

**APPROVED MINUTES** of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 30, 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 7:35 P.M. Councilwoman Larr made a motion, seconded by Councilman Seitz and unanimously carried, to adjourn to executive session at 7:36 P.M. to discuss pending litigation. Councilman Seitz made a motion, seconded by Councilman Fahey and unanimously carried, to close the executive session at 8:10 P.M. No decisions were made. The regular meeting reconvened at 8:13 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.

Announcements

Mayor Otis thanked Police Officer Michael Larkin for his courage, good judgment and bravery in assisting in the arrest of suspects who had robbed a jewelry store in Greenwich and were chased down I-95 to the Bronx where they were apprehended. He cited this incident as an example of the good police work from the City of Rye. A round of applause followed.

Sally Wright, President of the Merchant's Association, announced that May 14, 2005 from 9 AM-noon would be "Pride in Rye" day involving as many as 150 volunteers who would clean up the brook, their own neighborhoods, the Central Business District and plant trees. Students would be eligible for Community Service hours. Rain Date - May 15 from noon-3 PM.

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

*Henry King, 76 Coolidge Avenue*, addressed the Council again on the matter of the brownfield clean-up of Beaver Swamp Brook. He wanted to know the response to the City's letters to the Department of Environmental Conservation (DEC) in Albany (they responded by withdrawing an earlier plan and submitting a new one). He noted that all the work done under a grant to improve wetlands had just been dug up and that he saw no evidence of flood remediation, despite the fact that he has been assured it is better. He complained that no meeting had been set up for all interested parties to discuss the project, saying the Harrison workers know nothing about what is happening on the Rye side of the brook. He admitted he had not talked with any Harrison officials; the City Manager assured him that Harrison is not "hiding" anything. Mayor Otis said the City Manager is trying to set up the meeting and assured Mr. King that if the flooding situation does get worse, the City of Rye will seek remediation from Harrison. Councilman Seitz noted Mr. King appeared most knowledgeable and hoped he would be able to go to the meeting. The Mayor thanked him for coming.

4. Continuation of public hearing on application of AT&T Wireless (TC0011) for a special permit to locate a wireless telecommunications facility at 150 Purchase Street

Mayor Otis announced the continuation of the public hearing on the application of AT&T Wireless for a special permit to locate a wireless telecommunications facility at 150 Purchase Street.

Christopher Fisher, Esq., Cuddy and Feder, representing the applicant, presented additional pictures of the site to give more of an idea of what the installation would be like, but said he had been unable to gain access to some of the homes of those objecting. He said he had sent out another public notice that he had personally delivered within Highland Hall, and reiterated that the proposed facility is very compliant from a health standpoint. He said his client is not pursuing installation on Highland Hall as they feel the residents would be against the idea. *Douglas Carey, 131 Purchase Street*, said the new pictures had not been taken from directly across Purchase Street, but from behind Highland Hall (Mr. Fisher said this view was in the original package). *Nicholas J. Szczerba, Jr, 54 New Street*, presented his own group of photographs, saying he continues to believe the installation will be an eyesore, will give off radiation (despite being acceptable to the FCC), and will hurt his property values. *John Wood, 40 New Street*, who did not receive a notice, said he is worried about the aesthetics; that New Street residents already put up with a lot (Thruway noise and lights); and he hopes the City will hear the concerns from this humble neighborhood and just say no to the application. All neighbors are concerned that other installations will follow and the building will look like it has a third story. *Steve Meyers, Roger Sherman Place*, reminded the Council if the cell "farm" on top of United Hospital is no longer available there would be more pressure to place additional installations in Rye. In answer to a suggestion from Councilwoman Larr, Mr. Fisher said it would be prohibitively expensive to screen the whole roof and would, in effect, create the third story look. *Brett and Christina Coyns, Highland Hall*, had technical questions, wondering if there were other sites that could be used and, if it is approved, how long will it take and how noisy will it be. Mr. Fisher said if there were another place (on a taller commercial building)

they would have put it there, and the timing will depend on the timing of the approvals and permits. Placing it on the other side of I-95 would block the transmittals to the area in need and be redundant to the coverage from 66 Milton Road. He said they had done their best to make this installation as unobtrusive as possible and it was the job of the Council to do what is best for the whole City of Rye.

The Mayor, who had stated at the beginning of the hearing that he had a problem with the visual impact, said the residents raised valid issues. He stated that the federal law prohibits local government consideration of health concerns and that such issues cannot be part of the Council's decision-making, but also noted that Rye does require applicants comply with standards set in federal law. He closed the public hearing and suggested, with the assent of the Council, that they take all comments under additional advisement before making a final decision.

5. Presentation on Farmers Market by Rye Merchants Association President

*Sally Wright, President of the Rye Merchants Association*, said the Farmer's Market would like to return, starting June 5<sup>th</sup>. She asked the Council for permission to hang banners on Purdy Avenue advertising the market and also to have signs on the Boston Post Road every Sunday pointing people to the market, the biggest concern being the marketing of the weekly event. The Mayor asked if the merchants were all on board with having the market again. Ms. Wright said she believed this to be the case but would ask formally at the next Merchant's meeting. It was the general consensus that the market is a good idea and, if there were no objection from the merchants, it should happen again. The request for banners and signs will be reviewed by staff to make sure the request complies with the Code of the City of Rye.

6. Resolution authorizing the City Manager to execute a contract for the purchase of LUKE payment stations from Digital Payment Technologies, Inc. for installation in the City's Central Business District

City Manager Paul Shew presented a memorandum from City Planner Christian Miller outlining a proposal to execute a contract for the purchase of LUKE payment stations from Digital Payment Technologies, Inc. for installation in the City's Central Business District. He said the proposal, recommending acceptance of the low bidder (who also provided the most responsive system), is the culmination of a lot of staff effort. The cost will be \$116, 490, plus installation. Mr. Miller said the principal objective was to keep everything the same except that you now pay. Therefore, staff is not recommending changing the hours from the 2 hour limit to a three hour limit, as advocated by Councilwoman Larr. He said the object is not to have too much change all at once, but extending the time, using "smart cards", etc. could be considered in the future. Councilman Seitz said he liked the flexibility offered by the LUKE system

Mayor Otis asked if you have to return to your car with a receipt? No. What are the annual operating expenses \$7,300 per year. Can we return them after a year? No, they are ours, but could be sold. Can they be vandalized? Yes, but with difficulty. Will we be installing bollards? Yes, in some cases. How much is the installation cost? \$30,000. He said he feels every penny received from the parking meters should be put back into the "Fee-in-Lieu of

Parking” Fund which is funding the meter purchase costs. Councilman Cypher feels the idea is unpopular; that it will change the character of downtown; and will send shoppers to other areas, such as Rye Brook or the Kohl’s shopping center, where there is free parking. He feels the merchants and seniors are totally against the plan.

Various members of the audience spoke against installing the parking meters. *Joan Cresap*, local attorney, said she didn’t like the plan at all as she doesn’t believe it will bring in the anticipated revenue and will cost more; that it doesn’t address the issue of the handicapped; that Rye will lose stores; and this has been a decision made in haste. *Steve Meyers, Roger Sherman Court*, said that the staff has done a good job, but parking meters are the choice of the Council, not of the residents. He fears any tax-saving impact will be more than offset by what a resident is going to have to spend in quarters.

During additional discussion the wording of the resolution was amended to increase the amount to be funded from \$116,490 to \$160,000 in order to include the cost on installation in addition to the purchase price.

Councilman Seitz made a motion, seconded by Councilwoman Larr to adopt the following resolution, as modified:

**RESOLVED**, that the City Manager is hereby authorized to execute a contract with Digital Payment Technologies, Inc. for the purchase and installation of up to eleven (11) LUKE payment stations to be installed in the five Car Parks in the City of Rye’s Central Business District, as a cost not to exceed \$160,000 to be funded from the “Fee-in-Lieu of Parking” Fund.

ROLL CALL:

AYES: Councilmen Chu, Fahey, Larr, and Seitz

NAYS: Mayor Otis, Councilman Cypher

ABSENT: Councilman Hennes

The resolution passed by a vote of 4 to 2.

7. Resolution on Affordable Housing

Councilwoman Larr made a motion, seconded by Mayor Otis and Councilman Chu, to adopt the following resolution to implement the recommendations of the report from the Commission on Human Rights as presented at the previous council meeting:

**WHEREAS**, The Rye Commission on Human Rights commissioned a survey in 2003 to ascertain existing and projected affordable housing needs for residents and those who serve the community; and

**WHEREAS**, the survey was conducted during the summer of 2004 and the results presented to the Council at it’s regular meeting held March 9, 2005; and

**WHEREAS**, the Chairman of the Rye Commission on Human Rights made a request to the Council that it take action on several specific recommendations; now, therefore, be it

**RESOLVED**, that the Council strongly and unequivocally restates its interest in using the Theodore Fremd and North Street site, currently owned by the County, but in a state of contamination, to create 24 affordable housing units; and be it further

**RESOLVED**, that the Council urges the County to develop a complete and quick remediation plan for the Theodore Fremd and North Street site, and be it further

**RESOLVED**, that the City Manager urge the State Department of Environmental Conservation (DEC) to move meaningfully and expediently to develop a plan to decontaminate the Theodore Fremd and North Street site, and be it further

**RESOLVED**, that the Planning Commission specifically address the need for affordable housing among City employees, volunteer fire fighters and public and private school employees, as made clear from the response to the survey.

8. Adoption of the County Tax rates for 2005

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

**RESOLVED**, that the tax rates for the amounts of Westchester County, Blind Brook Sewer District, Mamaroneck Valley Sewer District, and Refuse Disposal District charges for the fiscal year beginning January 1, 2005, shall be as follows:

<u>Westchester County</u>	
Levy	\$16,863,226
Taxable Assessed Value	135,895,883
Taxable Rate per \$1,000 Assessed Value	124.089
 <u>Blind Brook Sewer District</u>	
Levy	\$ 2,448,384
Taxable Assessed Value	139,840,136
Taxable Rate per \$1,000 Assessed Value	17.508

Mamaroneck Valley Sewer District

Levy	\$ 354,739
Taxable Assessed Value	19,903,893
Taxable Rate per \$1,000 Assessed Value	17.823

Refuse Disposal District No. 1

Levy	\$2,103,596
Taxable Assessed Value	139,167,179
Taxable Rate per \$1,000 Assessed Value	15.116

and it is further

**RESOLVED**, that the Council does hereby certify to the City Comptroller the above stated levies and tax rates for Westchester County, Blind Brook Sewer District, Mamaroneck Valley Sewer District, and Refuse Disposal District No. 1 charges, and the City Comptroller is hereby directed to apportion and extend against each taxable property listed upon the assessment roll of the City of Rye for 2005 at the rates specified, the amount of taxes required to produce the total sums certified and to render tax notices for, and receive and collect, the several sums computed and determined, and, it is further

**RESOLVED**, that the tax warrant of Westchester County be signed by the Mayor and directed to the City Comptroller to collect the amount of said taxes with interest as provided by law and any special assessment heretofore authorized and approved.

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Steven Otis, Mayor

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey,  
Larr, and Seitz

NAYS: None

ABSENT: Councilman Hennes

9. Resolution to authorize acceptance of donations by the City Comptroller

Councilman Seitz made a motion, seconded by Councilwoman Larr, to adopt the following resolution amended from the previous meeting in accordance with Council suggestions:

**WHEREAS**, all donations received by the City of Rye must currently be presented to the City Council for acceptance; and

**WHEREAS**, such donations are often in small dollar amounts; and

**WHEREAS**, the costs associated with preparing, distributing, reviewing, and approving the information to be presented to the City Council for their consideration in accepting such donations often exceeds the amount of the donation; now, therefore be it

**RESOLVED**, that the City Comptroller is authorized to accept donations made to the City of Rye having a dollar value of less than one thousand (\$1,000) dollars, provided that such donations do not obligate the City of Rye in any way other than specifying the use of the donations, and do not specify the use of the funds in a fashion which, in the reasonable judgment of the City Comptroller, raises issues as to the appropriateness of the specified use; and be it further

**RESOLVED**, that the City Manager is authorized to amend the adopted budget by increasing estimated revenues and increasing appropriations to reflect the receipt of said donations.

**ROLL CALL:**

**AYES:** Mayor Otis, Councilmen Chu, Cypher, Fahey,  
Larr, and Seitz

**NAYS:** None

**ABSENT:** Councilman Hennes

10. Resolution to authorize \$480,000 bond for firefighting vehicles and apparatus

Fire Chief Peter Cotter reported, on behalf of all the chiefs, that Rye had successfully battled three fires in the past week. He said that a fire on Walker Avenue involved 23 volunteers and one on Locust involved 21 volunteers. Chief Cotter said they desperately needed a new pumper truck to replace #192. They are waiting for all the specifications to arrive before replacing the oldest vehicle (the yellow truck). He reported all the vehicles were now at the Milton Fire House except the backup trucks that are at Disbrow Park.

Councilman Seitz made a motion, seconded by Councilman Fahey, to adopt the following resolution:

**A RESOLUTION AUTHORIZING THE ISSUANCE OF \$480,000 SERIAL BONDS OF THE CITY OF RYE, WESTCHESTER COUNTY, NEW YORK, TO PAY THE COST OF THE ACQUISITION OF FIRE-FIGHTING VEHICLES, INCLUDING APPARATUS TO BE USED IN CONNECTION THEREWITH, 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 acquisition of fire-fighting vehicles, each of which costs in excess of \$50,000, including apparatus to be used in connection therewith, and incidental expenses therefore, for use in and for the City of Rye, Westchester County, New York, at a maximum estimated cost of \$480,000, there are hereby authorized to be issued \$480,000 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 \$480,000 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 years, pursuant to subdivision 27 of paragraph a of Section 11.00 of the Local Finance Law.

**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 of 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.** The fire-fighting vehicles proposed to be acquired with the proceeds of the obligations authorized by this resolution are hereby determined to be required for public safety purposes requiring urgent action with the meaning of Paragraph E of Section C21-9 of the City of Rye Charter. It is hereby determined that no other bonds have previously been authorized under said paragraph E and, accordingly, the aggregate amount of bonds authorized hereby, together with all outstanding obligations issued for public safety purposes requiring urgent action, does not exceed \$2,500,000. This resolution takes effect immediately and 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.

ROLL CALL:

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

11. Authorization for City Clerk to loan five voting machines to the Rye City School District from May 11-18, 2005 for use in their budget and school officers elections

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

**RESOLVED**, that the City Clerk is hereby authorized to loan five voting machines to the Rye City School District from May 13-June 1, 2005 (amended dates) for use in their budget and school officers' elections.

ROLL CALL:

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

12. Authorization for the City Engineer to sign applications to the Westchester County Health Department for the installation of Backflow Devices on behalf of the City of Rye

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

**RESOLVED**, that the City Engineer is hereby authorized to sign applications to the Westchester County Health Department for the installation of Backflow Prevention Devices on behalf of the City of Rye.

13. Request of The Rye Arts Center for funding for annual Kids Focus photography exhibit

This agenda item was withdrawn.

14. Discussion of Durland Property

Councilman Cypher mentioned that the Boy Scouts are moving out of the Durland Scout Center on Milton Point and perhaps it is not too late to see what can be done to preserve this property in its current format. He said he is not advocating writing a City check, but he would like to suggest an informal study group, consisting of himself, the City Manager, the Mayor and Councilman Hennes, to ask some questions and explore possible options. The Mayor, who said he would be glad to meet, confirmed it may be too late as he has heard there are already some bids for the property. He said planning local acquisitions is a lengthy process and the matter had been discussed a year ago with the school board (which runs an alternative school there), but the Council had not followed up on those discussions. The City does not have the funds to purchase the property, but he would welcome any philanthropic contributions. City Manager Shew said he had met with the attorney who had drafted the original Durland Trust agreement and he agreed it is better to at least try and see if something can be done, even if it is late. He concurred that if anyone was looking for charitable donations to make this would be a great opportunity and told the Council that Durland would be included in the annual tour of the City's recreational facilities on April 7, 2005.

15. Schedule regular meeting of the City Council held annually at the Square House for May 4, 2005

Mayor Otis made a motion, seconded by Councilman Cypher, to set the date for the City Council meeting held annually at the Square House for May 4, 2005. He urged everyone to attend this historic ritual.

16. Miscellaneous communications and reports

Councilman Chu suggested setting up a committee of three Council members and three members of the Rye Free Reading Room (RFRR) Board to discuss the future requests for funds. Mayor Otis pointed out this process was already underway between the City Manager and RFRR staff and suggested Councilman Chu discuss his idea with the City Manager. Both the Mayor and Councilman Seitz said they would be happy to serve if this approach is followed.

Councilwoman Larr urged all citizens to act responsibly and pick up any trash, even if on City property, so that the winter debris can disappear.

Councilwoman Larr suggested Corporation Counsel Kevin Plunkett look into amending the Code of the City of Rye to address the issue of accessory housing.

Councilman Cypher urged Council members to march in the Midland Fair parade on April 9<sup>th</sup>.

17. Old Business

Councilman Fahey complimented the Mayor on the fine job he did in passing along the Council's concerns to the Rye Town Park Commission at their last meeting. The Mayor said there were some suggestions he made which were acceptable (charging a pre-season parking fee in April, raising the weekend fee for non-permit holders from \$6 to \$7 on weekends) but others (such as increasing the non-resident individual and family fees) had no town support. Councilman Seitz pointed out that there appears to be a tendency on the part of the Commission to always do things the same way because it has always been so. He said the average donation requested from the City of Rye has been about \$80,000 per year and next year it will be \$95,000. The Mayor said he would like to see it go back to the prior year level. He pointed out that they have done some new things, but the City can't win all the battles as we don't own the park and we can't change things if they don't like it. The Mayor said the next meeting would be Friday, April 8, 2005 at 1 P.M. when they would set the 2005 rates. Councilwoman Larr was deputized to attend in place of Councilman Fahey who cannot attend.

Councilman Seitz said the report from the Neighborhood Business Study asked the Council for some action, particularly in changing the zoning regulations to allow residential housing above commercial sites. The Mayor agreed the recommendations needed to be reviewed and suggested the City Planner prepare a memo as guidance for the Council.

In response to a request from Councilman Seitz, Mayor Otis said there was no update on the Hotel Occupancy Tax request, especially during budget season.

18. New Business

Councilwoman Larr reminded the Council about marching in the Little League Parade on April 30, 2005 immediately after the joint meeting with the Board of Education.

Councilman Seitz inquired about the funds that might be in the New York State budget for cities. The Mayor said it is too early to tell.

Mayor Otis welcomed Scott Pickup, the new Assistant Manager, who started on March 29, 2005.

19. Draft unapproved minutes of the regular meeting of the City Council held March 9, 2005

Councilman Fahey made a motion, seconded by Councilman Cypher and unanimously carried, to adopt the minutes of the regular meeting of the City Council held March 9, 2005 as amended.

20. Adjournment

There is no further business to discuss, Councilman Fahey made a motion, seconded by Councilman Cypher and unanimously carried, to adjourn the meeting at 11:35 P.M.

Respectfully submitted,

Susan A. Morison  
City Clerk