

***APPROVED MINUTES*** of the Regular  
Meeting of the City Council of the City of Rye held  
in City Hall on September 4, 2002 at 8:00 P.M.

PRESENT:

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

ABSENT:

ROBERT S. CYPHER

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.

Mayor Otis began the meeting by making several announcements:

- He welcomed Kevin J. Plunkett to his first meeting as Corporation Counsel and mentioned that Mr. Plunkett was no stranger to Rye having worked for the City in the past on the Home Depot litigation.
- He announced that on August 20, 2002 the State Board of Equalization had ruled on a three year equalization petition concerning the Rye Neck School tax rate. He said the ruling will result in \$670,000 to be credited back to Rye Neck tax payers and thanked City Assessor Noreen Whitty and her staff, former Corporation Counsel Henry Neale, and current Corporation Counsel Mr. Plunkett for their efforts on behalf of the City of Rye.
- He announced that the Fire Department has planned a solemn event commemorating the tragic events of September 11<sup>th</sup> which had affected our community so deeply. The plans include a procession beginning at 7:00 PM from the Locust Avenue Fire House to the Fire Memorial and back to the Village Green where a candlelight ceremony and vigil will be held. He said it was a great opportunity to remember and honor those we lost.

- On September 28, 2002 beginning at 11 A.M. the second community fundraiser for Rye families who lost loved ones on September 11<sup>th</sup> will be held at Gagliardo Park.

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

There were no residents in the audience who wished to be heard.

4. Approval of the revised resolution for cost allocation in connection with the Summit Avenue Sewer District Improvements

City Manager Julia Novak explained that the sanitary sewer improvement project on Summit Avenue had been completed by the City and reported that the final cost of the project, including costs encumbered for preliminary investigation, design work, and construction inspection, was \$150,000, or \$37,500 per resident. Mayor Otis opened the public hearing. As there were no comments from citizens in the audience or from the City Council, the Mayor closed the public hearing.

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

**RESOLVED**, that the final cost of the sanitary sewer improvement project benefiting four residents on Summit Avenue be established at \$150,000 with each benefited property responsible for an equal share of \$37,500.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Cypher

The resolution passed.

5. Public hearing on proposed cost assessment on the benefited properties of the Summit Avenue Sewer District Improvements

City Manager Novak explained that the owners of the benefited properties of the Summit Avenue Sewer District would have the option of paying the amount due of \$37,500 per property owner in full by April 30, 2003 or having their taxes assessed over a 20 year period. Mayor Otis opened the public hearing. There were no comments from the audience or from the City Council, so the Mayor closed the public hearing.

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

**RESOLVED**, that the residents of the benefited properties of the Summit Avenue Sewer District Improvements either have the option of paying the full amount of \$37,500 by April 30, 2003 or pay the per share cost over a 20 year period commencing February 1, 2004 at an interest rate of 7.0%.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Cypher

The resolution passed.

6. Resolution scheduling a public hearing on October 16, 2002 on the Special Use Permit Application by Omnipoint Communications to upgrade an existing wireless telecommunications facility at 66 Milton Road

Mayor Otis said that the City had received an application from Omnipoint Communications (TC001-Modified) to upgrade an existing wireless telecommunications facility at 66 Milton Road. Before setting a public hearing he asked if the Council members had any questions for Anthony Mulrain, attorney from Mintz, Levin, Cohen, Ferris, Glowsky and Popeo, Inc., which he should be considering in preparation for the public hearing. The Council was interested in the appearance of the new antennas; whether there had been coordination with the other companies with antennas on the roof; whether Omnipoint had been in touch with the tower resident who is most effected, and whether the total number of antennas were still within the federal limits. Mr. Mulrain said he would address all these issues and indicated that the purpose of the modification to the first installation was to use up-graded technology so that only 2 base stations and 6 antennas would be needed (instead of 3 stations and 12 antennas). The Mayor said that it is the burden of the applicant to make their installation as invisible as possible.

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

**WHEREAS**, a special use permit application (TC001-Modified) for permission to upgrade an existing telecommunications facility at 66 Milton Road has heretofore 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 October 16, 2002 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose 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:

**CITY OF RYE**

**Notice of Public Hearing on a special use permit application by Omnipoint Communications to upgrade an existing wireless telecommunications facility at 66 Milton Road**

PLEASE TAKE NOTICE that, pursuant to Chapter 196 of the Code of the City of Rye (Wireless Telecommunications), the Rye City Council has scheduled a public hearing for Wednesday evening 8:00 P.M., October 16, 2002 in the Council Room of the Rye City Hall on the following matter:

Omnipoint Communications has applied for special permit approval for the purpose of upgrading an existing wireless telecommunications facility on a property located at 66 Milton Road. The property is known on the Rye City Tax Map as Sheet 146.11, Block 1, Lot 73, and is located in the RA-3 Apartment District, a "C" City of Rye Parking District, and appears to be located in the "C" Flood Insurance Rate Zones. All information pertaining to this matter is available at the City Clerk's Office in Rye City Hall. Contact Christian K. Miller, (967-7176) if you require assistance in reviewing this matter. Any person interested or affected will be given an opportunity to be heard.

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Rye City Planner

7. Resolution declaring inoperable or obsolete equipment as surplus

The City Manager explained that from time to time the City looks forward to disposing of some of the office “relics” which have outlived their time (some are obsolete and some are inoperable and unfixable). She said those with any value will be sold; some will be recycled if possible; and the balance will be disposed of.

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

**WHEREAS**, the City has been provided with a list of office equipment that City staff has identified as inoperable or obsolete, and

**WHEREAS**, the City Comptroller has recommended that said office equipment be declared surplus, now, therefore, be it

**RESOLVED**, that the City Comptroller is authorized to sell said surplus equipment for the best price offered, and be it further

**RESOLVED**, that the City Comptroller is authorized to dispose of surplus equipment that has no market value.

8. Authorize City Clerk to loan voting machines to the Rye City School District for School Board Referendum October 22, 2002

Mayor Otis asked the Council to consider the request of the Rye City School District to use four of the City's voting machines for the Board of Education bond referendum special election.

Councilman McKean made a motion, seconded by Councilwoman Larr and unanimously carried, to authorize the City Clerk to loan four voting machines to the Rye City School District for the bond referendum special election on October 22, 2002.

9. Request for permission by the TWIG Organization to place a banner across Purchase Street

Mayor Otis asked the Council to consider a request from the TWIG Organization to place a banner across Purchase Street, advertising their annual Holiday Fair on November 15-16, 2002. Councilman Hutchings said the TWIG is a wonderful organization, but the City has not granted such requests in the past and he would not be in favor of setting a precedent to do so in this case. The Council agreed and denied the request.

10. Request for permission for the Recreation Department to close Purchase Street for special activities associated with the 50<sup>th</sup> Anniversary of the Halloween Window Painting Contest

The City Manager reported that because it was the 50<sup>th</sup> Anniversary of the Halloween Window Painting Contest, the Rye Recreation Department wished to plan some special events which would require closing Purchase Street from Locust Avenue to the Chase bank for special activities from 10 AM to 1 PM. She said the merchants were in favor of the plan and the parents would be happy to know there would be no traffic.

Councilwoman Cunningham made a motion, seconded by Councilman McKean and unanimously carried, to approve the request by the Rye Recreation Department to close Purchase Street between 10 AM and 1 PM on Sunday October 20, 2002 (with a rain date of October 27, 2002) in honor of the 50<sup>th</sup> Anniversary of the Annual Halloween Window Painting Contest.

11. Request for permission for the Recreation Department to use the Village Green for special activities associated with the 50<sup>th</sup> Anniversary of the Halloween Window Painting Contest

Manager Novak reported that the Rye Recreation Department would like to use the Village Green for a scarecrow building contest in conjunction with the celebration of the 50<sup>th</sup> Anniversary of the Halloween Window Painting Contest. The Council liked the idea but wanted to be sure that this activity would not become an annual event. Councilwoman Larr cautioned that the Recreation Department should make sure the straw is sanitized.

Councilwoman Larr made a motion, seconded by Councilman McKean and unanimously carried, to approve the request by the Rye Recreation Department to hold a scarecrow building contest on the Village Green as a one-time event to celebrate the 50<sup>th</sup> Anniversary of the Halloween Window Painting Contest.

12. Resolution amending the fiscal 2002 Building & Vehicle Fund budget to provide \$91,000 from retained earnings to fund costs associated with the replacement of windows at Rye City Hall

Manager Novak explained that the project to replace windows at Rye City Hall was part of the 1999 approved City Budget, but that an additional \$91,000, over and above the original amount budgeted, is necessary to complete the project. She requested that the Council approve an amendment to the fiscal 2002 Building & Vehicle Fund budget to provide the additional funds for the much needed new windows. Councilman McKean said new windows will also lower energy costs; will provide a better work environment; will alleviate water damage, and will even open and close. Ms. Novak said the delay was due to the backlog of projects for which there have not been enough hours in the day. She said she would look into having all the trim on City Hall painted when the windows were being painted.

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

**WHEREAS**, the fiscal 2002 budget for the Building and Vehicle Fund provided for a projects known as the “City Hall Improvements”, and

**WHEREAS**, the replacement of windows are necessary for City Hall, and

**WHEREAS**, insufficient funds exist in the City Hall Improvements Project to provide for the replacement of windows; and

**WHEREAS**, sufficient funds do exist in the retained earnings; now, therefore, be it

**RESOLVED**, that the City Comptroller is authorized to increase the Building and Vehicle Fund City Hall Improvements Project by \$91,000 using Building and Vehicle Fund retained earnings as the source of funds.

**ROLL CALL:**

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

**NAYS:** None

**ABSENT:** Councilman Cypher

The resolution passed.

13. Bids for Replacement Windows at Rye City Hall

Manager Novak explained that the bids for replacement windows at Rye City Hall had been received but the lowest bidder had made an error in calculation and had asked that their bid be withdrawn. Therefore, she said the City Engineer is recommending that the bid be awarded to the second lowest bidder. Councilman McKean asked if the windows were Marion windows and if the City could request bid bonds with a duration of 90 days. The City Manager said the bid was for Marion windows and that she would review the State Laws concerning bonds. Councilman Chu said he was disappointed to see a bid withdrawn and asked if the City should change its procedures and perhaps impose penalties. Ms. Novak said that she would review the procedure, but that in both this case and the following, it was really a case of the Engineer catching an honest mistake after the bid opening. The bid tabulation is listed on the following page:

**CONTRACT #2002-12**

**REPLACEMENT OF WINDOWS AT RYE CITY HALL**

NAME OF BIDDER	SECURITY	AMOUNT BID
L. Simon Corporation 35 Portman Road New Rochelle, New York 10801	Bid Bond	\$148,000 (withdrawn)
K Con Site Developers, Inc. 225 Orienta Avenue Mamaroneck, New York 10543	Check \$11,750	\$235,000
Empire Energy Specialists, Inc. 7 Tuckahoe Road Yonkers, New York 10710	Bid Bond	\$260,000
N. Picco & Sons 154 East Boston Post Road Mamaroneck, New York 10543	Bid Bond	\$292,000

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

**RESOLVED**, that Contract 2002-12, Replacement of Windows at Rye City Hall, is hereby awarded to K-Con Site Developers, the second lowest bidder meeting specifications, in the amount of \$235,000, the lowest bidder having withdrawn the bid.

**ROLL CALL:**

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

**NAYS:** None

**ABSENT:** Councilman Cypher

The resolution passed.

14. Bids for Asbestos Abatement and Demolition of Buildings at former Rye Nursery site

City Manager Novak explained that the bids for asbestos abatement and demolition of buildings at the former Rye Nursery site had been received and the lowest bidder had made an error in calculations and asked that the bid be withdrawn. She said that the next two bids were for the exact same amount; that each bidder fully met specifications; and that it was up to the

City Council to decide which of the next two bidders should be awarded the bid. The Council felt they had little information with which to make a decision, but thought having the word “Environmental” in the name of the company should indicate a specialization in the environmental needs of removing asbestos. The bid tabulation follows:

**CONTRACT #2002-11**

**ASBESTOS ABATEMENT & DEMOLITION  
OF BUILDINGS AT FORMER RYE NURSERY SITE**

<b>NAME OF BIDDER</b>	<b>SECURITY</b>	<b>AMOUNT BID</b>
FMC Inc. 19 Cliff Street New Rochelle, New York 10801	Bid Bond	\$104,000 (withdrawn)
Infinity Environmental Services, Inc. 34 North Bond Street Mt. Vernon, New York	Bid Bond	\$159,000
L. Simon Corporation 35 Portman Road New Rochelle, New York 10801	Bid Bond	\$159,000
Lorono Construction 27 Nursery Lane Rye, New York 10580	Check \$8,000	\$160,000
Garito Contracting 791 Nepperhan Avenue Yonkers, New York 10703	Bid Bond	\$167,685
N. Picco & Sons 154 East Boston Post Road Mamaroneck, New York 10543	Bid Bond	\$247,900

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

**RESOLVED**, that Contract 2002-11, Asbestos Abatement and Demolition of Buildings at the Former Rye Nursery Site is hereby awarded to Infinity Environmental Services, Inc., one of the second lowest bidders meeting specifications, in the

amount of \$159,000, as selected by the City Council, the lowest bidder having withdrawn the bid.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Cypher

The resolution passed.

15. Draft unapproved minutes of the special meeting held August 12, 2002 and the regular meeting of the City Council held August 14, 2002

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the minutes of the special meeting held August 12, 2002 as amended.

During a discussion of the minutes of the August 14, 2002 meeting, Councilwoman Cunningham asked if the amended text of new laws should not be underlined so that readers would know which parts of the law were new or changed. The City Clerk said the clear copy is sent to the State, but she would research past procedures and be sure to follow that suggestion for the minutes if it was preferred.

Councilwoman Larr made a motion, seconded by Councilwoman Cunningham and unanimously carried, to approve the minutes of the regular meeting of the City Council held August 14, 2002 as amended.

16. Miscellaneous communications and reports

Councilwoman Larr mentioned that the rating on the Indian Point Nuclear facility had been raised. Councilwoman Cunningham mentioned that the County Board of Legislatures would be considering whether or not to request that the Federal Government close Indian Point at their Monday, September 9, 2002 meeting.

Councilwoman Larr mentioned that she had heard from Don Dolce, a resident of Wappanocca Ave. that the gas station at the end of Wappanocca was for sale. The Mayor said that some of the residents in that part of town were interested in purchasing the site in hopes that it could be converted into a park. He said he was trying to get the interested group of buyers together with the Westchester Land Trust and that it was the hope of the neighbors that the City might make conversion to a park a capital project. Councilman Hutchings said that an added twist to the story is that there is a notice from the Sheriff of Westchester that the site is being

auctioned on October 17, 2002. The Council and staff will stay on top of this developing situation.

Mayor Otis reported that Assemblyman Ron Tocci had announced two \$50,000 grants: one to the City of Rye to be used for any of the newly acquired land purchases (Rye Nursery, the Friends Meeting House or the Anderson Property); and the other to the Friends of Rye Town Dock to be used for reconstruction of the dock.

Councilman McKean asked if it were too late to add policy questions to the upcoming survey. He said it was probably better not to include such questions on this kind of survey.

Councilwoman Cunningham reported that environmentalists, in particular, are thrilled that the County has decided to buy David's Island for use as parkland. She said, however, that there is some opposition, so the Executive Director from the Federated Conservationists had requested that the City Council send a resolution supporting the parkland use. Councilwoman Cunningham said she would draft a resolution for consideration at the next meeting.

Councilman McKean commented that all contractors seem to feel free to have illegal signs on the lawns of the houses they are renovating. He said that they need to be told, "no signs."

Mayor Otis reported on two meetings he had attended. The first was an emergency planning meeting during which he had had a chance to visit an emergency bunker and view, first-hand, the modern technology involved. The second was a meeting with Ed Jacoby and James Lee Witt who are working with County Executive Spano on emergency planning, especially for Indian Point. He said it is a good team of former FEMA people.

The City Manager was asked how the City handled all the recent rain in terms of our pumps. She said that everything had worked well and the City was in total compliance.

17. Old Business

There was no old business to discuss

18. New Business

Councilwoman Cunningham reported that the Westchester Environmental Student Council would be cleaning up the Read Sanctuary on Saturday, September 21, 2002.

Mayor Otis called a special meeting for September 25, 2002 to consider some bids for the new playing fields. He also suggested, to the approval of the Council, that September 25, 2002 at 7 PM be set as a date for a "Big House" Workshop.

19. Adjournment

There being no further business to come before the meeting, Councilman McKean made a motion, seconded by Councilman Hutchings and unanimously carried, to adjourn the meeting at 9:18 PM.

Respectfully submitted,

Susan A. Morison  
City Clerk