

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on January 22, 2003 at 8:00 P.M.

PRESENT:

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

Dennis Spillane, 3 Thorne Place, appeared before the Council to express concern about the blasting at Disbrow Park which he has been told will commence on January 27, 2003 and last for a month. He reported that his neighbor, *Frank Gadaletta*, a civil engineer, says the homes on Thorne Place are built on pilings and that incorrect blasting could cause his home to collapse. He said he had been to see George Mottarella and Ryan Coyne (both of whom were very helpful) and was informed that the blasting company will be doing surveys and will put down protective covers. Mr. Spillane suggested using a chipper and requested that the contracts be amended in this way. He said he thought a sub-contractor was doing the survey and didn't think it was going to be particularly thorough. He also asked who was liable if the homes were damaged, either by the blasting or by stray baseballs. City Manager Julia Novak said the funds were not available to use the chipper, which would cost three times the amount of blasting and urged Mr. Spillane to take advantage of the pre-blast survey. She said the City was conducting a survey to see just how much rock they would have to blast; they would make whatever plans they have for Thorne Place available to the surveyor; and let the company know at least some of the houses are thought to be on pilings.

4. Presentation by the Rye Fire Department Building Committee

Mayor Otis said because the Council had met with the Board of Fire Wardens on January 20, 2003 and had discussed many items at that time, this agenda item was rescheduled for the next regular City Council Meeting.

5. Presentation by the House Scale Sub-Committee

Mayor Otis introduced *Nick Everett*, co-chair of the House Scale Sub-committee (also Chair of the Board of Architectural Review[BAR] who was present along with co-chair *Judy Studebaker* (Chair of the Zoning Board of Appeals[ZBA]) and several members of the committee including *Serge Nivelle*, and *Paul Benowitz*. Mr. Everett began his presentation by outlining the process which began with a public meeting in September at which time the sub-committee was formed to address some of the issues causing concern. He said they looked at what other towns, such as Scarsdale and Greenwich, had done and rejected their approaches. The sub-committee also decided they did not want to fundamentally change Rye's zoning code and would stay away from procedural issues, such as public notification requirements. Rather, they would try and pin-point the issues which needed to be addressed. With the help of City Planner Christian Miller and Building Inspector Vinny Tamburro, about 25 "problem" houses were evaluated and used as a test against proposed changes. A draft of the committee's proposals was sent to the BAR, the ZBA and to the Planning Commission for additional input. Comments were received and some have been added to the draft.

The draft submitted to the Council has eight recommendations, broken into four general sections:

A. Code Conformance

1. *Review and Modify Zoning Code Definitions* to be more in conformance with the recently amended New York State Building Code.

B. Scale

2. *Establish Maximum Floor Area For Oversized Properties*- Suggestion to limit the Floor Area Ratio (FAR) to that which is applicable to a lot that is 150% of the minimum lot size of the zoning district in which the lot is located. The ZBA is concerned about how this affects larger lots.

C. Floor Area Ratio (FAR) suggestions

3. *Include some attic floor area in FAR calculation* within a single-family residence. Include portions of the attic in the FAR calculation (this is the most controversial suggestion but is aimed to limit creation of full attics with habitable space as defined by the New York State Building Code.). They are recommending that 50% of the floor area be counted between imaginary five-foot knee walls where such area has 7'6" of ceiling height and room width.

4. *Include Internal "Void" space in FAR calculation*-Recommends that interior void space should be included in the calculation of gross floor area where such void space extends from the first floor higher than 14 feet of ceiling height. This is to address the bulk and volume associated with some homes.

5. *Include only porches that are enclosed*-Open porches would no longer be counted in the FAR.

D. **Building Height**

6. *Reduce building height*-Recommends that the maximum building height should be reduced from 35 feet to 32 feet in the R-1and R-2 Districts and to 28 feet for all other residence districts. Many existing homes and most of the new construction are below 28 in height. Building height is measured from the average grade around the house to the mid-point between the eaves and the peak.

7. *Include basement in Floor Area calculation where extensive grade manipulation has occurred.* The sub-committee recommends that 25% of the basement be included in the calculation of gross floor area where the existing grade has been reduced by more than three feet to create a fully exposed exterior basement wall of more than five feet in width. This regulation is intended to address situations where extensive property grading occurs and the first floor elevation of the house is raised up to locate a garage in the basement. Basements do not count in the calculation of FAR.

8. *Limit First Floor Elevations Relative to Existing Grades*-Recommends that the first floor elevation of a home not be more than three feet above the predevelopment grade in the front of the house. This regulation will require the submission of pre- and post-development topographic surveys of a property.

The Mayor congratulated the Committee and said his goal had always been not to significantly revamp the code so the growth of new homes and additions would be hampered. He noted the test houses showed many, once built, were not so bad. He also said he was eager to

move the process forward, perhaps by having the Corporation Counsel and City Planner begin the process of drafting the suggestions into law while discussions continued.

At the request of Councilwoman Cunningham, *Ms. Studebaker* reported that the ZBA members thought that all attics, whether constructed with pull-down stairs or built-in stairs, should be subject to FAR inclusion. She said the NYS code now says you can have an attic as long as it has a sprinkler system so this change brings Rye more in line. There were questions about how easy it is to move collar ties in an attic to avoid having space counted.

There was concern about whether pre-existing conditions would stand. It would not for all issues, but everyone could still come to the ZBA for a variance. Councilwoman Larr was concerned about restricting people from adding on bedrooms. Councilman Cypher cautioned against passing laws which might have the unintended effect of not allowing any changes in smaller zones; that we should not make a problem which would have to be sorted out by the ZBA. The City Planner assured Councilwoman Larr that many additions would not be at all affected.

Jordan Seaman, Greenhaven Road, questioned the wisdom of the 150% cap and suggested this would inadvertently lead to subdivision; would this not reduce allowable building size; and lead to a decrease in property values. The Committee said they had debated the issue and it was not their intent to promote subdivision. The Mayor said there was also the issue of whether or not an area should be up-zoned. City Planner Miller said the oversize issue can be addressed with a graduated scale and the Committee was trying to address the problem of having the owner of a one acre lot (when all around are ½ acre lots) able to build a house twice as big as everyone else's house. He agreed newer homes would be more impacted and said they would continue to look at more tests. He said those with large houses wishing to subdivide would have to retain a lot size for the original house which would fit the scale.

Councilman Chu inquired about whether the Committee had considered the economic impact of their recommendations. *Mr. Everett* said there was no way they could do that especially as they don't have plans for most houses. He said there was still an opportunity to improve houses even though there could be more demand for variances. Mr. Chu said he had asked Mr. Miller to meet with the Finance Committee and the Mayor said he thought, if they dealt with the margins, that the economic issues might be a wash.

Mr. Benowitz said the Committee is not in 100% agreement about everything and went on to talk about the grade manipulation factor, pointing out that many old neighborhoods with split level homes have already been manipulated. He said these neighborhoods are in need of upgrading so he is concerned about the effect on existing houses from this recommendation.

Joe Lorono, property and business owner and a builder, thought the recommendations were regulating "taste" and reminded the Council that Scarsdale and Greenwich still have less restrictive rules than Rye. He said the recommendations would make Indian Village totally non-conforming and would bring the whole of Rye up to about 70% non-conforming so that everyone will need a variance. He pointed out that most new houses are pretty nice, that lots of splits need work and that new houses do bring in more money to the City. He said the attic proposals would

simply have the effect of creating big ugly (rather than beautiful) houses and pointed out that the City would lose 3 months of building fees.

Mr. Everett said the next steps would be up to the City Council. The Mayor said before deciding those steps, the Council should hear Agenda Item #6 concerning the suggestion for a moratorium.

6. Consideration of proposed local law to be known and cited as the Interim Floor Area Ratio Moratorium Law of the City of Rye

The Mayor referred to a draft prepared by Corporation Counsel Kevin Plunkett that addressed the issue of how to go about a moratorium and other issues to be considered. He pointed out that it proposed a narrower scope relating directly to some of the proposals from the committee. The Mayor asked people to consider if it was warranted? Will it affect pending proposals? How fast are we moving? Does the moratorium detract and distract from the FAR issue? Will it slow down the process? Councilman Cypher said he was against it because it could cause hardship on a lot of people; that it was basically asking for local law based on regulations not yet in existence; that it was better to move with speed on the Committee's report. The City Manager pointed out the practical problems of how staff will deal with projects during the time of a moratorium, even as the parameters of the "law" continue to change. Mr. Plunkett said he made the moratorium specific because Rye has specific recommendations to deal with and, in his opinion, the moratorium would stop all projects, both those in progress and about to start, cold. The Mayor expressed concern about the hardship for those who are almost at the end of the permit process and have their contractors lined up. *Mr. Benowitz* said it could kill the economy. Councilman Hutchings said he thought the Council had just asked for some information about moratoriums and was somewhat surprised to see what appeared to be a new law before him. Mr. Miller reported that the Planning Committee appeared not to be in favor of the moratorium, but had not been asked for a formal opinion so had not given one. *Emanuel Cargill*, 24 Greenhaven Road, said it was a complex issue, so why not have a moratorium? *Angelo Vassallo*, 22 Greenhaven Road, is worried about one acre subdivision, particularly in his neighborhood, and begged the Council to adopt a moratorium to prevent the development planned next door to him. Councilman Chu said it might be good to do.

After much discussion about how to best proceed with both the issue of the moratorium and the Committee's proposals, the following decisions were made:

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

RESOLVED, that the narrow version of the moratorium be referred to the Planning Commission for a formal review and comment as well as to other relevant boards, including the BOA and ZBA, for their input.

Councilman McKean, who said he was getting a lot of negative comments about big houses and thought a public hearing should be held at the next meeting regardless of whether or

not the various boards and commissions had had a chance to comment, made a motion, seconded by Councilman Chu, to adopt the following resolution:

WHEREAS, the Council wishes to create a new proposed local law to be known and cited as the Interim Floor Area Ratio Moratorium Law of the City of Rye, and

WHEREAS, it is now desired to call a public hearing on such proposed amendment to the law, 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 February 5, 2003 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 proposed local law.

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 to be known and cited as the Interim Floor Area Ratio Moratorium Law of the City of Rye

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 5th day of February, 2003 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 to be known and cited as the Interim Floor Area Ratio Moratorium Law of the City of Rye.

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

Dated: January 27, 2003

Susan A. Morison
City Clerk

The motion carried by a vote of 5 to 2 with Councilmen Cypher and Hutchings voting against.

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

RESOLVED that a public forum to discuss the recommendations of the sub-committee be held at the February 5th Council Meeting and be it further

RESOLVED that text for proposed local laws be developed as soon as it was prudent to do so.

7. Consideration of resolution adopting a State Environmental Quality Review Act (SEQRA) Negative Declaration and Determination of Local Waterfront Revitalization Program (LWRP) Coastal Consistency in connection with the Rye Golf Club Tidal Wetland Management Project

The Mayor said the County will be implementing a tidal wetland restoration project largely located at Marshlands Conservancy and the Rye Golf Club on Milton Harbor in the City of Rye. The Planning Commission has advised that the Council consider the tidal wetland project as an Unlisted Action under the State Environmental Quality Review Act (SEQRA). The application will also require Local Waterfront Revitalization Program (LWRP) Coastal consistency determination from the Council.

Councilwoman Cunningham made a motion, seconded by Councilman McKean and unanimously carried, to adopt the following resolution adopting a SEQRA Negative Declaration and Determination of LWRP Coastal Consistency in connection with the Rye Golf Club Tidal Wetland Management Project.

WHEREAS, the Rye City Council has received a request from Westchester County to implement a tidal wetland management and restoration project at Rye Golf Club; and

WHEREAS, Westchester County is the project sponsor, which is responsible for the funding, implementation and construction monitoring of the project; and

WHEREAS, the project requires an intermunicipal agreement for the use of Rye City property; and

WHEREAS, the Rye City Council is aware of the presence of “threatened” and “special concern” species within the project area and has relied on the conditions to be imposed by the New York State Department of Environmental Conservation to protect such species; and

WHEREAS, the proposed action is considered an Unlisted Action pursuant to the New York State Environmental Quality Review Act (SEQRA) and is subject to the requirements of Chapter 73, *Coastal Zone Management Waterfront Consistency Review*, of the Rye City Code; and

WHEREAS, on January 14, 2003, the Rye City Planning Commission reviewed the proposed action and recommended that the City Council find the action consistent with the policies of the City's adopted Local Waterfront Revitalization Program (LWRP); now, therefore, be it

RESOLVED, that based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact and adopts a Negative Declaration; and be it further

RESOLVED, that the City Council finds that the proposed action is consistent with the City's Local Waterfront Revitalization Program (LWRP) policies, standards and conditions identified in §73-5.D, *Coastal Zone Management Waterfront Consistency Review*, of the City Code.

8. Authorization for the City Manager to enter into an Intermunicipal Agreement with the County of Westchester for the Rye Golf Club Tidal Wetland Management Project

The Council reviewed the proposed Intermunicipal Agreement with the County of Westchester. Councilman Cypher pointed out that it would be more appropriate if the County were to be the main insurance carrier for the project, with the City being the additional insured. The Corporation Counsel said he would review the agreement and suggested the City Manager be authorized to enter into the agreement subject to his review and approval.

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

RESOLVED, that the Rye City Council authorize the City Manager to enter into an Intermunicipal Agreement with the County of Westchester for the Rye Golf Club Tidal Wetland Management Project.

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolution passed.

9. Consideration of proposed local law amending Section C22-8 of Article 22 of the Rye City Charter revising the due date for the first installment of Rye Neck Union Free School District taxes from August 1 to September 1 and amending C22-9A to change the due date the City Council issues the warrant to the City Comptroller from July 1 to August 15 of each year

City Manager Novak said the proposed law to amend Article 22 of the Charter of the City of Rye changes the due date for the first installment of the Rye Neck Union Free School District taxes from August 1 to September 1 to better coordinate the tax levy with tax decisions. She said the Rye Neck Schools were fine with this suggestion and there was no reason why the City of Rye of Rye should not do this, enabling Rye Neck taxpayers to receive tax benefits immediately.

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

WHEREAS, the Council wishes to amend Article 22, Tax Administration, of the Charter of the City of Rye, by amending Section C22-8 B as to payment dates and amending Section C22-9 A as to warrant date for the Rye Neck Union Free School District, and

WHEREAS, it is now desired to call a public hearing on such proposed amendment to the law, 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 February 5, 2003 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 proposed local law.

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 Article 22, Tax Administration, of the Charter of the Code of the City of Rye, by amending Section C22-8 B as to payment dates and amending Section C22-9 A as to warrant date for the Rye Neck Union Free School District

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 5th day of February, 2003 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 Article 22, Tax Administration, of the Charter of the code of the City of Rye, by amending Section C22-8 B as to payment dates and amending Section C22-9 A as to warrant date for the Rye Neck Union Free School District.

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

Dated: January 27, 2003

Susan A. Morison
City Clerk

10. Consideration of resolution urging Westchester County to appeal Hobbs v Westchester County

Mayor Otis presented a proposed resolution urging Westchester County to appeal Hobbs v. Westchester County. Councilman Cypher suggested the inclusion of the phrase “including the prosecution of an appeal” at the end of the first “resolved” clause, but the Mayor said his conversations with the County indicated they felt they had won a good portion of the case and would prefer the resolution not use that language. Councilman Cypher proposed a second “resolved” clause be included.

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

WHEREAS, the Rye City Council is concerned about the holding in Hobbs v. Westchester County as it relates to the ability of the Westchester County Parks Department to prohibit individuals convicted of sexual abuse of minors from performing in certain areas of County Parks frequented by children; and

WHEREAS, in the strongest possible terms, the Rye City Council believes that governmental operators of public parks should have the ability to protect children in these settings; and

WHEREAS, the Rye City Council believes that such protection should be within the authority of Westchester County; now, therefore, be it

RESOLVED, that the Rye City Council strongly urges that Westchester County review the legal options before it and take whatever steps are necessary to allow the County to deny such individuals permission to have contact with children at Playland Amusement Park or other County parks consistent with the law, and be it further

RESOLVED, that the Rye City Council directs its Corporation Counsel to cooperate with the Westchester County Law Department, including, but limited to, the preparation of an amicus brief, in the event of an appeal, or providing input for a specifically tailored regulation barring convicted pedophiles from the environs of Playland Park.

11. Discussion of Chapter 15, Section 15-3, Code of Ethics of the Code of the City of Rye

Mayor Otis said that *Nick Everett*, Chairman of the Board of Architectural Review (BAR), had asked the Ethics Committee to review the Code of the City of Rye as it relates to the long-standing issue of conflict of interest while serving on boards. The Ethics Committee reaffirmed the code that states members cannot present professional business to their own board. Mr. Everett contends that this has not always been the practice and was asking the Council to consider whether the law should be adjusted to better conform with practice. He said the BAR requires that an architect be on the board, so anyone practicing in Rye could not serve. He said his board was down to three members (a quorum) and should anyone be unable to attend and there was no quorum, the law says applications are automatically approved. The City Manager said our code is based on the state code, but it is sometimes difficult for staff and board chairs to have to be the defacto enforcers of that law. She said that all those appointed to boards/commissions/committees are now given the Ethics Code with their appointment letter so there should be more awareness. *Mary Ann Ilse*, Chair of the Ethics Committee, and member *Beth Griffin Matthews* agreed that they did not agree about what to do, but would be willing to meet again and present a formal opinion to the Council to help them in their deliberations. The Council thanked the Ethics Committee and said they looked forward to hearing from them. In the meantime, said the Mayor, if you need to appear before your own board, you will need to resign.

12. Designation of the days and time of regular meetings of the City Council

The Mayor asked the Council to consider the schedule of meetings for 2003. It has been adjusted to accommodate holidays and public school vacation periods. The Mayor suggested the Council meet on February 5th and hold February 26th as a time for an optional special meeting.

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to designate the days and times of regular meetings of the City Council during 2003 as follows:

January 8	May 14	September 3
January 22	May 28	
February 5	June 18	October 1
February 26(Optional Special)		October 15
March 5	July 16	November 5
March 19		November 19
April 9	August 11 (Cap. Budget)	December 3
April 30	August 13	December 17

13. Resolutions authorizing bonding for 2003 Capital Improvement Project

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

RESOLVED, that the following two serial bonds be issued subject to permissive referendum for various capital projects as adopted in the fiscal 2003 budget, to wit:

BOND RESOLUTION DATED JANUARY 22, 2003

**A RESOLUTION AUTHORIZING THE ISSUANCE OF \$60,000
SERIAL BONDS OF THE CITY OF RYE, WESTCHESTER COUNTY,
NEW YORK, TO PAY THE COST OF THE PURCHASE AND
INSTALLATION OF TRAFFIC SIGNALS AND TRAFFIC SIGNAL
SYSTEMS AT VARIOUS LOCATIONS THROUGHOUT AND IN AND
FOR SAID CITY.**

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, it is now desired to authorize the financing of said capital project; now, therefore be it

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

Section 1. For the class of objects or purposes of paying the cost of the purchase and installation of traffic signals and traffic signal systems at various locations throughout and in and for the City of Rye, Westchester County, New York, including incidental improvements and expenses in connection therewith, at a maximum estimated cost of \$60,000, there are hereby authorized to be issued \$60,000 serial bonds of the City of Rye, Westchester County, New York, pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the plan for the financing of the aforesaid class of objects or purposes shall consist of the issuance of the \$60,000 serial bonds of said City authorized to be issued pursuant to this bond resolution.

Section 3. It is hereby further determined that the period of probable usefulness of the aforesaid class of objects or purposes is twenty (20) years, pursuant to subdivision 72(a) of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of

such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said City of Rye, Westchester County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not available from other sources, there shall annually be levied on all the taxable real property in said City a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the City of Rye, Westchester County, New York, by the manual or facsimile signature the City Comptroller and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the City Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the City Comptroller, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of the City; provided, however, that in the exercise of these delegated powers, he shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the City Comptroller shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the City by the facsimile signature of the City Comptroller, providing for the manual countersignature of a fiscal agent or of a designated official of the City), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the City Comptroller. It is hereby determined that it is to the financial advantage of the City not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Comptroller shall determine.

Section 9. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. Upon this resolution taking effect, the same shall be published in full in *The Journal News*, the official newspaper, together with a notice of the Cit Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 12. This resolution is hereby adopted subject to a permissive referendum in accordance with paragraph B Section C21-9 of the City of Rye Charter

BOND RESOLUTION DATED JANUARY 22, 2003

**A RESOLUTION AUTHORIZING THE ISSUANCE OF \$101,000
SERIAL BONDS OF THE CITY OF RYE, WESTCHESTER
COUNTY, NEW YORK, TO PAY THE COST OF THE
RECONSTRUCTION OF VARIOUS CITY-OWNED BUILDINGS
LOCATED THROUGHOUT AND IN AND FOR SAID CITY.**

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, it is now desired to authorize the financing of said capital project; now therefore be it

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

Section 1. For the class of objects or purposes of paying the cost of the reconstruction of various City-owned buildings located throughout and in and for the City of Rye, Westchester County, New York, including original furnishing, equipment, machinery, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, at a maximum estimated cost of \$101,000, there are hereby authorized to be issued \$101,000 serial bonds of the City of Rye,

Westchester County, New York, pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the plan for the financing of the aforesaid class of objects or purposes shall consist of the issuance of the \$101,000 serial bonds of said City authorized to be issued pursuant to this bond resolution.

Section 3. It is hereby further determined that the period of probable usefulness of the aforesaid class of objects or purposes is twenty (20) years, pursuant to subdivision 12(a)(1) of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said City of Rye, Westchester County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not available from other sources, there shall annually be levied on all the taxable real property in said City a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the City of Rye, Westchester County, New York, by the manual or facsimile signature the City Comptroller and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the City Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the City Comptroller, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of the City; provided, however, that in the exercise of these delegated powers, he shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the City Comptroller shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the City by the facsimile signature of the City

Comptroller, providing for the manual countersignature of a fiscal agent or of a designated official of the City), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the City Comptroller. It is hereby determined that it is to the financial advantage of the City not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Comptroller shall determine.

Section 9. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. Upon this resolution taking effect, the same shall be published in full in *The Journal News*, the official newspaper, together with a notice of the Cit Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 12. This resolution is hereby adopted subject to a permissive referendum in accordance with paragraph B Section C21-9 of the City of Rye Charter.

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

RESOLVED, that the following serial bond be issued for the construction of sanitary sewers as adopted in the fiscal 2003 budget, to wit:

BOND RESOLUTION DATED JANUARY 22, 2003

**A RESOLUTION AUTHORIZING THE ISSUANCE OF \$1,220,500
SERIAL BONDS OF THE CITY OF RYE, WESTCHESTER COUNTY,
NEW YORK, TO PAY THE COST OF THE CONSTRUCTION OF**

SANITARY SEWERS LOCATED THROUGHOUT AND IN AND FOR SAID CITY.

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, it is now desired to authorize the financing of said capital project; NOW, therefore, be it

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

Section 1. For the class of objects or purposes of paying the cost of the construction of sanitary sewers located through out and in and for the City of Rye, Westchester County, New York, including the purchase and installation of original equipment, machinery and apparatus, and incidental improvements and expenses in connection therefor, at a maximum estimated cost of \$1,220,500, there are hereby authorized to be issued \$1,220,500 serial bonds of the City of Rye, Westchester County, New York, pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the plan for the financing of the aforesaid class of objects or purposes shall consist of the issuance of the \$1,220,500 serial bonds of said City authorized to be issued pursuant to this bond resolution.

Section 3. It is hereby further determined that the period of probable usefulness of the aforesaid class of objects or purposes is forty (40) years, pursuant to subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said City of Rye, Westchester County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not available from other sources, there shall annually be levied on all the taxable real property in said City a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the City of Rye, Westchester County, New York, by the manual or facsimile signature the City Comptroller and a facsimile of its corporate

seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the City Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the City Comptroller, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of the City; including but not limited to, the power to sell said serial bonds to the New York State Environmental Facilities Corporation, provided, however, that in the exercise of these delegated powers, he shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the City Comptroller shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the City by the facsimile signature of the City Comptroller, providing for the manual countersignature of a fiscal agent or of a designated official of the City), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the City Comptroller. It is hereby determined that it is to the financial advantage of the City not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Comptroller shall determine.

Section 9. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the City Comptroller. Such notes shall be of such terms, form and contents as may be prescribed by said City Comptroller consistent with the provisions of the Local Finance Law.

Section 10. The City Comptroller is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the new York State Department of Environmental Conservation and/or the New York State environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the class of objects or purposes described in Section 1 hereof, or a portion thereof, by a serial bond, and, or note issue of said City in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 11. The intent of this resolution is to give the City Comptroller sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds and, or notes without resorting to further action of this City Council.

Section 12. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. This resolution shall be published in full in *The Journal News*, the official newspaper, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 15. This resolution shall take effect immediately in accordance with paragraph D of Section C21-9 of the City of Rye Charter.

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolutions passed.

14. Proposed resolution amending the 2002 Budget to increase estimated revenues and to increase appropriations for the Rye Youth Council in the amount of \$4,450.00

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

WHEREAS, the City acts as a sponsor for the Rye Youth Council for the purposes of applying for State Aid from the New York State Division for Youth, and,

WHEREAS, the Rye Youth Council has filed with the State of New York the necessary documents to obtain said State Aid for fiscal 2002 in the amount of \$4,450, and

WHEREAS, the fiscal 2002 budget as adopted did not recognize the aforementioned State Aid or the associated appropriations, now, therefore, be it

RESOLVED, that the fiscal 2002 General Fund budget be amended as follows:

Increase Estimated Revenues – Rye Youth Council State Aid \$4,450

Increase Appropriations – Rye Youth Council \$4,450.

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolutions passed.

15. Acceptance of donations to the Rye Police Department from the Rye Hospital Center in the amount of Seven Hundred Fifty (\$750.00) Dollars and from John T. Bostelman and Emily Hannah in the amount of One Hundred (\$100.00) Dollars

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

WHEREAS, the Rye Hospital Center desires to donate Seven Hundred Fifty (\$750) Dollars and John T. Bostelman and Emily Hannah desire to donate One Hundred (\$100) Dollars to the Rye Police Department; and

WHEREAS, the fiscal 2003 General Fund budget did not anticipate these donations; now, therefore, be it

RESOLVED, that the City Council of the City of Rye accepts the aforementioned donations; and be it further

RESOLVED, that the City Comptroller is authorized to amend the fiscal 2003 General Fund budget as follows:

Increase Deferred Revenues – Police Donations \$850.00

ROLL CALL:

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

NAYS: None
ABSENT: None

The resolutions passed.

16. Authorization for the City Manager to enter into an amended cooperation agreement with the County of Westchester for Phase II of a Park Improvement Project at Gagliardo Park under the Community Development Block Grant program increasing the total funding from \$50,000 to \$62,000

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

RESOLVED, that the City Manager be authorized to enter into an amended cooperation agreement with the County of Eastchester for Phase II of a Park Improvement Project at Gagliardo Park under the Community Development Block Grant Program increasing the total funding from \$50,000 to \$62,000.

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolutions passed.

17. Authorization for the City Manager to enter into an Intermunicipal Agreement with the County of Westchester Department of Transportation for Provision of Bus Shelters

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

RESOLVED, that the City Manager be authorized to enter into an Intermunicipal Agreement with the County of Westchester Department of Transportation for Provision of a Bus Shelter located at the Rye Train Station.

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolutions passed.

18. Authorization to pay the balance of Union Free School District taxes as of December 31, 2002

The City Manager reported that the City has collected 99% of the total tax levied for Union Free School District taxes. She anticipates 100% collection and requested authorization to remit the balance due at this time.

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

RESOLVED, that the City Comptroller be authorized to pay the balance of 2002/2003 Rye Neck Union Free School District taxes collected by the City of Rye to the District in the amount of \$71,573.59 on February 14, 2003.

ROLL CALL:

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

NAYS: None

ABSENT: None

The resolutions passed.

19. Approval of the election of a new member to the Rye Fire Department

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

RESOLVED, that the election of Randy Bach by the Board of Fire Wardens to the Milton Point Engine and Hose Company be approved.

20. One appointment to the Finance Committee to fill the term ending January 1, 2004, by the Council

Councilman Chu made a motion, seconded by Councilwoman Larr and unanimously carried, to appoint Matthew Fahey to the Finance Committee to fill the term ending January 1, 2004. The Mayor was urged by Councilman McKean to solicit resumes from those with Municipal Bond experience to consider for future appointments.

21. Two appointments to the Rye Cable Television Committee for three-year terms; one appointment to fill the term ending January 1, 2004; and two appointments to fill the terms ending January 1, 2005, by the City Council

Councilman Chu made a motion, seconded by Councilman Hutchings and unanimously carried, to appoint Margot Burgheimer and John Carey to the Rye Cable Television Committee each for three-year terms ending January 1, 2006, and Marvin Goldstein for a two-year term ending January 1, 2005.

22. Miscellaneous communications and reports

Councilman Chu announced that February 1, 2003 begins the Year of the Ram and anyone interested in more information about this should contact him.

Councilman Chu announced that the Annual Meeting of the Rye Free Reading Room would take place on February 8, 2003 with Jules Kroll as the guest speaker discussing homeland security.

Councilwoman Cunningham reported she had attended the Department of Environmental Conservation meeting on the Phase II Stormwater regulations. She said there were a lot of things the community could be doing to keep from contaminating the Sound and we should stay on top of the issue.

Councilwoman Larr said she and Julia Novak had attended the Emergency Medical Services (EMS) meeting. She reported that since they have brought accounting practices in house, they have done very well and more than paid for the person they hired to do the billing. She also announced that the Elks Club of Port Chester will be donating a new truck.

Councilman Cypher announced that Monsignor Boyle will be installed at Resurrection Church on February 9, 2003 at 3 P.M. with a reception to follow at 4:30 P.M.

23. Old Business

In response to a question from Councilman McKean, the Clerk reported that she had heard from Joseph Latwin that he had heard the Cottage Street affordable housing project was back on track.

Councilman Chu asked the City Manager to report on the progress of a city list-serve. City Manager Novak said that FrYeI will be set up for anyone who wants to subscribe. Department Heads will be encouraged to submit information and the organization of the project will be coordinated by the City Manager's office.

24. New Business

There was no new business to be considered.

25. Draft unapproved minutes of the regular meeting of the City Council held January 8, 2003

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 January 8, 2003 as amended.

Mayor Otis made a motion, seconded by Councilman McKean, to adjourn to Executive Session to discuss the replacement of the City Manager at 11:30 P.M.

The Council reconvened at 11:45.

26. Adjournment

There being no further business to discuss, Councilwoman Larr made a motion, seconded by Councilman McKean and unanimously carried, to adjourn the meeting at 11:46 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk