

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on February 5, 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. Presentation by the Long Island Sound Watershed Intermunicipal Council of a proposal to create a Stormwater Utility District

Mayor Otis said Rye was a member of the Long Island Sound Watershed Intermunicipal Council (LISWIC), chaired by Phyllis Wittner, which has been tracking the emerging issue of how communities are going to handle the mandates of EPA Phase II which will need to be in place by March, 2008. He introduced Alfred Gatta, Village Manager of Scarsdale who gave a PowerPoint presentation to the Council urging Rye to consider becoming part of a new Stormwater Utility District. He covered the Environmental Protection Agency (EPA) Phase II regulations which require a Notice of Intent from all communities by March 10, 2003; the current stormwater management activities of municipal governments; a proposal for a better way to comply with Phase II by developing a special district; and the financing of this approach. He said individual municipalities are not equipped, financially or administratively, to implement comprehensive stormwater management, including soil erosion control and reducing water pollution – all of which are issues which should be addressed on a regional level, evening out the burden which would be placed on shoreline communities which receive the outfalls of volume from upstream. Under the proposed new district, all municipalities in the Basin should

participate in the operations of a regional approach and have representation on the District Board. The new district, to be financed by fees and service charges, will cover basin and watershed planning, public education/involvement, capital improvements, operations and maintenance and source control.

In response to questions from Council members, Mr. Gatta said the new district would regulate all residential and commercial buildings; would be financed by non tax-deductible fees but would save municipalities some money because they would not have to do some things they do now (like street sweeping). The City Manager said perhaps the mandates could be filled just by Rye, but it would require a second engineer and, while it does add another level of administration, it is logical, especially for Rye which is at the bottom of the hill and on the Sound. The effect on the Department of Public Works' staff would be to free them up for other things. Councilman Chu pointed out that there are precedents for this kind of district in other states and in the refuse and sewer districts operated by the County. Mayor Otis said the EPA requirements must be met by somebody, so the Council will have to figure out what is best. He said the County might also consider overseeing this project.

Marion Shea, Brookdale Place, reported that the Westchester League of Women Voters has been working on the issue for several years and heartily endorses the plan as good for both the present and future. Mayor Otis took the opportunity to offer condolences to Mrs. Shea on the recent loss of her husband, Jim, who had been, for many years, a tremendous asset to Rye.

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

There were no residents who had matters not on the agenda to discuss.

5. Public forum on House Scale Sub-Committee report/recommendations

The Mayor opened the public forum by saying comments should be kept separate from the moratorium issue. He reiterated his goal to act cautiously so that not all houses would be adversely impacted. Nick Everett, Co-Chair of the House Scale Sub-Committee, along with Judy Studebaker, reported on some of the changes which have been made to the recommendations since the last meeting, specifically the percentage allowable for houses on oversized lots. He said this change would hopefully discourage subdivision. *Paul Benowitz*, 29 Ellsworth St., questioned whether this would be so and personally had no real objection to subdivision.

Many members of the audience wished to be heard. *Glen Hoffman*, 74 Fairway, asked if the recommendations would apply only to future permits (*yes, but future permits would have to use the new calculations*). *Priscilla Young*, 84 Grace Church Street, questioned if buildings built on high ground shouldn't have different calculations. *Anthony Spencer*, architect, 11 Brevoort Lane, questioned requiring elevations at no more than 3 feet, remarking that it would make most of Greenhaven and Indian Village non-conforming. *Paul Cospoli* said with only 3 feet many first floors would be underwater. *Jordan Seaman*, Greenhaven Road, questioned the

recommendations concerning void space and attic space. *Jack and Valerie Turney*, 210 Central Avenue, said they are finally able to build their own house and these new guidelines would make it impossible to build what they want and need. They urged the Council to be careful not to drive the middle class out of Rye. *Scott Dietrick*, 61 Midland Avenue, said he had just moved to Rye with the expectation of being able to renovate his house and perhaps would have purchased elsewhere had the code been more restrictive. He said he thought the changes would affect tradesmen as well as property values and cause headaches for the City. *Joe Latwin*, said he thought four areas needed more explanation: grade (look at the effect in relationship to the street); flood elevations (requirements may prohibit building); effect on existing split level houses (different floors on different levels); and whether some of the smaller changes would make enough of a difference to be more than just annoying.

Several builders/developers spoke about the negative impact the changes would have. *Gary Hirsh*, 6 Harbor Lane, urged a more deliberative process and said current rules work well almost all the time. He said FAR changes will be bad for the economic well-being of Rye, reduced square footage will lead to lower sale prices, add to the demand for variances, and complicate the building process. *Stanislav Kotyza* said if people can't build in Rye they will go elsewhere and can Rye afford this? He said big houses are good for Rye and with the proposed height limitations, you would have no Tudors, no Victorians, only ugly boxes. He asked the Council not to shut down our beautiful town. *Marta Kotyza* said people are enjoying having more space for things like media rooms and home offices and said without progress, Rye will lose tradesmen and residents. *Jennifer Howard*, 9 Hunter Lane said she recognizes there are some cases where the FAR didn't work and houses got too big for the neighborhood, but she feels this is the exception and any changes to the FAR need to be done judiciously with a far bigger sampling to work with. She said future homes will all be two storied as land will be too expensive and many of the taller homes already existing are beautiful. She urged the BAR to determine if homes are out of scale. She asked if they look good on the outside who cares what goes on inside? *Steven Joyce*, 3 Watson Court, supports some of the proposals but is against the attic and void proposals, and said he wished the draft had addressed the economic impact on Rye's residents and on the City's revenues and expenses.

Wendy Roland, 71 Milton Road, Chair of the Board of Architectural Review from 1983-94, said in 1985 they had reviewed "overcrowding." People liked the older neighborhoods with larger lots and they looked at all the same issues being reviewed now. She urged the Council to listen well and make wise decisions for future generations. *Darcy Gibson*, Kirby Lane North, said the ordinances were written to give rights to the land with the ability to adapt to the future. He said every decade there are changes in life styles leading to changes in architecture. He feels we are looking too much at the present and not to the future and the proposed changes are placing limitations which are egregious and oppressive. *Anthony Piscionere*, 363 Boston Post Road, said he is not convinced there is a "problem." He said there are some problem houses, but the Council needs to tread lightly and carefully on people's property values and balance changes against economic impact. He said the Zoning Board of Appeals, of which he is a member, tries to keep families in Rye by accommodating applicants with small or minimal variances. He feels changes to the zoning code will have severe consequences so be sure there is a problem before making any changes.

Ellen Boyle, Ann Lane, said she thought there was some aggressive building that is taking light, space and trees away and impacting neighborhoods. She said these guidelines will help restrain builders and preserve the quality of life. *Ann Murphy*, also Ann Lane, concurred, saying we should not lose our environment.

The Mayor thanked everyone for their comments reiterating that the goal was not to be overly restrictive or to outlaw styles. The City Planner, Christian Miller, suggested the proposed changes might not be as dramatic as they sound. The Committee will consider the suggestions and keep working on the proposals. *Mr. Piscionere* warned that zoning changes will affect generations to come and all changes should be deliberate and careful.

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

Before opening the hearing, Mayor Otis announced that there was no strong Council support for enacting a moratorium this evening, but they were still anxious to hear comments even as the progress of the sub-committee continues. Councilman McKean noted the issue had garnered a huge response and suggested setting up a schedule for moving forward. Councilwoman Cunningham said it was her hope the suggestions for change would curb excesses and hopes the Council will adopt some, if not all, changes so a moratorium will not be necessary. Councilmen Hutchings and Cypher agreed it was time to focus on the sub-committee suggestions rather than establishing a new law. The Planning Commission has issued a report advising against such a moratorium but suggested asking for voluntary compliance starting now. Corporation Counsel Kevin Plunkett said any proposed change would have to have a full SEQRA report and quoted from Section 197.85 of the Code of the City of Rye which says an automatic moratorium prohibiting any building affected by the pending code change would go into effect automatically.

The Mayor opened the public hearing. The general consensus of most in the audience was that the moratorium, as drafted, was unacceptable, although Councilman Chu said many of his e-mails indicated there were those who favored some kind of a moratorium.

Joseph Latwin said the draft was fatally flawed in many sections; done in too much haste; guaranteed to make people angry; would jeopardize the progress of the sub-committee; impair investments; and hurt builders. Councilman Cypher agreed, saying the draft eviscerates City boards and commissions and inadvisably makes the Council a court of appeals. *Gary Hirsch* called it a terrible idea; *Paul Benowitz* called it draconian. *Steve Joyce* said it would be a personal hardship for him and urged the Council to pass whatever they pass prospectively, rather than retroactively. *Pat Geoghegan*, 151 Osborn Road, said people have property rights-don't take them away so young people will still come to Rye. *Betsy Vickers* said the current codes are just fine; she likes the new houses; and urges no moratorium and no changes. *Michelle Flood*, 50 Orchard Lane, said to leave everything in place so there is still real estate "potential", and older people will be able to retain the value of their homes for retirement.

Others, while not in favor of the current version, still felt some kind of moratorium or protection was necessary. *Debbie Reisner*, who proposed the moratorium along with *Christian Daviron*, said this was not what she had in mind, but nevertheless felt people need protections from the over development. *Ms. Daviron* said they really wanted a moratorium to limit large homes so neighborhoods would not be destroyed. *Ruth Katsen*, Greenhaven Rd. concurred and asked the Council to take some action. *Steve Chaleff*, 20 Norman Drive, said it will take too long for the Council to reach consensus on the sub-committee recommendations so asked for a very limited moratorium. *Rhoda Kornreich*, also from Greenhaven, said you can't always count on the BAR to protect you; that complaining can lead to bad feelings between neighbors, so have a moratorium. Councilman Chu suggested applicants and surrounding neighbors try to listen to each other and try and compromise.

There being no further comments, Councilman Cypher made a motion, seconded by Councilman McKean and unanimously carried, to close the public hearing.

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

RESOLVED, that the Interim Floor
Area Ratio Moratorium Law of 2003 be
rejected.

Councilwoman Larr made a motion, seconded by Councilman Hutchings, that the Council pass no moratoriums for the time being. There were objections raised by Councilman McKean. After explanation and advice from the Corporation Counsel, Councilwoman Larr withdrew her motion.

7. Public hearing on proposed local law amending Section C22-8B 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

The Mayor opened the public hearing to consider the proposed local law revising the due date for the first installment of Rye Neck Union Free School District taxes from August 1 to September 1 and changing the due date the City Council issues the warrant to the City Comptroller from July 1 to August 15 of each year. As there were no comments from the Council or the public, Councilman Chu made a motion, seconded by Councilman Cypher and unanimously carried, to close the public hearing.

Councilwoman Cunningham made a motion, seconded by Councilman Chu and unanimously carried, to adopt the following local law:

**PROPOSED LOCAL LAW
CITY OF RYE
LOCAL LAW NO. 1- 2003**

**A Local Law amending 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**

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

Section 1. Section C22-8 B of the Charter of the City of Rye is hereby amended to read as follows:

17. Union Free School District taxes on real property shall become a lien on such real estate on [August 1] September 1 of each fiscal year. Such taxes may be paid in two equal installments during the months of [August] September and November, or during such other months as the Council by resolution may designate, without any additional charge.

Section 2. Section C22-9 A of the Charter of the City of Rye is hereby amended to read as follows:

17. After the appropriate authority shall have certified to the City Comptroller the amount of taxes to be raised on property within Union Free School District No. 1 of the Town of Rye within the City of Rye, the Council shall cause the amount of such taxes to be levied on the property within such district in the manner herein provided for city taxes. It shall cause a warrant to be issued to the City Comptroller and signed by the Mayor on or before [July 1] August 15 of each year. However, with respect to property in such district lying in two municipalities, the taxes upon the property of persons within such district shall be apportioned to the parts lying in the respective municipalities according to the full value of such property lying in each municipality to be determined by the equalized rate for such municipality as fixed by the Board of Supervisors for the assessment roll upon which such tax is to be extended.

Section 3. This local law shall take effect immediately on filing in the office of the Secretary of State.

8. Authorization for the City Manager to fill the Assistant Assessor position and the Assessment Clerk position in the Assessor's Department and the Parking Enforcement/School Crossing Guard position in the Police Department

City Manager Novak said a proposal had been made to fill some important positions left vacant by recent retirements and that she recommended filling all of them. The Mayor suggested that maybe the Clerk position could be shared, but Ms. Novak said that was not possible.

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

RESOLVED, that the City Manager be authorized to fill the Assistant Assessor position and the Assessment Clerk position in the Assessor's Department and the vacant Parking Enforcement/School Crossing Guard position in the Police Department.

9. Resolution declaring certain items at the Rye Nature Center as surplus

The City Manager reported that some of the assets owned by the City should be turned over to the Friends of Rye Nature Center (FRNC) as part of the successful operating agreement reached between the City and the FRNC.

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

WHEREAS, the items of the Nature Center listed below have been deemed by the City Naturalist as obsolete or unneeded; and

WHEREAS, surplus property should be sold at the best possible price or under the most beneficial terms in the public interest; and

WHEREAS, the City of Rye has entered into an agreement with the Friends of Rye Nature Center wherein the Friends of Rye Nature Center will continue operations of the Nature Center; and

WHEREAS, part of the aforesaid agreement provides that the items listed be sold to the Friends of Rye Nature Center for \$550; now, therefore, be it

RESOLVED, that the items listed below be declared surplus; and be it further

RESOLVED, that the items listed below be sold to the Friends of Rye Nature Center for the sum of \$550.

Adaptation Day Kit; Habitat Day Kit; Aquatic Day Kit; 4 Nature Center t-Necks; 2 Nature Center fleece shirts; 3 Nature Center Sweatshirts; 1 cot; 1 Xerox copier; 1 refrigerator.

10. Authorization for the City Manager to enter into an agreement with the New York State Emergency Management Office for the purpose of preparing an All Hazards Mitigation Plan for the City of Rye under a Pre-Disaster Mitigation Planning Grant

Ms. Novak reported that the City had previously received a Pre-disaster Mitigation Planning Grant of \$10,000 and now the agreement papers have arrived and need to be signed.

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

RESOLVED, that the City Manager be authorized to enter into an agreement with the New York State Emergency Management Office (SEMO) for the purposed of preparing an All Hazards Mitigation Plan for the City of Rye under a Pre-Disaster Mitigation Planning Grant.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cunningham, Cypher, Hutchings,
Larr and McKean
NAYS: None
ABSENT: None

The resolution passed.

11. Approval of a supplemental appropriation of \$20,000 from the 2003 General Fund Contingent Account to City Council Consultants for the purpose of engaging the executive search firm of Bennett Associates of Norwell, Massachusetts

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

WHEREAS, the City Council desires to engage the services of Bennett Associates of Norwell, Massachusetts, in an executive search for a new City Manager; and

WHEREAS, no funds were appropriated in the adopted fiscal 2003 General Fund Budget for the cost of said services; and

WHEREAS, sufficient funds exist in the Contingent Account for transfer to the City Council budget; now, therefore, be it

RESOLVED that the fiscal 2003 General Fund budget be amended as follows to provide funding for said engagement:

Increase City Council Consultants \$20,000, and
Decrease Contingent Account \$20,000.

ROLL CALL

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

NAYS: None

ABSENT: None

The resolution passed.

12. Approval of a supplemental appropriation of \$10,000 from the 2003 General Fund Contingent Account to Snow Removal De-icing Supplies for the purpose of purchasing additional salt

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

WHEREAS, the City Engineer has advised that severe winter weather is rapidly depleting the fiscal 2003 Snow Removal budget; and

WHEREAS, the City Engineer has requested \$10,000 supplemental funding in the fiscal 2003 Snow Removal budget to provide funding for the purchase of additional de-icing (road salt, calcium, etc.) supplies; and

WHEREAS, sufficient funds exist in the Contingent Account for transfer to the Snow Removal budget; now, therefore, be it

RESOLVED, that the fiscal 2003 General Fund budget be amended as follows:

Increase Snow Removal – De-icing Supplies \$10,000, and
Decrease Contingent Account \$10,000.

ROLL CALL

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

NAYS: None

ABSENT: None

The resolution passed.

Councilwoman Larr asked if the Council needed to move \$100,000 from the Contingency Account to make the first interest payment to the Environmental Finance Corporation (EFC) for the loan received to finance the former Rye Nursery Property. The Mayor said he had learned that the City can wait until November when we will have grant money (yet to be received) to pay the bill. The Corporation Counsel said there were some additional issues to be addressed, such as whether that grant money can be used for this purpose, and he will check them out. He said as of now the City has written confirmation that the payment is due April 7, 2003, but hopefully this can be changed. Councilman Hutchings asked if the EFC had changed the rules, but Ms. Novak said all the written agreements as well as verbal instructions from EFC staff indicate a payment on April 7, 2003, but the Mayor is able to speak to other people at the EFC and had previously assured the staff that the payment would not be due until 2004. Councilman Cypher urged that the situation be resolved in writing at the earliest possible time.

13. One appointment to the Rye Cable Television Committee to fill the term ending January 1, 2005, by the Council

Councilman Hutchings made a motion, seconded by Councilman McKean and unanimously carried, to approve the re-appointment of Doris Blank (whose term expired January 1, 2002) to the Rye Cable Television Committee to fill the term ending January 1, 2005.

14. Miscellaneous communications and reports

There were no miscellaneous communications or reports.

15. Old Business

Councilwoman Larr asked what progress had been made by the Traffic and Transportation Committee on the "30-30" idea (30 MPH on the 30th of each month). The City Manager will look into it and report back.

Councilman Chu thanked the City Engineer for adding additional reflectors at the Barlow Lane intersection and reported that the area had been accident-free for almost a year.

Councilman Chu reminded the Conservation Commission/Advisory Committee (CC/AC) that comments on his Environmental Resolution were due in March.

In response to a question from Councilwoman Cunningham, the disposal site used to deposit the sludge from Milton Harbor was closed by the State of Connecticut until further notice.

Councilman Hutchings said he noticed the graffiti was still on the gas station at the corner of Wappanocca and Purchase Streets and wondered why. Ms. Novak said the property was allegedly being auctioned off but apparently it had not been, and she would look into it.

16. New Business

The Mayor said there might be a meeting with the Board of Education on Thursday, February 13, followed, if possible, by a meeting with the Board of Fire Wardens so the Council should save the date. He also said there would be an Executive Session for the Council on February 26 to meet with Bennett Associates (time to be determined).

17. Draft unapproved minutes of the joint special meeting of the City Council and Board of Fire Wardens held on January 20, the regular meeting of the City Council held January 22, and the special meeting held January 27, 2003

Councilwoman Larr made a motion, seconded by Councilman McKean and unanimously carried, to accept the minutes of the joint special meeting of the City Council and the Board of Fire Wardens held January 20, 2003 as submitted.

Councilman Cypher made a motion, seconded by Councilwoman Larr and unanimously carried, to accept the minutes of the regular meeting of the City Council held January 22, 2003 as amended.

Councilwoman Larr made a motion, seconded by Councilman McKean and unanimously carried, to accept the minutes of the special meeting of the City Council held January 27, 2003 as submitted.

18. Adjournment

There being no further business to discuss, Councilman Cypher made a motion, seconded by Councilman McKean and unanimously carried, to adjourn the meeting at 12:45 A.M.

Respectfully submitted,

Susan A. Morison
City Clerk