

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, June 10, 2009, at 8:00 p.m. in the Council Room of City Hall. *The Council will convene at 7:00 p.m. and it is expected they will adjourn into Executive Session at 7:01 p.m. to discuss personnel matters.*

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. Residents may be heard who have matters to discuss that do not appear on the agenda.
4. Public hearing on proposed cost assessment on the benefited properties of the Kirby Lane North sewer project.
5. Public hearing to amend Chapter 191, Vehicles and Traffic, of the Rye City Code by amending Section 191-9 A, left-hand turns, and Section 191.9.1, right-hand turns, to remove Garver Drive from the prohibited roads.
6. Presentation on the Hydrology report regarding 980 Forest Avenue.
7. Update on the Recession Planning Task Force.
8. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order #103.10 deployment of Electro-muscular Disruption Devices (Tasers).
Roll Call
9. Resolution to grant permission to the Rye Free Reading Room to hold two free public programs "Tales with tales: Bedtime stories from around the world" on the Village Green on Tuesday, July 14, 2009 from 6 to 7 p.m. and Tuesday, August 11, 2009 from 6 to 7 p.m.
Roll Call.
10. Bid award for reconstruction of the City Hall Steps for the City of Rye Department of Engineering.
Roll Call.
11. Discussion regarding the restoration work needed on the Square House.
12. Discussion regarding revising the Rye City code to allow for outdoor dining.

13. Miscellaneous communications and reports.
14. Old Business.
15. New Business.
16. Draft unapproved minutes of the regular meeting of the City Council held May 27, 2009, and the Rye City Council Workshop held June 1, 2009.
17. Adjournment.

The next regular meeting of the City Council will be held on Wednesday, July 15, 2009.



CITY COUNCIL AGENDA

NO. 4

DEPT.: Engineering

DATE: June 2, 2009

CONTACT: George Mottarella, City Engineer

AGENDA ITEM: Resolution on proposed cost assessment on the benefitted properties in the Kirby Lane North Sewer improvement project.

FOR THE MEETING OF:

June 10, 2009

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the City Council adopt a resolution to establish the cost allocation of benefitted properties of the Kirby Lane North sewer project.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Kirby Lane North sewer project involved the installation of a new sanitary sewer to serve 30 properties which had previously utilized septic systems to treat their domestic waste. With the completion of the project, the City Council must adopt a resolution to establish the cost assessment of benefitted properties of the Kirby Lane North sewer district.

See attached.

1) Sanitary Sewer Costs (30 Properties)

\$1,769,616 Sewer construction
3,017 Advertising
163,706 Engineering - Design
298,687 Engineering – Construction Inspection
90,892 Financing expenses
4,800 Inspection - Blasting
122,559 Interest expense **** Note: Estimated Amount**
(17,442) Interest earnings
\$2,435,835 Net sanitary sewer costs

The City will finance these costs through:

EFC funding \$2,373,374 (30 yrs @ 2.75%)
City will bond 62,461 (30 yrs @ 5.00%)
Total **\$2,435,835**

The homeowners of these 30 properties will have the option of:

- A) paying in full the amount of \$81,195 due by December 31, 2009
- B) paying an annual special assessment of \$4,042 with the first of 30 payments due by February 28, 2010.

**** Note: Rates and annual amounts are estimated based on current available information. The Interest Expense will be determined at the time of the sale of the EFC bonds.**

2) Water Costs (12 Properties)

\$ 6,893 Trenching
13,151 Engineering
\$ 20,044 Total water costs

The City will finance these costs by bonding the \$20,044 (30 years @ 5.00%).

**** Note: Estimated Amount**

The homeowners of these 12 properties will have the option of:

- A) paying in full the amount of \$1,670 due by December 31, 2009
- B) paying an annual special assessment of \$109 with the first of 30 payments due by February 28, 2010.

**** Note: Rates and annual amounts are estimated based on current available information.**



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: June 2, 2009

CONTACT: Councilman Mack Cunningham

AGENDA ITEM: Public hearing to amend local law Chapter 191, Vehicles and Traffic, of the Rye City Code by amending Section 191-9 A, left-hand turns, and Section 191.9.1, right-hand turns, to remove Garver Drive from the prohibited roads.

FOR THE MEETING OF:

June 10, 2009

RYE CITY CODE,

CHAPTER	191
SECTION	9A, 9.1

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The prohibitions on right and left-hand turns at the intersection of Garver Drive and Theall Road were implemented by the City Council as part of the Planning Commission approval process for the development of commercial buildings in the area as a result of neighbor concerns about traffic. The restrictions are no longer applicable due to the traffic flow in the area; these restrictions may be removed from the books.

See attached documentation.

**PROPOSED LOCAL LAW
CITY OF RYE
LOCAL LAW NO. - 2009**

A local law amending Chapter 191, Vehicles and Traffic, of the Code of the City of Rye by amending Section 191-9, Subsection A, Left turns, by deleting Garver Drive from the streets where left-hand turns are prohibited and amending Section 191-9.1, Right turns, by deleting Garver Drive from the streets where right-hand turns are prohibited

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

Section 1. Subsection A of Section 191-9 of Chapter 191, Vehicles and Traffic, of the Code of the City of Rye is hereby amended to read as follows:

§ 191-9. Left turns.

A. Left-hand turns are prohibited as described below during the hours indicated:

Location	Hours
Apawamis Avenue and Milton Road	7:30 a.m. to 8:30 a.m., Monday through Friday
From Boston Post Road at the intersection southbound with Cross Street (rear of police booth)	
Boston Post Road northbound at Liberty Lane (rear of flagpole)	
At the intersection of Cedar Street and the ramp leading to the westbound side of Station Plaza	7:30 a.m. to 8:30 a.m.
From the Citibank exit onto Cross Street	
From the 2 driveways of the Cowperwood-Osborn office building (411 Theodore Fremd Avenue) parking lot into Garver Drive	7:30 a.m. to 7:30 p.m., Monday through Friday
From Cross Street at the driveway into Citibank	

Elm Place at Purchase Street

From Grandview Avenue into the Rye Country Day School driveway closest to Cedar Street

From Grandview Avenue into the Rye Country Day School driveway closest to Elizabeth Street

At the high school parking lot exit and Milton Road 7:30 a.m. to 8:30 a.m., Monday through Friday

From the Oakland Beach Avenue driveway exit of 520 Milton Road

At the driveway of Osborn School leading onto Boston Post Road When school is in session, from 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 3:30 p.m.

From Palisade Road at Milton Road

From Rye Country Day School's driveways closest to Hillside Avenue onto the Boston Post Road

Smith Street at Purchase Street

~~From northeastbound Theall Road into the northeasterly driveway of the Cowperwood Osborn office building (411 Theodore Fremd Avenue)~~ 7:30 a.m. to 7:30 p.m., Monday through Friday

~~From northeastbound Theall Road onto Garver Drive~~ 7:30 a.m. to 7:30 p.m., Monday through Friday

From the YMCA parking lot onto Mead Place

Section 2. Section 191-9.1 of Chapter 191, Vehicles and Traffic, of the Code of the City of Rye is hereby amended to read as follows:

§ 191-9.1. Right turns

Right-hand turns are prohibited as described below during the hours and days indicated:

Location	Hours; Days
From the 2 driveways of the Cowperwood Continental office building (511 Theodore Fremd Avenue) parking lot onto Garver Drive	7:30 a.m. to 7:30 p.m., Monday through Friday
From the northeasterly driveway of the Cowperwood Osborn office building (411 Theodore Fremd Avenue) parking lot onto Theall Road	7:30 a.m. to 7:30 p.m., Monday through Friday
From southeastbound Garver Drive onto Theall Road	7:30 a.m. to 7:30 p.m., Monday through Friday
From Mead Place onto YMCA parking lot	
From Rye Country Day School's driveway on the easterly side of Grandview Avenue closest to Elizabeth Street	

Section 3. This local law will take effect immediately upon filing in the Office of the Secretary of State.

(new material is underlined and deleted material is printed in ~~strikethrough~~.)



CITY COUNCIL AGENDA

NO. 6

DEPT.: City Council

DATE: June 4, 2009

CONTACT: Mayor Steven Otis

AGENDA ITEM: Hydrological report by William A. Canavan, CPG, President of HydroEnvironmental Solutions, Inc. regarding 980 Forest Avenue.

FOR THE MEETING OF:

June 10, 2009

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: William a. Canavan, CPG of HydroEnvironmental Solutions, Inc. will give a presentation of his findings on the property at 980 Forest Avenue.

See attached report.



William A. Canavan, CPG
President

HydroEnvironmental Solutions, Inc.
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June 4, 2009

Mr. and Mrs. Robert W. Schubert
980 Forest Avenue
Rye, New York 10580

RE: Drainage and Hydrogeologic Review
Schubert Pond
980 Forest Avenue
Rye, New York

Dear Mr. and Mrs. Schubert:

As requested, HydroEnvironmental Solutions, Inc. (HES) has completed a comprehensive review of available documents and site plans pertaining to recently completed drainage work located at 3 Magnolia Place, a parcel located upgradient of the above referenced parcel (**Figure 1**). Our analysis pertaining to this matter included a comprehensive file review, a site visit and an interview with you on Tuesday, May 5, 2009. Based on our review and analysis we offer the following:

File Review

HES conducted a file review of all available pertinent information related to the ongoing drainage concerns at 980 Forest Avenue and the recently completed drainage work at 3 Magnolia Place. A summary of the drawings, correspondence and reports that were reviewed as part of this analysis is listed on **Table 1**. Copies of all reviewed items, excluding plans, are attached at the end of this letter.

Field Activities

On May 5, 2009, HES conducted a site visit to inspect the subject pond, the upgradient watershed to the Schubert property line and the pond outfall. Photographs taken during the site visit are included in **Figure 2**.

Results of Investigation

City of Rye File Review and Proposed Drainage Protocols

The most important information noted by HES in our review of the City of Rye (City) file information provided to us by Mr. Schubert was the following:

- Typically, if a homeowner proposes drainage improvements that include directing collected surface water runoff to subsurface drainage structures such as drywells, design information pertaining to the drywell capacity and construction along with the infiltration capacity of the surrounding soils are required. Our review did not find any information related to drywell design. For example, a typical drywell system would be designed for a 25-year rainfall event based on the absorptive capacity of the underlying soil. This information is traditionally determined in the field by running several percolation tests at the base level of the proposed drywell. Additionally, the depth to the seasonal high water table is also documented via test pit excavation and included as part of the drywell design to ensure that the drywell will function properly and not be set into the water table, thereby reducing its infiltration capacity. The file review indicated that none of the above mentioned design work was submitted to the City and may not exist. However, if this information is available in City records, HES would request a copy so that we may conduct a review of the drainage design for this parcel.
- It is stated throughout the file that no City permits or approvals were required for the proposed drainage work at 3 Magnolia Place by City employees including the City Manager and Engineer. However, there is conflicting information in the file from the then City Naturalist, Chantal Detlefs. In a letter submitted to the City on February 18, 2009, Ms. Detlefs stated that there were active and documented wetlands on the property at 3 Magnolia Place. She also clearly states that the proposed drywell and drainage work would have required a wetland permit. The letter also clearly states that, in her opinion, the City Engineer at the time made a mistake in not requiring a permit for the proposed project. In the same letter it appears that they ignored the requests of the naturalist following a site visit to have an expert in hydrology study the area. The letter states that City policy was not followed.
- Our recent experience with drainage projects in the City and generally throughout Westchester County, New York is that design calculations and As-Built drawings are required for redirecting surface water runoff into a drywell system. Typically, HES will provide the City with design data including percolation test results, test pit logs, stormwater runoff calculations and both proposed and As-Built details for the drainage system regardless of the location of the proposed drainage system design.

Hydrogeologic Pond Investigation Review

HES has reviewed the report entitled "Hydrogeologic Pond Investigation – 980 Forest Avenue." Based on our review of the report we offer the following:

- HES is not in agreement with the FPM report contention on page 4 that "anything Mr. Gates does to his property to modify runoff eventually makes its way to Mr. Schubert's Pond." Given the lack of subsurface information available on the Gates parcel, this is not an accurate statement. There are several plausible scenarios where modifications to the Gates property drainage in the subsurface could significantly impact the flow of both groundwater and surface water to the Schubert Pond. These include but are not limited to installation of the drywell across two permeability boundaries and/or impeding subsurface flow of groundwater to the subsurface drainage ditch (buried stream) that is purported to run in the subsurface from Magnolia Place to the Schubert property. If during drywell installation the shallow soil layer encountered is significantly less permeable than soils encountered with depth or even fractured bedrock (as is likely the case since a drywell to collect ponding surface water was installed), then collected water from both the Gates stormwater runoff and natural groundwater could be directed elsewhere into more permeable subsurface strata, thereby altering or restricting the original flow volume to the Schubert pond. A detail of a plausible subsurface drainage interference scenario is presented on **Figures 3 and 4**, which depicts how groundwater flow volume and direction might be interrupted due to the installation of subsurface drainage structures.
- HES is also not in agreement with the statement on page 4 of the report that "The only possible way for Mr. Gates to remove water from Mr. Schubert's pond is to find the old drainage line that crosses the Martin property (940 Forest Avenue), and according to the old subdivision map connects to the City's storm sewer drainage system in a manhole located along Magnolia Place." Our experience on drainage and spill cleanup hydrogeology projects is that subsurface drainage structures fed by both groundwater and surface water are common in Rye. In fact, within the past 3 years HES has conducted a subsurface evaluation and fuel oil spill cleanup at the Rye Nature Center where a subsurface "buried stream" consisting of large cobbles and a preferential subsurface drainage feature was impacted by a fuel oil spill from the Nature Center underground storage tank (UST). The cleanup revealed that the "buried stream" acted as a conduit for the fuel oil that leaked from the Nature Center tank. HES points this out to the City to affirm that these types of subsurface features are common in developed areas where poor surface and groundwater drainage exist and previous landowners have attempted to improve the drainage

on their property. Thus, Mr. Schubert's claims that a similar drainage feature exists beneath his and upgradient properties are not unfounded.

- The FPM report states that the drainage design engineer for the Gates property located at 3 Magnolia Place did not connect to an "underground stream" draining the Gates property to the Schubert property. HES does not believe that FPM or the Gates' engineer has concrete evidence that this is not the case. Our file review and site visit indicate that no preliminary subsurface investigation work was completed as part of the drywell design and drainage improvements on the Gates property. To our knowledge, no photographs of the drainage improvement installation activities and field data details pertaining to the drainage improvements have been provided to the City. Therefore, at present, the interrelationship between the drainage structures located at 3 Magnolia Place and the Schubert's pond is unknown.
- FPM makes several definitive statements on page 6 of their hydrogeologic report pertaining to drainage in the Gates backyard and the capacity of the installed drywell and subsurface drainage structure. However, no soil hydraulic conductivity values (K, defines the rate of movement of water through a porous medium such as a soil or aquifer) are provided and numerous hypotheses of drywell and subsurface drainage capacity are stated with no actual field data other than assumptions. In our opinion the FPM assertions on page 6 of the report under Section 4.3 are not supported by actual field data and are misrepresented. Finally, the assertions that "the only possible way that Mr. Gates could have affected the local water balance into Mr. Schubert's Pond is by hard piping his runoff from his roof to the street" ignores the principles of hydrogeology and the dearth of subsurface geology data including soil and bedrock information.
- HES is in agreement with the FPM assertion that "French" drains were often installed to alleviate poor surface water drainage so that agriculture could flourish historically (page 6 in the FPM report), as noted from firsthand experience in the City of Rye and outlined above. However, the report goes on to further state that "as development takes place, fluctuations in the groundwater table and subsequent reduction in spring flow to Mr. Schubert's pond would occur." However, this is diametrically opposed to Mr. Schubert's assertions that flow to the pond was always substantial to adequate even in drought conditions over the past 15 years. Thus, HES is skeptical that changes in development and urbanization have resulted in reduction in flow to Mr. Schubert's pond as development along Forest Avenue in general has basically been urban to suburban over at least the past half century. Mr. Schubert's August 30, 2006 letter to the City pointing out that his pond water is gone is attached at the end of this letter.

- HES is not in agreement with FPM's suggestion of alternative options to augment flow to the Schubert pond. Diversion of additional surface water runoff from Forest Avenue will only provide poor quality suburban runoff to the pond and will likely decrease the quality of the pond through flow. If the pond was historically fed by groundwater and naturally filtered runoff (from the subsurface "French" drain), then redirecting runoff from an urbanized watershed may actually be a detriment to the pond.
- Drilling a well to supply groundwater to the pond as suggested in the FPM report in Section 5.2 may be a plausible suggestion to augment groundwater flow to the pond. However, installing a well in the shallow overburden fine grained material that likely underlies the Schubert property will not provide anywhere near FPM's estimated 10 gallons per minute (gpm). With a hydraulic conductivity of less than 0.5 to 1.0 ft/day, upon pumping, the well will dewater itself in a matter of minutes and will be unable to supply useable amounts of water. If a well were to be drilled, it would need to be drilled into the bedrock to a minimum of 300 feet below grade (ftbg) in order to supply useable volumes of water to augment pond flow (5 to 10 gpm). The water obtained from the bedrock aquifer in this manner may also contain elevated iron, manganese and other possible concerns such as pH or hardness. According to pond volume calculations, and Mr. Schubert's historic observations of pond through flow, the approximately 20,000 gallon pond would fill up in about 8 hours. Thus, flow to the pond from the subsurface "French" drain was historically about 42 gpm.
- Connecting the drywell to the Schubert pond may be a viable option; however, as suggested by FPM, prior investigation would be required to determine the hydrogeology of the sites and the subsurface flow pattern. Additionally, as discussed above, there may already be a hydraulic connection between the drywell and "French" drain which may be the reason for decreased flow into and through the pond.
- As part of this investigation HES also reviewed the proposed and As-Built drawings provided to Mr. Schubert from Larry J. Nardecchia, Jr., PE. HES does have some concerns with these drawings. For starters, there is no north arrow on either drawing. Also, there are no cross section details of the piping and trenches and the installed drywell structure anywhere on the drawing. It would be helpful to know how the installed drainage structure was constructed in the subsurface as is common on most As-Built details. The drawings do not include the design calculations for the drywells including soil percolation rates, depth to the seasonal high water table, and the recurrence interval storm used to design the drainage system (i.e.: 25 year storm). Copies of the proposed drainage system and the As-Built drawings compiled by Mr. Nardecchia and a copy of an As-Built drawing for a drainage system designed and installed at 5 Topsail Lane, just south of the Schubert property are included at the end of this letter for

comparative purposes. As noted on the 3 Topsail Lane drawing, all drainage system design criteria including storm recurrence interval, percolation test data, and drywell capacity are included on the drawings, unlike those submitted for the Gates property.

- There is no pertinent contact information on the FPM Group (FPM) copy of the report provided to us for the author and the author's company address. Additionally, the report is not signed by the author.

Conclusions

1. Based on a file review and past experience in the City of Rye, it appears that a drywell and subsurface drainage system were installed at 3 Magnolia Place without the proper permit(s) or design analysis.
2. No detailed subsurface investigation or hydrogeologic analysis were completed by anyone pertaining to the possible impacts that the new subsurface drainage system installed at 3 Magnolia Place may be having on the base flow to the Schubert pond.
3. Based on our review of the available pertinent information related to the drainage system installation at 3 Magnolia Place and the Schubert pond, there does seem to be some cause and effect related to the August 2006 installation of the subsurface drainage structures and decreased flow in the Schubert pond. Further hydrogeologic analysis will be required to ascertain the relationship between the two drainage systems.

Recommendations

A well thought out detailed hydrogeologic investigation should be conducted to definitively prove or disprove what is actually occurring in the subsurface from the parcel at 3 Magnolia Place through to the Schubert pond. HES recommends, at a minimum, that the following work be completed to determine the hydrogeologic flow regime in this area:

- A detailed dye test will be required to determine subsurface flow patterns. This should include excavation to locate the "French" drain, and uncovering the manhole access to the drywell at 3 Magnolia Place. Two separate dye tests should be conducted by adding water soluble fluorescence dye individually to the "French" drain and then the drywell. Water should be flushed through both systems separately to see if there is an interconnection between the "French" drain and the drywell, the

"French" drain and the Schubert pond as well as the drywell and the Schubert pond. If conducted properly, this test will confirm the subsurface flow regime. Exploratory excavation work will be required to find the location of the subsurface "French" drain.

- Another option available to determine the hydraulic connection between the drywell and the "French" drain (once it is located) is to survey the elevation of the water in the drywell and the elevation of the water in the "French" drain, which will likely require the installation of a piezometer into or adjacent to the drain. Then water in the drywell could be pumped to waste and the water level in the piezometer and the drywell could be monitored during pumping using a datalogger and water level meter to determine if a drop in the drywell water level results in a corresponding drop in the "French" drain piezometer. Following pump testing the water levels in the piezometer and the drywell can be monitored over time with the dataloggers to determine if the levels correspond. For groundwater flow direction and hydraulic gradient to be determined around and between the two drainage structures a minimum of three piezometers would be required. This may be necessary if the above testing is inconclusive. In our opinion, the costs of this investigatory work should be covered by others and not the Schubert's.
- As part of the hydrogeologic investigation, the influent flow rate from the "French" drain should be monitored. Additionally, water quality data should be collected regularly including pH, temperature and turbidity. If required, HES could provide a detailed breakdown of costs for water quality testing.
- HES estimates that the cost to conduct the dye test would range from \$3,500.00 to \$5,000.00; the cost of installing a piezometer and conducting a hydrogeologic evaluation would range from \$5,000.00 to \$7,000.00.

As a courtesy I have attached my resume to the end of this letter outlining my expertise in hydrogeology for your use and review. Please contact HES if you have any questions regarding this matter or should you require any additional information.

Very truly yours,
HydroEnvironmental Solutions, Inc.

William A. Canavan, CPG, PG
President

Mr. and Mrs. Robert W. Schubert
June 4, 2009
Page 8 of 8

Enclosures

cc: Mayor Otis
City Council Members
File



CITY COUNCIL AGENDA

NO. 7

DEPT.: City Manager

DATE: June 2, 2009

CONTACT: Frank J. Culross, Acting City Manager

AGENDA ITEM: Update on the Recession Planning Task Force.

FOR THE MEETING OF:

June 10, 2009

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The City Manager convened a Recession Planning Task Force after the City Council meeting of January 14, 2009, made up of City Staff and Department heads, with Council liaisons Mack Cunningham and Paula Gamache, serving as advisors. The purpose of the Task Force is to produce a report addressing inefficiencies and redundancies, to determine how the City can operate more efficiently in the current economic climate.

See attached.

MEMORANDUM

To: Mayor and Council
From: Frank J. Culross, City Manager
Subject: Recession Planning Task Force Update
Date: June 5, 2009

As previously reported, current economic conditions have had a serious impact on the City's elastic revenues. A revenue shortfall of at least 3% has been forecast for 2009. We have taken defensive action to constrain current year expenses and will continue to monitor the situation carefully. We have a plan for 2009 that will offset this revenue shortfall with expense cuts.

It is the judgment of the Recession Planning Task Force that we face a multi-year structural adjustment to the economy that will impact the City's finances on a long-term basis. For the longer term, alternative and regional service delivery opportunities need to be developed.

However, the immediate task at hand is to prepare for the 2010 budget. All things being equal, the City's 2010 budget would be expected to grow by 2-3% over 2009 largely reflecting growth in employee compensation. These are not normal times. The consequence of normal growth in expenses and the extraordinary drop in revenues results in a preliminary 2010 forecast of expenses exceeding revenues (at level tax rates) of \$2.7 million. There are three significant drivers to this forecast: assessed valuation is dropping, elastic revenues are constricting, and there is a reduced availability of undesignated fund balance.

A portion of this budget gap can be closed by user fee adjustments and a modest property tax rate increase. It appears as if the cost of continuing current service levels in 2010 would still exceed available revenues by \$2.0 million. These numbers are preliminary planning numbers and will be updated as the year unfolds. We are carefully reviewing all contractual relationships and considering where service level adjustments will be necessary to close this gap.

We are engaged in an ongoing process with Senior Staff to identify areas for savings, opportunities for restructuring, and review of services to provide choices for the Council and the community when the 2010 budget is adopted. This work will continue during the coming months as we continue to monitor evolving economic indicators. As you know, we have already identified over \$800,000 in mid-year cost reductions and deferrals in 2009 to match anticipated revenue loss in the current year.

We will explore all alternatives and meet with involved parties as necessary as this process moves forward over the next several months. The Council Liaisons to the Recession Task Force will be briefed on a regular basis and we will report to the City Council upon request.



CITY COUNCIL AGENDA

NO. 8

DEPT.: Police

DATE: May 13, 2009

CONTACT: William R. Connors, Police Commissioner

AGENDA ITEM: Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order #103.10 deployment of Electro-muscular Disruption Devices (Tasers).

FOR THE MEETING OF:

June 10, 2009

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: Approval of revisions to General Order #103.10, "Deployment of Electro-muscular Disruption Device (Taser)."

IMPACT: Environmental Fiscal Neighborhood Other:
Enhancement of the operational effectiveness of the Department.

BACKGROUND: The proposed revision of General Order #103.10 revises guidelines for the deployment of Electro-muscular Disruption Devices, commonly referred to by the brand name Taser. The electro-muscular disruption device is a conducted energy weapon that may be used to immobilize and control dangerous or violent subjects when it is reasonable to expect that it will be unsafe for officers to approach within contact range, or attempts to subdue a subject by other means have been or will be ineffective.

The revision is based on analysis of three years of experience with the device and review of the best practices in the field by other departments, addressing training, deployment, aftercare, and reporting requirements, as well as the request of the Rye Police Association for enhanced availability of the device to patrol personnel. It revises language in the guidelines to reflect tactical and legal issues, and now permits the Taser, which has been stored in a vehicle under the existing policy, to be carried in a holster on trained and designated officers' duty belts.

Deployment policies vary among departments. This level of deployment is consistent with the practice of many agencies and appears to be an appropriate step in light of our experience with the device since its acquisition and deployment in 2006.

The Taser has proven itself to be an effective alternative to lethal force when properly deployed, and is an effective addition to the Department's use of force continuum.

A copy of the proposed order is attached in "strike and replace" format. It has been provided to the Rye Police Association for review pursuant to the provisions of the collective bargaining agreement. The Association declined to offer substantive comments regarding the proposed revision.

CITY OF RYE POLICE DEPARTMENT

General Order #103.10	New [x] Supersedes:	Revised []
Subject: Deployment of Electro-muscular Disruption Device (TASER)		
Date Issued	Date Effective	Page 1 of 4
Issuing Authority: William R. Connors, Police Commissioner		

PURPOSE:

To establish uniform procedures for training, deployment, use, and aftercare regarding the electro-muscular disruption device (TASER).

BACKGROUND:

The electro-muscular disruption device is a conducted energy weapon which may be used to immobilize and control dangerous or violent subjects when it is reasonable to expect that it will be unsafe for officers to approach within contact range of a subject, or attempts to subdue a subject by other conventional tactics have been or will be ineffective.

The X26 ADVANCED TASER, which is the device currently utilized by this Department, is a handheld electrical immobilization device that uses compressed nitrogen to fire two probes up to a distance of 21 feet. These probes are discharged from a replaceable air cartridge and are connected to the weapon by insulated wire. When the tool is deployed and the probes are discharged from the cartridge, the X26 ADVANCED TASER transmits electrical impulses along the wires, through up to two inches of clothing and into the subject. The pulses send 26-watt electrical signals along the wires to the subject to temporarily override the central nervous system and directly control the skeletal muscles. This causes an uncontrollable contraction of the muscle tissue, allowing the Taser to cause temporary physical debilitation to a person, regardless of pain tolerance, mental focus, or intoxication. There are NO long-term effects from the electrical impulses of the Taser.

Deleted: or

The Taser is also equipped with 2 contact probes at the front of the unit, and can be used as a contact device to give an immobilizing electrical shock to a more limited area of the subject or to a subject who is actively resisting arrest.

POLICY:

It shall be the policy of this department to use only the level of force that is reasonable and necessary to control or otherwise subdue violent, potentially violent, resistive, or unlawfully fleeing individuals. Electronic control devices have been proven effective in

Deleted: or

furthering this policy, and are authorized for use in appropriate circumstances by trained personnel.

PROCEDURE:

A. Authorized Users

Only officers who have satisfactorily completed the department's Taser training program, or who have completed the manufacturer's certification course of instruction, are authorized to carry and deploy the Taser.

B. Weapon Readiness

Under normal circumstances, the Taser will be secured in the supervisor's vehicle, or ~~on his or her person, or as otherwise authorized by the Police Commissioner.~~ When ~~the Tour Supervisor is not assigned to patrol duty, he or she will assign the Taser to a trained and authorized police officer,~~ The device shall be carried by authorized officers or supervisors in an approved holster on the support side (opposite side of the firearm) or secured and stored with the safety on, in a carrying case in close proximity to the user, so as to be readily available for deployment. The device shall be carried with an air cartridge affixed, safety on, and one spare cartridge at the ready. It shall be the responsibility of the supervisor or his designee at the start of each shift to insure that the device is in working order, is properly charged, and is equipped with 2 air cartridges.

Deleted: ,
Deleted: will be secured at Police Headquarters
Deleted: authorized for deployment by a supervisor or officer at an incident, or under circumstances that warrant its ready availability
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C. Display

Simply displaying the Taser, or initiating a cycle without firing the probes will not constitute a *use* of the device. However, the officer or supervisor will document the circumstances surrounding the display of the Taser in a standard incident report.

Deleted: ,

D. Deployment

The ~~purpose of the~~ Taser ~~is~~ to minimize injuries to ~~police~~ officers, ~~members of the public,~~ or persons who are actively resisting or may resist arrest. The Taser is considered to be on the same level as OC spray on the department's use of force continuum and decisions to deploy the device should require the same level of justification. The decision of the officer to use either a Taser or OC spray will be based on the totality of the circumstances, together with the benefits and capabilities of each tool. If OC spray has already been deployed on a subject, the Taser **SHALL NOT** be deployed on that subject.

Deleted: shall be viewed as a defensive tool, used

Note: As the Taser causes temporary physical debilitation, contact or confrontation with a subject who gains possession or control of an officer's Taser, or engages an officer with such a device, would be deemed a deadly physical force situation.

Tactical Considerations in the deployment of the Taser:

- The Taser should be used in conjunction with verbal commands unless circumstances make it tactically inadvisable.
- Point laser sight at subject prior to firing.
- When practical, have backup present to prepare to arrest the subject or use other force or restraint options as appropriate.
- Avoid use where the subject is at risk of falling off an elevated location such as a roof, high platform, or staircase.
- Avoid use where the subject is in deep water, or may be in danger of falling into water and runs the risk of drowning.
- Avoid use on obviously pregnant females, elderly persons, or young children.
- DO NOT deploy the Taser near flammable or combustible liquids or materials or where OC spray has been used.
- NEVER intentionally aim the Taser at the subject's face or eyes.
- Announce the word "Taser" to alert other officers or persons on the scene when deploying the device except in situations where this may compromise officer safety.
- When loading and unloading the Taser, or when handling the Taser, point it in a safe direction, such as at the ground, with the safety on.
- DO NOT deploy the Taser on a subject in control of a moving motor vehicle.
- The Taser SHALL NOT be deployed if a subject is handcuffed or otherwise safely in custody unless the subject continues to pose an imminent threat of harm or injury to the officer, the public, or him or her self.
- When it is tactically appropriate, the officer deploying the Taser shall announce to other officers on the scene that the Taser is about to be deployed.

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After the Taser has been deployed, and has run through its five (5) second duty cycle, the deploying officer shall re-evaluate the situation as a whole, with consideration to both officer safety and the safety of the subject. If the subject continues to resist arrest, refuses to comply with verbal commands, and continues to present a threat to officers, the Taser may be applied again. Each subsequent application of the Taser should be accompanied by an evaluation of the situation.

Consistent with this Department's policy regarding the use of force, application of the device shall be limited to only the minimum number of cycles necessary to take the subject into custody.

The Taser may also be used in a “Touch Stun” mode. The air cartridge is removed and the unit is pressed firmly into an appropriate area such as the abdominal region, hips, thighs, side of the neck, or pelvis girdle.

E. Aftercare

Once the Taser has been effectively deployed and the subject has been secured in handcuffs or other restraints, the officers on the scene shall ensure that appropriate medical care is administered. The Taser officer shall remove the air cartridge from the device and EMS shall be summoned to the scene (whenever practical) to examine the subject and determine whether they can remove the probes at the scene, or if hospital transport is necessary. Universal precautions should be used when contacting subjects where probes have penetrated the skin and when handling the spent cartridges due to the potential biohazard.

E. Evidence and Reporting

Photographs of the affected area should be taken once the probes have been removed by EMS personnel. The wires are to be wrapped around the cartridge casing and the sharp ends of the probes shall be placed in the portals. Tape should be placed over the portals to secure the probes and the air cartridge and probes shall be retained and submitted as evidence. The evidence bag shall be clearly marked “Biohazard” and secured in an evidence locker. The probes shall be kept in evidence for one year from the date of deployment.

Each discharge of the Taser shall be investigated and documented. This shall include all discharges except those occurring during authorized training conducted by a certified Taser instructor. If a supervisor is not present, one will be notified without delay. A use of force report will be completed after each discharge, along with a supplementary report detailing the circumstances of the discharge. Each use of the Taser will be reported through the chain of command consistent with the Department’s current use of force policy as set forth in General Order #120.4. The data from a Taser deployment shall be downloaded and attached to the incident report and use of force report.

Deleted: , including accidental discharges,

F. Training

Personnel authorized to carry and deploy the Taser shall be re-certified in the use of the device annually.



CITY COUNCIL AGENDA

NO. 9

DEPT.: City Council

DATE: June 3, 2009

CONTACT: Councilwoman Paula Gamache

AGENDA ITEM: Resolution to grant permission to the Rye Free Reading Room to hold two free public programs "Tales with tales: Bedtime stories from around the world" on the Village Green on Tuesday, July 14, 2009 from 6 to 7 p.m. and Tuesday, August 11, 2009 from 6 to 7 p.m.

FOR THE MEETING OF:

June 10, 2009

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the City Council approve the resolution.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

See attached.



Rye, New York 10580, Telephone 914-967-0480

June 3, 2009

Rye City Council
City Hall
Rye, New York 10580

Honorable Members of the City Council:

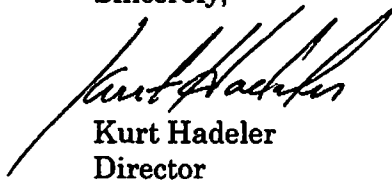
The Rye Free Reading Room respectfully requests permission to hold two free public programs for children on the Village Green this summer.

Tuesday, July 14, 6-7pm
Tuesday, August 11, 6-7pm

Both programs are titled "Tales with tales: Bedtime stories from around the world." These exciting programs, sponsored by the Woman's Club of Rye, Children's Philanthropy Section, retell animal tales from around the world, including "The Boy with a Drum," "At the End of the Rainbow," and "The Boy Who Drew Cats." Families will be invited to bring blankets and relax on the green as children of all ages enjoy these free programs designed to impart a feeling of storytelling from other cultures.

Thank you for your consideration of this request. We have greatly appreciated your authorizing our use of the Village Green for other events in the past.

Sincerely,



Kurt Haderler
Director

cc: Dawn Nodarse, City Clerk



CITY COUNCIL AGENDA

NO. 10

DEPT.: Engineering

DATE: May 20, 2009

CONTACT: George Mottarella, City Engineer

ACTION: Bids for the Reconstruction of City Hall Steps.
Contract No. 2009-03.

FOR THE MEETING OF:

June 10, 2009

RYE CITY CODE,

N/A

RECOMMENDATION: That the City Council award the bid to the low bidder, Contech Construction Technology, in the amount of \$59,414.00 as recommended by the City Engineer.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Steps at the main entrance to City Hall and from the Village Green down to the City Hall Parking Lot are in need of repair. The stair tread and flagging have been repaired and repointed in the past. At this point the tread must be replaced along with the flagging on the landings. The riser size and installation must be updated to today's standards. The handrail is rusted and needs to be replaced, and the brick work along the steps and associated retaining wall needs to be repointed. This project will also address drainage concerns at the front steps to mitigate any further issues.



CITY OF RYE

CITY HALL • RYE, NEW YORK 10580
TELEPHONE (914) 967-5400

Engineering Department (914) 967-7676

DATE: June 2, 2009

TO: Frank Culross, City Manager; Scott Pickup, Assistant City Manager

FROM: Christopher Tallarini, Assistant City Engineer

RE: *Contract No. 2009-03, Reconstruction of City Hall Steps*

As requested,

Listed below are the reasons for the replacement of the City Hall Steps at the main entrance to City Hall and the steps which connect the village green to the City Hall parking lot.

1. The bluestone treads and flagging frequently require maintenance. The bond between the substrate and bluestone has deteriorated in such a manner that the treads and flagging become loose, cause cracking and frequently require repointing. As a result of this the stair treads and bluestone flagging are not level with each abutting piece. The mortar underneath the surface bluestone needs to be removed and reapplied to create a solid and level base. An acrylic bonding agent must be used to ensure proper bonding for a long lasting final product.
2. As a result of similar deterioration the stair risers are also loose and require maintenance.
3. The stair riser height is not evenly maintained and creates an uneven step height which varies longitudinally across each step and also changes from step to step. This contributes to possible tripping hazards.
4. Underneath the steps to the main entrance of City Hall is where the generator room is located. There is water seepage that is occurring through the concrete slab and the concrete sidewalk at the base of the steps into the generator room below. The concrete sidewalk will need to be replaced and pitched properly to avoid this condition. We are currently experiencing dampness in the generator room along with rusting of metal door frames and other components.
5. The top handrail along both sets of stairs and along the top of the retaining wall at the steps leading to the parking lot is rusted and popping off the railing frame. This needs to be replaced before it becomes dangerous and in-effective as hand rail.



CITY OF RYE

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TELEPHONE (914) 967-5400

Engineering Department (914) 967-7676

6. The brick facing needs to be repointed on the side walls of the steps and on the retaining wall adjoining the steps to the parking lot.
7. There has been tripping incidents on the steps in the recent past.

If there are any further questions please contact me.

Regards,

A handwritten signature in black ink, which appears to read 'Chris Tallarini'. The signature is fluid and cursive, with a large, sweeping flourish at the end.

Christopher A. Tallarini
Assistant City Engineer



CITY OF RYE

CITY HALL • RYE, NEW YORK 10580
TELEPHONE (914) 967-5400

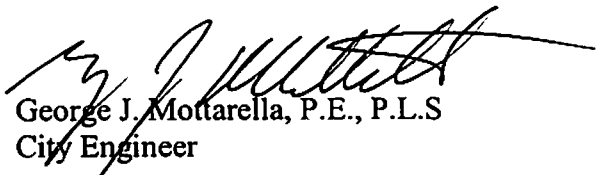
Engineering Department (914) 967-7676

TO: Frank Culross – *City Manager*
FROM: George J. Mottarella, City Engineer
DATE: May 20, 2009
SUBJECT: Bid Recommendation for Contract 2009-03 – Reconstruction of City Hall Steps

I have checked and tabulated the three (3) bids received for the above referenced contract. A copy of the bid results is attached for your convenience. I recommend the bid be awarded to the low bidder, Contech Construction Technology Inc., in the amount of fifty nine thousand four hundred fourteen dollars and no cents (\$59,414.00). This contractor has done quality work for us in the past.

There are sufficient funds for this project in this year's budget.

Regards,


George J. Mottarella, P.E., P.L.S.
City Engineer

Contract No. 2009-03 - Reconstruction of City Hall Steps

Position	Contractor	Contractor's Bid	Engineer's Check	Dollar Amount Above Low Bid	% Above Low Bidder
1	Contech Construction	\$59,414.00	\$59,414.00	\$0.00	0.00%
2	Tardio Landscaping	\$64,500.00	\$64,500.00	\$5,086.00	8.56%
3	K-Con Site Developers	\$91,530.00	\$91,530.00	\$32,116.00	54.05%



CITY COUNCIL AGENDA

NO. 11

DEPT.: City Manager's Office

DATE: June 4, 2009

CONTACT: Frank J. Culross, City Manager

AGENDA ITEM: Discussion regarding the restoration work needed on the Square House.

FOR THE MEETING OF:

June 10, 2008

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the City Council review the outstanding repair and restoration work for the Square House.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The Square House is in need of repair to the roof and chimneys which are currently leaking into the interior of the building. Due to the age and historical status of the Square House the work must be done according to historic building repair and maintenance. Dr. Ruth Smalt, Executive Director of the Rye Historical Society has provided the attached information regarding historic preservation.

See attached.

Date: June 4, 2009
To: Frank Culross, city Manager
From: Scott Pickup, Assistant City Manager
Subject: Status of Square House Capital Project

George Mottarella and I met with Ruth Smalt in April to develop a revised project schedule for the Square House Roof capital project.

The current project is funded at \$81,000, and was based on an estimate from 2007 for shingle replacement and minor repair.

Since that estimate was developed, additional concerns with the integrity of the chimneys have forced the staff to re-evaluate the scope of the project, and to consider engaging an architect with historic preservation expertise to develop a roofing specification which will maintain the historic integrity of the building.

The current structure does leak, and the concern is that the structure will continue to deteriorate if the water continues to penetrate into the display and office areas.

The revised costs for this increased project scope are preliminary, but we have estimated as follows:

Engagement of historic preservation architect	15-25 K
Rebuild of two chimneys, one chimney repointing	20-30 K
Repair roof and flashing with historically accurate detail	81- 100 K

The ranges represent the expanded scope of the project and the updated professional services support.

The Building and Vehicle Committee reviewed the revised project and recommended that the City use any unobligated funds from the City Hall steps project to cover the additional project costs at the Square House.

In order to keep the Council fully informed of these changes, the staff recommended that a brief overview of the project changes and justification for the additional work be presented to the City Council.

Information on historic building repair and maintenance:

Ken Markunas from the New York State Historic Preservation Office highly suggested contacting an architect specializing in historic structures to look at the building, note the work to be done and submit a bid for the work. The bid should have a “quality assurance” statement; they should be able to provide three examples of similar work. The architect would also assemble a project manual detailing all project steps and oversee all contractors. Ken Markunas specifically noted that it is important that the highest quality shingles be used – nothing from the Home Depot level is acceptable for this type of historic structure.

Resources:

- 1) Stephen Tilly Architects
22 Elm Street
Dobbs Ferry, New York 10522-1717
(914) 693-8898
www.stillyarchitect.com

Stephen Tilly from Dobbs Ferry specializes in historic structures and is very well known; he worked on the Warner Library in Tarrytown.

- 2) Walter Sedovic Architects
One Bridge Street, Suite One
Irvington, New York 10533
(914) 591-1900
ModernRuins.com

Walter Sedovic Architects did the plans for Knapp House work and has a very high reputation in the field of historic renovation and repair.

- 3) Doug McKean
Beyer Binder Belle Architects & Planners LLP
41 East 11th Street
New York, New York 10003
(212) 777-7800

Doug McKean was lead architect on the Grand Central Station renovation and the Basilica in Rome.

- 4) Lisa Easton
Easton Architects, LLP
40 East 34th Street
New York, New York 10016-4501
(212) 779-9570



CITY COUNCIL AGENDA

NO. 12

DEPT.: City Manager's Office

DATE: June 4, 2009

CONTACT: Frank J. Culross, City Manager

AGENDA ITEM: Discussion regarding revising the Rye City code to allow for outdoor dining.

FOR THE MEETING OF:

June 10, 2008

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the City Council review the request to change the City Code to allow for outdoor dining.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

See attached information regarding Seasonal Outdoor seating from City Planner Christian K. Miller.

Christian K. Miller, AICP
City Planner
1051 Boston Post Road
Rye, New York 10580




Tel: (914) 967-7167
Fax: (914) 967-7185
E-mail: cmiller@ryeny.gov
<http://www.ryeny.gov>

CITY OF RYE
Department of Planning

Memorandum

To: Frank J. Culross, City Manager

From: Christian K. Miller, AICP, City Planner 

cc: Vincenzo Tamburro, City Building Inspector

Date: June 3, 2009

Subject: **CBD Seasonal Outdoor Customer Seating**

This memorandum provides background and context regarding recent discussions to consider allowing seasonal outdoor customer seating in the City's Central Business District (CBD).

Background

Over the last two weeks the Planning and Building Departments received complaints regarding eating establishments in the CBD having outdoor seating. The complaints involved concerns that the outdoor dining was on City sidewalks creating an obstruction. Outdoor dining is a limited occurrence in the CBD, but a number of new establishments started the activity very recently. Complaints were almost instantaneous. Many of the complaints were by other restaurants concerned that there was not uniform enforcement of the law, which was allowing other restaurants to gain an advantage in the City's increasingly competitive restaurant/food establishment environment. Each business was asked to discontinue the activity and has complied with that request.

Outdoor customer seating is explicitly not permitted in the CBD. The City Zoning Code was first amended in 1996 to allow outdoor customer seating for restaurant and retail uses in the CBD and a limited area on Boston Post Road. The 1996 amendment included a sunset provision automatically expiring the law on November 1, 1997. In 1998, the City Council re-adopted the law, which again included a sunset provision automatically expiring the law in 2000. That law remains in the City Zoning Code, but has not been re-authorized or re-approved by the City Council. A copy of these laws is attached hereto.

CBD Seasonal Outdoor Customer Seating

June 4, 2009

Page 2 of 2

City Council Considerations

Recently, there has been renewed interest in providing outdoor dining in the Central Business District. This will require the City Council to adopt a local law amending the City Zoning Code to "re-allow" this use. The CBD Task Force recommended allowing outdoor dining. Outdoor dining enhances downtowns and should be considered as a permitted use; however there may be some instances where outdoor dining is not practical given the narrow sidewalks in the downtown or other concerns.

If the existing law cited in the Zoning Code is readopted, the City Council should be aware that the law will require a number of additional steps before outdoor dining is approved by the City. Planning Commission approval would be required for each year that outdoor dining is requested. The planning process requires a public hearing, notice to neighbors within 750 feet of the subject property, posting of a hearing notification sign and potential conditions imposed by the Commission. Applicant's seeking to have outdoor seating on City property will also require a license agreement approved by the City Council stipulating appropriate indemnification and hold harmless provisions. This is the process the City followed for the one application processed by the City in 1997.

If the existing law were re-approved I recommend the following revisions:

- Restaurant and retail outdoor customer seating should be consolidated into one use category. This will reduce redundancies in the Zoning Code. Retail customer seating applies to delis, cafés, coffee-shops and similar non-restaurant food-based eating establishments.
- Outdoor customer seating should be limited to the B-2 District.
- Consideration should be given to simplifying the process to reduce the procedural demands of an outdoor dining application.
- Eliminate the sunset provision.

**RYE CITY ZONING CODE
SECTION 197-86**

**TABLE OF REGULATIONS: TABLE B
BUSINESS DISTRICTS-USE REGULATIONS
Column 2**

**Uses Permitted Subject to Additional
Standards and Requirements
(Subject to the requirements and provisions of § 197-10)**

B-2 Central Business Districts

- (6) Retail use seasonal outdoor customer seating annual permit. (This subsection shall remain in effect until November 1, 2000, unless it is specifically reenacted and refiled prior to said date.) The Planning Commission may annually permit a permitted retail use to devote outdoor areas of the property on which they are located and, to a limited degree, extensions onto abutting property and streets if there is a valid lease or license permitting said use of the abutting property or street, to seasonal outdoor customer seating at tables or counters from April through October, subject to the following limitations: [Added 7-17-1996 by L.L. No. 5-1996; amended 5-27-1998 by L.L. No. 7-1998]
- (a) The Planning Commission shall limit the outdoor area to be devoted to customer seating to those outdoor areas not otherwise required by this or any other Code for other purposes including, but not limited to, the New York State Uniform Fire Protection and Building Code and to § 197-26, Effect on existing uses of off-street parking requirements, and § 197-7A(1), site development plan, of this Code.
 - (b) The total seating capacity of the outdoor area to be devoted to customer seating shall not exceed the number of seats the Planning Commission finds appropriate in a specific case.
 - (c) The Planning Commission shall limit the outdoor area to be devoted to customer seating such that it will not interfere in any way with fire exits required by the New York State Uniform Fire Protection and Building Code and a sign setting forth the maximum permitted seating capacity shall be posted in the seating area.
 - (d) The Planning Commission shall limit the outdoor area to be devoted to customer seating so that it will not interfere with access by the handicapped.
 - (e) The outdoor area to be devoted to customer seating shall not be considered a restaurant use for the purpose of determining on-site parking requirements.
 - (f) The Planning Commission shall not issue a permit if it finds that the proposed outdoor seating would be incompatible with other uses on the property or an abutting property.
 - (g) During the months of November through March, the tables, chairs and any related equipment must be stored inside of the building or removed from the site.
 - (h) Such other conditions and requirements as the Planning Commission may deem appropriate.
 - (i) The Planning Commission may deny the issue of a permit if it finds that during the prior year the permit holder violated any condition of the permit, that during the prior year the applicant or the property owner provided or permitted outdoor seating without having obtained a permit or that there are outstanding notices of violation concerning the property or the applicant's use.

**RYE CITY ZONING CODE
SECTION 197-86**

**TABLE OF REGULATIONS: TABLE B
BUSINESS DISTRICTS-USE REGULATIONS
Column 2**

**Uses Permitted Subject to Additional
Standards and Requirements
(Subject to the requirements and provisions of § 197-10)**

B-2 Central Business Districts

(7) Restaurant use seasonal outdoor customer seating annual permit. (This subsection shall remain in effect until November 1, 2000, unless it is specifically reenacted and refiled prior to said date.) The Planning Commission may annually permit a permitted restaurant use to devote outdoor areas of the property on which they are located and, to a limited degree, extensions onto abutting property and streets if there is a valid lease or license permitting said use of the abutting property or street, to seasonal outdoor customer seating at tables or counters from April through October, subject to the following limitations:

[Added 7-17-1996 by L.L. No. 5-1996; 5-27-1998 by L.L. No. 7-1998]

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- (h) Such other conditions and requirements as the Planning Commission may deem appropriate.**
- (i) The Planning Commission may deny the issue of a permit if it finds that during the prior year the permit holder violated any condition of the permit, that during the prior year the applicant or the property owner provided or permitted outdoor seating without having obtained a permit, or that there are outstanding notices of violation concerning the property or the applicant's use.**



CITY COUNCIL AGENDA

NO. 16

DEPT.: City Clerk

DATE: June 2, 2009

CONTACT: Dawn F. Nodarse

AGENDA ITEM: Draft of the unapproved minutes of the regular meeting of the City Council held on May 27, 2009, and the Rye City Council Workshop held June 1, 2009, as attached.

FOR THE MEETING OF:

June 10, 2009

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council approve the draft minutes.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Approve the Unapproved Minutes of the regular meeting of the City Council held on May 27, 2009 and the Rye City Council Workshop held June 1, 2009.

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on May 27, 2009 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
ANDREW C. BALL
MACK CUNNINGHAM
PAULA J. GAMACHE
CATHERINE F. PARKER
GEORGE S. PRATT
JOSEPH A. SACK
Councilmembers

ABSENT: None

The meeting convened at 7:52 p.m. Mayor Otis made a motion, seconded by Councilman Pratt and unanimously carried, to adjourn into Executive Session at 7:53 p.m. to discuss personnel matters. Councilman Cunningham made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn the Executive Session at 8:05 p.m. The regular meeting convened at 8:07 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 announced that the City Council would be holding a special meeting/workshop on Monday, June 1, 2009 at 8:30 p.m. with the Board of Architectural Review, Landmarks Advisory Committee, the Rye Historical Society and other interested individuals to discuss the decision on where to locate the gazebo that will serve as a memorial to the members of the Rye community who died on September 11, 2001.

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

Robert Munsie, 12 Larkspur Lane, said that he was representing the Loudon Woods Association and requested that the Council expedite the repair and replacement of the retaining

wall located on Boston Post Road opposite Purdy Avenue where the City placed concrete barriers in 2008 making the sidewalks unusable. He said he was afraid that economics would make the temporary fix a long-term fix and said the project should be completed this year regardless of economics. City Manager Culross said that the wall may be located on private property and it must be determined who has the right to fix the wall. Mayor Otis asked that City staff provide a report on the issue.

John Carey, 860 Forest Avenue, presented the Council with a memorandum from himself, Bertrand de Frondeville, Arthur Jacobs and John Sherwin regarding the Osborn tax litigation. The memo referred to the case as a "pointless crusade" and said it was time to stop the "hemorrhaging of the resources of the City, the Rye City School District and The Osborn by urging that the three parties drop their appeals and comply with the 2007 ruling of Judge Dickerson. He said the parties should meet to negotiate with only the CEOs and CFOs. Mayor Otis said there had been no hemorrhaging of the City's budget because the City has not been paying private attorneys. The City paid 22% of the cost of the forensic accountants used for the litigation, but did not agree to sharing any legal fees until the appeal when the City agreed to pay 22% of \$75,000. He added that there have been efforts made to seek settlement but the parties are extremely far apart. Councilman Pratt took exception to the memorandum, saying that he felt it accused elected officials of acting in a litigious manner. A discussion ensued between former Mayor Carey and Councilman Pratt relative to the amount of knowledge a member of the Council would have regarding the facts of the case as opposed to the information available to the general public as well as knowledge of the law. Councilman Sack asked if Judge Dickerson's rulings were upheld would the City owe money to The Osborn or would they owe money to the City. Mayor Otis said that money is put aside for tax certiorari case refunds based on a formula determined by the City Comptroller. Councilman Ball said that over the course of the litigation the School Board had appealed to the City on many occasions to share the cost of the litigation, which had been declined. He added that he believed calling the litigation "pointless" was harsh because it was not begun as a matter of principal but as a way of significantly helping the City's finances over a series of decades.

Robert Schubert, 980 Forest Avenue, came to speak about the issue of his pond. Mayor Otis noted that the Council extended an invitation to Mr. Schubert to have his engineer make a presentation to the Council but the report had not been received by the Friday deadline. Mr. Schubert said that he had sent two letters to the attorney representing the Gates family requesting permission to perform an analogous hydrogeologic test on their property at his expense. On May 19th he received a reply declining his request and this refusal has caused the delay in scheduling his study, which will serve as a rebuttal to the report presented by Kevin Phillips. He requested an agenda spot on the June 10th Council meeting regardless of receiving access to the Gates property. Mayor Otis asked that any materials that Mr. Schubert had for his agenda item be received in the City Manager's Office by noon on the Friday before the meeting. Mr. Schubert objected and said that he has only been given access to the Phillips report one hour before it was presented. It was pointed out to Mr. Schubert that he had access to the Phillips report the same day as the Council (the Monday prior to the meeting when it was finalized) because it had been put on the City website and he had been given a copy. Councilman Sack asked if the City could ask the Gates on behalf of Mr. Schubert for access to their property. Corporation Counsel Plunkett said that he has communicated with the Gates' attorney regarding access to their property for a dye test shortly before Mr. Schubert communicated with him, and he too had been

declined. Councilman Ball said that without access to the Gates' property the primary focus of Mr. Schubert's experts' report would be based on his observations of the Schubert property as well as a critique of the Phillips report. He said it might be more productive to have Kevin Phillips at that meeting to respond. Councilman Cunningham referred to an issue Mr. Schubert had raised at a prior meeting regarding the original permit from the Planning Commission and the CC/AC. He said he has reviewed the minutes relative to the 1994 determination and it was the contention of the Planning Commission and CC/AC that it was a wetland and should not be turned into a pond. He said that the determinations made by the Planning Commission are inconsistent with the facts the Council has before it regarding what was done. Mr. Schubert said he received approval to take dirt out of the wetland but did not do so and that the dimensions of the pond were identical with what was submitted. Councilman Cunningham suggested that Mr. Schubert review the minutes. Mayor Otis said the Council would look forward to hearing Mr. Schubert's presentation in June.

David Hood spoke about the deer problem. He said that recently a deer was hit on the Playland Parkway and it took 20 minutes for the County Police to arrive. He said the Rye Police should have responded. He also suggested that the Deer Committee should be brought back to deal with the problem. Mayor Otis said that as a result of the study conducted by the Committee, the DEC had determined that the City does not satisfy the criteria by which they would allow the City to remove deer. Councilman Pratt said he believed the conclusion that there was only one herd was wrong and that with modern motion activated infrared cameras that give the date and time it could be easily determined.

Ray Tartaglione again came to discuss conditions on Hen Island. He said he had received a letter from Commissioner Meyerson of the County Health Department in which he said he agrees with the original 2007 inspection of the Island except for two issues of sewage pits that should have their covers replaced. He disagrees with that assessment and showed photographs that he has previously presented at a Council meeting. Mayor Otis said it might be more valuable for Mr. Tartaglione to bring his concerns to the County Government. Mr. Tartaglione said that in a conversation with County Executive Andy Spano he had called Commissioner Meyerson a liar. He also said that he believes the City has laws that regulate sewage and potable water which could end the situation tomorrow. Mayor Otis suggested Mr. Tartaglione put all his complaints in writing and they will be forwarded to the County.

Michael Clay Johnson, a Board Member of Kuder Island Colony, said he is not sure what Mr. Tartaglione's accusations about residents of Hen Island polluting Long Island Sound are based on. The County has been out there and made inspections. He said the two issues raised by Commissioner Meyerson, covers for sewage pits, are being addressed and that folks on Hen Island are doing everything they can to rectify the violations in a timely manner.

4. Presentation of the City of Rye Stormwater Management Program 2008 Annual Report

Assistant City Engineer Christopher Tallerini and Michael Richie of the firm of Dolf Rotfeld Engineering, the City's consultant regarding Phase II Stormwater Requirements, presented the Annual Stormwater Report, which is required to be submitted annually to the Department of Environmental Conservation (DEC) by June 1. Mr. Richie said that the period

covered by the report is March 2008 to March 2009. City staff must report on and document activities related to minimum measures, which include:

- Public Education and Participation (educating the public about stormwater quality issues and encouraging community participation in activities related to improving water quality);
- Illicit Discharge Detection and Elimination (legislation has been adopted and there is an obligation to map and inspect outfalls);
- Construction Site Stormwater Runoff Control (where there is an area of disturbance of the soil of one acre or more the applicant is required to prepare a stormwater pollution prevention plan to control sediment or erosion from the construction site);
- Post-Construction Stormwater Management (after facilities are constructed that deal with water quality or retention, the City is obligated to inventory the site and inspect it or have self-certification of inspection and notice of proper maintenance on an ongoing basis);
- Stormwater Management for Municipal Operations (how parking lots and streets are swept, catch basin cleaned and how the Public Works facility is maintained).

The report documents in numerical terms what the activity over the year has been. The City is also required to hold training sessions for employees in connection with the requirements.

Council comment included:

- Will requirements for municipalities for handling stormwater management increase in the future relative to outflow and increase stormwater budgeting requirements? (The initial approach is to address the quality of water coming into the system but there is a current requirement to observe the outflow and the City may be asked to sample and test the outflow. If the testing determines that the water quality is degrading the water body, the City would be asked to develop further measures to eliminate the degradation.)
- Are chemicals, pesticides and road salts being addressed? (Yes, the City is asked to report how much nitrogen and phosphorus is in the fertilizer it uses and is asked to use low impact fertilizers. A County law going into effect in 2010 will control the amount of nitrogen and phosphorus in fertilizers at the point of sale.)
- Will the requirements put a burden on the City Marina regarding filtering the runoff from the cleaning of boats? (A survey of the Marina was completed subsequent to the dates of this report and will be included in the 2009 report. There are “clean marina” programs that offer specific recommendations for dealing with discharges from cleaning boats. A harder look will be taken at the Marina and Golf Course to come up with more specific recommendations to limit potential pollutants through operations and practices.)

5. Temporary Traffic Safety and Trails Committee Project Update

Councilman Cunningham provided an update on actions that have been taken related to the priority list compiled by the Temporary Traffic Safety and Trails Committee. Some of the activity such as the Boston Post Road median, crosswalk at Old Post Road and improvements to the Parsons Street area were safety related. The final activity that relates to the Committee’s highest priorities is the construction of a trail from the “snow fields” opposite the Nugent

Stadium on Boston Post Road that allows people access to the Nature Center. The Conservation Commission/Advisory Council (CC/AC) approved the trail and the Friends of the Nature Center have been working with Eagle Scouts on developing the trail. A cross walk will be created near Nugent Stadium when site line issues have been resolved. The trail may ultimately allow walkers access from the snow fields through the Nature Center and down to the area of the Central Avenue Bridge if the new bridge design incorporates a pedestrian access. This trail will also allow access for people attending events at the Nature Center to park on the snow fields and enter through the trail. *Joseph Murphy, 75 Franklin Avenue*, thanked Councilman Cunningham for his work on the trailways and for including the CC/AC.

Jim Amico, 350 Midland Avenue, said he had been expecting an update on traffic issues. Councilman Cunningham said this report was an update on activities related to the Temporary Traffic Safety and Trails Committee not the Traffic and Transportation Committee. He added that the City is looking to receive money from the Federal Government to do traffic enhancements to Midland Avenue based on a capital project. Mr. Amico expressed his frustration with how long it is taking to achieve the changes to Midland Avenue that he has requested and asked that temporary measures be taken to control traffic. Mayor Otis said he believed the City had a good chance of receiving over \$600,000 from the Federal Government. Part of the process involves the State Regional Transportation Planning Agency amending their capital projects plans. There are only two projects from Westchester County on that amended list and one is the City of Rye project. Mr. Amico also expressed his displeasure with the new fence put up by the Recreation Department. Councilman Ball, as liaison to the Recreation Commission, said he knew a great deal of time had gone into the decision regarding the fence. Mayor Otis said the Council would ask for additional information on the decisions made relative to the new fence.

6. Consideration to set a public hearing to restrict parking on Mead Place

City Manager Culross said that it is the recommendation to set a public hearing for the July meeting in order to give an opportunity for any one who might want to object to the proposal. Mead Place residents have indicated they are in favor of the proposal.

Councilman Cunningham made a motion, seconded by Councilman Pratt and unanimously carried to adopt the following Resolution:

WHEREAS, the Council wishes to amend Chapter 191, Vehicle and Traffic, by amending Section 191-19.1 Parking prohibited certain hours, by adding a section of Mead Place to the streets where parking is restricted during certain hours; and

WHEREAS, it is now desired to call a public hearing on such proposed amendments 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 15, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

Section 2. Such notice of public hearing shall be in substantially the following form:

PUBLIC NOTICE
CITY OF RYE

Notice of Public Hearing on a proposed local law to amend Chapter 191, Vehicles and Traffic, by amending Section 191-19.1, Parking prohibited certain hours, by adding a section of Mead Place to the streets where parking is restricted during certain hours.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 15th day of July, 2009 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 a proposal to amend Chapter 191, Vehicles and Traffic, by amending Sections 191-19.1, Parking prohibited certain hours, by adding a section of Mead Place to the streets where parking is restricted during certain hours.

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

Dawn F. Nodarse
City Clerk
Dated: July 3, 2009

7. Consideration to set a public hearing for July 15, 2009 for a Special Permit Application (#TC011) submitted by MetroPCS New York, LLC to co-locate a wireless telecommunications facility on the roof top of 66 Milton Road

Mayor Otis said a consultant has done a report on behalf of the City, which will be available for the public hearing.

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

WHEREAS, a special use permit application (TC011) for permission to co-locate a wireless telecommunications facility at 66 Milton Road has heretofore been introduced at this meeting and placed before the Mayor and each Councilman; and

WHEREAS, it is now desired to call a public hearing on such proposed application, 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 15, 2009 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 application.

Section 2. Such notice of public hearing shall be in substantially the following form:

CITY OF RYE
Notice of Public Hearing on a special use permit application by MetroPCS
New York, LLC to co-locate a wireless telecommunications facility
at 66 Milton Road

PLEASE TAKE NOTICE that, pursuant to Chapter 196 of the Code of the City of Rye (Wireless Telecommunications), the Rye City Council has scheduled a public hearing for Wednesday evening 8:00 P.M., July 15, 2009 in the Council Room of the Rye City Hall on the following matter:

MetroPCS New York, LLC has applied for special permit approval for the purpose of installing a wireless telecommunications facility on a property located at 66 Milton Road. The property is known on the Rye City Tax Map as Sheet 146.11, Block 1, Lot 73, and is located in the RA-3 Apartments District. All information pertaining to this matter is available at the City Clerk's Office in Rye City Hall. Any person interested or affected will be given an opportunity to be heard.

Dawn F. Nodarse
City Clerk
July 3, 2009

8. Resolution to rescind changes to local law amending Chapter 191, Vehicles and Traffic, of the Rye City Code by amending Section 191-20, Subsections B and C to reinstate a one-hour limit on parking on Theodore Fremd Avenue
Roll Call

City Manager Culross said that this will reverse something that was done as a temporary measure during the Elm Place construction.

Councilman Pratt made a motion, seconded by Councilwoman Gamache, to adopt the following resolution:

RESOLVED, that Section 191-20, "Parking time limited", of the City Code be amended to delete Theodore Fremd Avenue, South, from Elm Place to the entrance to Car Park No. 2 from subsection C, fifteen-minute parking and add it to subsection B, one-hour parking.

ROLL CALL

AYES: Mayor Otis, Councilmembers Ball, Cunningham, Gamache, Parker,
Pratt and Sack
NAYS: None
ABSENT None

9. Resolution authorizing the Mayor to sign an employment agreement with Francis J. Culross to serve as Rye City Manager effective May 27, 2009
Roll Call

Mayor Otis said an agreement has been reached with Mr. Culross that will move him from Acting and Interim status to that of City Manager, with a contract that has the same provisions as anyone in the Administrative Pay Group. The compensation is the same as former City Manager Shew, but because Mr. Culross is a retiree of the City, the City will not have to pay into the State Retirement System or pay any additional contribution for health benefits.

Mayor Otis made a motion, seconded by Councilman Cunningham, to adopt the following resolution:

RESOLVED, that the City Council of the City of Rye hereby authorizes the Mayor to sign and employment agreement with Francis J. Culross to serve as Rye City Manager effective May 31, 2009.

ROLL CALL

AYES: Mayor Otis, Councilmembers Ball, Cunningham, Gamache, Parker,
Pratt and Sack
NAYS: None
ABSENT None

10. Bid award for one Printer/Cutter for Sign Shop (Bid #2-09) for the City of Rye Department of Public Work.
Roll Call.

City Manager Culross said this item was included in the 2009 budget and the low bid is recommended, which is well within the budget.

Councilman Pratt made a motion, seconded by Councilman Cunningham, to adopt the following Resolution:

RESOLVED, that Bid #2-09, One (1) Printer/Cutter with Software for Sign Shop at Public Works is hereby awarded to Grant Graphics, Inc. for the amount of \$16,974.00, the low bidder whose bid meets the specifications.

ROLL CALL:

AYES: Mayor Otis, Councilmembers Ball, Cunningham, Gamache, Parker and Sack
NAYS: None
ABSENT: Councilman Pratt

BID # 2-09

Printer-Cutter Sign Shop

BIDDER	BID AMOUNT
Grant Graphics, Inc.	\$16,974.00
Beacon Graphics, Inc.	\$17,345.00

11. Bid award for Reconstruction of the City Hall Steps (Contract 2009-03) for the City of Rye Department of Engineering
Roll Call.

City Manager Culross said the bid was the lowest of the three bids received. \$125,000 was budgeted for this project and the upside of the down economy is that the low bid is \$59,414. The balance of the money will be allocated to the Square House roof project that was under budgeted. The steps to the building are in bad shape and considered a safety hazard. Councilman Ball expressed concern about doing the project in the current economy and asked for more information about what would happen if nothing was done and asked if there was any way the project could be deferred for another year. Councilman Sack agreed with Councilman Ball and suggested comparing the project to a list of other priorities. Mayor Otis said that if there was a window of time to act on the bid, he would agree to postpone the vote but added that he was concerned about the liability and risk issue and safety issue, which was the only reason to do the project. Assistant City Manager Pickup said there were other issues such as the risers being substandard and the slope of the stairs trapping water that causes problems due to freezing

and thawing of water and presents a falling hazard. The Council agreed to put off acting on the bid until the next meeting.

12. Resolution to declare certain equipment as surplus
Roll Call

City Manager Culross said the equipment has been recommended by the Public Works Department as no longer being needed, has already been replaced or is unusable. When the following equipment has been declared surplus they can proceed to sell it:

2007 Ford Crown Vic, Vin # 2FAHP71W57X114300, FIRE DAMAGED
1993 Chevy Kodiak Vin # 1GBM7H1J7PJ105467, Mileage 35,907
2001 International Vin # 1HTSLABL31H356882, Mileage 35,279
2007 Ford Crown Vic, Vin # 2FAHP71W27X114299, FIRE DAMAGED
2000 Ford Crown Vic, Vin # 2FAFP71W9YX196458, Mileage 48,762
1996 Gehl mod 4625 DX, Serial # 22787, Hours 885.6

Councilman Cunningham made a motion, seconded by Councilwoman Parker, to adopt the following Resolution:

WHEREAS, the City has been provided with a list of vehicles that the Department of Public Works has identified as being obsolete or will become obsolete during 2009; and

WHEREAS, the Department of Public Works has recommended that said vehicles be declared surplus; now, therefore, be it

RESOLVED, that said vehicles are declared surplus; and be it further

RESOLVED, that authorization is given to the City Comptroller to sell or dispose of said vehicles in a manner that will serve in the best interests of the City.

ROLL CALL:

AYES: Mayor Otis, Councilmembers Ball, Cunningham, Gamache,
Parker and Sack

NAYS: None

ABSENT: Councilman Pratt

13. Seven reappointments to the Finance Committee, three for terms ending January 1, 2010, two for terms ending January 1, 2011, and two for terms ending January 1, 2012 by the Mayor with Council approval

Mayor Otis made a motion, unanimously approved by the Council, to reappoint to the Finance Committee Michael Caponti, Frederick Dunn and David Mullane for terms ending on

January 1, 2010; Norman MacMaster and Stephen Myers for terms ending on January 1, 2011; and Warren Keegan and Arthur Stampleman for terms ending on January 1, 2012.

14. Miscellaneous communications and reports.

Councilman Cunningham reported that City Manager Culross has asked that the report that was to be given by the Recession Planning Task Force on efforts by City staff to address shortfalls that are expected for 2009 and looking forward to 2010 be put over to the June meeting. Reports have come back indicating that the revenue shortfall will be 10% lower than budgeted and Mr. Culross has directed Department heads to come back with opportunities in budgets to address the issues raised by The Task Force. He added that Assistant City Manager Pickup had attended a NYCOM meeting and it is estimated that, due to market conditions, contributions to the State Pension Fund will be increased estimated by 50%, phased in over three years. He said that he expects the Council and City employees to do their fair share to minimize any tax increases to property owners.

Councilman Cunningham also reported that in response to a request made by him at the last meeting, Police Commissioner Connors had reported that the estimated cost for July 4th overtime would be \$7,000, an amount that does not include fire and EMS costs. He said he would like to pursue with the County how they might potentially cover some of the City's costs, saying he had recently learned that Valhalla receives a stipend from the County to support first response to the Westchester Medical Center. He said he will ask County Legislator Judy Myers for a copy of the Agreement and see if it could work for the City relative to Playland. Mayor Otis added that the City does receive money from the County in other areas and sited that for the Sluice Gate project the County would be paying 50% of the cost of what will be an over \$2 million project and also contributing \$200,000 towards the effort to purchase the Bird property. The Mayor said that on Memorial Day he saw many County Police on Playland Parkway at the time when the parking lot was full and the lot was closed and also noted that Dan McBride, the Director of Playland, was directing traffic at the entrance to Playland. He also said that the City benefits from additional traffic on holiday weekends that goes into Rye Town Park because the increased revenue to the park reduces the amount of money the City must contribute toward operating costs.

Councilman Cunningham requested that the Council receive a report from Commissioner Connors or City Manager Culross regarding vehicle purchases. He asked if there had been any discussions regarding eliminating vehicle purchases relative to budgeted amounts approved in the 2008 and 2009 budgets in order to conserve cash.

15. Old Business

Councilman Ball said that he had previously asked for a report on the per unit costs for fixed and mobile speed clocks that can be used as traffic calming devices. (The City Manager said the information had been provided.) Mr. Ball also said he wanted to return to a dialogue with Metro North regarding a lease that the City is comfortable with and would allow the City to make the necessary investment in to improve the facility. He said he believed it was important to have clarity on what the City wants to achieve in any discussions with Metro North. Councilman Pratt said he believed there was information in a report from the Central Business District Task

Force relative to Metro North and suggested it would be beneficial for the Council to refresh themselves as to the contract status with Metro North. He said he felt it was important for the City to retain control of the parking franchise at the train station. Councilman Cunningham pointed out that raising parking fees can cause problems because Metro North would prefer that residents and non-residents are charged the same fee. Mayor Otis said that the City retaining control of the managing of the parking lots makes it more user friendly. He added that he believed the goals in dealing with Metro North were to extend the relationship without losing the City's autonomy.

16. New Business

Mayor Otis questioned that change in signs from one hour to two hour parking in the spaces located near Sunrise Pizza. (The area is listed in the City Code as two hour parking and the sign was changed when the Court requested that the sign be changed because people with permits were parking there for more than the allowed time.)

Councilman Sack asked if the City could ask the Rye Town Park Commission to investigate if smoking could be banned in the park and on the beach. Mayor Otis said that it has been discussed by the Commission and research is being done by the Town of Rye to determine how many beaches have no cigarette policies in order for the Commission to consider a policy change. The Mayor said he has also spoken with Rye Town Supervisor Joe Carvin about ways to improve clean up of the Park.

17. Draft unapproved minutes of the regular meeting of the City Council held May 13, 2009

Mayor Otis made a motion, seconded by Councilman Pratt and unanimously carried to approve the minutes of the regular meeting of the City Council held on May 13, 2009.

18. Adjournment

There being no further business to discuss, Councilman Ball made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn the meeting at 11:00 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on June 1, 2009 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
ANDREW C. BALL
MACK CUNNINGHAM
PAULA J. GAMACHE
CATHERINE F. PARKER
GEORGE S. PRATT
JOSEPH A. SACK
Councilmembers

1. Pledge of Allegiance

Mayor Otis called the meeting to order at 8:35 P.M. and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor Otis asked the City Manager to call the roll; a quorum was present to conduct official city business.

3. One reappointment to the Finance Committee for a term ending January 1, 2010 by the Mayor with Council approval

Mayor Otis made a motion, unanimously approved the Council to reappoint Jonathan Peters to the Finance Committee for a term ending January 1, 2010.

4. One appointment to the Commission on Human Rights for a term ending January 1, 2012 by the Mayor with Council approval

This item was deferred.

5. One appointment to the Rye Playland Neighborhood Advisory Committee for a term ending January 1, 2011 by the Mayor with Council approval

This item was deferred.

6. Workshop regarding the September 11th Memorial Gazebo Project

Mayor Otis reviewed the status of the proposal by the 9/11 Memorial Committee to construct and donate to the City a memorial gazebo. Plans for the gazebo have been prepared by Lisa Easton of Eastman Architects, LLP. The proposal had been reviewed by the Landmarks Committee and the Board of Architectural Review.

The architect and the Landmarks Committee have recommended that the gazebo be located in the historic site adjacent to the Square House.

The BAR has proposed that it be located across Haviland Lane towards Blind Brook. The Rye Historical Society and the Rye Garden Club have supported this alternative location. The 9/11 Memorial Committee urged a prompt decision on location so that construction can proceed this summer.

Architect Easton presented both alternative sites and highlighted the strengths and weaknesses of each.

Representatives of the Landmarks Committee, BAR, the Rye Historical Society, the Rye Garden Club, and the 9/11 Memorial Committee presented their points of view.

After extensive deliberations, Mayor Otis made a motion, seconded by Councilwoman Gamache, to adopt the following resolution:

RESOLVED, that the site across Haviland Lane be approved provided that the necessary wetlands permit is obtained from the Planning Commission and that the structure be suitably re-sized for the new location and the necessary modifications to its foundation be made by the project architect.

ROLL CALL:

AYES: Mayor Otis, Council members Ball, Cunningham, Gamache, and Sack

NAYS: None

ABSENT: Council members Parker and Pratt

7. New Business

None

8. Adjournment

None

There being no further business to discuss, Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn the meeting at 10:40 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frank J. Culross', with a long horizontal line extending to the right.

Frank J. Culross
City Manager