE 7200 RPM Hard Drive 80 GB, or equivalent	1	159.00	159.00
Lacie 80GB 7200 RPM Firewire Drive, or equivalent	3	269.00	807.00
GB 512MB 10ns 168-pin (DIMM) S- DRAM or equivalent	1	199.00	199.00
Apple Final Cut Pro 3.0 Editing Software or equivalent	1	950.00	950.00
Artel Boris Red 2.1 for Mac or equivalent	1	1650.00	1650.00

NAME OF BIDDER		B&H Photo-Video Inc.	
SECURITY		Certified Check \$738.65	
Item	Quantity	Unit Price	Total Price
Sony DSR 11 Compace DVCam Recorder or equivalent	2	2050.00	4100.00
Sony PVM-14N6U 14" Color Monitor or equivalent	1	499.00	499.00
Harman Multimed Soundstick 3 PC USB Speakers or equivalent	1	169.00	169.00
GB S-vido Cable 4p/m to 4p/m - 6' or equivalent	1	9.00	9.00
JVC HR-S7900 S-VHS Recorder or equivalent	2	249.00	498.00
Apple 3-year Applecare for Powermac G Series	1	229.00	229.00
<b>GRAND TOTAL</b>			<b>\$14,773.00</b>

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolution carried.

Additional Agenda Items

Mayor Otis stated that Fire Chief Hogben is taking a leave of absence until June 10, 2002 and appointed First Assistant Chief John Wickham as Chief of the Department, Second Assistant Chief Peter Cotter as First Assistant Chief and past Chief Vincent Ballantoni as Second Assistant Chief.

Mayor Otis appointed Gregg Gavlik to the Boat Basin Commission to fill the term of William Villanova until January 1, 2003.

19. Miscellaneous communications and reports

- City Manager Novak gave a preliminary report of the some of the findings on the Beach Area Parking Survey:

- 63% said the restrictions are necessary
  - 68% do not support a residential permit system
  - 41% said there should be no change in the parking restrictions
  - 64% said enforcement is about right
  - 23% have received tickets
  - information based on about 400 responses: 1/3 via the website
- 
- Councilman Chu reported that he has asked the City Manager for a summary of grant information.
  - Councilwoman Cunningham said she attended the Head Start Graduation at the Rye Arts Center and was very impressed.
  - Councilman McKean requested that the City mailer for the Recreation Bond Referendum be on City letterhead and that the format of the mailer be more like the one created for the Fire House Bond Issue in 1999. He also urged the Council to show enthusiastic support for the referendum.
  - Mayor Otis stated that City Manager Novak needs editing suggestions for the Recreation Bond Referendum mailer by May 16.
  - Councilman Hutchings reported that he attended a tour of Harlem sponsored by the Recreation Department, and complimented them on the diversity of their programs.
  - City Manager Novak announced that the Police Department has received a grant from the Department of Criminal Justice to develop a Reverse 911 Plan.
  - Councilwoman Cunningham inquired about the \$7,500 fee for an outside consultant regarding the Performance Measures Survey and expressed concern about spending this money. Councilman Hutchings asked the City Manager to put together a brief review of the project.

20. Old Business

Councilman Hutchings reported that the graffiti and the green boxes have not been removed from the gas stations at the entrance to the City (Purchase St. & Ridge St.) City Manager Novak said that the green boxes should be removed by the end of the week, or will be impounded by the City. She said that letters have been sent to the owners regarding the graffiti there and in other locations.

21. New Business

There was no new business discussed.

22. Draft unapproved minutes of the regular meeting of the City Council held May 1, 2002

Councilwoman Cunningham made a motion, seconded by Councilman McKean and unanimously carried, to approve the minutes of the regular meeting of the City Council held on May 1, 2002 as amended.

Councilman Cypher made a motion, seconded by Councilman McKean and unanimously carried, to adjourn to Executive Session at 9:55 P.M. to discuss a personnel matter.

The Council reconvened at 10:23 P.M.

23. Adjournment

There being no further business to consider, Councilman McKean made a motion, seconded by Councilwoman Cunningham and unanimously carried, to adjourn the meeting at 10:24 P.M.

Respectfully submitted,

Diane C. Moore  
Deputy City Clerk