

## CITY OF RYE

### NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, May 5, 2010, at 8:00 p.m. at the **Square House**. *The meeting will be preceded by a Mayor's Roundtable at 7:30 p.m. The meeting will move from the Square House to Council Chambers in City Hall at approximately 8:45 p.m. It is anticipated that the Council will adjourn into Executive Session following the meeting to discuss personnel matters.*

### AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meeting of the City Council held April 21, 2010.
5. Residents may be heard who have matters to discuss that do not appear on the agenda.
6. Mayor's Management Report
  - Commission Update: Recreation Commission
  - Summary of the City's submission on the Starwood development project
7. Public Hearing to change the City of Rye Zoning Code to include "child-care facilities" as a use in the B-1 District.
8. Public hearing to amend Chapter 177 of the Code of the City of Rye to grant an exemption to Cold War Veterans who meet the requirements of Section 458-b of the New York State Real Property Tax Law.
9. Consideration of setting a Public hearing for the establishment of the Kirby Lane Sanitary Sewer Special Assessment District.
10. Discussion of 151 Purchase Street Associates, LLC and tenancy lease terms.
11. Resolution to grant permission to the Rye Free Reading Room to hold a kickoff event for the Summer Reading program entitled "Flow Circus" on the Village Green on Monday, June 28, 2010 from 2 p.m. to 3 p.m.
12. Appointment of one member to the Emergency Medical Services Committee for a three-year term ending June 30, 2013.
13. Discussion of Resolution to establish a Rye Town Park Advisory Committee.
14. Bid Award for Dogwood Lane sewer (Bid #4-10).  
Roll Call.

15. Miscellaneous communications and reports.
16. Old Business.
17. New Business.
18. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, May 19, 2010.



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: April 26, 2010

CONTACT: Dawn F. Nodarse

**AGENDA ITEM:** Draft of the unapproved minutes of the regular Meeting of the City Council held on April 21, 2010, as attached.

**FOR THE MEETING OF:**

May 5, 2010

**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 April 21, 2010.

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on April 21, 2010 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI  
PAULA J. GAMACHE  
PETER JOVANOVICH  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT: None

The meeting convened at 7:34 p.m. Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn into Executive Session at 7:35 p.m. to discuss litigation. Councilman Filippi made a motion, seconded by Councilman Sack and unanimously carried to adjourn the Executive Session at 8:02 p.m. No decisions were made. The regular meeting convened at 8:07 p.m.

1. Pledge of Allegiance

Mayor French called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

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

3. General Announcements

- The Boat Basin accepts plastic wrap from boats for recycling.
- The City Council will begin interviewing for the City Manager position on May 15, to hopefully have someone in place by July 1<sup>st</sup>.
- In June the Council should be ready to post for the Corporation Counsel position and begin the interview process.

In addition, several announcements were made regarding events, programs and activities held by the County, School District, Library and various local organizations.

4. Draft unapproved minutes of the regular meeting of the City Council held April 7, 2010 and informal minutes of the Joint Meeting of the City Council and Board of Education held on April 10, 2010

Councilwoman Keith made a motion, seconded by Councilman Filippi and carried by voice vote with Councilman Sack abstaining, to approve the minutes of the regular meeting of the City Council held on April 7, 2010, as amended.

Councilman Filippi made a motion, seconded by Councilwoman Gamache and carried by voice vote with Councilman Sack abstaining, to approve the informal minutes of the joint meeting of the City Council and Board of Education held on April 10, 2010.

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

*Peter Julian, 20 Onondaga Street*, requested that the Council consider changing the law that prohibits parking on Parsons Street prior to 8:30 a.m. in order to accommodate drop-off at the School. He said he would like it changed to 8:00 a.m. Assistant City Manager Pickup advised the Council that the prohibition on parking until 8:30 a.m. was put in place because students were parking in the drop-off area prior to 8:00 a.m., which impeded the drop off process.

*Jordan Glass, Esq., an attorney representing Ray Tartaglione*, urged the Council to act on violations on Hen Island by providing information to the County Health Department in order for them to take action. He quoted from three sections from Chapter 161, Sewers, of the Rye City Code that required action on the part of the City. Mayor French indicated that the Chapter of the Code that Mr. Glass quoted from dated back to the 1950s, prior to the establishment of sewer districts with the County, which is now the enforcement mechanism. Interim Corporation Counsel Wilson said that the County is essentially the City's Health Department for purposes of enforcing sanitary violations. Mayor French indicated that the Council could look at repealing sections of the Code to make sure it is up to date. Councilman Sack said he would like the Council to take a comprehensive look at the issue in order to take a position. *Martin Ederer, a summer resident of Hen Island*, said that the island has been inspected many times by the Health Department and deemed to have no violations. Mayor French reiterated that the Council will not get involved in a public dispute between residents of Hen Island where the City has no jurisdiction. *Ray Tartaglione*, said that a letter he received from Commissioner Myerson of the Health Department last year indicated that the County will not respond to reports of violations unless the City of Rye initiates their response.

*Chuck Pateman* spoke on behalf of Robert and Rita Schubert. He said that on March 8, 2010 he had submitted an application to the Planning Commission regarding the Schuberts' wetland issue and received a letter from Interim Corporation Counsel Wilson indicating that she was reviewing the submission. He also submitted a letter to the Building Inspector on March 15, 2010 advising him that the Gates' property was in a flood plane, which has received no response. He said it was the duty of the Council to see that City Boards respond to applications. Interim Corporation Counsel Wilson said that her letter responded to the submissions received by both the Planning Commission and Building Inspector and she is working with them on how to properly review the submissions. If it is deemed appropriate for it to go before the Planning

Commission, it will. She said the matter is closely related to a matter under litigation. Mr. Pateman indicated that although he is not an attorney, he has the authority to settle the pending litigation between the Schuberts and the City if the City agrees to investigate the matter. Councilman Sack said that if, in fact, a settlement offer has been conveyed, the Council will meet with its attorneys and discuss it in an attorney/client privileged session.

*Sis D'Angelo, Wappanocca Avenue*, said that the Council was still in a rut. She said there are too many people on boards and commissions for too long and if they don't know what they are doing, it is time for them to go.

6. Mayor's Management Report

- Presentation of an *Evening of Dancing* event to be held on Purchase Street

Alan Clark asked that the City Council support a proposal for Rye's first "Dancing in the Street" event to be held on Purchase Street on an evening in late June, possibly in conjunction with the 350<sup>th</sup> Anniversary of Rye. He offered the help of volunteers to organize the event and requested that Purchase Street be blocked off from the Arcade Building down to just before Purdy Avenue from 6:00 to 9:00 p.m. There would be DJs and live music in possibly three different spots. Six or seven police officers would be necessary and would be paid for by the organizers. The Chamber of Commerce would be asked to encourage the stores, particularly the restaurants and food stores, to remain open and the City would be asked to issue three-hour special permits for sidewalk seating. It is hoped that the City DPW could handle the clean-up after the event. The organizers will seek a corporate sponsor for the event if possible, and believe the event will cost between \$3,000 and \$3,500. Mr. Clark believes it will be easier to get a corporate sponsor if they already have the approval of the Council. Interim Corporation Counsel Wilson advised Mr. Clark that the organizers would also have to provide the City with insurance.

Council comments included:

- It is a terrific idea.
- The merchants have discussed it and consider it an interesting idea, but it will require a lot of volunteers.
- The idea needs to be "fleshed out" more before being brought to the Council for approval.
- The City needs to know what its liability would be.
- The organizers should cover all the costs.
- If the idea is to dance outdoors, what about Rye Town Park. (Part of the idea is the chance to bring people downtown.)
- The Council needs more information on what the DPW costs would be and is not ready to make a decision tonight.

Agenda item #7 was taken out of order at this time.

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Prior to returning to the Mayor's Management Report, Mayor French recognized former City Court Judge Peter Lane who wished to speak on Agenda item #11 regarding the reorganization of the Law Department. Judge Lane praised Interim Corporation Counsel Kristen Wilson and her colleague Darius Chafizadeh and urged the City Council to hang on to them, saying they were good lawyers, very professional and presented a good face for the City in court. Councilwoman Parker pointed out that Ms. Wilson and Mr. Chafizadeh were employed by the same firm and that it has been recommended that the Corporation Counsel and Deputy Corporation should be from different firms. Judge Lane said that although the report presented options, the ultimate choice was the City Council's. Councilman Sack said the Council has to decide on the best fit for the City by weighing the pros and cons associated with using people from the same firm.

- Rye Town Park Security Review

Mayor French noted that the park would be opening for the beach season and there was coordination between the Rye City Police and Rye Town Park Security. Bishop Nowatnik and Fred Gioffre from the Town of Rye were present. A report on park security was presented by Mr. Gioffre, who said:

- Safety is the most important issue at Rye Town Park.
  - There have been no pedestrian auto accidents in the three seasons that he has been at Rye Town Park.
  - Park Rangers focus in on the protection of pedestrians and trees and shrubs from vehicles.
  - The use of ropes has been implemented this year up the road on the right side of the pond to prevent cars from getting into the park on that side.
  - Small stakes have been put around the trees in or near the parking area to protect them from cars.
  - Three more parking attendants will be hired to guide cars to parking spaces.
  - They are looking at making the horseshoe around the park one-way in and one-way out.
  - There will be two cashier stations opened at the entrance between the hours of 10:00 and 2:00 on Friday, Saturday and Sunday to alleviate the traffic that backs up onto Forest Avenue and rangers will be out on the street directing traffic.
  - The parking attendants will remain in the evenings.
  - In an emergency situation the rangers contact him or their supervisor who then contact the Rye Police. Rangers cannot issue violations only the Police can.
  - They also work closely with the County Police.
  - Security guards are on duty day and evening from mid-May until October or mid-November. Park management personnel are on duty from April 1<sup>st</sup>.
  - There is security at the pay stations and security personnel remain in the park until midnight and all cars are out of the lot.
  - A meeting will be held with the Rye Police Department to set up new protocols.
  - During the season, up to 6,000 people are moved in and out of the park and beach safely during a week. There are only about 14 days during the season when the park gets full.
- Launch of the new City of Rye Website

Mayor French noted that the City had launched its new website and offered congratulations to IT Coordinator Kerry Donahue and City Planner Christian Miller for their work on its design. He encouraged everyone to go onto the site.

7. Approval of the election of the Chiefs of the Rye Fire Department

Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried, to approve the election of George Hogben as Chief of the Rye Fire Department; Anthony Scarfone as 1<sup>st</sup> Assistant Chief; and Michael Taylor as 2<sup>nd</sup> Assistant Chief held at the Annual Fire Department meeting in April.

8. Authorization for City Manager to execute Assumption Agreement transferring Control of franchise agreement between City of Rye and NEON Optica, Inc. to Yankee Metro Acquisition, LLC

Councilwoman Keith made a motion, seconded by Councilman Filippi to adopt the following Resolution:

**RESOLVED**, that the City Manager is hereby authorized to execute an Assumption Agreement transferring control of the Franchise Agreement between the City of Rye and NEON Optica, Inc. to Yankee Metro Acquisition, LLC

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Jovanovich,  
Keith, Parker and Sack  
NAYS: None  
ABSENT: None

The Resolution was adopted by a 7-0 vote.

9. Authorization for City Manager to enter into an Inter-municipal Agreement with Westchester County for the Mutual Aid and Rapid Response Plan for the Police Departments of Westchester County

City Manager Culross said this was a continuation of an existing agreement whereby all the Police Departments in the County agree to provide a mutual aid rapid response plan to assist each other.

Councilwoman Keith made a motion, seconded by Councilwoman Gamache, to adopt the following Resolution:



**RESOLVED**, that the City Manager is hereby authorized to enter into an Inter-municipal Agreement with Westchester County for the Mutual Aid and Rapid Response Plan for the Police Departments of Westchester County, for a five-year period commencing July 31, 2010 through July 30, 2015.

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Jovanovich,  
Keith, Parker and Sack  
NAYS: None  
ABSENT: None

The Resolution was adopted by a 7-0 vote

10. Consideration of setting a Public Hearing to amend Chapter 177 of the Code of the City of Rye to grant an exemption to Cold War veterans who meet the requirements of Section 458-b of the New York State Real Property Tax Law

City Manager Culross said that the State has authorized the exemption, the County approves it and the Assessor recommends it. The impact to the City is relatively small. The current exemption averages about \$33 per year and involves 17 people. Under the amendment the exemption would increase to approximately \$144 a year.

Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried, to adopt the following Resolution:

**WHEREAS**, the Council wishes to amend Chapter 177, Taxation, “Cold War Veterans Tax Exemption,” of the Code of the City of Rye; 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 May 5, 2010 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 to amend Chapter 177, Taxation, “Cold War Veterans Tax Exemption” to the Code of the City of Rye.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the **5th day of May 2010 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 177, Taxation. Copies of said local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse, City Clerk  
Dated: April 27, 2010

11. Discussion of proposed re-organization of the Legal Department

Mayor French said the objective of this discussion was to get Council feedback on the report in order to come back with a “strawman organization” sometime in May.

Former Mayor and Judge John Carey said that the report prepared by himself and Councilman Sack urged that the City save money by getting control over the legal affairs of the City. Three ways suggested to accomplish this are: (1) negotiate fixed prices with law firms rather than an hourly rate; (2) City legal staff should handle most of the litigation; and (3) require the legal staff to report in detail on what they do. He offered to assist at no cost to the City if he was designated “Of Counsel” or “Special Counsel” in order to avoid confidentiality problems.

Interim Corporation Counsel Wilson offered a brief summary of “a day in the life of the Corporation Counsel.” She touched on five broad areas she is involved with:

- General Corporation Counsel matters, which include holding office hours twice a week to assist staff in responding to FOIL requests, meeting with departments, answering questions regarding procedures, legal claims, agenda items, drafting local laws and resolutions, responding to emails; appearing in Rye City Court on Thursday and Friday mornings; and attending tax certiorari matters.
- Overseeing special Counsel matters.
- Overseeing insurance matters such as torts, negligence and claims that the insurance carrier handles.
- Conferring as necessary with Labor Counsel, currently Vincent Toomey, Esq., who handles grievances, arbitrations and labor contract negotiations.
- Non-insurance litigation, where no coverage is involved. Currently there are four pending Article 78s, a breach of contract matter, an administrative proceeding and a declaratory judgment action.

Mayor French said the scope of the discussion would include:

1. How the Corporation Counsel is paid - salary vs. hourly billing.

2. The relationship with a named municipal law firm to handle case overflow and the administrative support expense that a firm would take on.
3. The organizational fit for a Deputy Corporation Counsel – should there be one and, if so, is it an employee of the City or from a retained firm.
4. Where is the City oversight in labor and insurance litigation matters?
5. What is the role of a Litigation Case Management Committee as an advisory board to review bills?

Councilman Sack asked Ms. Wilson to provide the Council with an accounting of her time for items that are not currently covered under the Retainer Agreement. He also referred to two points from his and Judge Carey's report that highlight proposed benefits to the City: (1) the City will save money on legal expenses by appointing a Corporation Counsel and Deputy; (2) the City will receive better and more efficient legal services. Judge Carey said that if the Corporation Counsel and Deputy were from separate firms conflict of interest problems could be avoided. He also said that the City Council should approve the selection of any outside counsel used and that no lawyer should be hired unless someone has watched them in court or reviewed their written work.

Council comments and questions included:

- Wouldn't a Case Management Committee provide the City with added expertise in choosing appropriate outside counsel? (It might present confidentiality problems.)
- Policy should not be made based on one instance where there was a conflict of interest.
- Some of the recommendations in the report are too restrictive.
- The City needs the best people for the job. Attorneys having a professional relationship could be a benefit.
- Lawyers coming from two different firms could prevent a situation where one attorney is beholden to another.
- The Law Department should be structured as other City Departments with a reporting line, not two independent parties who could be in competition. (Two people with independent ideas could be beneficial to the City.)
- The City Council and the Corporation Counsel already serve as the Case Management Committee. The Counsel vets their questions through the Corporation Counsel.
- A Deputy Corporation Counsel disagreeing with the Corporation Counsel could place the Council in the middle of two opinions.
- To whom would the Corporation Counsel and Deputy report? (Whoever has asked them for an opinion. The Deputy reports to the Corporation Counsel.)
- The idea is to reduce costs by not sending cases to outside counsel as frequently.
- Two part-time attorneys could grow to be two full-time attorneys.
- Receiving the advice of other attorneys in town regarding what is reasonable in billing would be helpful.
- How can the legal bills be managed going forward? (They should be reviewed by the Council and negotiated with the lawyers.)
- A Case Management Committee could be helpful in reviewing legal bills.

Mayor French summed up the discussion by saying the next step would be to put together a "strawman organization" based on the feedback received, which would include a Corporation

Counsel, a Deputy, a law firm that would handle potential overflow, outside counsel and a possible Case Management Committee, with a goal of better management of legal costs.

12. Proposal for term limits on Boards and Commissions including term limits for the City Council

Councilman Sack said that although he is in favor of term limits, his sense is that no one else on the Council favors them. He would like to have a discussion about the pros and cons at the Council level, but does not want a contentious dialogue. Councilwoman Parker said she believes that elections provide term limits and people who volunteer for the boards and commissions provide the City with an expertise and set of skills that can be difficult to replace. Councilman Filippi said the Council has so many issues it is dealing with now and suggested the issue of term limits be tabled. Mayor French concurred with Councilman Filippi's suggestion.

13. Consideration of establishing the Rye Governmental Policy and Research Committee

Mayor French said that at the last meeting the Council had discussed getting a committee in place to identify legislation and land use projects that could affect the City or potential grant opportunities. The changes that were suggested have been incorporated in the current draft of the Resolution.

Councilman Jovanovich made a motion, seconded by Councilman Filippi, to adopt the following Resolution:

WHEREAS, the volunteer committees in the City of Rye (the "City") perform a critical function in the City by advising the City Council on important issues that are relevant to the daily operations within the City, the adjoining municipalities (especially the communities along the Long Island Sound), the State of New York and the federal government that impact the City; and

WHEREAS, legislation proposed and adopted by the federal, state and county governments impact the City; and

WHEREAS, regional projects involving environmental resources, transportation corridors, and other infrastructure related projects developed or approved by the federal, state, county and local governments impact the City; and

WHEREAS, the City should be aware of federal, state, county and other regional grant opportunities for which the City may qualify; and

WHEREAS, it is desirable to have a Governmental Policy and Research Committee (the "Committee") to identify, research, investigate, study, understand, monitor and advise the City Council on issues as outlined above that may impact the City;

NOW, THEREFORE, BE IT RESOLVED, that the City of Rye Governmental Policy and Research Committee is hereby established; and be it further

RESOLVED, that the Committee shall consist of no less than seven (7) members and no more than nine (9) members, all residents of the City, to serve three-year terms; and be it further

RESOLVED, that the initial appointments shall be staggered with three one-year terms, three two-year terms, and three three-year terms, and be it further

RESOLVED, that if only seven members are initially appointed, the appointments shall include three one-year terms, two two-year terms and two three-years terms; and be it further

RESOLVED, that the members of the Committee shall be appointed by the City Council and that one member shall be designated by the Mayor as Chairman, and be it further

RESOLVED, that the Committee shall not act as a representative of the City or as a lobbyist on behalf of the City and it is not authorized to attempt to persuade other governmental or non-governmental organizations to adopt policy or legislative positions, and be it further

RESOLVED, that the Committee shall have the following duties and powers:

1. Establish Committee rules and procedures for meetings;
2. Identify, research, investigate, understand and monitor the different policies and projects being proposed and adopted by the federal, state, county and local governments and how they may impact the City; and
3. Advise the City Council with respect to both proposed and adopted legislation, policies and/or projects that may impact the City; and
4. Advise and/or recommend to the City Council what legislative proposals the City should consider implementing to better comply with other federal, state, county and local municipal laws and policies.

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Jovanovich, Keith, Parker and Sack

NAYS: None

ABSENT: None

The Resolution was adopted by a 7-0 vote.

Mayor French asked anyone interested in serving on the Committee to send an email to mayor@ryeny.gov.

14. Resolution to declare certain equipment as surplus  
Roll Call.

City Manager Culross said that the list consisted of seven automobiles and one boat, which would be sold at on-line auction. The list of vehicles being declared surplus is as follows:

2000 Ford Crown Vic, Vin # 2FAFP71W2YX110410, Mileage 58,030  
2007 Ford Crown Vic, Vin # 2FAHP71W07X114298, Mileage 69,697  
1986 Chevy Lumina, Vin # 2G1WL52M8W1127583, Mileage 29,361  
1998 Chevy 2500, Vin # 1GCGKZ4RZWE217610, Mileage 75,722  
2003 Ford Crown Vic, Vin # 2FAFP71W93X112583, Mileage 44,135  
1978 DN OS 12 Fire Boat, Vin # DNC34201M78B

Mayor French made a motion, seconded by Councilman Jovanovich, to adopt the following Resolution:

**WHEREAS**, the City has been provided with a list of City vehicles that the Department of Public Works has identified as being obsolete or will become obsolete during 2010; 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 French, Councilmembers Filippi, Gamache, Jovanovich,  
Keith, Parker and Sack  
NAYS: None  
ABSENT: None

The Resolution was adopted by a 7-0 vote.

15. Miscellaneous communications and reports

Councilwoman Keith said that the Traffic and Pedestrian Safety Committee (TPS) would be meeting on May 11<sup>th</sup> and it is a great place for citizens to come to present their ideas and

concerns. A subcommittee of TPS is being formed to look into creating a Biking and Pedestrian Master Plan.

Mayor French said he had attended a Council of Governments meeting with the County Board of Legislators. Many issues such as capital projects, shared services, the housing settlement, potential reassessment and flood mitigation were discussed. He believes that representatives from the Council and City staff should meet with Legislator Judy Myers to make sure our interests are aligned.

16. Old Business

Councilwoman Keith said that the City's sidewalk policy had been mentioned at the last meeting and wanted to know if the Council should explore it further and what was the best strategy for doing so. Mayor French said that the discussion could possibly begin with TPS. Councilman Filippi suggested changing the policy regarding repairing sidewalks to cover the City's costs and provide incentives for people to get the work done.

Councilwoman Parker said that she was concerned that with the number of projects being discussed the Sustainability Plan would be delayed. Ms. Keith said that the Conservation Commission/Advisory Counsel is already working on the Sustainability Plan.

Interim Corporation Counsel Wilson said that City Planner Christian Miller has sent to the City Manager a law adopted by another community that sets up an escrow fund to cover the costs of outside consultants that might be necessary to review a project before one of the City's Boards and Commissions. The costs would be born by the applicant and would be used to pay for consultants retained by the City.

Councilman Sack noted that the Oakland Beach Avenue project is visibly underway and asked that a link to the project be put on the City website.

Councilman Filippi inquired about the fines for dumping sewage into Long Island Sound if the Hewlett Avenue Pump station was bypassed. Ms. Wilson said that there are different levels of fines, but the State fines are \$37,000 per day, per violation. City Manager Culross added that the City Engineer could also be fined. Mr. Filippi suggested revisiting the fines for illegal connections. Assistant City Manager Pickup said that the Phase II Stormwater Report would be presented by a consultant in May that would present recommendations in this area.

Mayor French said that City Planner Miller is working on the City's comments for submission in connection with the proposed Starwood. He also said that he would be meeting with the Rye Seniors on May 5th in follow up to a parking issue at Midland School raised at the Joint Meeting with the School Board.

17. New Business

Mayor French made a motion, seconded by Councilwoman Parker and unanimously carried, to appoint Caroline Mosher to the Board of Assessment Review for a five-year term expiring on September 30, 2014.

Councilman Filippi asked that the proposals for water runoff regulations as well as steep slopes be brought back to the Council for discussion.

18. Adjournment

There being no further business to discuss, Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the meeting at 10:45 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk

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The next regular meeting of the City Council will be held on Wednesday, May 5, 2010 at the **Square House**.





# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Council

DATE: April 26, 2010

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Mayor's Management Report

**FOR THE MEETING OF:**

May 5, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Manager provide a report on requested topics.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The Mayor has requested an update from the City Manager on the following:

- Commission Update: Recreation Commission
- Summary of the City's submission on the Starwood development project



# CITY COUNCIL AGENDA

NO. 7

DEPT.: Planning

DATE: April 26, 2010

CONTACT: Christian K. Miller, AICP, City Planner

**AGENDA ITEM:** Public Hearing to change the City of Rye Zoning Code to include “child-care facilities” as a use in the B-1 District.

**FOR THE MEETING OF:**

May 5, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** Consider Adoption of Proposed Local Law.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other: Land Use

**BACKGROUND:** A request has been made to change the City of Rye Zoning Code to include “child-care facilities” as a use subject to additional standards and requirements in the B-1 District, a neighborhood business district, and to provide for off-street parking requirements for such use.

As requested by the City Council, the Planning Commission has provided additional analysis in its April 29, 2010 memorandum attached hereto.

**LOCAL LAW  
CITY OF RYE NO. \_\_\_\_\_ 2010**

**A Local law to amend Chapter 197 “Zoning”, Section 197-86 by adding subsection (15) to Permit Child-Care Facilities as Permitted Uses in the B-1 “Neighborhood Business District” and amending Section 197-28(A) by adding Required Off-Street Parking for such uses of the Code of the City of Rye, New York**

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

**Section 1.**      **Section 197-86, Table of Regulations: Table B, Business Districts-Use Regulations, Column 2, Uses Permitted Subject to Additional Standards and Requirements, B-1 Neighborhood Business Districts,** of the Code of the City of Rye, New York, is hereby amended by adding thereto a new subsection (15) to read as follows:

- (15)      **Child-care facilities.** Duly licensed child-care facilities for not to exceed 30 children and where lot size is at least 10,000 square feet, provided that sufficient outdoor play area is provided in compliance with applicable state and/or county regulations and adequately screened.

**Section 2.**      **Section 197-28(A), Schedule of parking requirements,** is hereby Amending by adding thereto the following:

Use	Number of Spaces Per Unit (by Parking District)			Unit of Measurement and Conditions
	A	B	C	
Child-care Facilities (enrollment)	1	1	1	Five enrolled children
Child-care Facilities (staff)	1	1	1	Employee

**Section 3.**      **Severability**

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

**Section 4.**      **Effective Date**

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

## RESOLUTION

**A Local law to amend Chapter 197 “Zoning”, Section 197-86 by adding subsection (15) to Permit Child-Care Facilities as Permitted Uses in the B-1 “Neighborhood Business District” and amending Section 197-28(A) by adding Required Off-Street Parking for such uses of the Code of the City of Rye, New York**

WHEREAS, on April 7, 2010, the Rye City Council set a public hearing for May 5, 2010 on a local law amending §197-86 of the Code of the City of Rye to permit Child-Care facilities as permitted uses in the B-1 “Neighborhood Business District” and amending Section 197-28(A) by adding required off-street parking for such uses; and

WHEREAS, the notice of hearing was circulated to the Westchester County Planning Board and abutting communities as required by Sections 277.61 and 277.71 of the Westchester County administrative code; and

WHEREAS, the City Council has reviewed the Full Environmental Assessment Form (EAF) and determines that the proposed action is consider a Type I; and

WHEREAS, the City Council is the only Involved Agency in connection with the proposed action; and

WHEREAS, the City Council conducted a noticed public hearing on May 5, 2010 and all those wishing to be heard were given the opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED, that the City Council designates itself as Lead Agency and based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact; and

BE IT FURTHER RESOLVED, that the City Council adopts Local Law # \_\_\_\_\_-2010 amending §197-86 of the Code of the City of Rye to permit Child-Care facilities as permitted uses in the B-1 “Neighborhood Business District” and amending Section 197-28(A) by adding required off-street parking for such uses; and



**Robert P. Astorino**  
County Executive

County Planning Board

April 23, 2010

Christian K. Miller, City Planner  
Office of City Planning  
City of Rye  
1051 Boston Post Road  
Rye, NY 10580-2996

**Subject: Referral File No. RYC 10-001 - Cornerstone Children's Center  
Zoning Text Amendment and Site Plan**

Dear Mr. Miller:

The Westchester County Planning Board has received notice of intent to declare Lead Agency status pursuant to the New York State Environmental Quality Review Act (SEQR), as well as petition for an amendment to the text of the City's Zoning Ordinance for the above referenced action.

The applicant is petitioning the City to permit Child-Care Facilities as permitted uses in the B-1, Neighborhood Business District. The petition would also create a parking requirement for such uses in the, Schedule of Parking Requirements to be one (1) parking space per five (5) enrolled students and one (1) parking space per employee.

We have no objection to the City Council of the City of Rye assuming Lead Agency status for this project.


We have reviewed the proposed zoning text amendment under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code and find that there are no County or intermunicipal planning issues of concern to the County Planning Board. This action is a matter for local determination in accordance with your community's planning and zoning policies.

As it is our understanding that this project will also require a site plan review from the City, we respectfully request that additional materials relevant to that review be forwarded to us as they become available, or as this project progresses through the SEQR review. Because the project site is located on a County Road (Theodore Fremd Avenue – CR 54) referral of the site plan application to the County Planning Board is required.

Thank you for calling this matter to our attention.

Respectfully,  
WESTCHESTER COUNTY PLANNING BOARD

By:

  
Edward Burroughs, AICP  
Acting Commissioner

EEB/mmm

432 Michaelian Office Building  
148 Martine Avenue  
White Plains, New York 10601

Telephone: (914) 995-4400 Fax: (914) 995-9098 Website: westchestergov.com

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



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E-mail: [cmiller@ryeny.gov](mailto:cmiller@ryeny.gov)  
<http://www.ryeny.gov>

**CITY OF RYE**  
**Department of Planning**

**Memorandum**

---

To: Rye City Council

From: Rye City Planning Commission  
Christian K. Miller, AICP, City Planner

Date: April 29, 2010

Subject: **Petition to Amend the City Zoning Code to allow "Child Care" in B-1 Neighborhood Business Districts**

As requested by the City Council at its March 24 meeting, this memorandum provides additional information and comment regarding the proposed zoning text amendment to allow "child care" in the B-1 Neighborhood Business Districts.

At the Council meeting questions were raised as to whether the proposed amendment would provide for day care facilities in proper locations of the City and with adequate regulatory safeguards to minimize potential impacts on residential neighborhoods. There was also a question as to whether there was a demonstrated need for such facilities beyond the request of the zoning petitioner and whether there were planning documents, such as the 2005 Neighborhood Business District Study, which recommended zoning changes to accommodate child care uses in the B-1 Neighborhood Business District.

**Background**

The City Council has received a petition from Ker-Bar Realty Corp. requesting that the City Zoning Code be amended to allow "child-care facilities" as a *Use Permitted Subject to Additional Standards and Requirements* in the City's B-1 Neighborhood Business District. This text amendment requires that such uses not exceed 30 children, have a minimum lot size of 10,000 square feet, be adequately screened and have sufficient outdoor play area as required by state and/or county entities, which regulate such uses.

## **Petition to Amend the City Zoning Code to allow "Child Care" in B-1 Districts**

April 29, 2010

Page 2 of 4

The text amendment also sets forth minimum on-site parking requirements. A copy of the petitioner's request and proposed local law is attached hereto.

This petition has been submitted by the property owner of 180 Theodore Fremd Avenue. This property has been under review by the Planning Commission since July in connection with an application by Cornerstone Children's Center to open a child care facility. Child day care is not permitted in the B-1 Neighborhood Business District and therefore City Council approval is required to amend the City Zoning Code to allow the use.

After careful consideration and deliberation at its August 11, 2009 and January 12, 2010 meetings, the Planning Commission unanimously agreed at its February 2, 2010 meeting to support the proposed zoning petition to the City Council to allow child care uses in the City's B-1 Neighborhood Business District. This memorandum was prepared based on additional deliberations of the Planning Commission's at its April 6, 2010 and April 20, 2010 meetings.

### **Existing Child Care Regulation and Need**

Before considering the proposed zoning amendment it's important to understand the current regulation of child care uses in the City. The City Zoning Code does not specifically allow "child-care facilities" as a principal permitted use in the City. Child-care facilities are permitted only as an accessory use in the B-4 and B-5 Office Building Districts and are regulated as follows:

*Child-care facilities, subject to the following conditions: [Added 10-19-1989 by L.L. No. 10-1989]*

- a. *To the extent that restrictions exist or are placed on the number of persons permitted to be employed on the site, employees serving the child-care facility shall be counted as employees for the purposes of said restrictions.*
- b. *The Planning Commission may limit the amount of indoor and outdoor space devoted to the child-care facility and may limit the specific location of outdoor space.*
- c. *The number of children served by the child-care facility shall be limited as provided for by state law.*
- d. *The children served by the child-care facility shall be limited to children of the employees of permitted tenants of the building, and such employees shall be regularly employed at this location.*
- e. *The child-care facility shall be managed or supervised by a permitted tenant of the building or its employees.*

The above zoning text amendment was added to the City Code in a similar fashion as the current petition. In 1989, an applicant submitted a petition to the City Council requesting a change in the Zoning Code to allow for child day care in the zoning district that applies to the Avon office building. That day care facility, known as Little Angels, remains in operation today and provides care for up to 52 children, many of whom are believed to be children of Avon employees.

## **Petition to Amend the City Zoning Code to allow "Child Care" in B-1 Districts**

April 29, 2010

Page 3 of 4

"Nursery Schools" are also permitted as a *Use Permitted to Subject to Additional Standards and Requirements* in all of the City's Residence Districts and are regulated as follows:

*Nursery schools. Duly licensed nursery schools for not to exceed 30 children, provided that at least 1,000 square feet of outdoor play area for each five children or fraction thereof is provided, located on the premises at such a distance and so screened from any lot line and from any residential structure on an adjoining lot as to avoid a noise nuisance.*

Nursery schools have not been interpreted to include child day care facilities. In 1999 an applicant sought a similar change in the City Zoning Code as the current petition to allow child day care in the B-1 District. At that time child day care was deemed to not be a permitted use. The applicant therefore sought a change in zoning to allow child day care in the B-1 District so that a facility could be operated at a formerly vacant office building at the corner of Maple and High Streets. That application was presented to the Planning Commission, but was not advanced by the applicant for unknown reasons.

Nursery schools are different from child day care though their potential land use impacts and operational characteristics are similar. Curiously, nursery schools are permitted in all of the City's residential zones, but child day care is not permitted anywhere as a main use, including more intense business districts.

Nursery schools serve similar ages as child day care, but are defined differently under applicable New York State laws. Nursery schools do not provide care or instruction for more than three hours a day. Child day care does, which is why it tends to serve the needs of families with working parents or those that desire child care for extended periods of time. Once a facility is considered to be a child day care it is subject to regulation under the New York State Social Services law.

There are a number of Nursery School programs in Rye, but full-time child day care options are limited. This lack of availability is due in part because local zoning provides only limited areas for such uses. There is no law that requires a community to provide for child day care; however the Planning Commission agrees that providing for extended child day care options in the community is a convenience to both Rye residents and businesses<sup>1</sup>. It's an amenity that the community lacks because of prohibitions in the City Zoning Code.

### **Land Use Compatibility and Additional Regulatory Controls**

The Planning Commission supports the proposed zoning text amendment and agrees that no additional controls (i.e. larger minimum property sizes, separation between

---

<sup>1</sup> *It is noted that while local government is not obligated to zone for day care use it cannot prohibit group family day care outright that is operated in a single-family dwelling. See Legal Memorandum LU-16 from the New York State Department of State Office of General Council.*



## **Petition to Amend the City Zoning Code to allow "Child Care" in B-1 Districts**

April 29, 2010

Page 4 of 4

multiple day care facilities, hours of operation restrictions, limitations to districts other than B-1, etc.) are necessary.

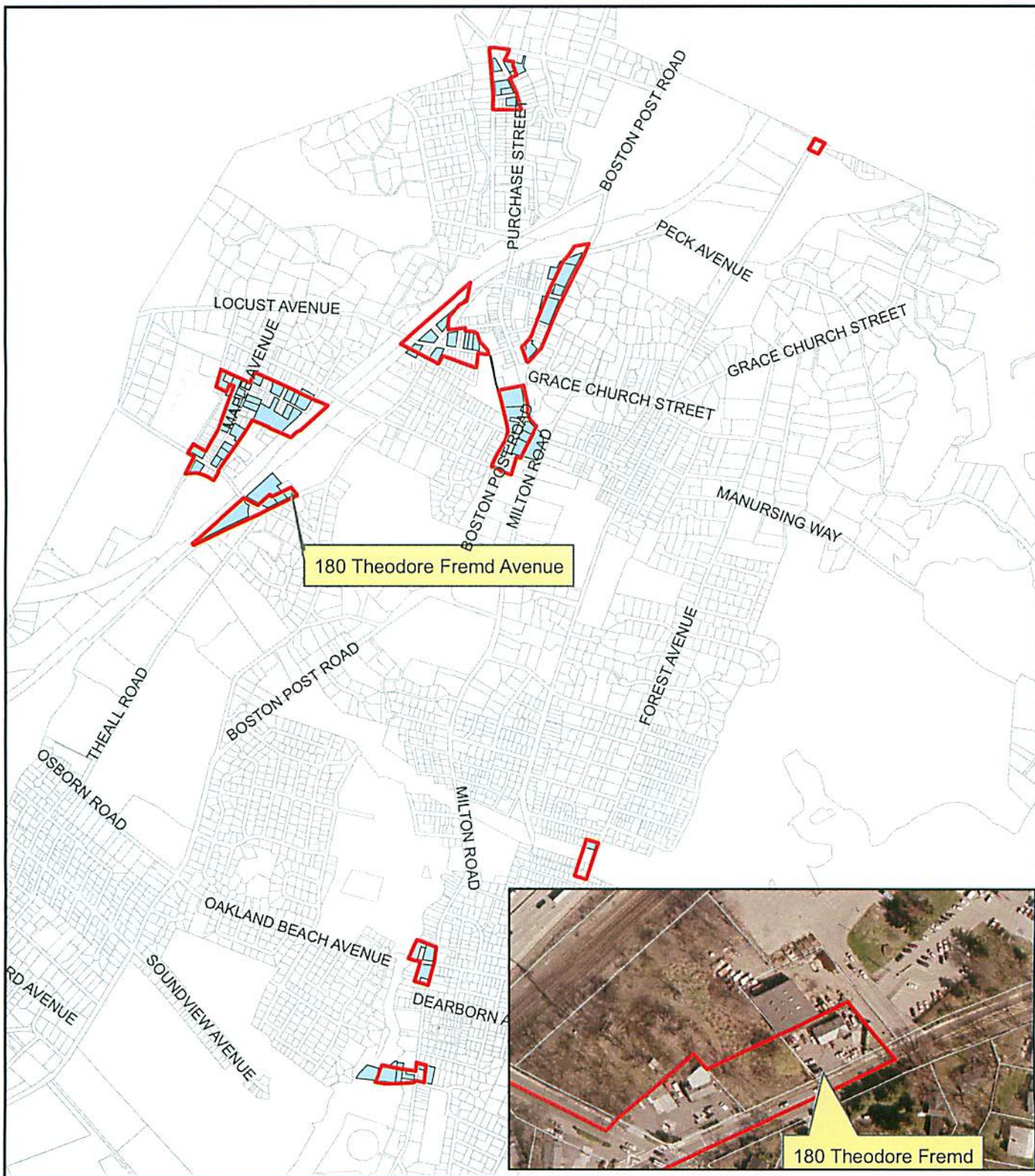
The attached map, which was carefully reviewed by the Planning Commission, shows each of the City's B-1 Districts. The map also highlights all properties in excess of 10,000 square feet. Of the 162 properties in the B-1 District, approximately 61 would be eligible for a day care use under the proposed text amendment.

The proposed zoning text amendment would provide the same or greater restrictions than the current restrictions on the operation of nursery schools, which are currently permitted in all residence districts. The proposed amendment would allow child care facilities in the City's B-2 Central Business District (i.e. the Village) as well as the B-1 District. B-1 Districts are typically transitional zones between higher volume roadways or commercial areas and adjacent residential neighborhoods.

The proximity of B-1 Districts to residential areas provides a potential convenience to area residential neighbors who might take advantage of child care facilities. In fact, that was one of the factors the Planning Commission considered in allowing child care facilities at a location such as 180 Theodore Fremd Avenue. This location is immediately adjacent to the Westchester County property that has long been considered a potential site for the construction of affordable housing. Child care adjacent to housing was considered a good complimentary mix of uses, but would still require careful site plan review by the Planning Commission to address the potential impacts on and from existing legally permitted commercial uses in the adjacent B-6 General Business District.

It is because of these potential concerns that each application for a child care facility would need to be reviewed and approved by the Planning Commission. Each application would be subject to the decision-making considerations provided in section 197-10 of the Rye City Zoning Code. In that review process, the Commission would assess each specific application, it's suitability to the proposed location and what mitigation measures would be required.

# B-1 Neighborhood Business District Properties



-  B-1 District Boundary
-  Property Size Greater Than 10,000 s.f.
-  Property Lines (approx.)

**McCULLOUGH, GOLDBERGER & STAUDT, LLP**  
**ATTORNEYS AT LAW**  
**1311 MAMARONECK AVENUE, SUITE 340**  
**WHITE PLAINS, NEW YORK**

**FRANK S. McCULLOUGH, JR.**  
**CHARLES A. GOLDBERGER**  
**JAMES STAUDT**  
**LINDA B. WHITEHEAD**  
**SETH M. MANDELBAUM**  
**EVAN M. EISLAND**

**MICHAEL V. CARUSO**  
**JOANNA C. FELDMAN**  
**DEBORAH A. GOLDBERGER**  
**EDMUND C. GRAINGER, III**  
**PATRICIA W. GURAHIAN**  
**ALICE D. KORNFELD**  
**RUTH F.-L. POST**

**10605**  
**(914) 949-6400**  
**FAX (914) 949-2510**

**FRANK S. McCULLOUGH (1905-1999)**  
**EVANS V. BREWSTER (1920-2005)**

**March 4, 2010**

**Mayor French and Members**  
**of the City Council of the City of Rye**  
**City Hall, City of Rye**  
**1051 Boston Post Road**  
**Rye, New York 10580**

**Re: Petition for Zoning Amendment to the Text of the Zoning Code of the City of Rye**  
**- Child Care Uses in B-1 Districts**  
**Property: 180 Theodore Fremd Avenue, Rye, New York**  
**Sheet 146.10, Block 1, Lot 68**

**Dear Mayor French and Members of the City Council:**

This firm represents Management and Organization Support Services, LLC, doing business as Cornerstone Children's Center ("Cornerstone"), with respect to its proposal to redevelop 180 Theodore Fremd Avenue (the "Property") as a state-licensed child-care facility. The Property is owned by Ker-Bar Realty Corp. ("Ker-Bar").

Pursuant to New York General City Law § 83, we respectfully petition the City Council for text amendments to the City's Zoning Code as set forth in the enclosed Petition. The proposed amendments are requested to include "child-care facilities" as a use subject to additional standards and requirements in the B-1 District, a neighborhood business district, and to provide for off-street parking requirements for such use.

Neighborhood business districts such as the B-1 District are generally transitional areas between residential and commercial development and, by permitting a mixture of uses, are designed meet both housing needs and business opportunities. The availability of child-care services near and among residential areas and neighborhood businesses offers a level of convenience to those residents and business owners and employees, and allows for the care of their children to occur near where they live and/or work. Child-care services fit with and complement the permitted uses within the B-1 District such as banks, full-service restaurants and offices for clerical, administrative, professional and agency, and service uses.

We appeared before the Planning Commission to discuss the proposed use and the text amendment. The Planning Commission has indicated it is very supportive of the proposed use in the B-1 District. The commission agreed the use is both appropriate and necessary. The Planning Commission has or will be forwarding a letter to you indicating their support.

The proposed text amendment establishes a minimum lot size and minimum off-street parking requirements for child-care facilities. The parking requirement was developed based on a review of other municipalities' requirements for similar uses and through discussions with other child-care facilities to ensure the proposed requirements are both practical and reasonable and would provide adequate parking at all times. A summary of this review is attached as Exhibit 1. Other criteria and space requirements are set forth by the state licensing regulations governing child-care uses, with which all state-licensed facilities must comply. The Planning Commission reviewed the proposed parking requirements as well.

The Property where our client is proposing a child-care facility is an 11,527 square foot parcel located in the B-1 Zoning District and designated on the Rye City Tax Map as Sheet 146.10, Block 1, Lot 68. Cornerstone Children's Center (the "Center") will accommodate up to thirty children ages two years nine months to five years and provide quality early childcare and education programs for families. The majority of community child-care programs currently offered do not include a full day option, an option that Cornerstone has learned is in great demand, and will be provided at this site. The Center will be open from 7:00 a.m. to 6:00 p.m., Monday through Friday. The Property is ideal for use as a child-care facility, as it is near large businesses, centrally located off a major highway, and near public bus and train transportation. Additionally, it provides more than sufficient area for a fenced and screened outdoor play area as well as adequate off-street parking for staff and parents dropping off and picking up their children.

We ask that this matter be placed on your March 10, 2010, agenda for the purpose of scheduling a public hearing on the proposed text amendment. We look forward to reviewing this matter with you.

Respectfully submitted,  
McCullough, Goldberger & Staudt, LLP  
Attorneys for Management and Organization  
Support Services, LLC,  
d/b/a Cornerstone Children's Center

By:   
Linda B. Whitehead

Enclosures  
cc: Marion Anderson

## EXHIBIT 1

### Other municipalities' requirements for off-street parking for uses similar to child-care facility:

#### Town/Village of Harrison:

- SB-0 Day-care center: "The greater of 1 for each employee of the SB-0 day-care center or 1 per employee required by the New York State licensing agency having jurisdiction over the operation of the SB-0 day-care center, plus a dropoff area and short-term parking spaces in combination sufficient to accommodate 1 vehicle per 7 children enrolled in the SB-0 day-care center." *Town/Village of Harrison Code § 235-37.*

#### City of New Rochelle:

- Nursery and day care: "In other than CPA: 1 per 4 children, plus 1 per employee. In CPA: 1 for every 2 employees." (NB: CPA is Central Parking Area District.) *City of New Rochelle Code § 332-126.*

#### Town of Greenburgh:

- Day-care center, nursery school: "1 for each staff member, plus 1 for each facility vehicle, plus 1 for each 5 facility children or clients." *Town of Greenburgh Code § 285-38(E).*

#### Village of Hastings-on-Hudson:

- School or day nursery (i.e., nursery school): "1 space for each employee, plus 1 space for each 12 pupils." *Village of Hastings-on-Hudson Code § 295-36(A).*

#### Town of Pound Ridge:

- Nursery school: "1 space for each teacher and staff member, plus 1 space for each 5 pupils." *Town of Pound Ridge Code § 113-74(A).*

#### Town of Bedford:

- Child day-care center; school-age child care; nursery school: "One space per three children enrolled and one handicapped space." *Town of Bedford Code § 125-75.1(F).*

EXHIBIT 1 (page 2)

Survey of off-street parking for other similar child care centers:

<u>Name of Facility</u>	<u>Max. Child Capacity; Ages; Enrollment</u>	<u>Total staff; Max. No. of staff on-site</u>	<u>Drop-off times; Pick-up times;</u>	<u>No. of parking spaces; Adequate?</u>
Bright Horizons Child Care Center Executive Blvd. Yonkers, NY	90 (current enrollment 62); 6 weeks – 5 years old; some part day enrollment	15 total; 10+ max. staff on-site	No set drop-off or pick- up times; drop-off usually between 7 a.m. and 9 a.m.; pick-up usually between 4 p.m. and 6 p.m.	10 for parents, unknown number for staff; deemed adequate by Director
Oak Lane Child Care Center 49 Memorial Drive Chappaqua, NY	51 children served; 18 mos. – 5 years old; no part day enrollment	17 total; staffing is staggered throughout day	Suggested drop-off between 7 a.m and 9 a.m., however, some drop off after 9 a.m.; pick-up between 4:30 p.m. and 6 p.m.	13 total spaces; deemed adequate by Director/Board member
Happy Harbor Child Care Center 95 Broadway Hastings-on- Hudson, NY	44 children; 3 mos. – 5 years old; no part day enrollment	19 total; staffing is staggered throughout day	No set drop-off or pick- up times; drop-off usually between 7:15 a.m. and 9 a.m.; pick-up usually between 4 p.m. and 5:45 p.m.	8 total spaces; deemed generally adequate by Director



CITY COUNCIL: CITY OF RYE

-----X

In the Matter of the Petition of:

Ker-Bar Realty Corp.

Petitioner

For a Zoning Amendment to the Text of  
The Code of the City of Rye, Ch. 197, Zoning

Property: 180 Theodore Fremd Avenue  
Rye, New York

-----X

TO THE CITY COUNCIL OF THE CITY OF RYE:

PETITIONER, Ker-Bar Realty Corp., owner of the 11,527 square foot parcel located at 180 Theodore Fremd Avenue known and designated on the Rye City Tax Map as Sheet 146.10, Block 1, Lot 68 (the "Property"), by its attorneys, McCullough, Goldberger & Staudt, LLP, hereby petitions the City Council of the City of Rye for amendments of the City of Rye Zoning Code as set forth on the attached Exhibit 1 pursuant to the New York General City Law § 83. The proposed text amendments are requested to include "child-care facilities" as a use subject to additional standards and requirements in the B-1 District and to provide for off-street parking requirements for such use.

1. Management and Organization Support Services, LLC, doing business as Cornerstone Children's Center ("Applicant"), is working with Petitioner to redevelop the Property from a gas station into an attractive, state-licensed child-care facility that, pursuant to Applicant's mission statement, "will provide quality early childcare and education programs for working and non-working families." The center will accommodate up to thirty children ages two years nine months to five years.
2. The B-1 District is a neighborhood business district. Neighborhood business districts are designed to "provide a mixture of residential, professional, retail and service uses that meet an array of housing needs and business opportunities."<sup>1</sup> The availability of

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<sup>1</sup> Neighborhood Business District Study, City of Rye, New York, prepared by Christian K. Miller, AICP, Rye City Planner and Neighborhood Business District Committee, January 2005, p. 1.

child-care services near and among residential areas and neighborhood businesses offers a level of convenience to those residents and business owners and employees, and allows for the care of their children to occur near where they live and/or work.

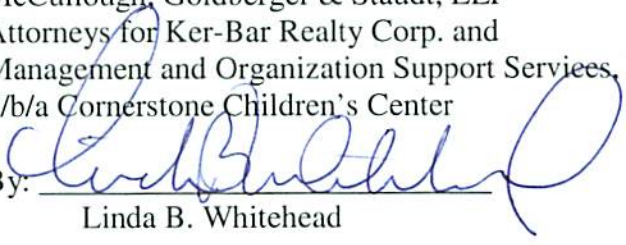
3. The B-1 District is an appropriate district for child-care facilities, as it permits banks, full-service restaurants and offices for clerical, administrative, professional and agency uses as well as service uses. Child-care services fit with and complement this mix of uses.
4. The location of the Property is ideal for use as a child-care facility, as it is near large businesses, centrally located off a major highway, and near public bus and train transportation.
5. The facility will serve up to thirty (30) children ages nine months to five years. The majority of community child-care programs currently offered do not include a full day option, an option that Petitioner has learned is in great demand, and will be provided at this site.
6. With this number and mix of children, the Property provides more than adequate area for a fenced and screened outdoor play area for the use of the children as well as adequate off-street parking for staff and parents dropping off and picking up their children.
7. The attached text amendment establishes a minimum lot size for the use and also provides minimum off-street parking requirements for child-care facilities. The parking requirement was developed based on a review of other municipalities' requirements for similar uses and through discussions with other child-care facilities to ensure the proposed requirements are both practical and reasonable and would provide adequate parking at all times. Other criteria and space requirements are set forth by the state licensing regulations governing child care uses. The facility will be licensed and must meet all of the licensing criteria.



WHEREFORE, Ker-Bar Realty Corp. respectfully requests that the City Council of the City of Rye amend the Zoning Code as set forth in Exhibit 1 attached.

Respectfully submitted,

McCullough, Goldberger & Staudt, LLP  
Attorneys for Ker-Bar Realty Corp. and  
Management and Organization Support Services, LLC,  
d/b/a Cornerstone Children's Center

By:   
Linda B. Whitehead

**617.20**  
**Appendix A**  
**State Environmental Quality Review**  
**FULL ENVIRONMENTAL ASSESSMENT FORM**

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

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**THIS AREA FOR LEAD AGENCY USE ONLY**

**DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions**

Identify the Portions of EAF completed for this project:       Part 1                       Part 2                       Part 3  
Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a **negative declaration will be prepared.**
- B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED negative declaration will be prepared.\***
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a **positive declaration will be prepared.**

\*A Conditioned Negative Declaration is only valid for Unlisted Actions

Cornerstone Children's Center

\_\_\_\_\_  
Name of Action

City Council of the City of Rye

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (If different from responsible officer)

website

\_\_\_\_\_  
Date

**PART 1--PROJECT INFORMATION**  
**Prepared by Project Sponsor**

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Site Plan Approval - Cornerstone Children's Center

Location of Action (include Street Address, Municipality and County)

180 Theodore Fremd Avenue, Rye, New York, Westchester County

Name of Applicant/Sponsor Management and Organization Support Services, LLC, d/b/a Cornerstone Children's Center

Address 180 Theodore Fremd Avenue

City / PO Rye State New York Zip Code 10580

Business Telephone 914-255-2681

Name of Owner (if different) Kerbar Realty Corp.

Address 48 Oakledge Road

City / PO Bronxville State New York Zip Code 10708

Business Telephone \_\_\_\_\_

Description of Action:

Replace abandoned one-story gas/service station and asphalt parking lot with new two-story child-care facility with planting buffers, playground and semi-porous paving. Zoning Code amendments to permit "child-care facilities" in B-1 District as use subject to additional standards and requirements, and to provide for off-street parking requirements for such use.

**Please Complete Each Question--Indicate N.A. if not applicable**

**A. SITE DESCRIPTION**

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use:  Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Other \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. Total acreage of project area: 0.26 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>0.01</u> acres	<u>0.035</u> acres
Forested	<u>0</u> acres	<u>0</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	<u>0</u> acres	<u>0</u> acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	<u>0</u> acres	<u>0</u> acres
Water Surface Area	<u>0</u> acres	<u>0</u> acres
Unvegetated (Rock, earth or fill)	<u>0</u> acres	<u>0</u> acres
Roads, buildings and other paved surfaces	<u>0.24</u> acres	<u>0.172</u> acres
Other (Indicate type) <u>New porous playground surface</u>	<u>.01 (grv)</u> acres	<u>0.053</u> acres

3. What is predominant soil type(s) on project site? Asphalt cover on top soil, silt, peat
- a. Soil drainage:  Well drained 10 % of site  Moderately well drained 60 % of site.  
 Poorly drained 30 % of site
- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? n/a acres (see 1 NYCRR 370).
4. Are there bedrock outcroppings on project site?  Yes  No
- a. What is depth to bedrock 1.5 (in feet)
5. Approximate percentage of proposed project site with slopes:  
 0-10% 100 %  10- 15% \_\_\_\_\_ %  15% or greater \_\_\_\_\_ %
6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places?  Yes  No
7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?  Yes  No
8. What is the depth of the water table? unknown (in feet)
9. Is site located over a primary, principal, or sole source aquifer?  Yes  No
10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes  No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  Yes  No

According to:

Rye Nature Center

Identify each species:

n/a

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

Yes  No

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

Yes  No

If yes, explain:

14. Does the present site include scenic views known to be important to the community?  Yes  No

15. Streams within or contiguous to project area:

None

a. Name of Stream and name of River to which it is tributary

n/a

16. Lakes, ponds, wetland areas within or contiguous to project area:

Wetlands adjacent to the West

b. Size (in acres):

0.2

17. Is the site served by existing public utilities?  Yes  No
- a. If YES, does sufficient capacity exist to allow connection?  Yes  No
- b. If YES, will improvements be necessary to allow connection?  Yes  No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?  Yes  No
20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No

**B. Project Description**

1. Physical dimensions and scale of project (fill in dimensions as appropriate).

- a. Total contiguous acreage owned or controlled by project sponsor: 0.26 acres.
- b. Project acreage to be developed: 0.26 acres initially; 0.26 acres ultimately.
- c. Project acreage to remain undeveloped: 0 acres.
- d. Length of project, in miles: n/a (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. n/a %
- f. Number of off-street parking spaces existing 15; proposed 13
- g. Maximum vehicular trips generated per hour: 15 (upon completion of project)?
- h. If residential: Number and type of housing units:

	One Family	Two Family	Multiple Family	Condominium
Initially	_____	_____	_____	_____
Ultimately	_____	_____	_____	_____

- i. Dimensions (in feet) of largest proposed structure: 23 height; 51 width; 30 length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? 125 ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? 300 tons/cubic yards.
3. Will disturbed areas be reclaimed  Yes  No  N/A

a. If yes, for what intended purpose is the site being reclaimed?

For playground use, gravel

- b. Will topsoil be stockpiled for reclamation?  Yes  No
- c. Will upper subsoil be stockpiled for reclamation?  Yes  No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 0 acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?  
 Yes  No

6. If single phase project: Anticipated period of construction: 6-8 months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated 1 (number)

b. Anticipated date of commencement phase 1: \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition)

c. Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.

d. Is phase 1 functionally dependent on subsequent phases?  Yes  No

8. Will blasting occur during construction?  Yes  No

9. Number of jobs generated: during construction 8; after project is complete 5

10. Number of jobs eliminated by this project 0.

11. Will project require relocation of any projects or facilities?  Yes  No

If yes, explain:

12. Is surface liquid waste disposal involved?  Yes  No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount Sanitary waste

b. Name of water body into which effluent will be discharged Municipal sewer

13. Is subsurface liquid waste disposal involved?  Yes  No Type \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain?  Yes  No

16. Will the project generate solid waste?  Yes  No

a. If yes, what is the amount per month? 1 tons

b. If yes, will an existing solid waste facility be used?  Yes  No

c. If yes, give name To be determined; location Nearest

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No

e. If yes, explain:

17. Will the project involve the disposal of solid waste?  Yes  No

a. If yes, what is the anticipated rate of disposal? 1 tons/month.

b. If yes, what is the anticipated site life? 50 years.

18. Will project use herbicides or pesticides?  Yes  No

19. Will project routinely produce odors (more than one hour per day)?  Yes  No

20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No

21. Will project result in an increase in energy use?  Yes  No

If yes, indicate type(s)

Additional loads related to heating, lighting and general use of the facility.

22. If water supply is from wells, indicate pumping capacity n/a gallons/minute.

23. Total anticipated water usage per day 90 gallons/day.

24. Does project involve Local, State or Federal funding?  Yes  No

If yes, explain:

Seeking grants to help defray costs.



**25. Approvals Required:**

			Type	Submittal Date
City, Town, Village Board	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Zoning amendments</u>	<u>March 4, 2010</u>
			_____	_____
			_____	_____
City, Town, Village Planning Board	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Site plan</u>	<u>July 2009</u>
			_____	_____
			_____	_____
City, Town Zoning Board	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____
City, County Health Department	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____
Other Local Agencies	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Architectural Review Board</u>	_____
			_____	_____
			_____	_____
Other Regional Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____
State Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____
Federal Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
			_____	_____
			_____	_____

**C. Zoning and Planning Information**

1. Does proposed action involve a planning or zoning decision?  Yes  No

If Yes, indicate decision required:

- |  |   |  |                                      |
|--|---|--|--------------------------------------|
| <input checked="" type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance    | <input type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input checked="" type="checkbox"/> Site plan        | <input type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan    | <input type="checkbox"/> Other       |

2. What is the zoning classification(s) of the site?

B-1

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

Commercial business

4. What is the proposed zoning of the site?

B-1 (no change)

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

5763 sf

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

Residential and business

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile?  Yes  No

9. If the proposed action is the subdivision of land, how many lots are proposed? n/a

a. What is the minimum lot size proposed? \_\_\_\_\_

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?  Yes  No

a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No

There will be a slight change from an abandoned lot and building to a facility occupied by 30 children and 4 adults.

12. Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No

a. If yes, is the existing road network adequate to handle the additional traffic.  Yes  No

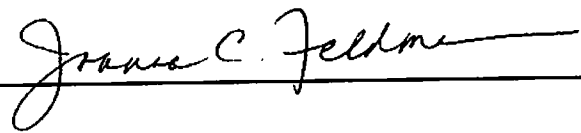
**D. Informational Details**

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

**E. Verification**

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name McCullough, Goldberger & Staudt, LLP, by Joanna C. Feldman Date 4/1/2010

Signature 

Title Attorneys, as agent for Owner and Applicant

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

## PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

**General Information (Read Carefully)**

- ! In completing the form the reviewer should be guided by the question: Have my responses and determinations been reasonable? The reviewer is not expected to be an expert environmental analyst.
- ! The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- ! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- ! The number of examples per question does not indicate the importance of each question.
- ! In identifying impacts, consider long term, short term and cumulative effects.

**Instructions (Read carefully)**

- a. Answer each of the 20 questions in PART 2. Answer **Yes** if there will be any impact.
- b. **Maybe** answers should be considered as **Yes** answers.
- c. If answering **Yes** to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily significant. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the **Yes** box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

	1	2	3
	Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

**Impact on Land**

1. Will the Proposed Action result in a physical change to the project site?

NO  YES

**Examples that would apply to column 2**

- |  |                          |                          |                              |                             |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Construction or expansion of a sanitary landfill.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

NO  YES

• Specific land forms:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
------------------------	--------------------------	--------------------------	--

**Impact on Water**

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

NO  YES

Examples that would apply to column 2

• Developable area of site contains a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Dredging more than 100 cubic yards of material from channel of a protected stream.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Extension of utility distribution facilities through a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction in a designated freshwater or tidal wetland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

4. Will Proposed Action affect any non-protected existing or new body of water?

NO  YES

Examples that would apply to column 2

• A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction of a body of water that exceeds 10 acres of surface area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No



1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

NO       YES

Examples that would apply to column 2

- |  |                          |                          |                              |                             |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action would change flood water flows                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action may cause substantial erosion.                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action is incompatible with existing drainage patterns. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow development in a designated floodway. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON AIR**

7. Will Proposed Action affect air quality?

NO       YES

Examples that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will induce 1,000 or more vehicle trips in any given hour.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in the incineration of more than 1 ton of refuse per hour.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the amount of land committed to industrial use.                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the density of industrial development within existing industrial areas.               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON PLANTS AND ANIMALS**

8. Will Proposed Action affect any threatened or endangered species?

NO       YES

Examples that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?  
 NO  YES

**Examples that would apply to column 2**

• Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON AGRICULTURAL LAND RESOURCES**

10. Will Proposed Action affect agricultural land resources?  
 NO  YES

**Examples that would apply to column 2**

• The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction activity would excavate or compact the soil profile of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No



	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON AESTHETIC RESOURCES**

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)  
 NO       YES

**Examples that would apply to column 2**

• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Project components that will result in the elimination or significant screening of scenic views known to be important to the area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES**

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?  
 NO       YES

**Examples that would apply to column 2**

• Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Any impact to an archaeological site or fossil bed located within the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON OPEN SPACE AND RECREATION**

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

NO  YES

**Examples that would apply to column 2**

- |   |                          |                          |  |
|---|--------------------------|--------------------------|--|
| • The permanent foreclosure of a future recreational opportunity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • A major reduction of an open space important to the community.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

**IMPACT ON CRITICAL ENVIRONMENTAL AREAS**

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

NO  YES

List the environmental characteristics that caused the designation of the CEA.

**Examples that would apply to column 2**

- |   |                          |                          |  |
|---|--------------------------|--------------------------|--|
| • Proposed Action to locate within the CEA?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quantity of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quality of the resource?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will impact the use, function or enjoyment of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

**IMPACT ON TRANSPORTATION**

15. Will there be an effect to existing transportation systems?

YES  NO

Examples that would apply to column 2  
 • Alteration of present patterns of movement of people and/or goods.

• Proposed Action will result in major traffic problems.

Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**IMPACT ON ENERGY**

16. Will Proposed Action affect the community's sources of fuel or energy supply?

YES  NO

Examples that would apply to column 2  
 • Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.

• Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.

Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**NOISE AND ODOR IMPACT**

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

YES  NO

Examples that would apply to column 2  
 • Blasting within 1,500 feet of a hospital, school or other sensitive facility.

• Odors will occur routinely (more than one hour per day).

• Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures.

• Proposed Action will remove natural barriers that would act as a noise screen.

Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Proposed Action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?  
 NO       YES

**If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3**

## Part 3 - EVALUATION OF THE IMPORTANCE OF IMPACTS

### Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

**Instructions** (If you need more space, attach additional sheets)

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is important.

To answer the question of importance, consider:

- ! The probability of the impact occurring
- ! The duration of the impact
- ! Its irreversibility, including permanently lost resources of value
- ! Whether the impact can or will be controlled
- ! The regional consequence of the impact
- ! Its potential divergence from local needs and goals
- ! Whether known objections to the project relate to this impact.



# CITY COUNCIL AGENDA

NO. 8

DEPT.: Assessment

DATE: April 26, 2010

CONTACT: Noreen Whitty, Assessor

**AGENDA ITEM:** Public Hearing to amend Chapter 177 of the Code of the City of Rye to increase the Real Property Tax Exemption for Veterans of the Cold War and extend the exemption to owners of cooperative apartments.

**FOR THE MEETING OF:**

May 5, 2010

**RYE CITY CODE,**

CHAPTER        177  
SECTION

**RECOMMENDATION:**

The City Assessor recommends an amendment to existing local law which increases the amount of exemption from real property tax veterans of the Cold War receive and extends the exemption to owners of cooperative apartments.

**IMPACT:**     Environmental     Fiscal     Neighborhood     Other:

Currently 17 City property owners are receiving a Cold War veterans exemption which reduces their City property tax by approximately \$33/year for a total savings of \$561 (17@\$33). Under the amended legislation, which has recently been adopted by Westchester County, the tax savings would increase to \$144/year for eligible Cold War veterans for a total savings of \$2,448 which represents an increase of \$1,887. In addition, owners of cooperative apartments would be eligible for the exemption as would property held in trust for the benefit of the veteran. The exemption is for a duration of ten years. A Cold War Veteran is defined by state statute as an individual who was honorably discharged following service in the armed forces between the dates of September 2, 1945 and December 26, 1991. I don't anticipate a significant increase in the number of applicants for this exemption since the alternative veteran's/eligible funds exemption has long been available to war veterans. Therefore, it is my expectation that the fiscal impact will be nominal.

**BACKGROUND:**

Section 458-b of the Real Property Tax Law authorizes a limited exemption from real property taxes for real property owned by veterans who served on active duty during the Cold War period (Sept. 2, 1945-Dec. 26, 1991). This exemption is applicable to general municipal (city/county) taxes only.

Under the amended law, a qualified residential parcel may receive an exemption of up to a maximum of \$54,000 in assessed value multiplied by the latest final equalization rate for a period of 10 years. Based upon the current City tax rate, the exemption translates to an est. \$144/year in tax savings. There is an additional benefit for cold war vets having a service-related disability. This is a local option exemption and this amendment was recently adopted by Westchester Co. Veterans currently receiving either an eligible funds or alternative veteran's exemption are not eligible for this exemption. (There are currently 408 City homeowners receiving a veteran's exemption under these programs). Historically, the City has followed the County's lead with respect to adoption of exemptions, which simplifies implementation by the assessor's office and for taxpayer simplicity.



**CITY OF RYE  
LOCAL LAW NO \_\_\_-2010**

**A local law to amend Chapter 177, Taxation,  
by amending Article X, §177-66, “Definitions”, § 177-67(A)&(B)  
“Amount of Exemption; Limitations”, by adding § 177-68 “Property Held In Trust”  
and § 177-69, “Cooperative Apartments” and renumbering § 177-70 “Duration of  
Exemption”& §177-71 “Application for Exemption” to the City Code of the City of  
Rye**

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

**Section 1. Chapter 177 “Taxation” is hereby amended by adding Article X  
“Cold War Veterans Tax Exemption” as follows:**

**§ 177-65. Purpose.**

The purpose of this Article is to grant Cold War veterans who meet the requirements set forth in Section 458-b of the New York State Real Property Tax Law with a real property tax exemption.

**§ 177-66. Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

ACTIVE DUTY – means full-time duty in the United States armed forces, other than active duty for training.

ARMED FORCES – means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard.

COLD WAR VETERAN – means a person, male or female, who served on active duty in the United States armed forces, during the time period from September second, nineteen hundred forty-five to December twenty-sixth, nineteen hundred ninety-one, was discharged or released therefrom under honorable conditions and satisfies any other requirements set forth in Section 458-b(1)(a) of the New York State Real Property Tax Law.

LATEST CLASS RATIO – means the latest final class ratio established by the New York State Board of Real Property Tax Services pursuant to title one of article twelve of the New York State Real Property Tax Law for use in a special assessing unit as defined in section eighteen hundred one of the New York State Real Property Tax Law.

LATEST STATE EQUALIZATION RATE — means the latest final [equalization rate established by the New York State Board of Real Property Tax Services pursuant to article twelve of the New York State Real Property Tax Law.] state equalization rate or special equalization rate established by the New York State Board of Real Property Tax Services pursuant to article twelve of the New York State Real Property Tax Law. The New York State Board of Real Property Tax Services shall establish a special equalization if it finds that there has been a material change in the level of assessment since the establishment of the latest state equalization rate, but in no event shall such special equalization rate exceed one hundred. In the event that the state equalization rate exceeds one hundred, then the state equalization rate shall be on one hundred for the purposes of this section. Where a special; equalization rate is established for purposes of this section, the Assessor is directed and authorized to recompute the Cold War Veterans Exemption on the assessment roll by applying special equalization rate instead of the latest state equalization rate applied in the previous year and to make the appropriate corrections on the assessment roll, notwithstanding the fact that such Assessor may receive the special equalization rate after the completion, verification and filing of such final assessment roll. In the event that the Assessor does not have custody of the roll when such recomputation is accomplished, the Assessor shall certify such recomputation to the local officers having custody and control of such roll, and such local officers are here by directed and authorized to enter the recomputed Cold War Veterans Exemption certified by the Assessor on such roll.

QUALIFIED OWNER – means a Cold War veteran, the spouse of a Cold War veteran, or the unremarried surviving spouse of a deceased Cold War veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.

QUALIFIED RESIDENTIAL REAL PROPERTY – means property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this section. Such property shall be the primary residence of the Cold War veteran or the unremarried surviving spouse of a Cold War veteran; unless the Cold War veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalized subject to such time limitations, if any, as are set forth in Section 458-b(1)(f) of the New York State Real Property Tax Law.

SERVICE CONNECTED – means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated in the line of duty on active military, naval or air service.

**§ 177-67. Amount of Exemption; Limitations.**

- A. Qualifying residential real property shall be exempt from taxation to the extent of fifteen percent (15%) of the assessed value of such property; provided however, that such exemption shall not exceed ~~[twelve thousand dollars (\$12,000)]~~ fifty-four thousand dollars (\$54,000) or the product of ~~[twelve thousand dollars (\$12,000)]~~ fifty-four thousand dollars (\$54,000) multiplied by the latest state equalization rate ~~[øf]~~ for the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.
- B. In addition to the exemption provided by subdivision “A” of this Section, where the Cold War veteran received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service related disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by fifty percent of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed ~~{forty thousand dollars (\$40,000) or the product of forty thousand dollars}~~ one hundred eighty thousand dollars (\$180,000) or the product of one hundred eighty thousand dollars (\$180,000) multiplied by the latest state equalization rate ~~[øf]~~ for the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.
- C. If a Cold War Veteran receives either an eligible funds veterans exemption authorized by Section 458 of the Real Property Tax Law or an alternative veterans exemption under Article II of this Chapter, the Cold War veteran shall not be eligible to receive an exemption under this Article.

**§177-68 Property Held in Trust**

The provisions of this Article shall apply to any real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to this Article, were such person or persons the owner or owners of such real property.

**§177-69**      **Cooperative Apartments**

(A) For the purposes of this Article, title to the portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides and which is represented by his or her share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

(B) Provided that all other eligibility criteria of this Article are met, that proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such real property owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this Article and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

(C) Notwithstanding subdivision B of this Section, a tenant-stockholder who resides in a dwelling that is subject to the provisions of either Article two, four, five or eleven of the Private Housing Finance Law shall not be Eligible for an exemption pursuant tot his section

**§ 177-70.      Duration of Exemption.**

The exemption provided by § 177-67(A) shall be granted for a period of ten years. The commencement of such ten year period shall be governed pursuant to this section. Where a qualified owner owns qualifying residential real property on the effective date of this Article, or such other date as may be set forth in Section 458-b(2)(c) of the New York State Real Property Tax Law, such ten year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this Article, or such other date as may be set forth in Section 458-b(2)(c) of the New York State Real Property Tax Law. Where a qualified owner does not own qualifying residential real property on the effective date of this Article, or such other date as may be set forth in Section 458-b(2)(c) of the New York State Real Property Tax Law, such ten year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring at least sixty days after the date of purchase of qualifying residential real property; provided, however, that should the veteran apply for and be granted an exemption on the assessment roll prepared pursuant to a taxable status

date occurring within sixty days after the date of purchase of residential real property, such ten year period shall be measured from the first assessment roll in which the exemption occurs. If, before the expiration of such ten year period, such exempt property is sold and replaced with other residential real property, such exemption may be granted pursuant to this Section for the unexpired portion of the ten year exemption period.

**§ 177-71. Application for Exemption.**

Application for the exemption set forth in this Article shall be made by the qualified owner, or all of the qualified owners, of the property on the form prescribed by the New York State Board of Real Property Tax Services. The owner or owners shall file the completed form in the City of Rye Assessor's office on or before the first appropriate taxable status date. The owner or owners of the property shall be required to refile as such times and under such circumstances as may be set forth in Section 458-b(4) of the New York State Real Property Tax Law. Any applicant convicted of willfully making any false statement in the application for such exemption shall be subject to the penalties prescribed in the New York State Penal Law.

**Section 2. Severability**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

**Section 3.**

This local law shall take effect immediately upon filing in the Office of the Secretary of State.



# CITY COUNCIL AGENDA

NO. 9      DEPT.: Engineering      DATE: April 27, 2010  
CONTACT: George Mottarella, City Engineer

**AGENDA ITEM:** Consideration of setting a public hearing for the establishment of the Kirby Lane Sanitary Sewer Special Assessment District.

**FOR THE MEETING OF:**

May 5, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Council consider setting a public hearing regarding the establishment of the Kirby Lane Sanitary Sewer Special Assessment District.

**IMPACT:**    Environmental    Fiscal    Neighborhood    Other:

**BACKGROUND:** A request has been made by residents of Kirby Lane to have municipal sewer service installed to serve 23 properties which had previously utilized septic systems to treat their domestic waste. 16 of the 23 property owners have signed the petition in support of this project.

See attached request and petition.

Received

APR 27, 2010

City Manager's Office  
Rye, New York

80 Kirby Lane  
Rye, NY 10580

April 27, 2010

Re: Proposed Kirby Lane Sewer Improvement

Mr. Frank J. Culross  
City Manager  
Rye City Hall  
1051 Boston Post Rd  
Rye, NY 10580

Dear Mr. Culross:

As you know, we are extremely interested in having a municipal sewer service extended to the 23 homes and lots on Kirby Lane from Grace Church Street to the Reese residency (the "Proposed District").

Enclosed is a petition in support of this project signed by 16 of the 23 property owners who would benefit from this improvement.

Pursuant to Article 128.2 of the Rye City Code, we hereby request that the City Council approve a resolution providing for the construction of a sewer line benefiting the properties located in the Proposed District.

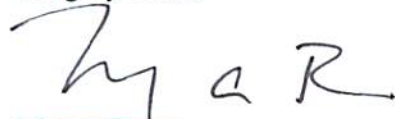
We understand that any such approval can only be given by the City Council after a public hearing on this matter and look forward to attending such a meeting at the earliest possible time.

Thank you for your assistance in this matter. Please call us at 921-1133 if you have any questions.

Very truly yours,



Gregory Ressa



Margo Ressa









# CITY COUNCIL AGENDA

NO. 10

DEPT.: City Mayor

DATE: April 28, 2010

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Discussion of 151 Purchase Street Associates, LLC and tenancy lease terms.

**FOR THE MEETING OF:**

May 5, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Council discuss the proposed settlement agreement between 151 Purchase Street Associates, LLC and the City of Rye.

**IMPACT:**  Environmental  Fiscal  Neighborhood x Other:

**BACKGROUND:** 151 Purchase Street Associates filed an amended complaint against the City of Rye. There is a possible settlement of the matter and the City Council must review the terms of same and authorize the City Manager to sign the resultant Memorandum of Understanding between 151 Purchase Street Associates, LLC and the City of Rye.



# CITY COUNCIL AGENDA

NO. 11

DEPT.: City Council

DATE: April 26, 2010

CONTACT: Councilwoman Paula Gamache

**AGENDA ITEM:** Resolution to grant permission to the Rye Free Reading Room to hold a free public program "Flow Circus" on the Village Green on Monday, June 28, 2010 from 12 p.m. to 5 p.m. to kickoff their Summer Reading program.

**FOR THE MEETING OF:**

May 5, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the City Council approve the resolution.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The Rye Free Reading Room has requested use of the Village Green to hold a kickoff event for their Summer Reading program. The event is called "Flow Circus", which is a magic and juggling show that uses a lot of audience participation to get kids engaged in the program, and reading in general. Signup for the Summer Reading Program begins before this event and is on-going throughout the summer. The Summer Reading Program is very popular in Rye and had 500 participants last year.

See attached.



RYE FREE READING ROOM

April 23, 2010

Honorable Doug French, Mayor  
Rye City Council  
City Hall  
Rye, New York 10580

Dear Mayor French and Members of the City Council:

The Rye Free Reading Room respectfully requests permission to hold a free public event on the Village Green on Monday, June 28, 2010 at 2 pm. This event will officially launch the library's annual Summer Reading Program, a favorite summer activity in Rye and an important part of our early childhood literacy efforts.

Make a Splash at the Circus - 2010 Summer Reading Program Kick-Off Event

Paul Miller from Flow Circus will use magic, juggling and physical comedy to amaze the whole family engage children in reading. Summer Reading Program signup will take place after the show and continue throughout the summer; the Summer Reading Program is open to children in preschool through 5th grade, but this dynamic program is free and open to all.

To allow for setup and cleanup activities, we request permission to use the Village Green 12 pm to 5 pm.

Your approval of similar previous requests allowed the library to enhance the programs we offer to Rye residents. Thank you for your consideration of this request.

Sincerely,



Kurt Haderler  
Director

cc: Dawn Nodarse, City Clerk  
F:\Administration\City of Rye\CityCouncil\Village Green 2010-06-28.doc

Received

APR 27 2010

City Manager's Office  
Rye, New York

# Make a Splash at the Circus - 2010 Summer Reading Program Kick-Off Event

Join Paul Miller from Flow Circus, as he uses magic, juggling, & physical comedy to amaze and entertain you. Family Program.

*Monday, June 28, 2010 at 2:00pm*



Flow Circus engages audiences of all ages in experiences of play that captivate, energize, and inspire. Through juggling, comedy, & magic shows with lots of audience participation, Paul Miller travels across the United States promoting libraries as essential community resources. Join us as we officially open our Summer Reading Program 2010 with this year's theme Make a Splash @ Your Library. Paul knows how to "Make a Splash" reading at the Rye Free Reading Room!

Summer Reading Program Sign-Up will continue after the show or anytime during the summer until Aug 20th. Special gift for all sign-ups while supplies last. For children preschool through 5th grade.

This event sponsored by the Auxiliary Board of the Rye Free Reading Room.



# CITY COUNCIL AGENDA

NO. 12

DEPT.: City Manager's Office

DATE: April 26, 2010

CONTACT: Frank J. Culross, City Manager

**AGENDA ITEM:** Appointment of one member to the Emergency Medical Services Committee for a three-year term ending June 30, 2013.

**FOR THE MEETING OF:**

May 5, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** Approval by Mayor and City Council of the reappointment of Mr. David Byrnes, the Village of Port Chester Community Representative, to the Emergency Medical Services Committee.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

The term of David Byrnes, the Community Representative to the Emergency Medical Services Committee from the Village of Port Chester, will expire on June 30, 2010. Section 3A of the Inter-Municipal Agreement states that the community representatives shall be "recommended by the Corps and ratified by joint resolution of the municipalities." The City of Rye and the Villages of Port Chester and Rye Brook have joined in this inter-municipal cooperative.

Mr. Byrnes has expressed his willingness to continue as Port Chester's representative and the Corps recommends his reappointment. The Village of Port Chester has approved the nomination for reappointment of Mr. Byrnes and a copy of the certified resolution is attached.



VILLAGE OF  
**PORT CHESTER**

222 Grace Church Street, Port Chester, NY 10573

Joan Mancuso  
Village Clerk

(914) 939-5202  
Fax: (914) 305-2560  
E-mail: [jmancuso@portchesterny.com](mailto:jmancuso@portchesterny.com)

April 21, 2010

City of Rye  
1051 Boston Post Road  
Rye, NY 10580  
Attn: Frank Culross, City Manager

Village of Rye Brook  
938 King Street  
Rye Brook, NY 10573  
Attn: Christopher Bradbury, Administrator

Dear Mr. Culross and Mr. Bradbury:

The Board of Trustees of the Village of Port Chester approved the nomination for reappointment of David Byrnes to the Port Chester-Rye-Rye Brook Emergency Medical Services Committee as the Community Representative from the Village of Port Chester.

Enclosed are a copy of the Board's resolution and the letter of nomination from Scott Moore.

The resolution requests that Mr. Byrne's name be presented to the City of Rye and the Village of Rye Brook for your approval. Please submit these items to the Rye City Council and the Rye Brook Board of Trustees for their consideration.

Very truly yours,

Joan Mancuso  
Village Clerk

enclosures

cc: Scott Moore, EMS Administrator

**Received**

APR 22 2010

City Manager's Office  
Rye, New York



RESOLUTION  
REAPPOINTMENT OF DAVID BYRNES TO  
EMERGENCY MEDICAL SERVICES COMMITTEE

On motion of TRUSTEE KENNER, seconded by TRUSTEE BRAKEWOOD, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the inter-municipal agreement, between the Village of Rye Brook, City of Rye and Village of Port Chester for emergency medical services provides for an Emergency Medical Services Committee; and

WHEREAS, the Board of Trustees by resolution dated August 6, 2007, reappointed David Byrnes, 33 Haines Blvd., Port Chester, New York to the Committee as the Community Representative from the Village of Port Chester; and

WHEREAS, the Port Chester-Rye-Rye Brook Volunteer Ambulance Corps, Inc. has advised that Mr. Byrnes is an active member of the Committee and wishes to continue his service. Now, therefore, be it

RESOLVED, that the Board of Trustees hereby approves the nomination of David Byrnes, 33 Haines Blvd., Port Chester, New York to be reappointed to the Emergency Medical Services Committee for a three-year term to expire June 30, 2013 and that his name be presented to the City of Rye and Village of Rye Brook for their approval.

ROLL CALL

AYES: Trustees Sorensen, Kenner, Brakewood, Adams and Mayor Pilla

NOES: None

ABSENT: Trustee Cicatelli

DATE: April 19, 2010





## PORT CHESTER-RYE-RYE BROOK EMERGENCY MEDICAL SERVICES

April 7, 2010



Mr. Christopher Russo - Manager  
The Village of Port Chester  
222 Grace Church Street  
Port Chester, N.Y. 10573

Re: Citizen Representative Re-Appointment


Dear Mr. Russo:

The Inter-Municipal Agreement for Emergency Medical Services established the Emergency Medical Services Committee (EMSC). The term of David Byrnes, the Community Representative to the EMSC for the Village of Port Chester is due to be renewed. Mr. Byrnes has graciously expressed his willingness to continue to serve in this capacity.

Section 3A of the Inter-Municipal Agreement states that the community representatives shall be "recommended by the Corps and ratified by joint resolution of the municipalities". In accordance with this agreement I respectfully submit Mr. David Byrnes for reappointment to the EMSC for a term to end June 30<sup>th</sup>, 2013. I request that this matter be placed on the agenda of the next scheduled Village of Port Chester Board meeting.

Please don't hesitate to contact me with any questions, comments or concerns. Thank you for your help.

Sincerely,

  
Scott Moore  
EMS Administrator



# CITY COUNCIL AGENDA

NO. 13

DEPT.: City Council

DATE: April 28, 2010

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Discussion of Resolution to establish a Rye Town Park Advisory Committee.

**FOR THE MEETING OF:**

May 5, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council consider adopting the attached Resolution to establish a Rye Town Park Advisory Committee.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

See attached Resolution.

**RESOLUTION OF THE CITY OF RYE CITY COUNCIL ESTABLISHING THE RYE TOWN PARK ADVISORY COMMITTEE**

WHEREAS, the volunteer committees in the City of Rye (“City”) perform a critical function in the City by advising the City Council on important issues that are relevant to the daily operations of the assets within and near the City of Rye; and

WHEREAS, activities, policies, events and practices at Rye Town Park impact the City; and

WHEREAS, residents of Rye visit Rye Town Park regularly and enjoy its location and participate in the events and activities that take place; and

WHEREAS, the City would like to establish the Rye Town Park Committee to, among other duties, assist the City in identifying areas that can be improved, advise the City Council on important issues, and inform the City on upcoming events;

NOW, THEREFORE, BE IT RESOLVED, that the Rye Town Park Advisory Committee is hereby established; and be it further

RESOLVED, that the Committee shall consist of no more than nine (9) members, all residents of the City to serve three –year terms; the initial appointments shall be staggered with three one-year terms, three two-year terms, and three three-year terms; and be it further

RESOLVED, that members of the Rye Town Park Advisory Committee shall be appointed by the Mayor, with the approval of the City Council, and one member shall be designated by the Mayor as Chairperson; and be it further

RESOLVED, that the Rye Town Park Advisory Committee shall have the following duties and powers:

1. To establish Committee rules and procedures for meetings;
2. To advise the City Council on issues relating to the operation and management of Rye Town Park;
3. To identify and review neighborhood issues that arise relating to Rye Town Park; and
4. To recommend to the City Council possible changes to the practices, policies and daily operations of Rye Town Park to better meet the needs of the residents of the City.



# CITY COUNCIL AGENDA

NO. 14

DEPT.: Public Works

DATE: April 26, 2010

CONTACT: George J. Mottarella, City Engineer

**ACTION:** Award bid for Upper Dogwood Lane Sewer Project (Contract #2010-02).

**FOR THE MEETING OF:**

May 5, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That Contract #2010-02 be awarded to the low bidder, Mastrantoni Construction, in the amount of one hundred and two thousand two hundred ninety one dollars and fifteen cents (\$102,291.15).

**IMPACT:** Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

Eight bids were received and tabulated. The low bidder was Mastrantoni Construction.

See attached.

DATE: April 30, 2010  
TO: Frank J. Culross, City Manager  
FROM: George J. Mottarella, City Engineer  
RE: Contract #2010-02 – Upper Dogwood Sewer

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Eight bids were received for the Upper Dogwood Sewer and the bid tabulation is attached for your convenience. The lower bidder was Mastrantoni Construction Corporation in the amount of \$102,291.15.

This company has never worked for us. Peter Mastrantoni, the principle for Mastrantoni Construction, advised that the work would be subcontracted to Mancini-Ciolo along with Mastrantoni Construction. Mancini-Ciolo principles are directly related to those of Mastrantoni Construction. I contacted two of the references given for past work (Mancini-Ciolo); Rockland County Sewer District and Putnam County. Both indicated that the company did quality work and performed well.

---

*Public Works*  
*141 Oakland Beach Avenue*  
*Rye, NY 10580*

**Contract No. 2010-02 - Upper Dogwood Sewer Project**

<b>Position</b>	<b>Contractor</b>	<b>Contractor's Bid</b>	<b>Engineer's Check</b>	<b>Dollar Amount Above Low Bid</b>	<b>% Above Low Bidder</b>
1	Mastrantoni Construction	\$102,290.00	\$102,291.15	\$0.00	0.00%
2	Bilotta Construction	\$114,164.30	\$114,164.30	\$11,873.15	11.61%
3	ELQ Industries Inc.	\$147,770.00	\$147,770.00	\$45,478.85	44.46%
4	Contech Construction Technologies	\$149,095.00	\$149,095.00	\$46,803.85	45.76%
5	Abott and Price Inc.	\$154,865.00	\$154,865.00	\$52,573.85	51.40%
6	Cassidy Excavating Inc.	\$197,575.00	\$197,575.00	\$95,283.85	63.91%
7	Joken Development	\$198,495.00	\$198,495.00	\$96,203.85	64.53%
8	Paladino Concrete Creations	\$252,095.00	\$252,095.00	\$149,803.85	100.48%