

APPROVED MINUTES of the Regular
Meeting of the City Council of the City of Rye held
in City Hall on June 18, 2003 at 8:00 P.M.

PRESENT:

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

ABSENT:

ROBERT H. HUTCHINGS

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

There were no residents who wished to be heard on matters not on the agenda.

4. Public hearing on a proposed local law amending Chapter 133, Noise, of the Code of the City of Rye by creating a new Section 133-8, Construction Work Restricted to Certain Hours and Days, and renumbering current Sections 133-8 and 133-9

Mayor Otis briefly described the limits on construction noise outlined in the proposed local law and opened the public hearing. No members of the audience had any comments. Councilwoman Cunningham said she was supportive, although she would prefer that the noise start at 8:00 A.M. rather than at 7:30 A.M. The Mayor said 7:30 was a compromise between the 7:00 and 8:00 starting hour legislated in various other communities. Robin Jovanovich questioned enforcing the law and was informed that, with this law, the Police Department would have something to enforce. Councilman McKean commented that “emergencies” should not

include simply running out of time. After discussion of various minor word change suggestions, the Mayor closed the public hearing.

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

**PROPOSED LOCAL LAW
CITY OF RYE
LOCAL LAW NO. 2, 2003**

**A Local Law amending Chapter 133, Noise,
of the Code of the City of Rye by creating a new Section 133-8,
Construction Work Restricted to Certain Hours and Days,
and renumbering current Sections 133-8 and 133-9.**

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

Section 1. A new Section 133-8 of Chapter 133 of the Code of the City of Rye is hereby created to read as follows:

§ 133-8. Construction Work Restricted to Certain Hours and Days.

- A. After investigation of complaints by residents that the noise from construction work performed at unusually early or late hours or on Sundays or holidays has deprived them of needed rest and quiet and has materially diminished the customary use and enjoyment of their premises, the City Council hereby finds and declares that, to preserve the peace and good order of the community and to protect the health, comfort and well-being of residents, construction work, as defined in this article, should be prohibited before 7:30 a.m. and after 6:30 p.m. on weekdays, before 10:00 a.m. and after 5:00 p.m. on Saturdays, and should be prohibited at any hour on Sundays and the holidays set forth in paragraph C.
- B. Whenever used in this article, the following terms shall have the meanings indicated: CONSTRUCTION WORK – All work performed by one or more employees and/or independent contractors pursuant to an oral or written agreement for compensation and involving the construction, reconstruction, demolition or removal of buildings or major repairs to buildings, the excavation, clearing, filling or grading of land or the placement or removal of earth, stone or building material of any kind, whether or not the work involves the use of machinery or power tools. The term “construction work” shall not mean the performance of necessary emergency repairs.

- C. Construction work prohibited at certain hours and on certain days. No person shall engage in construction work earlier than 7:30 a.m. or later than 6:30 p.m., prevailing time, on weekdays, earlier than 10:00 a.m. or later than 5:00 p.m.; prevailing time, on Saturdays, or at any hour on Sunday or any of the following holidays: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- D. Notwithstanding any provision of § 133-8 to the contrary, an individual may perform construction work him/herself on property on which such individual then resides as follows: (1) weekdays, between 7:30 a.m. and 8:00 p.m. (2) Saturdays and Sundays (including holidays), between the hours of 10:00 a.m. and 8:00 p.m.

Section 2. Current Sections 133-8 and 133-9 of Chapter 133 of the Code of the City of Rye are hereby renumbered as follows:

§ 133-9. Penalties for offenses.

Any person who violates any provision of this chapter shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 133-10. Exempt acts.

The actions of governmental agencies shall be specifically exempt from the requirements of this chapter. Actions required by exigent circumstances shall also be exempt.

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

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Hutchings

The resolution passed.

5. Continued discussion of a proposal to create a Youth Advisory Council

Councilman Cypher suggested changing the name of his proposed Youth Advisory Council to the Youth Advisory Commission, but the Mayor suggested "Committee." Councilman Cypher said he had received positive reactions from Rye High School, the Rye Youth Council (RYC) and the YMCA, but was disappointed to have no response from the other

schools in the area. He proposed that members to the new committee be proposed by the schools with the advice of the RYC and the YMCA, and hopes to have a specific resolution in place for a vote at the next meeting.

6. Consideration of setting a Public Hearing on a proposed Local Law Amending Chapter 197, Zoning, of the Code of the City of Rye for the Purpose of Regulating the Scale, Size and Height of Residences

Mayor Otis said he had received input from the Planning Commission and the Board of Architectural Review, both of which had no comment, and was waiting for the full input from the Zoning Board of Appeals (ZBA). He suggested that the Council not set the public hearing until the comments had been received and that possibly this could be done at a special meeting. Judy Studebaker, co-chair of the House Scale Subcommittee and member of the ZBA said the ZBA was meeting the following evening; after which the House Scale Subcommittee will meet to incorporate their comments (which so far have been minor) and a memorandum could be available by Tuesday.

7. Consideration of setting a Public Hearing to amend Sections 191-9, 191-9.1 and 191-21.1 of Chapter 191, Vehicle and Traffic, of the Code of the City of Rye in order to implement parking and traffic modifications required by Rye YMCA's site plan, and establishing the YMCA's cost share for signal and intersection improvement at Locust Avenue and Purchase Street

Interim Manager Frank Culross said the request to amend Sections of the Vehicle and Traffic Chapter of the Code of the City of Rye to implement parking and traffic modifications required by Rye YMCA's site plan, and establishing the YMCA's cost share for signal and intersection improvement at Locust Avenue and Purchase Street was one of the final pieces of the Y's plan which needed to be completed before they could be granted a permanent Certificate of Occupancy.

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

RESOLVED, that the YMCA's cost share for signal and intersection improvement at Locust Avenue and Purchase Street be set at \$15,000, and be it further

RESOLVED that this amount will be held in escrow by the City of Rye and returned to the YMCA should the project not be completed within three years.

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

WHEREAS, the Council wishes to amend Sections 191-9, 191-9.1 and 191-21.1 of Chapter 191, *Vehicle and Traffic*, of the Code of the City of Rye in order to implement parking and traffic modifications required by Rye YMCA's site plan, 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 July 16, 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 amending Sections 191-9, 191-9.1 and 191-21.1 of Chapter 191, *Vehicle and Traffic*, of the Code of the City of Rye in order to implement parking and traffic modifications required by Rye YMCA's site plan

Notice is hereby given that a Public Hearing will be held by the City Council of the City of Rye on the 16th day of July, 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 amending Chapter 191, *Vehicle and Traffic*, of the Code of the City of Rye by amending Sections 191-9, 191-9.1 and 191-21.1.

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

Dated: July 7, 2003

Susan A. Morison
City Clerk

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Hutchings

The resolution passed.

8. Consideration of a proposed local law creating Chapter 128, *Assessments for Local Improvements*, of the Rye City Code for the purpose of establishing special benefit assessment districts

Mayor Otis said a local law creating Chapter 128, *Assessments for Local Improvements*, of the Code of the City of Rye for the purpose of establishing special benefit assessment districts was being proposed to formalize procedures the City has followed on an ad hoc basis in the past. Interim City Manager Culross said the current proposal to establish a sewer district in the Kirby Lane area is more complicated than most so it is important to set parameters and establish a clear set of rules, especially as it appears agreement for the project may not be unanimous. In answer to questions from Councilman McKean, the project could be coordinated with new utilities and could provide a provision for sidewalks.

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

WHEREAS, the Council wishes to create a new Section, 128, *Assessments for Local Improvements*, of the Code of the City of Rye for the purpose of establishing special benefit assessment districts, and

WHEREAS, it is now desired to call a public hearing on such proposed new 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 July 16, 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 creating a new Section 128, *Assessments for Local Improvements*, of the Code of the City of Rye for the purpose of establishing special benefit assessment districts

Notice is hereby given that a Public Hearing will be held by the City Council of the City of Rye on the 16th day of July, 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 establishing a new local law, Chapter 128, *Assessments for Local Improvements*, of the Code of the City of Rye.

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

Dated: July 7, 2003

Susan A. Morison
City Clerk

(Agenda Items No. 22 and No. 23 were discussed at this time.)

24. Consideration of a request for a License Agreement between the City and Stephen W. Hasselmann and Margaret Jahn for the purpose of construction of a retaining wall within the right-of-way of Brown Avenue

Linda Whitehead, McCullough, Goldberger, & Staudt, LLP, representing Stephen W. Hasselmann and Margaret Jahn, requested the Council consider a License Agreement for a retaining wall located in the City's right-of-way on Brown Avenue. She said the plan had been approved by City Engineer George Mottarella and will not need approval from the Board of Architectural Review as the wall is less than two feet high. The Council felt it was difficult to vote based on the information presented and requested more documentation on the extent of construction (elevations, grades, photos, scale, topography) and a more detailed description of the actual encroachment. Mayor Otis asked that the plan (with more specific details) be reviewed and approved by the Corporation Counsel and the City Manager; that the neighbors be notified; and that some members of the Council make a site visit before approval could be considered.

25. Consideration of a request for a License Agreement between the City and William and Sally Morningstar for the purpose of replacing two existing stone posts and stone wall extensions

William and Sally Morningstar requested a License Agreement with the City of Rye to replace two existing stone posts and stonewall extensions in the right-of-way by their home at 2 Rye Road. They said the existing brick walls are in bad shape; they have designed a new wall which will enhance the existing pillars; and if the walls were moved out of the right-of-way they would no longer match up with the pillars. The Council recommended that approvals be obtained from the Corporation Counsel and the City Manager and that the neighbors be notified.

9. Consideration of request to permanently fly the Prisoner of War/Missing in Action flag along with the American Flag on the flagpole at the World War I Monument at Purchase Street and the Boston Post Road

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

RESOLVED, that a Prisoner of War/Missing in Action flag, of the same size or smaller, fly permanently below the American Flag on the flagpole at the World War I Monument at Purchase Street and the Boston Post Road.

10. Three appointments to the Rye Beautification Advisory Committee for one-year terms ending January 1, 2004; three appointments for two-year terms ending January 1, 2005; and three appointments for three-year terms ending January 1, 2006, by the Mayor with Council approval

Mayor Otis said he had received more than nine volunteers to serve on the new Rye Beautification Advisory Committee and suggested increasing the size of the committee so that all those interested could serve. He made a motion, seconded by Councilman McKean and unanimously carried, to adopt the following resolution:

RESOLVED, that the size of the Rye Beautification Advisory Committee be increased from nine members to thirteen members; and that the initial classes shall consist of five members to serve a one year term; four members to serve for a two year term; and four members to serve for a three year term.

Councilwoman Cunningham made a motion, seconded by Councilman Chu and unanimously carried, to appoint Robin Jovanovich, Gretchen Althoff, Mary Goldszer, Iris Fisher and Chris Cohan to serve one year terms ending January 1, 2004; Anne Finnegan, Maud Taylor Letendre, Mary Louise Johnson-Murray and Shahid Malik to serve two year terms ending January 1, 2005; and three members designated by organizations (Peggy Peters [Rye Garden Club]; Edith Neuhoff [Ceres Garden Club]; Ann Stevenson [Little Garden Club]) for three year terms ending January 1, 2006. The fourth organization to designate a representative to the committee is the Rye Merchants Association. Their nominee has not yet been determined.

11. Designation of the Chairman of the Rye Beautification Advisory Committee, by the Mayor

Mayor Otis designated Anne Finnegan, whose idea it was to create the committee, as the first Chairman of the Rye Beautification Advisory Committee.

(Agenda Items 12-14 were postponed so that the Police Benevolent Association

can have a chance to review and comment prior to City Council approval)

12. Consideration of proposed revision of Rules and Regulations of the City of Rye Police Department General Order #120.5, "Firearm Discharge Report"
13. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department General Order #110.1, "Searching/Handcuffing/Transportation"
14. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department General Order #113.6. "Communications/Desk Operations"
15. Acceptance of donation to the Rye Police Department from Guillermo Quinones, Jr., Senior Special Agent for the American Express Company, of an Acer TravelMate laptop computer

Mayor Otis said the American Express Company had offered to donate a computer to the Police Department. He pointed out that such donations occur time and again in recognition and thanks for the service provided and commended the Police Department.

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

RESOLVED, that the Rye Police Department be authorized to accept a donation from the American Express Company of an Ader TravelMate laptop computer.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Hutchings

The resolution passed.

16. Resolution ratifying the appointment of one member to the Emergency Medical Services Committee for a three-year term ending June 30, 2006

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the appointment of Mr. Michael Borrelli, the Village of Rye Brook Community Representative, to the Emergency Medical Services Committee for a three-year term ending June 30, 2006.

17. Designation of Nominating Committee for the Boat Basin elections and appointment of the Chairman of the Nominating Committee

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

RESOLVED, that the City Council of the City of Rye hereby designates Frank Mangiamele, Greg Gavlik, and John Rossini as the Rye Boat Basin Nominating Committee for the 2003 Rye Boat Basin Commission elections, and further designates Greg Gavlik as Chair of the Nominating Committee.

18. Designation of Nominating Committee for the Rye Golf Club elections and appointment of the Chairman of the Nominating Committee

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

RESOLVED, that the City Council of the City of Rye hereby designates Mike Hammer, James Maione, William Harris, Bill Meyers, and Adrienne Belluscio as the Rye Golf Club Nominating Committee for the 2003 Rye Golf Club Commission elections, and further designates Mike Hammer as Chair of the Nominating Committee.

19. Bids for Additions and Alterations to the Damiano Community Center, General Construction

Interim City Manager Frank Culross said that only one bid for General Construction had been submitted for additions and alterations to the Damiano Community Center and that this bid was \$3-4 hundred thousand higher than anticipated and the City Engineer was recommending that the bid for General Construction be rejected. Steven Meyers, Chairman of the Rye Recreation Commission, said that a lot of general contractors are involved with school jobs during the summer and he expected that more bids would be received if the job were now scheduled to begin on September 1 rather than August 1.

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

RESOLVED, that the sole bid for Contract 2003-02, General Construction for the expansion and renovation of the Damiano Community Center from Glenman Industrial and Commercial Construction Corporation in the amount of \$1,923,000 be rejected and re-bid as soon as possible.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Hutchings

The resolution passed.

20. Bids for Additions and Alterations to the Damiano Community Center, Heating, Ventilation, Air Conditioning

Interim City Manager Culross said the bids for Heating, Ventilation, and Air Conditioning (HVAC) were higher than anticipated, although the bids for plumbing and electrical work were good and could be considered solid for 45 days (with a possibility of more time if necessary). He said the City Engineer was recommending the bids for HVAC be rejected.

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

RESOLVED, that all bids for Contract No. 2003-06, HVAC for the Damiano Community Center, be rejected and be re-bid as soon as possible.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Hutchings

The resolution passed.

21. Bids for Annual Street Resurfacing

Interim Manager Culross reported the City had received two bids for Contract 2003-08, Annual Street Resurfacing and recommended the Council accept the recommendation of City Engineer Mottarella to accept the low bid.

The bid tabulation appears on the following page.

ANNUAL STREET RESURFACING
Contract No. 2003-08

Name of Bidder			ELQ Industries Inc.		Bilotta Construction Corp.	
#	Item	Qty	Unit	Total	Unit	Total
45L	Remove & Replace Base Course	500 SY	\$40.00	\$20,000.00	\$86.00	\$43,000.00
48	Milling of Asphalt	8,000 SY	\$3.75	\$30,000.00	\$3.85	\$30,800.00
83SB	Precoated Non-Woven Fabric (Petrotrac)	1,000 SF	\$1.00	\$1,000.00	\$2.25	\$2,250.00
403.17	Asphalt Concrete Top Type 6F	1,500 Ton	\$60.00	\$90,000.00	\$63.50	\$95,250.00
5 SX	Binder Course	500 Ton	\$60.00	\$30,000.00	\$63.50	\$31,750.00
W604.07	Adjust Manhole Frame	10 Each	\$350.00	\$3,500.00	\$325.00	\$3,250.00
C 105 SR	Sidewalk Ramp	5 Each	\$675.00	\$3,375.00	\$1,500.00	\$7,500.00
A97	Remove & Replace Concrete Curb	200 LF	\$25.00	\$5,000.00	\$27.00	\$5,400.00
98	Remove & Replace Asphalt Curb	1500 LF	\$8.25	\$12,375.00	\$8.00	\$12,000.00
77	Maint. & Prot. Traffic	LS	\$13,250.00	\$13,250.00	\$11,500.00	\$11,500.00
	Contractor's Total			\$208,500.00		\$242,700.00
	Engineer's Total			\$208,500.00		\$242,700.00
	Position			1		2
	% Above Low Bidder			0%		16.4%

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

RESOLVED, that the bid for Contract 2003-08, Annual Street Resurfacing, be and is hereby awarded to ELQ Industries, Inc., being the lowest bidder meeting specifications, in the amount of \$208,500.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Hutchings

The resolution passed.

(Agenda Items 22 and 23 were discussed earlier in the agenda following Agenda Item No. 8.)

24. Approval of transfer of \$20,509 from the General Fund Contingent Account to Building and Vehicle Maintenance Fund Vehicle Repairs and Maintenance for the purpose of immediate repairs to Fire Engine 191

Interim City Manager Culross reported that the motor of Fire Engine 191 was no longer operable and, although it could be rebuilt, it would be better to buy a new engine with a five year guarantee. He said he estimates the truck itself will last for about ten more years.

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

WHEREAS, Fire Engine 191 requires immediate repairs estimated to cost \$20,509, and

WHEREAS, the 2003 budget for the Building and Vehicle Maintenance Fund did not provide for this unanticipated expense, and

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

RESOLVED, that the City Comptroller is authorized to transfer \$20,509 from the General Fund Contingent Account to the Building and Vehicle Maintenance Fund Vehicle Repairs and Maintenance.

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cunningham, Cypher, Larr, and McKean
NAYS: None
ABSENT: Councilman Hutchings
The resolution passed.

25. Miscellaneous communications and reports

Councilman Chu commented that the Council had spent a great deal of time together the past weekend and he felt that they had more in common than not and said he was in favor of retreats in the future.

Councilman Chu said he, the Mayor and Assessor Noreen Whitty had gone to Albany to support a reduction of the special assessment rate for the Rye Neck School District; that it was similar to last year's appeal, but this year the Town of Rye appeared in opposition, so no one is sure how the ruling will come out. He said Ms. Whitty made a very strong case. The Mayor said she is doing an excellent job and Rye is lucky to have her.

Councilman Chu said he had recently completed a 10-week Citizens Police Training Academy course in Valhalla which had given him increased appreciation of what Rye's police force do for the City.

Councilwoman Cunningham reported that the recent Cable Commission Forum, held at City Hall, had been well attended by others in the County with cable TV departments. She said Councilman Hutchings and the Mayor were also in attendance as were several consultants who presented very interesting issues.

Councilman Cypher reported that the Senior Prom occurred with no incidents and it was a tribute to the students, staff and teachers. Councilman McKean said it was a good example of putting a good, safe plan in place.

Councilwoman Cunningham mentioned a recommendation to replace curtains in City Hall with shades. It was the general consensus that this was a good recommendation for the office spaces.

26. Old Business

In response to a question from Councilwoman Cunningham, the Mayor announced a memorandum would be forthcoming shortly from staff regarding the County properties available for purchase in Rye.

27. New Business

There was no new business to come before the board.

28. Draft unapproved minutes of the regular meeting of the City Council held May 28, 2003

Councilman Cypher made a motion, seconded by Councilman Chu and unanimously carried, to adopt the minutes of the regular meeting of the City Council held May 28, 2003, as amended.

Mayor Otis made a motion, seconded by Councilwoman Cunningham and unanimously carried, to adjourn to Executive Session to discuss a personnel matter at 9:35 P.M.

The meeting reconvened at 10:35 P.M.

29. Adjournment

There being no further business to discuss, Councilman McKean made a motion, seconded by Councilman Chu and unanimously carried, to adjourn the meeting at 10:36 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk