

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on January 19, 2005 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
FRANKLIN J. CHU
ROBERT S. CYPHER
MATTHEW FAHEY
ROSAMOND LARR
HOWARD G. SEITZ
Councilmen

ABSENT: DUNCAN HENNES

The Council convened at 7:50 P.M. Councilman Hennes was absent. Councilwoman Larr made a motion, seconded by Councilman Fahey and unanimously carried, to adjourn to executive session at 7:55 P.M. to discuss pending Osborn litigation. Councilman Seitz made a motion, seconded by Councilman Cypher and unanimously carried, to close the executive session at 8:22 P.M. No decisions were made. The regular meeting reconvened at 8:25 P.M.

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 in the audience wishing to be heard.

4. Presentation by The Buske Group, Cable TV consultants, regarding community needs assessment

John Carey, former Mayor and member of the Rye Cable TV Committee, introduced Rika Welsh, Senior Consultant from the Buske Group, telecommunications consultants who have been hired to assist the City with a community needs assessment in preparation for renewing the cable TV franchise. He said the Cable TV Committee had met with Ms. Welsh for

two hours earlier in the day and she was at the Council meeting to present a brief overview of her project.

Ms. Welsh said the basic premise in renewing the agreement is that the cable operator uses the City's right of way so it must, by law, sign a franchise (or "rent") agreement which must provide 1) state of the art cable service with adequate capability for advanced technology; 2) provisions for good customer service (local office, good technical service, rapid response to problems); 3) provide for the communication needs of the community which could include an "institutional network and allow delivery of new and better services to the public; 4) assure the community the ability to use the cable system for local purposes; and 5) assure that it is paying adequate rent (5% of revenues) for use of the public right of way. She concluded by saying the potential income from the new agreement over the next 15 years could be over \$28,000,000 and urged the Council members to review the full material contained in the longer version of her presentation (more cable facts, what governments can and cannot do, primary cable-related documents, review of the formal and informal renewal processes and a fuller description of what the needs assessment will include). She said she was here to help identify community needs (which may include upgrading Chapter 185, the Enabling Ordinance - Telecommunications); that a task force has been established to help with the process; and the findings would assist the lawyers in drafting the agreement. She said she would be happy to return if the Council wishes an additional presentation.

Councilman Seitz said he wanted to make sure the wiring would be adequate in the future (it will) and inquired about additional services the cable business of the future will be able to offer. Councilman Fahey was concerned the City might be locking itself into a present-day agreement (usually 8-10 years) in an industry which is changing so fast. The Mayor asked if we could look at including internet capabilities in the 5%. Ms. Welch said the City could add other items to the basic contract which could add additional revenues over the 5%; that it would be difficult to add internet services and she views the agreement as an opportunity to lock in resources for our community which might not be available with other newer companies. In addition the agreement will guarantee local communication that will lead to a stronger community. In answer to an inquiry from Councilman Chu, she said it was hard, at this point, to answer the effect Verizon (or any other company wishing to enter the Cable business) will have; that there may be more than one company offering services in the future, but they will need capital to make it work. She urged the City to stay on track with the present negotiations.

Mayor Otis thanked Ms. Welch for her presentation and said they were looking forward to working with her.

5. Resolution setting insurance requirements for electrical inspectors

City Manager Paul Shew said last year the Council had enacted legislation to open competition for electrical inspectors in Rye and committed themselves to developing guidelines for the staff in selecting the inspectors as a means to protect our residents, obtain the best quality of service and have recourse should something not be done correctly.

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

RESOLVED, that pursuant to Section 6 B (3) of Chapter 81 of the Code of the City of Rye, each contractor desiring to do electrical inspections in the City of Rye shall meet the following Insurance Requirements for Inspectors prior to commencing work:

A Certificate of Insurance evidencing:

- 1) *Worker's Compensation and Employers Liability Policy*, covering operations in New York State.
- 2) *Comprehensive General Liability Policy*, with limits of no less than \$1,000,000/\$200,000,000 Bodily Injury and Property Damage, and including coverage for: (General Aggregate shall apply separately to each project and must be on an occurrence form)
 - a. Products/Completed Operations
 - b. Independent Contractors
 - c. Explosion, Collapse and Underground losses (x.c.u.)
 - d. Broad Form Property Damage liability (including completed operations)
 - e. Personal Injury including hazards a.,b. and c. above
 - f. Naming the City of Rye and the City's agents and Building Inspector or his designee, as an "Additional Insured" on the policy and on the certificate of insurance, showing this as to the liability coverage on the certificate
 - g. Applying as primary and non-contributing
 - h. Waiving all rights against City of Rye.
- 3) *Comprehensive Automobile Policy*, with limits no less than \$1,000,000 Bodily Injury and Injury and Property Damage liability including coverage for owned, non-owned, and hired private passenger and commercial vehicles.
- 4) *Umbrella Liability*, with limits of no less than \$5,000,000
- 5) *Certificates*, shall provide that thirty (30) days written notice, by registered mail with return receipt requested, prior to cancellation or expiration be given to the City of Rye. (Policies that are scheduled to lapse and/or expire during term of work shall be renewed and reinstated and received by the City no less than thirty (30) days prior to the scheduled expiration or cancellation.)

And be it further

RESOLVED, that the contractor shall furnish to the Municipality Certificates of Insurance for 1, 2a, 2b, 2c, 2e and 4 above, naming the City as an additional insured as evidence of coverage prior to commencement of work and will also provide an agreement to indemnify the City in a form acceptable to the Corporation Counsel.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey,
Larr and Seitz
NAYS: None
ABSENT: Councilman Hennes

6. Authorization for City Manager to sign Retainer Agreement for outside counsel in connection with matter *Westchester Disabled on the Move, Inc. et al v. County of Westchester, et al.*

Corporation Counsel Kevin Plunkett said the City of Rye, in addition to about 20 other municipalities in Westchester County, had been named in a suit concerning the accessibility of polling places. He said Westchester County had hired Epstein, Becker and Green to defend the County and the firm had offered to represent the individual municipalities should unique circumstances make special representation necessary. He said he was working with City Clerk Susan Morison to try and avoid having any of these circumstances. Ms. Morison clarified that some of the City's polling places had been deemed inaccessible, but she would be recommending some changes to the Council in the future, especially in the case of Milton School which will have to be removed as a polling place because of impending construction.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to sign a Retainer Agreement for outside counsel in connection with matter *Westchester Disabled on the Move, Inc. et al v. County of Westchester, et al.*

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey,
Larr and Seitz
NAYS: None
ABSENT: Councilman Hennes

7. Authorization to pay the balance of Union Free School District taxes as of December 31, 2004

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

RESOLVED, that the City Comptroller, be and is hereby authorized to pay the Treasurer of the Rye Neck Union Free School District the amount of \$73,243.83, which represents the balance of the unpaid taxes as of December 31, 2004, in accordance with Section 22.9 of the Rye City Charter, on February 15, 2005.

ROLL CALL

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey,
Larr and Seitz
NAYS: None
ABSENT: Councilman Hennes

8. One appointment to the Board of Appeals for a three-year term, by Mayor with Council approval

Mayor Otis made a motion, unanimously approved by the Council, to re-appoint Neil Wexler to the Board of Appeals for a three-year term expiring January 1, 2008.

9. Miscellaneous communications and reports

Councilwoman Larr reported that former Councilman James Burke had had a heart attack and had been taken to the hospital that afternoon. The Council wished him a full recovery.

Councilman Seitz reported the Planning Commission had been conducting a neighborhood business study and would be presenting the finished document to the Council in the near future. He said the same study group was also going forward with a review of the Central Business District (CBD). The Mayor concurred that this was a good idea and suggested the Council look at the diversity of the CBD in terms of working with the Merchants Association to see what they need to maintain the viability of the area. He said there were too many banks and maybe there were things that could be done to be proactive and recruit good stores. Councilman Chu sees the plethora of banks as part of a cycle where the smaller banks will eventually be bought out by the bigger ones. Both Councilmen Seitz and Fahey feel the Council should stay out of the discussion until they receive the report from the Planning group. Councilwoman Larr feels it might be dangerous to tell people what they can and can't do in the CBD.

Councilman Chu said he had attended a valuable meeting with the Rye and Rye Neck School on the subject of missing and abducted children. He said not only was it a timely topic, but emphasized the need for ongoing follow-up with parents as well as children.

10. Old Business

Councilman Seitz asked that many issues, partially discussed during 2004, be reconsidered this year. He would like timeframes for each issue and the portion of the community with interest in each subject identified. The issues include 1) Noise (the Mayor has done research and will continue with the goal of developing a first in Westchester ordinance which combines regulations for rock chipping, blasting and dynamiting); 2) Loitering (although the bigger issue of what to do about the Central Business District on the weekends needs to be addressed first); 3) Deer; 4) Meeting with the Rye Free Reading Room; 5) Meeting with Rye Town Park; 6) Insurance Coverage for the City; 7) Doug McKean's memorandum concerning garbage trucks; and 8) Use of the Thruway Authority Land opposite Rye Country Day School, especially in light of the closing of United Hospital.

Councilman Fahey inquired about any new reports from Rye Town Park and was informed by the Mayor that the monthly report will be released to the Council on Friday and there are no budget figures as of yet.

The Occupancy Tax bill is in the bill-drafting phase and there is no progress as the new legislature has to start all over again.

City Manager Shew will continue to track the progress of the "no-left turn" sign by the Commerce Bank on the Boston Post Road.

11. New Business

Councilwoman Larr reported on the status of the United Hospital issue saying that as soon as permission is granted from the State a new structure, to be funded through NYS Dormitory Bonds, was planned that would house an ER, an OR for ambulatory patients with about 8-10 beds, and a state-of-the-art imaging center. She said the hospital had been in trouble since 1990, that the vendors had carried the hospital for years and will only get about \$.20 on the dollar so they are not the enemy; that the Board had tried to restructure, but that time ran out. The Council agreed that the new facility was needed as soon as possible.

Councilman Seitz said a committee, consisting of himself, Councilman Fahey and Councilwoman Larr, had met to discuss governance issues for the Council and he would like to discuss a proposal to limit discussion by the Council to ½ hour for any given topic. The Mayor said last year the Council had wasted a lot of time on parliamentary procedures, but if they needed to be discussed again it should take place as part of a scheduled agenda item. He suggested it was a mistake to limit discussion especially when things are not going well and that decision-making on the local level is done in public rather than in private. Councilman Cypher said it was inappropriate not to listen to everyone as they are the "people's servants." Councilman Fahey said the proposal was intended to make the Council (rather than the public) be briefer to avoid the rehashing of many issues over and over. Arthur Stampleman, former Council Member, said he was totally against limiting time. Councilman Seitz pointed out there was no intent to limit input from the public.

12. Draft unapproved minutes of the regular meeting of the City Council held January 5, 2005

Councilman Fahey made a motion, seconded by Councilwoman Larr and unanimously carried, to adopt the minutes of the regular meeting of the City Council held January 5, 2005 as revised.

13. Adjournment

There is no further business to discuss, Councilman Fahey made a motion, seconded by Councilwoman Larr and unanimously carried, to adjourn the meeting at 9:48 P.M.

Respectfully submitted,

Susan A. Morison
City Clerk