

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, January 12, 2011, at 8:00 p.m. in the Council Room of City Hall.

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. The State of the City Address by the Mayor.
4. General Announcements.
5. Recognition of Safe Routes to School Award Winners.
6. Draft unapproved minutes of the Regular Meeting of the City Council held December 15, 2010.
7. Residents may be heard who have matters to discuss that do not appear on the agenda.
8. Mayor's Management Report
 - Update from the Playland Advisory Committee
 - Update on all outstanding City Grants
 - Update on Police Staffing
 - Legal Update
9. Presentation by the Rye Shared Roadways Committee.
10. Presentation by the Government Policy & Research Committee on Home Rule Legislation.
11. Discussion on 2011 Home Rule Legislation.
12. Public Hearing for a License Agreement Application submitted by NextG Networks, Inc. for telecommunications access in the Public Rights-of-Way.
13. Consideration to set a Public Hearing for March 2, 2011 for the establishment of the Kirby Lane Extension Sanitary Sewer Special Assessment District.
14. City Council declaration of intent to be Lead Agency and referral to the Rye City Planning Commission for Advisory LWRP Coastal Consistency and Wetland Permit Approval in connection with the Kirby Lane Extension Sanitary Sewer Special Assessment District.
15. Appointment of the 2011 Deputy Mayor by the Mayor.
16. Appointment of a Council Member as Trustee of the Police Pension Fund, by the Mayor with Council approval, for a one-year term.

17. Designation of the City Council's Audit Committee by the Mayor.
18. Resolution to establish and appoint a Legal Case Management Committee.
19. Designation of the following City Council Liaisons by the Mayor:
20. Designation of official City newspaper.
21. Designation of the amounts of faithful performance bonds:

A.	City Comptroller	\$ 1,000,000
B.	City Clerk	\$ 500,000
C.	City Marshall	\$ 100,000
22. Miscellaneous communications and reports.
23. Old Business.
24. New Business.
25. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, January 26, 2011.

** City Council meetings are available live and re-cablecast by RTV on Cablevision Channel 75 and Verizon Channel 39; they are also available for replay, video on demand, at <http://rye.peg.tv>.

* Office Hours of the Mayor on 1/12/11 will be held at 7:00 p.m. in the Mayor's Conference Room.



CITY COUNCIL AGENDA

NO. 3

DEPT.: City Council

DATE: January 12, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: The State of the City Address by the Mayor.

FOR THE MEETING OF:

January 12, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Mayor French will deliver his 2011 State of the City Address.



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: January 12, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: Recognition of Safe Routes to School Award Winners.

FOR THE MEETING OF:

January 12, 2011

RECOMMENDATION: That the Council commend the winners of the Safe Routes to School Poster contest.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Safe Routes To School Poster Contest was held at the Rye Middle and High School. Students were encouraged to submit posters that feature safe walking and biking tips. The following High School students won awards for their submissions:

- 1st place winner: Grier Poole
- 2nd place winner: Daniel Sundaram
- 3rd place winner: Samantha Brown

Honorable Mention:

- o Alissa Vitiello
- o Jack Usry
- o Eli Reynolds

Ms. Nichole Chiffriller, the Rye High School Art teacher, should also be acknowledged for spearheading the contest. Without her support, the contest would not have been possible.



CITY COUNCIL AGENDA

NO. 6

DEPT.: City Clerk

DATE: January 12, 2011

CONTACT: Dawn F. Nodarse

AGENDA ITEM: Draft unapproved minutes of the Regular Meeting of the City Council held December 15, 2010, as attached.

FOR THE MEETING OF:

January 12, 2011

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 December 15, 2010, as attached.

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on December 15, 2010 at 8:00
P.M.

PRESENT:

DOUGLAS FRENCH Mayor
RICHARD FILIPPI
PAULA J. GAMACHE
PETER JOVANOVICH
SUZANNA KEITH
CATHERINE F. PARKER (arrived at 8:10 p.m.)
JOSEPH A. SACK
Councilmembers

ABSENT: None

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

Mayor French announced that appointments to Boards and Commissions would be made in January and asked anyone interested in serving to email their resume to him a mayor@ryeny.gov.

4. Draft unapproved minutes of the Regular Meeting of the City Council held December 1, 2010

Councilwoman Keith made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the Regular Meeting of the City Council held on December 1, 2010, as amended.

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

Robert Zahm, 7 Ridgewood Drive, asked for an update on the crosswalk at Old Post Road and the Playland Access Drive. He asked if it was scheduled to be repainted and, if so, when it

would be done. City Manager Pickup said there are some County issues and said he would provide a status update.

6. Continuation of Public Hearing to repeal Chapter 76 “Dogs” and replace it with a new Chapter 76 “Dogs”, now that the State has relinquished enforcement to the City

The public hearing remained open from the prior meeting. There were no members of the public who wished to be heard on the proposed local law.

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to close the public hearing.

Councilman Jovanovich made a motion, seconded by Councilwoman Gamache, to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO. 10 2010**

**A local law to amend Chapter 76, Dogs, of the
Code of the City of Rye as follows:**

Section 1.

§ 76-1. Purpose.

§ 76-2. Certain dogs exempt.

§ 76-3. License fees.

§ 76-4. Redemption of dogs seized.

§ 76-5. Running at large prohibited.

§ 76-6. When leash required.

§ 76-7. Removal of feces left by dogs.

§ 76-8. Penalties for violations of this Chapter.

GENERAL REFERENCES

Animals — See Ch. 157, Sanitary Regulations, Art. I.

§ 76-1. Purpose.

The purpose of this local law is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack damage.

§ 76-2 Certain dogs exempt.

Any dog harbored within the City of Rye which is owned by a resident of New York City or licensed by the City of New York, or which is owned by a non-resident of New York State and licensed by a jurisdiction outside the State of New York, shall for a period of thirty (30) days be exempt from the licensing and identification provisions of this local law.

§ 76-3 License Fees.

All licensing fees are set forth in the Fee Schedule adopted by the City Council. Excepted from payment of the license fee are applications submitted for a dog license for any guide, hearing, service, war, working search, detection, police and therapy dogs. In addition, dogs owned by one or more seniors, 65 years of age or older, shall be exempt from the City's licensing fees. All dog licenses shall carry with it an additional fee of \$10 as authorized by § 110 (4)(a) of the New York State Agriculture and Markets Law.

- A. All dogs in the City of Rye must be licensed by the City Clerk by the age of 4 months and the owner(s) of such dog(s) must present a current Certificate of Rabies at the time of licensing or the renewal of an existing license. In the alternative, the owner must submit a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required.
- B. All dog licenses will be for a period of one year and will expire at the end of the month one year from the date of issue. Licenses are not transferable.
- C. Fees and requirements for licensing of dogs:
 - a. The fee for a spayed or neutered dog shall be set by the City Council in the Fee Schedule. It shall include a state assessment pursuant to § 110-3 of the New York State Agriculture and Markets Law, and additional funds for enumeration as provided for by § 110(4)(a).
 - b. The fee for an unsprayed or unneutered dog shall be set by the City Council in the Fee Schedule. It shall include a state assessment pursuant to § 110-3 of the New York State Agriculture and Markets Law, and additional funds for enumeration as provided for by § 110(4)(a).
 - c. Enumeration Fee: If the City Council determines the need for a dog enumeration, a fee set by the City Council in the Fee Schedule shall be assessed to all dogs found unlicensed or not renewed at the time enumeration is conducted.
 - d. The City of Rye does not allow the licensing of dogs by a shelter. The shelter must notify the adoptive owners of their responsibility to license any dog who will be living within the City of Rye with a list of adoptive owners monthly.
 - e. All dogs must wear identification at all times. Show dogs are exempted from the identification requirement of § 111 of the New York State Agriculture and Markets Law during participation.
 - f. Notification of a change in dog ownership or that a dog has been lost or stolen must be given to the City of Rye within 30 days of such event.

§ 76-4 Redemption of dogs seized.

The owner of any dog impounded shall be entitled to redeem that dog within five (5) business days, excluding the day the dog is impounded, provided that the owner produces proof the dog is licensed and identified and pays fees as set forth in the Fee Schedule adopted by the City Council.

§ 76-5 Running at large prohibited.

No person owning, harboring or having the custody and control of a dog shall permit such dog to be at large in the City of Rye, elsewhere than on the premises of the owner, except if on the premises of another person with the knowledge and assent of such other person.

§ 76-6 When leash required.

The owner, harborer or person having the custody and control of a dog in the City of Rye which is not on the premises of the owner or upon the premises of another person with the knowledge and assent of such person shall control and restrain such dog by a chain or leash not exceeding eight feet in length.

§ 76-7 Removal of feces left by dog.

Any person who owns, harbors or has the custody of any dog shall remove promptly any feces left by such dog at any place within the city except upon private property with the consent of the owner of such property; provided, however, that this provision is not applicable to a blind person while actually using a guide dog licensed as such pursuant to the Agriculture and Markets Law. In no event shall any feces be deposited in storm or sanitary sewers or drains.

§76-8 Penalties for Violations.

Every person found to have violated this chapter shall be liable for a civil penalty –of not less than \$25 nor more than \$50 for a second such determination within one year after the date of the prior violation, such person shall be liable for a civil penalty of not less than \$50 nor more than \$75; and upon a third or subsequent determination within one year after the date of first violation, such person shall be punished by a penalty fine of not less than \$75 nor more than \$100

Section 2. This law will take effect on January 1, 2011.

ROLL CALL:

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

The local law was adopted by a 7-0 vote.

7. Continuation of Public Hearing to amend Local Law Chapter 167, Section 48C, Removal of snow and ice by City; cost; penalties, and Local Law Chapter 191, Vehicles and Traffic, Section 191-32 through 191-35, Penalties for parking offenses, to modify selected parking ticket fines

The public hearing remained open from the prior meeting. The only member of the public wishing to speak on the proposed local law was *Robert Zahm*. He asked if the objective of the law was to increase compliance or increase revenue and what statistics were used to determine the objective. He said he believed any statistics used should be made public. He said it was important to have a plan for enforcement based on statistics.

Councilwoman Gamache made a motion, seconded by Councilwoman Parker and unanimously carried, to close the public hearing.

Councilwoman Keith made a motion, seconded by Councilman Jovanovich, to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO. 11 2010**

A Local Law to amend Rye City Code Sections 191-32 “Penalties for offenses against special parking provisions”, 191-33 “Penalties for parking offenses in certain areas”, and 191-34 “Penalties for parking offenses generally” and 167-48(C) “Removal of snow and ice by City; costs; penalties” to change the penalties for certain offenses.

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

Section 1. § 191-32. Penalties for offenses against special parking provisions, of the Code of the City of Rye is hereby amended to read:

Every person convicted of a violation of Article VII or Article VIII or any order, rule, regulation or special direction made thereunder shall be punished by a fine of not less than \$50 nor more than \$200 or by imprisonment for not more than five days, or by both such fine and imprisonment. Failure to pay such fine on or before the appearance date or upon conviction shall result in an additional charge equal to the imposed fine. Failure to pay the fine within 45 days of the appearance date or date of conviction shall result in an additional charge equal to three times the initial fine. Failure to pay the fine and additional charges within 75 days of the appearance date or date of conviction will result in the assessment of an additional administrative fee equal to 40% of the total of the fines and late charges then due.

Section 2. § 191-33. Penalties for parking offenses in certain areas, of the Code of the City of Rye is hereby amended to read:

Every person convicted of a violation of Article III or any order, rule, regulation or special direction made thereunder, occurring along Forest Avenue between Cornell Place and Sanford Street and along the streets east of Forest Avenue between Cornell Place and Sanford Street, inclusive, shall, for the first conviction thereof, be punished by a fine of not less than \$50 nor

more than \$200. Failure to pay such fine on or before the appearance date or upon conviction shall result in an additional charge equal to the imposed fine. Failure to pay the fine within 45 days of the appearance date or date of conviction shall result in an additional charge equal to three times the initial fine. Failure to pay the fine and additional charges within 75 days of the appearance date or date of conviction will result in the assessment of an additional administrative fee equal to 40% of the total of the fines and late charges then due.

Section 3. § 191-34. Penalties for parking offenses generally, of the Code of the City of Rye is hereby amended to read:

Except as otherwise provided in §§ 191-32 and 191-33, every person convicted of a violation of Article III or any order, rule, regulation or special direction made thereunder shall be punished by a fine of not less than \$50 nor more than \$200. Failure to pay such fine on or before the appearance date or upon conviction shall result in an additional charge equal to the imposed fine. Failure to pay the fine within 45 days of the appearance date or date of conviction shall result in an additional charge equal to three times the initial fine. Failure to pay the fine and additional charges within 75 days of the appearance date or date of conviction will result in the assessment of an additional administrative fee equal to 40% of the total of the fines and late charges then due.

Section 4. § 167-48. Removal of snow and ice by City; costs; penalties, of the Code of the City of Rye, is hereby amended to read:

A. In addition to any penalty that may be imposed for any violation of § 167-47 hereof, if the sidewalk in front of or adjacent to any building or lot of ground as aforesaid shall not be cleaned of snow or ice or covered with ashes, sand or some other similar material before the expiration of the time hereinabove specified for cleaning or covering the same, then and in that event the City may proceed to so clean or cover the said sidewalk as provided in § 167-47 hereof, and the cost or expense of doing said work shall be ascertained and a report thereof shall be forthwith filed in the office of the Clerk of said City.

B. Cost of work a lien on premises. The cost of said work, as the same shall appear from the report on file in said City Clerk's office, may be sued for and recovered from said owner, lessee, occupant or other person having charge of said building or lot of ground by the said City and shall be a lien upon premises abutting said sidewalk so reported to have been cleaned or covered as aforesaid. If the said cost is not paid on or before the first day of April next following, the amount thereof shall be levied as part of the tax to be collected upon the premises against which said cost shall be a lien as aforesaid. The same shall be included within the completed tax roll and collected as part of the taxes against the said premises.

C. Penalties. Any person violating any provision of § 167-47 hereof shall, upon conviction thereof, be liable to a fine for each offense of not less than \$50 nor more than \$100. Each day such violation is permitted to continue shall constitute a separate offense. The provisions of this section shall be inapplicable to snow deposited on the sidewalk by the City in the course of plowing streets.

Section 5. This local law will take effect on March 1, 2011.

ROLL CALL:

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

The local law was adopted by a 7-0 vote.

After adopting the local law, the Council voted on fee increases which would increase parking fine revenue by \$10,000 over the 2011 proposed budget.

Councilwoman Gamache made a motion, seconded by Councilman Filippi, to adopt the following fee schedule for violations:

Parking in a handicapped zone	\$150.00
Parking in front of a fire hydrant	\$150.00
Beach area parking	\$ 75.00
Overnight parking during snow ordinance	\$ 75.00
Parking in a crosswalk	\$ 75.00
Not shoveling snow	\$ 50.00

ROLL CALL:

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

The fee schedule was adopted by a 7-0 vote.

8. Continuation of Public hearing on the proposed 2011 Budget

The public hearing remained open from the last Council meeting. The following categories were discussed:

Recreation

Mayor French said that the Recreation Department budget is \$2.8 million with a current cost recovery of \$900,000. The Department was asked for an additional \$230,000 return, either by reducing costs or increasing fees. *Bart DiNardo*, Chair of the Recreation Commission, said that the Department had attempted to meet the Council's challenge by increasing some fees and eliminating programs. He expressed the concern of the Recreation Commission that if fees are increased it will stop people from participating in the programs. He expressed concern that the \$10 increase in the field surcharge would not be put in the separate fund that is currently utilized to improve fields. He added that people expect to receive recreation services for their taxes and might prefer an increase in taxes rather than an increase in fees. He also noted that the Recreation Commission had worked with the Finance Committee and will consider some of their recommendations going forward.

Council comment:

- The Council should consider the services that Rye offers. Maybe a ¼% tax increase is more equitable than increasing user fees.
- How will the \$15 field surcharge be managed? (The \$5 originally charged will continue to remain as is. The \$10 increase will be handled separately. The needs for the fields exceed the revenues collected.)
- Recreation program users might rather pay an increased tax but non-users may not agree with that. Taxpayers are already subsidizing Recreation programs by over 50%.
- Fees are being raised all over the City this year; many just to catch up to what they should be. Going forward the increases should be inflationary.
- Government can't be all things to all people. The City must decide what its core mission is.
- The Recreation Commission should look into forming a "Friends of" organization to help subsidize the costs of recreation programs.
- The City must examine the relationship between the user groups and the City.

Robert Zahm also spoke about Recreation. He said the best thing for taxpayers would be not to pay recreation fees but to get the programs through their property taxes, which are deductible. He suggested that at some point it might make sense to privatize the Recreation Department.

Police

Members of the public commenting on the Police Department included *Franco Campaginone and Lt. Robert Falk from the Police Department, Charmaine Neary, Tim Tolve, Sam Dorn, Lindsey Hanley, Jim Amico, Michael Marchand, Bart Dinardo and, Doug Schwartz.* Their comments included:

- There was no research done prior to the decision being made to cut one of the lieutenant positions.
- The Youth Officer has created good relationships with the police, and parents don't want to see that position and the DARE Program cut.
- The season for the Marine Officer should not be reduced.
- The proposal to reduce spending on police uniforms and training is unfair and will prevent the members of the Department from being prepared.
- Uniformed services should be looked at differently than other parts of the budget
- The Police Department affects everyone.
- Changes to the DARE program will be detrimental to Rye.
- The money spent on DARE and the Youth Officer is money well spent and cutting it would be a mistake.
- The Police Commissioner should be eliminated rather than a lieutenant.
- What will be saved by eliminating DARE? (The City is working with the Schools to modify the DARE program. Teachers have expressed a desire to have teaching time restored. The proposal is to reduce the program from the current 17 hours to eight hours.)
- Police officers are needed on the streets.

- When jobs are combined, something has to give. Look at how the proposed changes will affect the community.
- Proper supervision and good training reduces liability. It is important that the department is current.
- It is important to have people with responsibility and experience.
- \$150,000 will not be saved by the proposed reorganization in the Department; it will only be around \$20,000.
- It is more timely and expensive to replace experienced personnel in the Department.
- Untrained police officers make mistakes.

Council comments included:

- Detective Wood will still be the Youth Officer.
- The amount allotted for training is still higher than what has been utilized over the last three years.
- The Council has not had enough dialogue regarding the decision to cut a lieutenant position.
- There should be more opportunities found for the police to train if they want to and, therefore, the training budget should not be reduced.
- Manpower is not being reduced in this budget, but the budget document should be changed to accurately reflect the reallocation of responsibilities.
- Why are there no percentages in the budget for positions? (It is how payroll is allocated in the police patrol cost centers.)
- Additional training needs could be handled by coming back to the Council for additional funding as needed.
- The Council should be confident in the proposals made by the City Manager.
- The only department the Council asked for a workshop on this year was the Golf Club.
- There should be a Police Department workshop next year.

Pavement Management

Patrick McCarthy said that lowering the amount of funding for pavement management is a false savings because it will cost more for extensive repairs if the pavement repair schedule is not kept up. He suggested that repaving streets in the downtown should be bonded so there is more money available to pave the rest of the City.

Additionally email messages had been forwarded to Mayor French prior to the meeting by Tom Wynne supporting the City Manager's proposals regarding the Police Department, and echoing the Council's concerns about the labor costs at the Library, and Arthur Stampleman expressing concern that the Council's desire to keep the tax rate as low as possible should not be done through the retirement of the City Engineer or reduction of funds for the library.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to close the public hearing.

9. Resolution to adopt the 2011 Budget and establish the 2011 tax levy and 2011 tax rate
Roll Call.

Mayor French suggested that the Council vote to adopt the 2011 Budget as originally proposed and then vote separately on amendments against that budget.

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

WHEREAS, on November 8, 2010 the 2011 Tentative Budget was presented to the City Council, and

WHEREAS, since November 8, 2010 the City Council has discussed possible amendments to the 2011 Tentative Budget, now, therefore, be it

RESOLVED, that the tentative budgets and fee schedules as amended for the General Fund, Cable TV Special Revenue Fund, K.T. Woods Permanent Fund, Debt Service Fund, Capital Projects Fund, Boat Basin Enterprise Fund, Golf Club Enterprise Fund, Risk Retention Internal Service Fund and Building and Vehicle Maintenance Internal Service Fund, are hereby adopted for the fiscal year ending December 31, 2011, and be it further

RESOLVED, that the City Council does hereby certify to the City Comptroller the 2011 City of Rye tax rate of \$142.54 per \$1,000 taxable assessed valuation and the 2011 City of Rye tax levy of \$19,767,085, and be it further

RESOLVED, that the City Council does hereby direct the City Comptroller to apportion and extend against each taxable property listed upon the assessment roll at the tax rate certified in this resolution to produce the tax levy certified in this resolution, and to render tax notices for, and receive and collect, the assessments heretofore authorized and approved.

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. Resolution to adopt a Budget Amendment of a 1.19% reduction of the adopted increase of the tax rate of 2.16%, which would result in a tax rate increase of 0.97%
Roll Call.

The Council voted on a series of Budget Amendment proposals to alter the tax rate of 2.16% adopted by Agenda item 9 above.

Councilman Sack proposal an amendment that would reduce the adopted 2.16% increase by 2.19%, resulting in a tax rate decrease of 0.03%.

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

WHEREAS, on December 15, 2010 the 2011 Tentative Budget was adopted by the City Council, and

WHEREAS, since November 8, 2010 the City Council has discussed possible amendments to the 2011 Tentative Budget, now, therefore be it

RESOLVED, that the adopted budget and fee schedules as presented in the 2011 Adopted Budget be amended as follows:

Increase General Fund Revenues:

Parking Permits – Increase Merchant Parking Permit Revenue \$125,400

Police Overtime – Increase reimbursement \$9,000

Decrease General Fund appropriations:

Salaries in Legal Department – decrease \$130,000

Payroll Tax and employee benefits in the legal department – decrease \$25,000

Rye Town Park – decrease \$25,000

Sewer repairs -- \$20,000

Drainage repairs -- \$15,000

Police uniforms -- \$15,000

Fire vehicle supplies -- \$10,000

Increase General Fund appropriations:

Increase Legal Services in the legal department \$100,000

Increase Revenues and Decrease Expenses in a manner to be determined by the Recreation Superintendant to increase Recreation's cost recovery by \$150,000.

ROLL CALL:

AYES: Councilman Sack

NAYS: Mayor French, Councilmembers Filippi, Gamache, Jovanovich,
Keith and Parker

ABSENT: None

The Resolution was defeated by a 6-1 vote.

Mayor French proposed an amendment that decreased expenditures by \$201,160.

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

WHEREAS, On December 15, 2010 the 2011 Tentative Budget was adopted by the City Council, and,

WHEREAS, since November 8, 2010 the City Council has discussed possible amendments to the 2011 Tentative Budget, now, therefore be it

RESOLVED, that the adopted budget and fee schedules as presented in the 2011 Adopted Budget be amended as follows:

Decrease General Fund appropriations:

Rye Town Park – decrease \$25,000
Legal Dept Salaries – decrease \$129,000
Legal Dept Employee Benefits – decrease \$25,000
Sewer Repair Expense – decrease \$20,000
Drainage Repair Expense – decrease \$15,000
Police Training Expense – decrease \$14,560
Police Uniform Expense – decrease \$15,000
Fire Vehicle Supplies – decrease \$10,000
Pay station Controller expense – decrease \$47,600 and fund using General Fund fund balance

Increase General Fund appropriations:

Increase Legal Dept Legal Expenses \$100,000

ROLL CALL:

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

NAYS: Councilmembers Parker and Sack

ABSENT: None

The resolution was adopted by a 5-2 vote.

Mayor French made several motions on proposals to increase revenue.

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

WHEREAS, On December 15, 2010 the 2011 Tentative Budget was adopted by the City Council, and,

WHEREAS, since November 8, 2010 the City Council has discussed possible amendments to the 2011 Tentative Budget, now, therefore be it

RESOLVED, that the adopted budget and fee schedules as presented in the 2011 Adopted Budget be amended as follows:

Increase General Fund Revenues:

Parking Permits – Increase Merchant Parking Permit Revenues \$11,000

ROLL CALL:

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

The resolution was adopted by a 6-1 vote.

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

WHEREAS, On December 15, 2010 the 2011 Tentative Budget was adopted by the City Council, and,

WHEREAS, since November 8, 2010 the City Council has discussed possible amendments to the 2011 Tentative Budget, now, therefore be it

RESOLVED, that the adopted budget and fee schedules as presented in the 2011 Adopted Budget be amended as follows:

Increase General Fund Revenues:

Police Overtime Expense Reimbursement -- \$9,000 by charging private groups for Police Overtime.

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

Prior to making motions that related to funding for the library, the Mayor noted two concerns expressed by the Council: (1) that the City should be part of the negotiations for future library labor contracts; and (2) the library should be open on Saturdays.

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

WHEREAS, On December 15, 2010 the 2011 Tentative Budget was adopted by the City Council, and,

WHEREAS, since November 8, 2010 the City Council has discussed possible amendments to the 2011 Tentative Budget, now, therefore be it

RESOLVED, that the adopted budget and fee schedules as presented in the 2011 Adopted Budget be amended as follows:

Increase General Fund Revenues:

Increase Mortgage Tax Revenue \$25,000

ROLL CALL:

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

NAYS: Councilman Sack

ABSENT: None

The Resolution was adopted by a 6-1 vote.

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

WHEREAS, On December 15, 2010 the 2011 Tentative Budget was adopted by the City Council, and,

WHEREAS, since November 8, 2010 the City Council has discussed possible amendments to the 2011 Tentative Budget, now, therefore be it

RESOLVED, that the adopted budget and fee schedules as presented in the 2011 Adopted Budget be amended as follows:

Increase General Fund appropriations:

Rye Free Reading Room - \$25,000

ROLL CALL:

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

NAYS: Councilman Sack

ABSENT: None

The Resolution was adopted by a 6-1 vote.

The budget amendments adopted resulted in the adopted tax rate for the 2011 budget being reduced from 2.16 percent as adopted to 0.97%.

Although not included as an agenda item, there was also a brief discussion on a proposal to change the fee increase proposed for the Rye Golf Club.

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

RESOLVED, that the revenue line of the Golf Club budget for member fees be reduced from a 2.9% increase to a 1% increase.

ROLL CALL:

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

The Resolution was defeated by a 6-1 vote.

11. Resolution authorizing the City Comptroller to make the necessary year-end closing transfers
Roll Call

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

RESOLVED, that the City Comptroller is hereby authorized to make the necessary 2010 fiscal year-end budget transfers in city accounts, provided a list of such transfers over \$10,000 is furnished to the City Council after completion of such transfers.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

12. Acceptance of Grant Award from the U.S. Department of Justice in the amount of \$11,750 for armored vests for the Police Department

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

RESOLVED, that the City Council of the City of Rye hereby accepts the Grant Award from the U.S. Department of Justice in the amount of \$11,750 for armored vests for the Police Department.

ROLL CALL:

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

NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

13. Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2011
Roll Call

Mayor French noted that the Council had voted to increase the contribution to the Library from \$1,055,000 to \$1,080,000.

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

RESOLVED, that the Mayor is hereby authorized to finalize an agreement with the Rye Free Reading Room to furnish library services for 2011, subject to the conditions that it remain open on Saturdays and that the City participate in future labor negotiations.

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.

14. Resolution to authorize participation in Westchester County contracts
Roll Call

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

WHEREAS, by Act No. 8-1983, The County Board of Legislators authorized the County Purchasing Agent to act as Purchasing Agent for any city, town, village, school district or other unit of local government within the County of Westchester County, provided that said unit of local government by act, ordinance or resolution authorizes the County Purchasing Agent to act as its Purchasing Agent for items purchased by the County, and empowering designated officers and employees to sign requisitions, and further directing the proper official of local government to audit and pay County bills for the cost of County services within thirty (30) days after the receipt of said bill by the local government, and to provide the County with such insurance coverage as may be

required by the County's Director of Risk Management, NOW, THEREFORE, be it

RESOLVED, that the County Purchasing Agent is hereby authorized to act as Purchasing Agent for the City of Rye, New York on a continuing basis, and be it further

RESOLVED, that the City Manager, the Assistant City Manager, the City Comptroller, and/or the City Engineer are hereby authorized to sign appropriate requisitions, and be it further

RESOLVED, that the City Comptroller is hereby authorized and directed to audit and pay County bills for the cost of County services within thirty (30) days after receipt of said bills, and be it further

RESOLVED, that the City Comptroller is hereby authorized to secure and provide to the County of Westchester any and all insurance required by the County's Director of Risk Management, in Accordance with County Act No. 8-1983.

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. Resolution authorizing the City Manager to enter into a contract with the County of Westchester for Snow and Ice Removal on County Roads for the period October 1, 2010 to September 30, 2015

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

RESOLVED, that the City Manager is hereby authorized to enter into a contract with the County of Westchester for Snow and Ice Removal on County Roads for the period October 1, 2010 to September 30, 2015.

ROLL CALL:

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

ABSENT: None

The Resolution was adopted by a 6-1 vote.

16. Resolution appointing a Corporation Counsel effective January 1, 2011, establishing the terms and conditions of employment, and authorizing the Mayor to sign an employment agreement
 Roll Call.

Councilman Sack said that before voting to appoint a new Corporation Counsel, he believed the Council should vote on the two central recommendations of the Carey/Sack report on the Law Department. Mayor French said he believed the Carey/Sack report provided good context for the Council such as the importance of including some of the legal activities of the Law Department into a fixed cost as opposed to a billable relationship. He added that he questioned the practicality of having two separate attorneys from separate firms coordinate legal strategy and services to the City.

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

RESOLVED, that the City Council adopt the two central recommendations of the Carey/Sack Report including, the requirement that the Corporation Counsel should handle most of the legal work of the City of Rye, including most of the litigation matters; and, if any matters need to be assigned to outside counsel, the cases will not be assigned to a law firm associated with the Corporation Counsel.

ROLL CALL:

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

The Resolution was defeated by a 6-1 vote.

Mayor French noted that during the interview process, the Council learned that the role of Corporation Counsel is primarily about having someone who works with the Council and staff to help prevent litigation. He added that the roles and responsibilities outlined in the Retainer Agreement deal with issues of cost management in the Law Department.

Councilwoman Gamache made a resolution, seconded by Councilwoman Parker, to adopt the following Resolution:

RESOLVED, that the City Council hereby appoints Kristen K. Wilson to the position of Corporation Counsel of the City of Rye with a Retainer Agreement with the law firm of Harris Beach effective January 1, 2011 and authorizes the

Mayor to execute the agreement that establishes the terms and conditions of employment.

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.

17. Resolution fixing January 12, 2011 as the first regular meeting and the organizational meeting of the City Council for 2011

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

RESOLVED, that January 12, 2011 is hereby fixed as the first regular and the organizational meeting of the City Council; and be it further

RESOLVED, that the following dates are designated for the regular meetings of the City Council in 2011:

January 12
January 26
February 9
March 2
March 16
March 30
April 13
April 27
May 11
May 25
June 15
July 13
August 10
September 14
October 5
October 19
November 2
November 7
November 16
December 7
December 21

18. Miscellaneous Communications and Reports

Councilwoman Parker reported that the Playland Strategic Planning Committee held a forum on December 13th and would be holding their next forum on January 10th at 7:30 p.m. in City Council Chambers.

19. Old Business

Councilwoman Keith asked the City Manager about putting enforcement statistics on the website. Councilman Jovanovich added that he believed there were nine major moving violations that statistics could be provided for on a quarterly basis.

Interim Corporation Counsel Wilson noted that at the previous Council meeting a date was set for a public hearing on NextG, which does not correspond to the meeting schedule just adopted by the Council. She said the Council would have to pass a second motion changing the date.

Councilman Jovanovich made a motion, seconded by Councilwoman Parker and unanimously carried, to reschedule the public hearing on the NextG Networks, Inc. application for a license agreement/special use permit to January 12, 2011.

20. New Business

Councilwoman Keith noted that she, Mayor French and City Manger Pickup have been discussing communications ideas, which will be brought to the Council at a future meeting. She said there has also been community feedback on the need for a Resolution related to working with outside vendors on protecting traffic, pedestrian and neighborhood safety.

21. Adjournment

There being no further business to discuss Councilman Sack made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the meeting at 12:26 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk



CITY COUNCIL AGENDA

NO. 8

DEPT.: City Council

DATE: January 12, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: Mayor's Management Report

FOR THE MEETING OF:

January 12, 2011

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:

- Update from the Playland Advisory Committee
- Update on all outstanding City Grants
- Update on Police staffing
- Legal Update



CITY COUNCIL AGENDA

NO. 9 DEPT.: City Manager's Office DATE: January 12, 2011
CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Presentation by the Rye Shared Roadways Committee.

FOR THE MEETING OF:
January 12, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The Rye Shared Roadways Committee was established by the Rye City Council on September 15, 2010. The objective of the Committee is to prioritize actionable, shovel ready projects that will make walking and/or biking in Rye safer and more pleasurable.



Rye Shared Roadways Committee

Informational update

Presented to the Rye City Council

January 12, 2011

Rye Shared Roadways Committee



- *Committee background*

- Established by the Rye City Council on September 15, 2010
- Comprised of interested citizens and representatives of key user groups in the City (seniors, schools, recreation, neighborhoods and the YMCA)
- Committee members include:

Jim Amico

James Burke

Steve Cadenhead

Lucy Cassidy

Helen Gates

Susan Gervais

Maureen Gomez

Greg Howells

Howard Husock

David Kimmel

Kate Madigan

Martha McDade

Brigitte Tanner

Al Vitiello

Bob Zahm

- City staff and liaisons from other CC committees are participants and are considered part of the committee



● *Committee Purpose and Key Objectives*

- Identify and prioritize how Rye can be a safer walking and biking community providing a more sustainable and healthier quality of life for all citizens
- Recommend and prioritize shovel ready engineering projects and related grant funding focusing on neighborhoods and school issues
- Provide education initiatives with the YMCA's Safe Routes to School Committee and the Board of Education (BOE) and the TPS committee
- Evaluate and participate in other community and governmental best practices and initiatives in nearby towns such as "Complete Streets" planning



● *Our Mission Statement*

To make Rye a more environmentally sustainable, healthy and more livable community for a range of ages and user groups by improving and enhancing safe pedestrian and bicycle opportunities.

We will do this by:

- working with city staff to create a vetted list of short-and long-term projects which would help meet our goal;*
- recommending changes to or adoption of policies and local ordinances which would support our goal;*
- participating in and supporting opportunities to inform and educate our community in ways that would help achieve our goal.*

Implementation strategies should be practical and supportive of other City policies, planning objectives and transportation needs.

Rye Shared Roadways Committee



- *What to expect*

1. *A presentation to you of ranked short- and long-term projects, both major and minor, for potential inclusion in the updated CIP.*

- *Working with City Planner to identify project opportunities*
- *Includes review of prior Temporary Trailways and Traffic Safety Summary committee findings*
- *Timing of findings to coincide with CIP planning cycle*
- *Focus is on realistic, “do-able” projects*



- *What to expect (cont.)*

- 2. *Specific Requests for Approval and Resolutions*

- *Visible and tangible mini-projects*

- Examples:*

- *East Coast Greenway routing through Rye*
 - *painting of sharrows on selected routes*

- *Policy approvals*

- Examples:*

- *Complete Streets*
 - *updated sidewalk policy*

Rye Shared Roadways Committee



- *What to expect (cont.)*

- 3. *Community outreach*

- *intent is to*

- i. *raise awareness*

- *that we're seeking to improve the quality of life in Rye*

- *of pedestrian and bike safety issues*

- ii. *respond to community needs*

- *methods and approach not yet determined; could include*

- *website*

- *surveys*

- *notice ads in local papers*

- *presentations to local groups*

Rye Shared Roadways Committee



- *Challenges*

- Budget constraints
- How to assure we collectively are doing what the community want?
- Interaction with County

Rye Shared Roadways Committee



- *Contact information*

Rye Shared Roadways Committee Co-chairs:

Steve Cadenhead 914-649-2860

Maureen Gomez 914-921-4334

RyeSharedRoadways@gmail.com



CITY COUNCIL AGENDA

NO. 10

DEPT.: City Manager's Office

DATE: January 12, 2011

CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Presentation by the Government Policy & Research Committee on Home Rule Legislation.

FOR THE MEETING OF:

January 12, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

A presentation will be made by members of the Government Policy & Research Committee on the consideration of proposing Home Rule Legislation on a gross receipts tax.



CITY COUNCIL AGENDA

NO. 11 DEPT.: City Manager's Office DATE: January 12, 2011
CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Discussion on 2011 Home Rule Legislation.

FOR THE MEETING OF:
January 12, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Assemblyman George Latimer has solicited home rule legislation from the City of Rye. Home rule bills are legislative requests by a local government to undertake some function or activity not already granted to the local government. The state, through specific legislation, may give the municipality the ability to undertake the action. The City is considering home rule legislation on a gross receipts tax. A gross receipts tax is similar to a sales tax, but it is levied on the seller of goods or services rather than the consumer.

FINANCE

GROSS RECEIPTS TAX - INCREASE RATE AND EXPAND SCOPE

Support legislation that would increase the maximum rate and expand the scope of the local gross receipts tax. Under current law, cities and villages are authorized to impose a gross receipts tax (GRT) on the sale of utility services. For most municipalities, the tax is equal to 1% of the gross income of utilities operating within their boundaries. NYCOM supports legislation that would permit municipalities, at local option, to impose this tax at a rate of up to 3%. The cities of Buffalo, Rochester and Yonkers already have this authority and do impose the tax at the higher 3% rate.

Additionally, in recognition of the predominance of wireless technology and to promote equity in the tax treatment of various types of telecommunications providers, both the state and the City of New York have made changes to their respective statutes to include cellular services as taxable for purposes of the state's excise tax and the city's GRT. NYCOM supports amendments to current state law to ensure that cellular telephone services are subject to the local GRT along with increased state oversight and enforcement of the local GRT to facilitate full compliance among those who pay and consistency among those who collect.

The 2010-11 Executive Budget would permit cities and villages to increase the local GRT rate from 1% to up to 3%.



CITY COUNCIL AGENDA

NO. 12

DEPT.: Corporation Counsel

DATE: January 12, 2011

CONTACT: Kristen K. Wilson, Esq.

AGENDA ITEM: Public Hearing for a License Agreement Application (#TC012) submitted by NextG Networks, Inc. for telecommunications access in the Public Rights-of-Way.

FOR THE MEETING OF:

January 12, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: NextG Networks is licensed by the Public Service Commission to provide telecommunication services and is seeking approval to locate a Distributed Antenna Telecommunication System in the public right-of-way. NextG Networks. The Distributed Antenna System (DAS) is usually installed on existing telephone utility poles. They propose to enter into an agreement with the City whereby NextG will be given permission to enter the right-of-way in exchange for paying the City revenue for the equipment which is installed. The compensation would be a percentage of the income received per installation (5% of their gross revenue). Municipalities that fail to enter into the right-of-way agreements with NextG, receive no compensation once the networks are built. The proposal includes the installation of eight DAS boxes in the City. Their installations are low-powered with much lower than the Federal government's limits on radiation exposure.

The application was reviewed and approved by the Board of Architectural Review (BAR).



NextG Networks

EMPOWERING NEXT GENERATION WIRELESS
NETWORKS

Corporate Headquarters:

NextG Networks, Inc.
2216 O'Toole Ave.
San José, California 95131

Tel: (408) 954-1580
Fax: (408) 383-5397

Web: www.nextgnetworks.net

Writer's Address:

Joshua S. Trauner
NextG Networks of NY, Inc.
131-05 14th Avenue
College Point, NY 11356

Tel: (718) 463-3591
Fax: (718) 463-3595

Email: jtrauner@nextgnetworks.net

May 21, 2010

Received

MAY 24 2010

City Manager's Office
Rye, New York

VIA USPS PRIORITY MAIL WITH SIGNATURE CONFIRMATION

Hon. Douglas H. French, Mayor
City of Rye
1051 Boston Post Road
Rye, NY 10580

Re: Application for License Agreement between the City of Rye and
NextG Networks for Use of the Public Rights-of-Way

Dear Mayor French:

Please accept this letter as the formal application of NextG Networks of NY, Inc. ("NextG"), for a license agreement or other appropriate form of authorization from the City of Rye (the "City") to conduct business as a telecommunications company operating with infrastructure located in the City's public ways. This information is submitted to the City in accordance with Section 253 of the Federal Telecommunications Act of 1996 and the relevant New York statutes governing the use of the public way by telecommunications carriers for the provision of their services.

A. Agreement Form and Purpose

Although an agreement or license is not required for access to the public right-of-way unless such requirement is published in your local laws (see Section I, below), NextG is nonetheless willing to offer an agreement and for this reason, files this letter with you to request a non-exclusive license agreement, franchise, or other appropriate form of authorization from the City in order to install, operate, and maintain fiber optic cable and associated equipment, including optical repeaters and antennas (each equipment location is referred to by the industry as a "node"), on, over and under the public way in the City in connection with the provision of telecommunications provided by NextG as a "carrier's carrier" for its wireless carrier customers. In order to expedite its application and processing, NextG proposes to enter into an agreement with the City substantially in the form attached hereto that includes an offer of annual

compensation to the City in the form of a percentage of NextG's gross revenues and also rent for attachment rights to any municipally-owned infrastructure utilized by NextG.

B. Information about NextG

Information about NextG and its technology and services is contained in a separate document entitled "A Local Official's Guide" enclosed with this letter. Additional information can be supplied to the City upon request.

C. NextG's Business Model

NextG is a facilities-based provider of protocol-agnostic, fiber-based RF transport services. NextG is not a wireless service provider, rather a transport services company, i.e. a "carrier's carrier". NextG's services extend any wireless carrier's RF signal in difficult coverage areas without the need for new cell towers. Although NextG's equipment includes small antennas, we are not considered wireless communication facilities by the New York State Public Service Commission (the "PSC") or the Federal Communications Commission. In the greater New Jersey-New York-Philadelphia market, NextG has successfully deployed more than 2,000 of its nodes, connected by hundreds of miles fiber in many jurisdictions, including: New York City, Philadelphia, Trenton, and nearly 30 additional villages and communities in the greater New York-Philadelphia-New Jersey area and more than 5,000 nationwide.

D. Regulatory Status

NextG has been issued a Certificate of Public Convenience and Necessity ("CPCN") by the PSC. A copy of the CPCN is attached. Our services and equipment are defined and regulated by the PSC as that of a facilities-based provider and reseller of local exchange and interexchange telecommunications services.

E. Proposed Location and Number of Attachments

NextG proposes that its right-of-way use agreement authorize the installation and operation of its equipment and network in, under, and over the public ways of the City on standard-design prefabricated steel poles, wooden distribution poles, newly installed poles and other available structures throughout the City. At this time, NextG has a preliminary map of six (6) locations and we are enclosing it for your review. Since we are still in the design phase, now would be the most appropriate time to engage with NextG on the finalization of the pole and site selection, since it will be difficult to accommodate changes after the initial design is finalized (which will happen in the next couple of months).

F. Use of Poles and Streets; Trenching

In addition to the possible placement of new poles in the right-of-way, NextG's model is, wherever possible, to use existing infrastructure. NextG prefers to attach to third-party utility infrastructure that is owned by Verizon or ConEd. However, NextG can also make its own applications for new utility poles in the public right-of-way, where necessary and on an equal basis with other certificated utility companies regulated by the PSC. Notwithstanding, installation of new poles is not NextG's preference, and we are sensitive to the communities' concerns about minimizing new utility infrastructure in the public ways where none previously existed. Therefore, NextG respectfully requests the City's consideration to avail certain City-owned utility poles, streetlight poles, traffic light poles and/or highway sign supports (collectively "poles") for the placement of telecommunications equipment (including associated cables, brackets and antennas) in accordance with any terms, conditions, and authorized purposes set forth in the proposed right-of-way use agreement. While the design is not yet finalized to the point where NextG can specify the exact City-owned poles that it would like to use, we are interested in working through the details on a framework level so that we can know if the City's infrastructure can be included in the design. Additionally, the entire system will be connected with fiber-optic cables, and to the greatest extent possible, NextG will utilize the existing conduit available for the distribution of fiber optic cable in the City. NextG will use every effort to minimize trenching and boring in the streets of the City by feeding fiber optic cabling directly from existing conduit, where available, to the poles on which optical repeater nodes and related equipment will be attached pursuant to the right-of-way use agreement.

G. Technical Specifications and Drawings

NextG will agree to observe all terms, conditions, limitations and design specifications set forth in the right-of-way use agreement in its installation, deployment and operation of the NextG fiber-fed optical repeater network in the City. Attached to the draft Agreement is an Exhibit A that includes the type of facilities that NextG is proposing. Additional specifications and technical drawings of representative types of equipment can be supplied upon request by the City.

H. Proposed Compensation to City

For use of the public ways and access to utility poles and streetlights (typically owned or controlled either by ConEd or Verizon), NextG proposes a compensation structure under its right-of-way use agreement of five percent (5%) of NextG's gross revenues from services provided in the City. In addition, NextG would compensate the City in the amount of Five Hundred Dollars (\$500.00) per City Owned pole utilized per annum. This is the same rate structure that NextG has offered in several other municipalities.

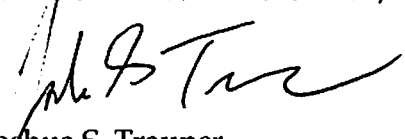
I. *Alternative if No Agreement is Reached*

NextG hopes to reach a mutually agreeable license with the City for use and occupation of the City's public ways. Our research of the City's code indicates that Chapter 167 of the city Code appears to regulate certificated providers of telecommunications services, such as NextG. Our permit submissions will be in accordance with such Chapter. Under federal law, local jurisdictions may "manage the right-of-way . . . on a competitively neutral and nondiscriminatory basis." 47 U.S.C. 253(c). Federal courts have upheld this statute to mean that a local government cannot impose certain requirements on new entrants (like NextG) without imposing those same requirements on the local incumbent local exchange carrier (the "ILEC"). *TCG New York, Inc. vs. City of White Plains*, 305 F.3d 67 (2nd Cir. 2002). Notwithstanding the state of the law, NextG is making this voluntary application to the City to establish the framework for its deployment, and to discuss the overall proposal in the City now, at a relatively early stage, when the benefits from the opportunity to collaborate can be optimized.

If the City wishes to collaborate with NextG in this effort (e.g., by entering into a form of license or agreement), we respectfully request that you indicate your interest to us within the next thirty (30) days so that we can proceed to negotiate the agreement. If we do not hear from you in that timeframe with an appropriate indication of interest, we will assume that the City does not wish to proceed with an agreement.

Thank you for your consideration and attention to this request. If you have any questions, please do not hesitate to call me at (718) 463-3591. I look forward to setting up a meeting at your convenience to discuss the City's response to this formal letter of application and the next steps required to move NextG's application forward to approval.

Very truly yours,
NEXTG NETWORKS OF NY, INC.



Joshua S. Trauner
Director of Government Relations

cc: Kevin J. Plunkett, Esq., Corporation Counsel
George Mottarella, P.E., City Engineer

Enclosures:

1. Copy of CPCN from NY State PSC
2. Local Official's Guide

RIGHT-OF-WAY USE AGREEMENT

THIS RIGHT-OF-WAY USE AGREEMENT (this "Use Agreement") is dated as of _____, 2010 (the "Effective Date"), and entered into by and between the CITY OF RYE, a New York municipal corporation (the "City"), and NEXTG NETWORKS OF NY, INC. a Delaware corporation ("NextG").

RECITALS

A. NextG owns, maintains, operates and controls, in accordance with regulations promulgated by the Federal Communications Commission and the New York State Public Service Commission, a fiber-based telecommunications Network or Networks (as defined below) serving NextG's wireless carrier customers and utilizing microcellular optical repeater Equipment (as defined below) certified by the Federal Communications Commission.

B. For purpose of operating the Network, NextG wishes to locate, place, attach, install, operate, control, and maintain Equipment in the Public Way (as defined below) on facilities owned by the City, as well as on facilities owned by third parties therein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following covenants, terms, and conditions:

1 **DEFINITIONS.** The following definitions shall apply generally to the provisions of this Use Agreement:

1.1 **City.** ("City") shall mean the City of Rye, New York.

1.2 **Decorative Streetlight Pole.** "Decorative Streetlight Pole" shall mean any streetlight pole that incorporates artistic design elements not typically found in standard steel or aluminum streetlight poles.

1.3 **Equipment.** "Equipment" means the optical repeaters, DWDM and CWDM multiplexers, antennas, fiber optic cables, wires, and related equipment, whether referred to singly or collectively, to be installed and operated by NextG hereunder. Examples of typical Equipment types and installation configurations are shown in the drawings and photographs attached hereto as Exhibit A and incorporated herein by reference.

1.4 **Fee.** "Fee" means any assessment, license, charge, fee, imposition, tax, or levy of general application to entities doing business in the City lawfully imposed by any governmental body (but excluding any utility users' tax, franchise fees, communications tax, or similar tax or fee).

1.5 **Gross Revenue.** "Gross Revenue" shall mean and include any and all income and other consideration collected, received, or in any manner gained or derived by NextG from or in connection with, the provision of RF telecommunication transport services, either directly by NextG or indirectly through a reseller, if any, to customers of such services wholly consummated within the

City, including any imputed revenue derived from commercial trades and barter equivalent to the full retail value of goods and services provided by NextG. "Adjusted Gross Revenue" shall include offset for: (a) sales, ad valorem, or other types of "add-on" taxes, levies, or fees calculated by gross receipts or gross revenues which might have to be paid to or collected for federal, state, or local government (exclusive of the Municipal Facilities Annual Fee paid to the City provided herein); (b) retail discounts or other promotions; (c) non-collectable amounts due NextG or its customers; (d) refunds or rebates; and (e) non-operating revenues such as interest income or gain from the sale of an asset.

1.6 ILEC. "ILEC" means the Incumbent Local Exchange Carrier that provides basic telephone services, among other telecommunications services, to the residents of the City.

1.7 Installation Date. "Installation Date" shall mean the date that the first Equipment is installed by NextG pursuant to this Use Agreement.

1.8 Laws. "Laws" means any and all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, administrative orders, certificates, orders, or other requirements of the City or other governmental agency having joint or several jurisdiction over the parties to this Use Agreement.

1.9 Municipal Facilities. "Municipal Facilities" means City-owned Streetlight Poles, Decorative Streetlight Poles, lighting fixtures, electroliers, or other City-owned structures located within the Public Way and may refer to such facilities in the singular or plural, as appropriate to the context in which used.

1.10 Network. "Network" or collectively "Networks" means one or more of the neutral-host, protocol-agnostic, fiber-based optical repeater networks operated by NextG to serve its wireless carrier customers in the City.

1.11 NextG. "NextG" means NextG Networks of NY, Inc., a corporation duly organized and existing under the laws of the State of Delaware, and its lawful successors, assigns, and transferees.

1.12 Public Way. "Public Way" means the space in, upon, above, along, across, and over the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, and places, including all public utility easements and public service easements as the same now or may hereafter exist, that are under the jurisdiction of the City. This term shall not include county, state, or federal rights of way or any property owned by any person or entity other than the City, except as provided by applicable Laws or pursuant to an agreement between the City and any such person or entity.

1.13 PSC. "PSC" means the New York State Public Service Commission.

1.14 Services. "Services" means the RF transport and other telecommunications services provided through the Network by NextG to its wireless carrier customers pursuant to one or more tariffs filed with and regulated by the PSC.

1.15 Streetlight Pole. "Streetlight Pole" shall mean any standard-design concrete, fiberglass, metal, or wooden pole used for streetlighting purposes.

2 TERM. This Use Agreement shall be effective as of the Effective Date and shall extend for a term of ten (10) years commencing on the Installation Date, unless it is earlier terminated by either party in accordance with the provisions herein. The term of this Use Agreement shall be renewed automatically

for three (3) successive terms of five (5) years each on the same terms and conditions as set forth herein, unless NextG notifies the City of its intention not to renew not less than thirty (30) calendar days prior to commencement of the relevant renewal term.

3 SCOPE OF USE AGREEMENT. Any and all rights expressly granted to NextG under this Use Agreement, which shall be exercised at NextG's sole cost and expense, shall be subject to the prior and continuing right of the City under applicable Laws to use any and all parts of the Public Way exclusively or concurrently with any other person or entity and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect the Public Way. Nothing in this Use Agreement shall be deemed to grant, convey, create, or vest in NextG a real property interest in land, including any fee, leasehold interest, or easement. Any work performed pursuant to the rights granted under this Use Agreement shall be subject to the reasonable prior review and approval of the City except that it is agreed that no zoning or planning board permit, variance, conditional use permit or site plan permit, or the equivalent under the City's ordinances, codes or laws, shall be required for the installation of NextG's Equipment installed in the Public Way and/or on Municipal Facilities, unless such a process has been required for the placement of all communications facilities and equipment in the Public Way by all other telecommunications providers, including but not limited to the ILEC and local cable provider(s).

3.1 Attachment to Municipal Facilities. The City hereby authorizes and permits NextG to enter upon the Public Way and to locate, place, attach, install, operate, maintain, control, remove, reattach, reinstall, relocate, and replace Equipment in or on Municipal Facilities for the purposes of operating the Network and providing Services. In addition, subject to the provisions of § 4.5 below, NextG shall have the right to draw electricity for the operation of the Equipment from the power source associated with each such attachment to Municipal Facilities. A denial of an application for the attachment of Equipment to Municipal Facilities shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties of NextG's Equipment if the Equipment proposed for such application substantially conforms to one of the approved configurations and the Equipment specifications set forth in Exhibit A.

3.2 Attachment to Third-Party Property. Subject to obtaining the permission of the owner(s) of the affected property, the City hereby authorizes and permits NextG to enter upon the Public Way and to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace such number of Equipment in or on poles or other structures owned by public utility companies or other property owners located within the Public Way as may be permitted by the public utility company or property owner, as the case may be. Upon request, NextG shall furnish to the City evidence that NextG has entered into the appropriate pole-attachment agreement required pursuant to N.Y. C.L.S. Pub. Ser. § 119-a. A denial of an application for the attachment of Equipment to third-party-owned poles or structures in the Public Way shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties of NextG's Equipment if the Equipment proposed for such application substantially conforms to one of the approved configurations and the Equipment specifications set forth in Exhibit A. Where third-party property is not available for attachment of Equipment, NextG may install its own utility poles in the Public Way, consistent with the requirements that the City imposes on similar installations made by other utilities that use and occupy the Public Way.

3.3 Preference for Municipal Facilities. In any situation where NextG has a choice of attaching its Equipment to either Municipal Facilities or third-party-owned property in the Public Way, NextG agrees to attach to the Municipal Facilities, provided that (i) such Municipal Facilities are at least equally suitable functionally for the operation of the Network and (ii) the rental fee and installation

costs associated with such attachment over the length of the term are equal to or less than the fee or cost to NextG of attaching to the alternative third-party-owned property.

3.4 No Interference. NextG in the performance and exercise of its rights and obligations under this Use Agreement shall not interfere in any manner with the existence and operation of any and all public and private rights of way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, electroliers, cable television, and other telecommunications, utility, or municipal property, without the express written approval of the owner or owners of the affected property or properties, except as permitted by applicable Laws or this Use Agreement. The City agrees to require the inclusion of the same or a similar prohibition on interference as that stated above in all agreements and franchises the City may enter into after the Effective Date with other information or communications providers and carriers.

3.5 Compliance with Laws. NextG shall comply with all applicable Laws in the exercise and performance of its rights and obligations under this Use Agreement.

4 COMPENSATION; UTILITY CHARGES. NextG shall be solely responsible for the payment of all lawful Fees in connection with NextG's performance under this Use Agreement, including those set forth below.

4.1 Annual Fee. In order to compensate the City for NextG's entry upon and deployment within the Public Way and as compensation for the use of Municipal Facilities, NextG shall pay to the City an annual fee (the "Annual Fee") in the amount of Five Hundred Dollars (\$500.00) for the use of each Municipal Facility, if any, upon which a Equipment has been installed pursuant to this Use Agreement. The aggregate Annual Fee with respect to each year of the term shall be an amount equal to the number of Equipment installed on Municipal Facilities during the preceding twelve (12) months multiplied by the Annual Fee, prorated as appropriate, and shall be due and payable not later than forty-five (45) days after each anniversary of the Installation Date. The City represents and covenants that the City owns all Municipal Facilities for the use of which it is collecting from NextG the Annual Fee pursuant to this § 4.1.

4.1.1 CPI Adjustment. Effective commencing on the fifth (5th) anniversary of the Installation Date and continuing on each fifth (5th) anniversary thereafter during the term, the Annual Fee with respect to the ensuing five-year period shall be adjusted by a percentage amount equal to the percentage change in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (All Items, All Urban Consumers, 1982-1984=100) which occurred during the previous five-year period for the New York-Northern New Jersey-Long Island, NY-NJ-PA Metropolitan Statistical Area (MSA).

4.2 Right-of-Way Use Fee. In order to compensate the City for NextG's entry upon and deployment of Equipment within the Public Way, NextG shall pay to the City, on an annual basis, an amount equal to five percent (5%) of Adjusted Gross Revenues (the "Right-of-Way Fee") payable within thirty (30) days of the Effective Date and on each anniversary thereafter. The Right-of-Way Fee shall be payable for the period commencing with the Effective Date and ending on the date of termination of this Use Agreement. NextG shall make any payment of the Right-of-Way Fee that may be due and owing within forty-five (45) days after the first anniversary of the Effective Date and within the same period after each subsequent anniversary of the Effective Date. Within forty-five (45) days after the termination of this Use Agreement, the Right-of-Way Fee shall be paid for the period elapsing since the end of the last calendar year for which the Right-of-Way Fee has been paid. NextG shall furnish to the City with each payment of the Right-of-Way Fee a statement, executed by an authorized officer of NextG or his or her designee, showing the amount of Adjusted Gross Revenues for the

period covered by the payment. If NextG discovers any error in the amount of compensation due, the City shall be paid within thirty (30) days of discovery of the error or determination of the correct amount. Any overpayment to the City through error or otherwise shall be refunded or offset against the next payment due. Acceptance by the City of any payment of the Right-of-Way Fee shall not be deemed to be a waiver by the City of any breach of this Use Agreement occurring prior thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due or from collecting any balance due to the City.

4.3 Accounting Matters. NextG shall keep accurate books of account at its principal office in San Jose, CA or such other location of its choosing for the purpose of determining the amounts due to the City under §§ 4.1 and 4.2 above. The City may inspect NextG's books of account relative to the City at any time during regular business hours on thirty (30) days' prior written notice and may audit the books from time to time at the City's sole expense, but in each case only to the extent necessary to confirm the accuracy of payments due under § 4.1 above. The City agrees to hold in confidence any non-public information it learns from NextG to the fullest extent permitted by Law.

4.4 Most-Favored Municipality. Should NextG after the parties' execution and delivery of this Agreement enter into an attachment or franchise agreement with another municipality of the same size or smaller than the City in the same County (excluding New York City), which agreement contains financial benefits for such municipality which, taken as a whole and balanced with the other terms of such agreement, are in the City's opinion substantially superior to those in this Agreement, the City shall have the right to require that NextG modify this Use Agreement to incorporate the same or substantially similar superior benefits and such other terms and burdens by substitution, *mutatis mutandis*, of such other agreement or otherwise.

4.5 Electricity Charges. NextG shall be solely responsible for the payment of all electrical utility charges to the applicable utility company based upon the Equipment' usage of electricity and applicable tariffs.

5 CONSTRUCTION. NextG shall comply with all applicable federal, State, and City codes, specifications, and requirements, if any, related to the construction, installation, operation, maintenance, and control of NextG's Equipment installed in the Public Way and on Municipal Facilities in the City. NextG shall not attach, install, maintain, or operate any Equipment in or on the Public Way and/or on Municipal Facilities without the prior approval of the City for each location.

5.1 Obtaining Required Permits. If the attachment, installation, operation, maintenance, or location of the Equipment in the Public Way shall require any permits, NextG shall, if required under applicable City ordinances, apply for the appropriate permits and pay any standard and customary permit fees, so long as the permit fees and process that the City requests of NextG are functionally equivalent to the fees and the process that are applied to the ILEC and/or the cable provider(s). In the case of Third Party attachments (to existing utility infrastructure), NextG agrees to provide the City with a list of proposed attachments in advance of its deployment to the City and, the City agrees to use reasonable efforts to review and approve NextG's list of proposed attachments to Third Party utility infrastructure within thirty (30) days of submission, and if no comment is received within thirty (30) days, the application will be presumed to be acceptable and no further action will be required prior to NextG's installation.

5.2 Location of Equipment. The proposed locations of NextG's planned initial installation of Equipment shall be provided to the City promptly after NextG's review of available street light maps (if applicable) and prior to deployment of the Equipment. Upon the completion of installation,

NextG promptly shall furnish to the City a pole list showing the exact location of the Equipment in the Public Way.

5.3 Relocation and Displacement of Equipment. NextG understands and acknowledges that the City may require NextG to relocate one or more of its Equipment installations. NextG shall at City's direction relocate such Equipment at NextG's sole cost and expense, whenever the City reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, completion, repair, relocation, or maintenance of a City project; (b) because the Equipment is interfering with or adversely affecting proper operation of City-owned light poles, traffic signals, or other Municipal Facilities; or (c) to protect or preserve the public health or safety. In any such case, the City shall use its best efforts to afford NextG a reasonably equivalent alternate location. If NextG shall fail to relocate any Equipment as requested by the City within a reasonable time under the circumstances in accordance with the foregoing provision, the City shall be entitled to relocate the Equipment at NextG's sole cost and expense, without further notice to NextG. To the extent the City has actual knowledge thereof, the City will attempt promptly to inform NextG of the displacement or removal of any pole on which any Equipment is located.

5.4 Relocations at NextG's Request. In the event NextG desires to relocate any Equipment from one Municipal Facility to another, NextG shall so advise the City. The City will use its best efforts to accommodate NextG by making another reasonably equivalent Municipal Facility available for use in accordance with and subject to the terms and conditions of this Use Agreement.

5.5 Damage to Public Way. Whenever the removal or relocation of Equipment is required or permitted under this Use Agreement, and such removal or relocation shall cause the Public Way to be damaged, NextG, at its sole cost and expense, shall promptly repair and return the Public Way in which the Equipment are located to a safe and satisfactory condition in accordance with applicable Laws, normal wear and tear excepted. If NextG does not repair the site as just described, then the City shall have the option, upon fifteen (15) days' prior written notice to NextG, to perform or cause to be performed such reasonable and necessary work on behalf of NextG and to charge NextG for the proposed costs to be incurred or the actual costs incurred by the City at the City's standard rates. Upon the receipt of a demand for payment by the City, NextG shall promptly reimburse the City for such costs.

6 INDEMNIFICATION AND WAIVER. NextG agrees to indemnify, defend, protect, and hold harmless the City, its council members, officers, and employees from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection therewith, including reasonable attorney's fees and costs of defense (collectively, the "Losses") directly or proximately resulting from NextG's activities undertaken pursuant to this Use Agreement, except to the extent arising from or caused by the negligence or willful misconduct of the City, its council or board members, officers, elected trustees, employees, agents, or contractors.

6.1 Waiver of Claims. NextG waives any and all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any Equipment or any loss or degradation of the Services as a result of any event or occurrence which is beyond the reasonable control of the City.

6.2 Limitation of City's Liability. The City shall be liable only for the cost of repair to damaged Equipment arising from the negligence or willful misconduct of the City, its employees, agents, or contractors and shall in no event be liable to indirect or consequential damages.

7 INSURANCE. NextG shall obtain and maintain at all times during the term of this Use Agreement Commercial General Liability insurance and Commercial Automobile Liability insurance protecting NextG in an amount not less than One Million Dollars (\$1,000,000) per occurrence (combined single limit), including bodily injury and property damage, and in an amount not less than Two Million Dollars (\$2,000,000) annual aggregate for each personal injury liability and products-completed operations. The Commercial General Liability insurance policy shall name the City, its elected officials, officers, and employees as additional insureds as respects any covered liability arising out of NextG's performance of work under this Use Agreement. Coverage shall be in an occurrence form and in accordance with the limits and provisions specified herein. Claims-made policies are not acceptable. Such insurance shall not be canceled, nor shall the occurrence or aggregate limits set forth above be reduced, until the City has received at least thirty (30) days' advance written notice of such cancellation or change. NextG shall be responsible for notifying the City of such change or cancellation.

7.1 Filing of Certificates and Endorsements. Prior to the commencement of any work pursuant to this Use Agreement, NextG shall file with the City the required original certificate(s) of insurance with endorsements, which shall state the following:

(a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts;

(b) that the City shall receive thirty (30) days' prior notice of cancellation;

(c) that NextG's Commercial General Liability insurance policy is primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance; and

(d) that NextG's Commercial General Liability insurance policy waives any right of recovery the insurance company may have against the City.

The certificate(s) of insurance with endorsements and notices shall be mailed to the City at the address specified in § 8 below.

7.2 Workers' Compensation Insurance. NextG shall obtain and maintain at all times during the term of this Use Agreement statutory workers' compensation and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000) and shall furnish the City with a certificate showing proof of such coverage.

7.3 Insurer Criteria. Any insurance provider of NextG shall be admitted and authorized to do business in the State of New York and shall carry a minimum rating assigned by *A.M. Best & Company's Key Rating Guide* of "A" Overall and a Financial Size Category of "X" (*i.e.*, a size of \$500,000,000 to \$750,000,000 based on capital, surplus, and conditional reserves). Insurance policies and certificates issued by non-admitted insurance companies are not acceptable.

7.4 Severability of Interest. Any deductibles or self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the City. "Severability of interest" or "separation of insureds" clauses shall be made a part of the Commercial General Liability and Commercial Automobile Liability policies.

8 NOTICES. All notices which shall or may be given pursuant to this Use Agreement shall be in writing and delivered personally or transmitted (a) through the United States mail, by registered or certified mail, postage prepaid; (b) by means of prepaid overnight delivery service; or (c) by facsimile or email transmission, if a hard copy of the same is followed by delivery through the U. S. mail or by overnight delivery service as just described, addressed as follows:

if to the City:

CITY OF RYE
Attn: Mayor
Rye City Hall
1051 Boston Post Road
Rye, New York 10580

if to NextG:

NEXTG NETWORKS OF NY, INC.
Attn: Contracts Administration
2216 O'Toole Ave
San Jose, CA 95131

8.1 Date of Notices; Changing Notice Address. Notices shall be deemed given upon receipt in the case of personal delivery, three (3) days after deposit in the mail, or the next business day in the case of facsimile, email, or overnight delivery. Either party may from time to time designate any other address for this purpose by written notice to the other party delivered in the manner set forth above.

9 TERMINATION. This Use Agreement may be terminated by either party upon forty five (45) days' prior written notice to the other party upon a default of any material covenant or term hereof by the other party, which default is not cured within forty-five (45) days of receipt of written notice of default (or, if such default is not curable within forty-five (45) days, if the defaulting party fails to commence such cure within forty-five (45) days or fails thereafter diligently to prosecute such cure to completion), provided that the grace period for any monetary default shall be ten (10) days from receipt of notice. Except as expressly provided herein, the rights granted under this Use Agreement are irrevocable during the term.

10 ASSIGNMENT. This Use Agreement shall not be assigned by NextG without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the transfer of the rights and obligations of NextG to a parent, subsidiary, or other affiliate of NextG or to any successor in interest or entity acquiring fifty-one percent (51%) or more of NextG's stock or assets (collectively "Exempted Transfers") shall not be deemed an assignment for the purposes of this Agreement and therefore shall not require the consent of the City, provided that NextG reasonably demonstrates to the City's lawfully empowered designee the following criteria (collectively the "Exempted Transfer Criteria"): (i) such transferee will have a financial strength after the proposed transfer at least equal to that of NextG immediately prior to the transfer; (ii) any such transferee assumes all of NextG's obligations hereunder; and (iii) the experience and technical qualifications of the proposed transferee, either alone or together with NextG's management team, in the provision of telecommunications or similar services, evidences an ability to operate the NextG Network. NextG shall give at least thirty (30) days' prior written notice (the "Exempted Transfer Notice") to the City of any such proposed Exempted Transfer and shall set forth with specificity in such Exempted Transfer Notice the reasons why NextG believes the Exempted Transfer Criteria have been satisfied. The City Council of City shall have a period of thirty (30) days (the "Exempted Transfer Evaluation Period") from the date that NextG gives the City its Exempted Transfer Notice to object in writing to the adequacy of the evidence

contained therein. Notwithstanding the foregoing, the Exempted Transfer Evaluation Period shall not be deemed to have commenced until the City has received from NextG any and all additional information the City may reasonably require in connection with its evaluation of the Exempted Transfer Criteria as set forth in the Exempted Transfer Notice, so long as the City gives NextG notice in writing of the additional information the City requires within fifteen (15) days after the City's receipt of the original Exempted Transfer Notice. If the Council of the City fails to act upon NextG's Exempted Transfer Notice within the Exempted Transfer Evaluation Period (as the same may be extended in accordance with the foregoing provisions), such failure shall be deemed an affirmation by the City Council that NextG has in fact established compliance with the Exempted Transfer Criteria to the City's satisfaction.

11 MISCELLANEOUS PROVISIONS. The provisions which follow shall apply generally to the obligations of the parties under this Use Agreement.

11.1 Environmental Review. NextG's facilities are "unlisted" but functionally equivalent to Type II actions under 6 N.Y.C.R.R. 617.5(c)(11). NextG agrees to comply with any rules pertaining to State Environmental Quality Review and to submit any required environmental forms for the City's review and approval, so long as the review that the City requires is the same that the City requires of all other telecommunications providers, including but not limited to the ILEC and the cable provider(s), for their installation of any facilities or equipment in the Public Way.

11.2 Nonexclusive Use. NextG understands that this Use Agreement does not provide NextG with exclusive use of the Public Way or any Municipal Facility and that the City shall have the right to permit other providers of communications services to install equipment or devices in the Public Way and on Municipal Facilities. The City agrees promptly to notify NextG of the receipt of a proposal for the installation of communications equipment or devices in the Public Way or on Municipal Facilities. In addition, the City agrees to advise other providers of communications services of the presence or planned deployment of the Equipment in the Public Way and/or on Municipal Facilities.

11.3 Waiver of Breach. The waiver by either party of any breach or violation of any provision of this Use Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Use Agreement.

11.4 Severability of Provisions. If any one or more of the provisions of this Use Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision(s) shall be deemed severable from the remaining provisions of this Use Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Use Agreement. Each party hereby declares that it would have entered into this Use Agreement and each provision hereof regardless of whether any one or more provisions may be declared illegal, invalid, or unconstitutional.

11.5 Contacting NextG. NextG shall be available to the staff employees of any City department having jurisdiction over NextG's activities twenty-four (24) hours a day, seven (7) days a week, regarding problems or complaints resulting from the attachment, installation, operation, maintenance, or removal of the Equipment. The City may contact by telephone the network control center operator at telephone number 1-866-44-NEXTG (446-3984) regarding such problems or complaints.

11.6 Governing Law; Jurisdiction. This Use Agreement shall be governed and construed by and in accordance with the laws of the State of New York, without reference to its conflicts of law principles. If suit is brought by a party to this Use Agreement, the parties agree that trial of such

action shall be vested exclusively in the state courts of New York, in the County where the City is incorporated or in the United States District Court for the Eastern District of New York.

11.7 Consent Criteria. In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Use Agreement, such party shall not unreasonably delay, condition, or withhold its approval or consent.

11.8 Representations and Warranties. Each of the parties to this Agreement represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform the parties' respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith, except as provided in § 3.2 above.

11.9 Amendment of Use Agreement. This Use Agreement may not be amended except pursuant to a written instrument signed by both parties.

11.10 Entire Agreement. This Use Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this Use Agreement which are not fully expressed herein.

In witness whereof, and in order to bind themselves legally to the terms and conditions of this Use Agreement, the duly authorized representatives of the parties have executed this Use Agreement as of the Effective Date.

City: CITY OF RYE, a New York municipal corporation

By: _____
_____ [name typed]

Its: _____

Date: _____, 2010

NextG: NEXTG NETWORKS OF NY, INC., a Delaware Corporation

By: _____
_____ [name typed]

Its: _____

Date: _____, 2010

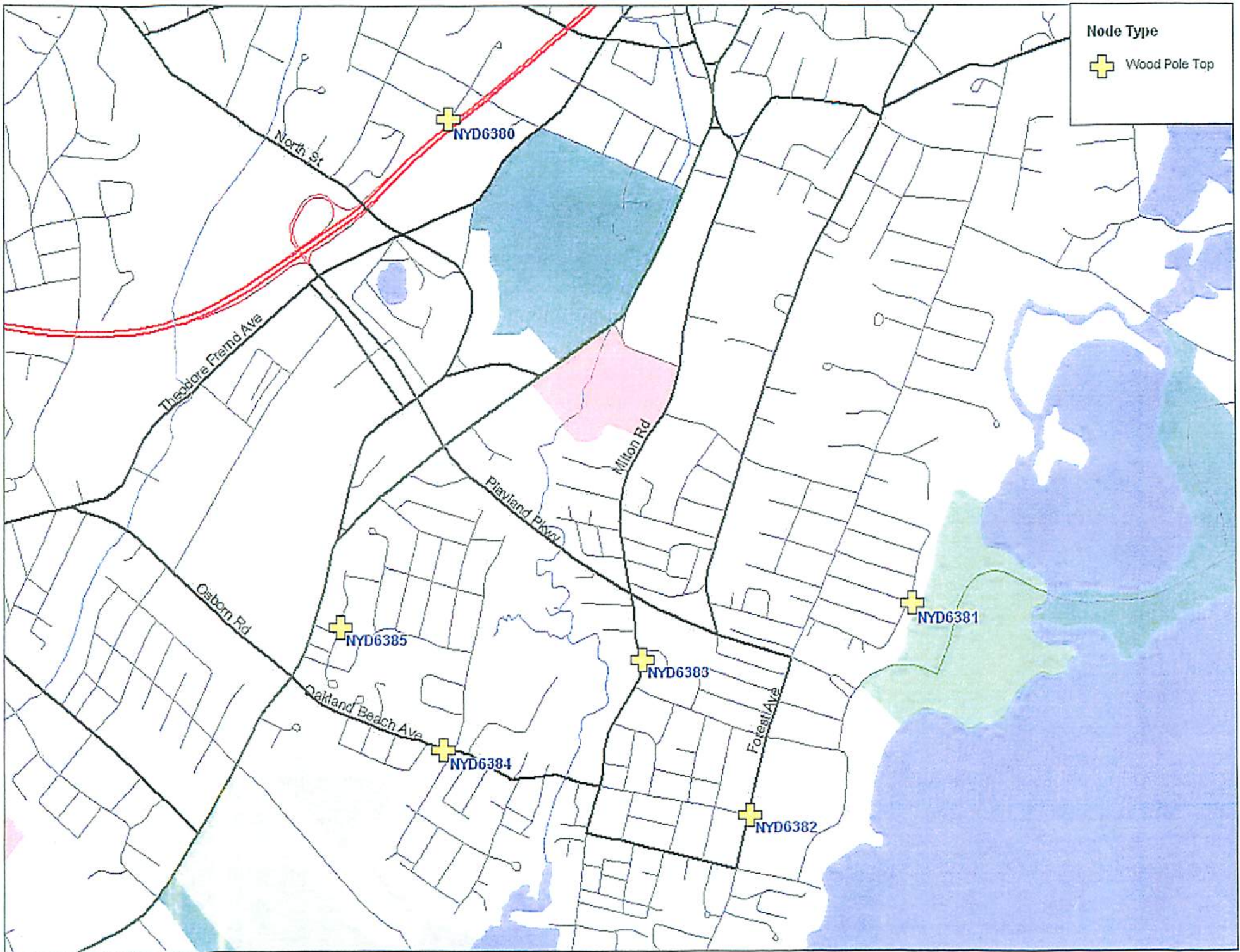
I HEREBY APPROVE the form and legality of the foregoing Use Agreement this _____ day of _____, 2010.

_____, Corporation Counsel

By _____
_____, Deputy City Attorney

Exhibits:

Exhibit A -- Equipment



Node Type
+ Wood Pole Top

NYD6380

NYD6385

NYD6384

NYD6383

NYD6382

NYD6381

North St

Theodore Fremd Ave

Milton Rd

Playland Pkwy

Forest Ave

Osborn Rd

Oakland Beach Ave



CITY COUNCIL AGENDA

NO. 13 DEPT.: Planning DATE: January 12, 2011
CONTACT: Christian K. Miller, AICP, City Planner

AGENDA ITEM: Consideration to set a Public Hearing for March 2, 2011 regarding the establishment of the Kirby Lane Extension Sanitary Sewer Special Assessment District.

FOR THE MEETING OF:
January 12, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: The City Council should consider setting a public hearing for its March 2, 2011 meeting regarding the establishment of the Kirby Lane Extension Sanitary Sewer Special Assessment District.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Rye City Council has received a petition from 23 of the 27 property owners in the district requesting that the City undertake a local improvement pursuant to Chapter 128 of the Rye City Code to extend sanitary sewer service to 29 properties located on Kirby Lane South of Grace Church Street. Section 128-2 provides that the Council may undertake a local improvement where it receives a petition from property owners who own more than 66 2/3% of the lots and parcels which would benefit by the requested local improvement. A public hearing and notice is required prior to creating a district.



CITY COUNCIL AGENDA

NO. 14 DEPT.: Planning DATE: January 4, 2011
CONTACT: Christian K. Miller, AICP, City Planner

AGENDA ITEM: City Council declaration of intent to be Lead Agency and referral to the Rye City Planning Commission for Advisory LWRP Coastal Consistency and Wetland Permit Approval in connection with the Kirby Lane South Sanitary Sewer Special Assessment District.

FOR THE MEETING OF:
January 12, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: Adopt the resolution declaring the City Council's intent to be Lead Agency and referral to the Rye City Planning Commission for Advisory LWRP Coastal Consistency and Wetland Permit Approval.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Prior to creating the Kirby Lane South Sewer District and funding the project, the City Council must comply with the requirements of the State Environmental Quality Review Act (SEQRA); the City's Local Waterfront Revitalization Program (LWRP)/Chapter 73 Coastal Zone Management; and the City's Wetland and Watercourses Law. Declaring Lead Agency intent is required by SEQRA and will serve as notice to other approving agencies that the City Council will be responsible for issuing a determination of significance. Chapter 73 of the City Code requires that projects within the designated LWRP Coastal Zone Boundary require an advisory coastal consistency determination from the Planning Commission. All properties on the south side of Grace Church Street are located within the coastal zone. A wetlands permit is also required for the temporary wetland disturbance associated with the installation of the City sewer line and private sewer laterals within a wetland or its 100-foot adjacent area. Attached for the Council's review are the required applications forms and full description of the proposed action.

RESOLVED, that the Rye City Council declares its intent to be Lead Agency and hereby refers to the Rye City Planning Commission for Advisory LWRP Coastal Consistency and Wetland Permit Approval in connection with the Kirby Lane South Sanitary Sewer Special Assessment District.

Kirby Lane Extension Sanitary Sewer Special Assessment District

City of Rye, New York

Full Environmental Assessment Form with attachments
LWRP Coastal Assessment Form
Application for Determination of LWRP Consistency
Wetland and Watercourses Application

Project Sponsor and Lead Agency:

Rye City Council
1051 Boston Post Road
City of Rye, New York 10580

Prepared by:

Christian K. Miller, AICP
Rye City Planner

January 5, 2011

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.

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, 2 and 3, if appropriate), and any other supporting information, and considering both the magnitude and important 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

Kirby Lane Extension Sanitary Sewer Special Assessment District

Name of Action

Rye City Council

Name of Lead Agency


Douglas H. French

Print or Type Name of Responsible Officer in Lead Agency

Mayor

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency



Signature of Preparer (If different from responsible officer)

Christian K. Miller, AICP, City Planner

January 5, 2011

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 Kirby Lane Extension Sanitary Sewer Special Assessment District		
LOCATION OF ACTION (Include Street Address, Municipality and County) City of Rye, New York		
NAME OF APPLICANT/SPONSOR Rye City Council		BUSINESS TELEPHONE (914) 967-7404
ADDRESS 1051 Boston Post Road		
CITY/PO Rye	STATE NY	ZIP CODE 10580
NAME OF OWNER (if different) Same as Above		BUSINESS TELEPHONE ()
ADDRESS		
CITY/PO	STATE	ZIP CODE
DESCRIPTION OF ACTION See Attachment.		

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)
 Forest Agriculture Rural (Non-Farm) Other _____

2. Total Acreage of Project Area: 0.75 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-Agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Article 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings & other paved surfaces	<u>0.75</u> acres	<u>0.75</u> acres
Other (Indicate type): _____	_____ acres	_____ acres

3. What is predominant soil type(s) on project site? Udorthents, Urban Land-Chatfield

- a. Soil Drainage:
 Well drained 54% of site Moderately drained _____% of site Poorly drained 46% 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? _____ acres. (See 1 NYCRR 370)

4. Are there bedrock outcroppings on project site? Yes No

- a. What is depth to bedrock? TBD (in feet)

5. Approximate percentage of proposed project site with slopes:
 0 - 10% 61% 10 – 15% 39% 15% or greater 0 %
6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the 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? Varies 2'-10' (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 City Planner - project area would disturb existing road bed and driveways
Identify each species _____
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 Tide Mill Pond
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: Tide Mill Pond/Long Island Sound
a. Name of Stream and River to which it is tributary: _____
16. Lakes, ponds, wetland areas within or contiguous to project area:
a. Name Tide Mill Pond/Long Island Sound b. Size in acres _____
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 Market Laws, Article 25-AA, Section 303 and 304?
 Yes No
19. Is the site located in or substantially contiguous to a Critical Environmental Area or an Environmentally Sensitive 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 0.75 Acres of Road R.O.W. acres.
- b. Project acreage to be developed: 0 acres initially; 0 acres ultimately.
- c. Project acreage to remain undeveloped 0 acres.
- d. Length of project in miles: 3,425 linear feet (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed N/A %.
- f. Number of off-street parking spaces existing 0 proposed 0
- g. Maximum vehicular trips generated per hour 0 (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: N/A height _____ width _____ length _____
- j. Linear feet of frontage along a public thoroughfare project will occupy is? N/A feet.

2. How much natural material (i.e., rock, earth, etc.) will be removed from the site? 2,600 cy 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? _____
- 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 4 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 phase? Yes No
8. Will blasting occur during construction? Yes No
9. Number of jobs generated: during construction 15 after project is complete 0
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 _____
- b. Name of water body into which effluent will be discharged _____
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
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 _____ tons.
- b. If yes, will an existing solid waste facility be used? Yes No
- c. If yes, give name _____; location _____
- 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? _____ tons/month.
- b. If yes, what is the anticipated site life? _____ 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) Modest increase in electrical use associated with sewer pumps for single-family residence.
22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.
23. Total anticipated water usage per day N/A gallons/day.
24. Does project involve Local, State or Federal funding? Yes No
If yes, explain City may seek EFC funding assistance

25. Approvals Required:

	Yes	No	Type	Submittal Date
City Council	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Creation of Special Assessment District	Pending
City Planning Commission	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Advisory LWRP and Wetlands Permit	Pending
City Zoning Board	<input type="checkbox"/>	<input type="checkbox"/>		
County Health Department	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sewer System Approval	Pending
Other Local Agencies	<input type="checkbox"/>	<input type="checkbox"/>		
Other Regional Agencies	<input type="checkbox"/>	<input type="checkbox"/>		
State Agencies	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Potential NYSDEC and EFC Financing	TBD
Federal Agencies	<input type="checkbox"/>	<input type="checkbox"/>		
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>		

C. Zoning and Planning Information

- Does proposed action involve a planning or zoning decision? Yes No
 If yes, indicate decision required:
 Resource Management Plan Zoning Variance Special Use Permit Subdivision
 New/Revision of Master Plan Zoning Amendment Site Plan Other Creating Sewer District
- What is the zoning classification(s) of the site? R-1 Single-Family Residence District
- What is the maximum potential development of the site if developed as permitted by the present zoning?
N/A - No change in development potential is proposed
- What is the proposed zoning of the site? N/A - no change in zoning is proposed.
- What is the maximum potential development of the site if developed as permitted by the proposed zoning?
N/A - No change in development potential is proposed
- Is the proposed action consistent with the recommended uses in adopted local land use plan? Yes No
- What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?
Residential Use, Zoning
- Is the proposed action compatible with adjoining/surrounding land uses within a ¼ mile? Yes No
- If the proposed action is the subdivision of land, how many lots are proposed? N/A - No subdivision of land is proposed
 a. What is the minimum lot size proposed? _____
- Will proposed action require any authorization(s) for the formation of sewer or water districts? Yes No
- 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
- 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 _____ Date January 5, 2011

Signature  Title City Planner
Christian K. Miller, AICP

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. No response indicates that such a reduction is not possible. This must be explained in Part 3.

IMPACT ON LAND

1. Will the proposed action result in a physical change to the project site?
 Yes No

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.
- Construction on land where the depth to the water table is less than 3 feet.
- Construction of paved parking area for 1,000 or more vehicles.
- Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.
- Construction that will continue for more than 1 year or involve more than one phase or stage.
- Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.
- Construction or expansion of a sanitary landfill.
- Construction in a designated floodway.
- Other impacts _____

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.) Yes No
- Specific land forms: _____

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<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)
 Yes No

Examples that would apply to column 2

- Developable area of site contains a protected water body.
- Dredging more than 100 cubic yards of material from a channel of a protected stream
- Extension of utility distribution facilities through a protected waterbody.
- Construction in a designated freshwater or tidal wetland.
- Other impacts _____

4. Will proposed action affect any non-protected existing or new body of water?
 Yes No

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..
- Construction of a body of water that exceeds 10 acres of surface area
- Other impacts _____

5. Will proposed action affect surface or groundwater quality or quantity?
 Yes No

Examples that would apply to column 2

- Proposed action will require a discharge permit.
- Proposed action requires use of a source of water that does not have approval to serve proposed (project) action.
- Proposed action requires water supply from wells with greater than 45 gallons per minute pumping capacity.
- Construction or operation causing any contamination of a water supply system.
- Proposed action will adversely affect groundwater.
- Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.
- Proposed action would use water in excess of 20,000 gallons per day.
- Proposed action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.
- Proposed action will require the storage of petroleum or chemical products greater than 1,100 gallons.
- Proposed action will allow residential uses in areas without water and/or sewer services.
- Proposed action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.
- Other impacts _____

6. Will proposed action alter drainage flow or patterns, or surface water runoff?
 Yes No

Examples that would apply to column 2

- Proposed action would change flood water flows.

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

- Proposed Action may cause substantial erosion.
- Proposed Action is incompatible with existing drainage patterns.
- Proposed Action will allow development in a designated floodway.
- Other impacts _____

IMPACT ON AIR

7. Will proposed action affect air quality? Yes No
- Examples** that would apply to column 2
- Proposed action will induce 1,000 or more vehicle trips in any given hour.
 - Proposed action will result in the incineration of more than 1 ton of refuse per hour.
 - Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.
 - Propose action will allow an increase in the amount of land committed to industrial use.
 - Proposed action will allow an increase in the density of industrial development within existing industrial areas
 - Other impacts _____

IMPACT ON PLANTS AND ANIMALS

8. Will Proposed Action affect any threatened or endangered species? Yes No
- 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 site or found on the site.
 - Removal of any portion of a critical or significant wildlife habitat.
 - Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.
 - Other impacts _____
9. Will Proposed Action substantially affect non-threatened or non-endangered species? Yes No
- Examples** that would apply to column 2
- Proposed action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.
 - Proposed action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.
 - Other impacts _____

IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will the Proposed Action affect agricultural land resources? Yes No
- 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.)

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<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.
- 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.
- 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)
- Other impacts _____

IMPACT ON AESTHETIC RESOURCES

11. Will proposed action affect aesthetic resources? Yes No
(if necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)

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.
- 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.
- Project components that will result in the elimination or significant screening of scenic views known to be important to the area.
- Other impacts _____

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will Proposed Action impact any site or structure of historic, pre-historic or paleontological importance? Yes No

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.
- Any impact to an archaeological site or fossil bed located within the project site.
- Proposed action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.
- Other impacts _____

IMPACT ON OPEN SPACE AND RECREATION

13.. Will Proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities? Yes No

Examples that would apply to column 2

- The permanent foreclosure of a future recreational opportunity.
- A major reduction of an open space important to the community.
- Other impacts _____

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

IMPACT ON AESTHETIC RESOURCES

14. Will proposed action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision NYCRR 617.14(g)? Yes No

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

Long Island Sound is a Westchester County designated CEA

Examples that would apply to column 2

- Proposed action to locate within the CEA?
- Proposed action will result in a reduction in the quantity of the resource?
- Proposed action will result in a reduction in the quality of the resource?
- Proposed action will impact the use, function or enjoyment of the resource?
- Other impacts Eliminate septic systems within Long Island Sound Watershed

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 Temporary construction disturbance

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 _____

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

NOISE AND ODOR IMPACTS

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 _____

IMPACT ON PUBLIC HEALTH

18. Will Proposed Action affect public health and safety? Yes No

Examples that would apply to column 2

- Proposed action may cause a risk of explosion or release of hazardous substances (i.e., oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission.
- Proposed action may result in the burial of "hazardous wastes" in any form (i.e., toxic, poisonous, highly reactive, radioactive, irritating infectious, etc.)
- Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids.
- Proposed action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.
- Other impacts _____

IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

19. Will proposed action affect the character of the existing community?

Yes No

Examples that would apply to column 2

The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.

- The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.
- Proposed action will conflict with officially adopted plans or goals.
- Proposed action will cause a change in the density of land use.
- Proposed action will replace or eliminate existing facilities, structures or areas of historic importance to the community.
- Development will create a demand for additional community services (e.g., schools, police and fire, etc.)
- Proposed action will set an important precedent for future projects
- Proposed action will create or eliminate employment.
- Other impacts _____

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<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 environmental impacts? Yes No

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:

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
- It's irreversibility, including permanently lost resources of value
- Whether the impact can or will be controlled
- The regional consequence of the impact
- It's potential divergence from local needs and goals
- Whether known objections to the project relate to this impact

(Continue on attachments)

**ATTACHMENT
FULL ENVIRONMENTAL ASSESSMENT FORM**

**Kirby Lane Extension Sanitary Sewer Special Assessment District
City of Rye, New York**

Project Description

The proposed action involves the creation of a special assessment district for the installation of a low pressure sanitary sewer system serving 29 properties located on Kirby Lane, South of Grace Church Street in Rye, New York (see attached map). The Rye City Council has received a petition from 23 of the 27 property owners in the district requesting that the City undertake a local improvement pursuant to Chapter 128 of the Rye City Code to extend sanitary sewer service to the 29 properties located within the district.

The project proposes to install approximately 1,925 feet of 2” sanitary sewer forcemain, 1,500 feet of 3” forcemain, and 11 clean-out manholes entirely within an existing asphalt roadway. The forcemain will empty out into an additional, velocity-dissipating manhole. This manhole will be connected to the existing municipal sanitary sewer system via approximately 25 feet of 8” gravity sewer pipe - all within existing asphalt roadway. The project also includes the installation of lateral connections with shut-off valve boxes for each lot served. These valve boxes will be installed at the property line.

The proposed Kirby Lane Low Pressure Sanitary Sewer System project will bring public sewers to an existing residential neighborhood. The existing properties that will be served are located in a R-1 Single-Family (one-acre minimum lot size) Zoning District. Only two of the 29 properties in the district are currently undeveloped. All existing homes are currently using individual subsurface sewage disposal systems.

Involved Agencies

The City Council pursuant to Chapter 128 of the City Code is an involved agency for the approval of a resolution authorizing the creation of a special assessment district to fund the sewer improvements and other related costs. The City Council is seeking Lead Agency status for the coordinated review of the proposed action. The City Council will also make a coastal consistency determination after an advisory recommendation from the Planning Commission pursuant to Chapter 73, *Coastal Zone Management*, of the Rye City Code. The Planning Commission will also consider a wetland permit for those portions of the sewer line that will extend through wetland or their 100-foot adjacent buffer regulated by Chapter 195, *Wetlands and Watercourses*, of the Rye City Code.

Westchester County Health Department is an Involved Agency for the approval of the sanitary sewer system. The City will be responsible for the operation and maintenance of the common force main located within the City-owned Kirby Lane Road right-of-way.

The City is confirming whether any permits may be required from the New York State Department of Environmental Conservation (NYSDEC). It is not known at this time whether the installation of a common force main within the portion of the Kirby Lane road bed adjacent the Mill Pond requires a NYSDEC wetland permit.

The Environmental Facilities Corporation (EFC) is also considered a potential involved agency in the event the City obtains any funding from this state agency.

Evaluation of the Importance of Impacts

No aspect of the proposed action is anticipated to result in any potentially large impacts. There will be temporary disturbances related to installation of sewer piping. The approximately 3,400 linear feet of common force main will be located below the road bed of Kirby Lane. Sewer laterals on private property to existing and future residences will result in minor disturbances.

Construction will be disruptive and will produce potentially objectionable noise, however these impacts are considered small, unavoidable and temporary. Construction is anticipated to last approximately four months.

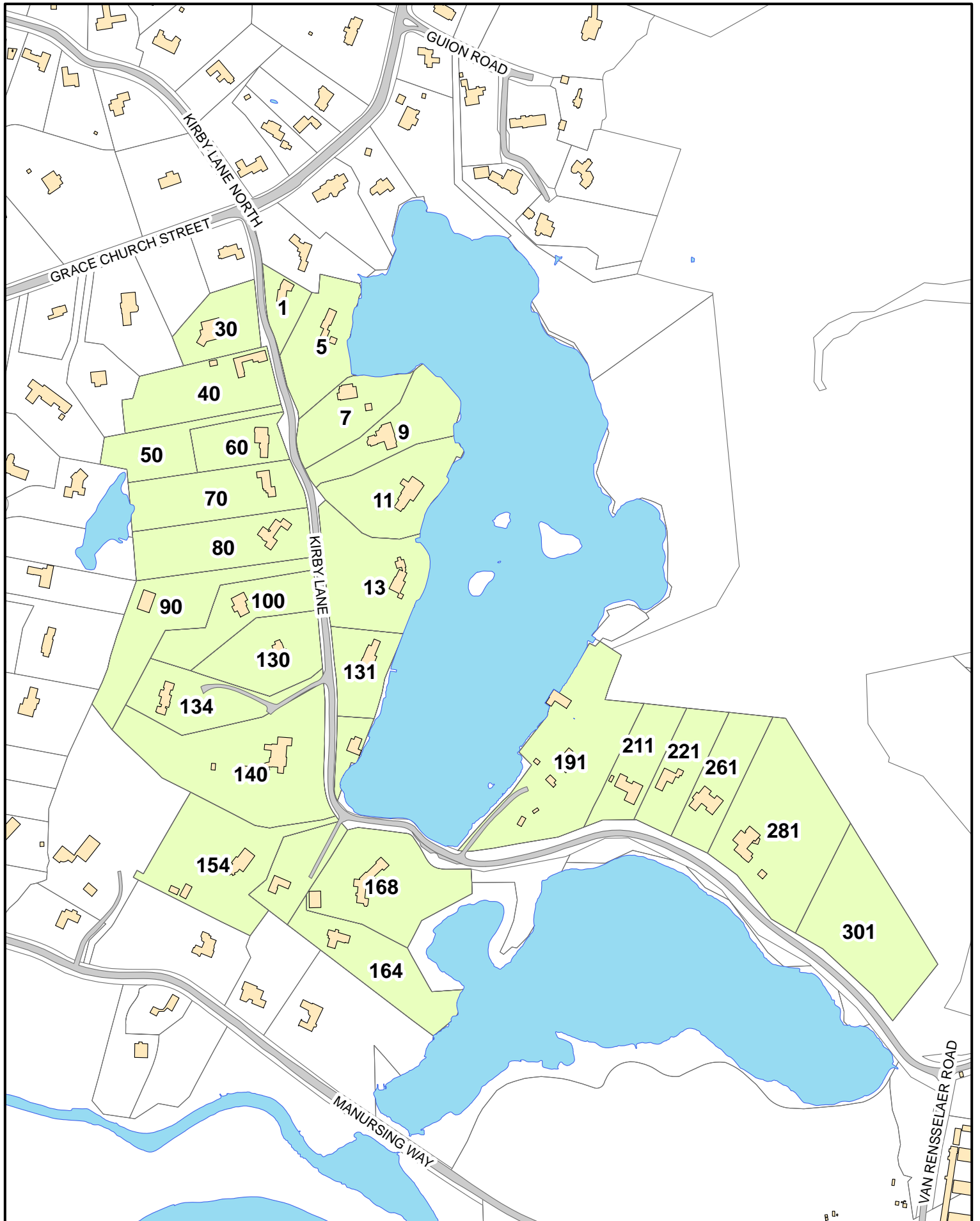
The proposed action will provide sanitary sewer service to the last large area (approximately 60 acres) of the City that is dependant on septic systems for domestic sewage disposal. Many of the existing residences in the district have older septic systems that cannot meet current State or County Health Department codes and requirements. All properties served by the proposed sewer currently drain directly to Long Island Sound, which is an impaired water body. Eliminating these systems is considered a water quality benefit.

The proposed sewer extension will not induce additional development beyond what is currently permitted by the limitations of the City's R-1 Single-Family (one-acre minimum lot size) Zoning District. All but two of the properties within the district are already improved with single-family residences. The proposed action is consistent with local plans and land use policies.

Conclusion

The proposed action will not have a significant adverse impact on the environment. In fact, the elimination of older septic systems is considered to have an environmental benefit. The proposed action will not have a significant adverse environmental impact consistent with the criteria for determining significance provided in Section 617.7(c) of the State Environmental Quality Review Act.

Kirby Lane Extension Sanitary Sewer Special Assessment District





Coastal Assessment Form

City of Rye, New York Planning Department

1051 Boston Post Road, Rye, New York 10580

Phone: (914) 967-7167

Fax (914) 967-4641

www.ci.rye.ny.us/planning.htm

A. INSTRUCTIONS (Please print or type all answers)

1. Applicants or in the case of direct actions, city agencies, shall complete this Coastal Assessment Form (CAF) for proposed actions which are subject to the consistency review law. This assessment is intended to supplement other information used by a city agency in making a determination of consistency.
2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the City Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.
3. If any question in Section C on this form is answered "yes", then the proposed action may effect the achievement of the LWRP policy standards and conditions contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent to the maximum extent practicable with the LWRP policy standards and conditions. If an action cannot be certified as consistent with the LWRP policy standards and conditions, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of city agency action (check appropriate response):
 - (a) Directly undertaken (e.g capital construction, planning activity, agency regulation, land transaction): Sewer Special Assessment District
 - (b) Financial assistance (e.g. grant, loan, subsidy): _____
 - (c) Permit, approval, license, certification: _____
 - (d) Agency undertaken action: City Council, Planning Commission
2. Describe nature and extent of action:
Creation of special assessment district to provide sewer service
3. Location of action (including street or site description):
29 properties on Kirby Lane, south of Grace Church street
4. Size of site: 0.75
5. Present land use: Residential/Surburban
6. Present zoning classification: R-1



Coastal Assessment Form

City of Rye, New York Planning Department

Page 2 of 5

7. Describe any unique or unusual forms on the project site (i.e. bluffs, dunes, swales, ground, depressions, other geological formations):
None, some potential wetland or wetland buffer disturbance
8. Percentage of site which contains slopes of 15% or greater 0
9. Streams, lakes, ponds or wetlands existing within or contiguous to the project area?
- (a) Name: Long Island Sound/Kirby Mill Pond
- (b) Size (in acres): _____
10. If an application for the proposed action has been filed with the city agency, the following information shall be provided:
- (a) Name of applicant: City of Rye
- (b) Mailing address: 1051 Boston Post Road, Rye, New York 10580
- (c) Telephone number: Area Code: 914-967-7404
- (d) application number, if any: _____
11. Will the action be directly undertaken, require funding, or approval by a state or federal agency?
- Yes No If yes, which state or federal agency?
- Potentially NYSDEC and EFC



Coastal Assessment Form

City of Rye, New York Planning Department

C. COASTAL ASSESSMENT Check either "yes" or "no" for each of the following:

	YES	NO
1. Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas identified on the coastal area map?:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(a) Significant fish or wildlife habitats?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Scenic resources or local or statewide significance?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Natural protective features in an erosion hazard area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Note: If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.</i>		
2. Will the proposed action have a <u>significant adverse effect</u> upon:		
(a) Commercial or recreational use of fish and wildlife resources?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Scenic quality of the coastal environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Development of future, or existing water dependent uses?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Land or water uses within a small harbor area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) Stability of the shoreline?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) Surface or groundwater quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) Existing or potential public recreation opportunities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) Structures, sites or districts of historic, archaeological or cultural significance to the city, State or nation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Will the proposed action <u>involve</u> or <u>result</u> in any of the following:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(a) Physical alteration of land along the shoreline, land under water or coastal waters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Physical alteration of two (2) acres or more of land located elsewhere in the coastal area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Expansion of existing public services or infrastructure in undeveloped or low density area of the coastal area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Energy facility not subject to Article VII or VIII of the Public Service Law?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) Mining, excavation, filling or dredging in coastal waters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) Reduction of existing or potential public access to or along the shore?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) Sale or change in use of publicly-owned lands located on the shoreline or underwater?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) Development within a designated flood or erosion hazard area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(j) construction or reconstruction of erosion protective structures?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(k) Diminished surface or groundwater quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>



Coastal Assessment Form

City of Rye, New York Planning Department

	YES	NO
(l) Removal of ground cover from the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Project	<input type="checkbox"/>	<input type="checkbox"/>
(a) If project is to be located adjacent to shore:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(1) Will water-related recreation be provided?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) Will public access to the foreshore be provided?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Does the project require a waterfront site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) Will it supplant a recreational or maritime use?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) Do essential public services and facilities presently exist at or near the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(6) Is it located in a flood prone area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(7) Is it located in an area of high erosion?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) If the project site is publicly owned:	<input type="checkbox"/>	<input type="checkbox"/>
(1) Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) If located in the foreshore, will access to those and adjacent lands be provided?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Will it involve the siting and construction of major energy facilities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Will it involve the discharge of effluents from major steam electric generating and industrial facilities into coastal facilities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Is the project site presently used by the community neighborhood as an open space or recreation area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(d) Does the present site offer or include scenic views or vistas known to be important to the community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(e) Is the project site presently used for commercial fishing or fish processing?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) will the surface area of any waterways or any wetland areas be increased or decreased by the proposal?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) Does any mature forest (over 100 years old) or other locally important vegetation exist on this site which will be removed by the project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) Will the project involve any waste discharges into coastal waters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) Does the project involve surface or subsurface liquid waste disposal?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(j) Does the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(k) Does the project involve shipment or storage of petroleum products?	<input type="checkbox"/>	<input checked="" type="checkbox"/>



Coastal Assessment Form

City of Rye, New York Planning Department

- | | YES | NO |
|---|-------------------------------------|-------------------------------------|
| (l) Does the project involve discharge of toxics, hazardous substances or other pollutants into coastal waters? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (m) Does the project involve or change existing ice management practices? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (n) Will the project affect any area designated as a tidal or freshwater wetland? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (o) Will the project alter drainage flow, patterns or surface water runoff on or from the site? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (p) Will best management practices be utilized to control storm water runoff into coastal waters? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (q) Will the project utilize or affect the quality or quantity of sole source or surface water supplies? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (r) Will the project cause emissions which exceed federal or state air quality standards or generate significant amounts of nitrates or sulfates? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

D. REMARKS OR ADDITIONAL INFORMATION. (Add any additional sheets necessary to complete this form.)

Project involves the extension of a sewer line to 29 properties located on Kirby Lane South of Grace Church Street. The project will allow for the elimination of existing septic systems, which is considered an environmental and water quality benefit to Long Island Sound. The sewer extension will be within existing roadbed and laterals to residences. The project will not change public access to coastal waters and be consistent with the policies of the City's LWRP. The project will provide sewer service to an existing boat basin. Providing sewer service to this water dependant use is supportive of its continued operation.

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

Preparer Name Christian K. Miller, AICP Date 1/5/11

Signature _____ Title City Planner



LWRP Consistency Application

City of Rye, New York Planning Department

1051 Boston Post Road, Rye, New York 10580

Phone: (914) 967-7167

Fax (914) 967-4641

www.ci.rye.ny.us/planning.htm

The undersigned applicant hereby applies to the Rye City Council for determination of consistency in accordance with Chapter 73, Coastal Zone Management Waterfront Consistency review, of the Rye City Code, and, therefore, represents and states as follows:

A. Application Name: Kirby Lane Extension Sanitary Sewer Special Assessment District

B. Applicant (If Applicant is not owner, attach document confirming interest in property):

Name: City of Rye
Address: 1051 Boston Post Road
City: Rye State: NY Zip: 10580
Phone: 914-967-7167
Fax: _____
Email: cmiller@ryeny.gov

C. Property Owner:

Name: same as above
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____
Fax: _____

D. Architect/Landscape Architect/Engineer or Surveyor:

Name: Dolph Rotfeld Engineering, PC
Address: 200 White Plains Road
City: Tarrytown State: NY Zip: 10591
Phone: 914-631-8600
Fax: _____

For Planning Department Use Only:

Application Receipt Date:

	Application No.:	_____
	Application No.:	_____
	Fee Check No.:	_____
	Prior Approvals:	_____
	Prior Approvals:	_____



LWRP Consistency Application

City of Rye, New York Planning Department

F. Property Information:

Street Address:	<u>Kirby Lane south of Grace Church St.</u>		
City:	<u>Rye</u>	State: <u>NY</u>	Zip: <u>10580</u>
Property Area (Acres):	_____		
Tax Map Designation:	Sheet: _____	Block: _____	Lot(s): _____
	Sheet: _____	Block: _____	Lot(s): _____
	Sheet: _____	Block: _____	Lot(s): _____
Zoning District:	<u>R-1</u>		
Flood Insurance Zone:	<u>X, AE (elevation 13)</u>		

G. Fee (as per City of Rye Fee Schedule)

Please include application fee and indicate amount here: \$_____

H. City Naturalist's Determination:

Please attach a copy of the City Naturalist's wetland determination (separate form required).

I. Coastal Assessment Form

Please attach a completed copy of the Coastal Assessment Form required by Chapter 73 (separate form required).

J. Statement of Proposed Work and Purpose Thereof:

Please provide as statement of the proposed work and purpose thereof (If the space provided is insufficient, please attach additional sheet(s)):

Project involves the extension of a sewer line to 29 properties located on Kirby Lane South of Grace Church Street. The project will allow for the elimination of existing septic systems, which is considered an environmental and water quality benefit to Long Island Sound. The sewer extension will be within existing roadbed and laterals to residences. The project will not change public access to coastal waters and be consistent with the policies of the City's LWRP. The project will provide sewer service to an existing boat basin. Providing sewer service to this water dependant use is supportive of its continued operation.



LWRP Consistency Application

City of Rye, New York Planning Department

K. Evaluation of Consistency with LWRP Policies:

Actions to be undertaken within the Coastal Area must be evaluated for consistency in accordance with the LWRP policy standards and conditions, which are explained and described in Section III of the Rye City LWRP, a copy of which is on file in the City Clerk's and City Planner's Office and available for inspection during normal business hours. In the case of direct actions, the agency shall also consult with Section IV of the LWRP in making their consistency determination.

In making its determination, the City Council must consider the following factors, and issue written findings with respect to those factors that are applicable. Please give any pertinent information that will permit the Planning Commission to make a determination that this action is consistent with the following policies:

- (1) Revitalize deteriorated and under utilized waterfront areas (Policy 1).

Will not adversely impact this LWRP Policy

- (2) Retain and promote recreational water-dependent uses (Policy 2).

Will not adversely impact this LWRP Policy. Provides sewer service to existing recreational boat basin.

- (3) Strengthen the economic base of smaller harbor areas by encouraging traditional uses and activities (Policy 4).

Will not adversely impact this LWRP Policy. Provides sewer service to existing recreational boat basin.



LWRP Consistency Application

City of Rye, New York Planning Department

- (4) Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).

Will not adversely impact this LWRP Policy.

- (5) Streamline development permit procedures (Policy 6).

Will not adversely impact this LWRP Policy.

- (6) Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 7B and 8).

Will not adversely impact this LWRP Policy. Project would eliminate older septic systems providing a water quality benefit to Long Island Sound.

- (7) Maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9 and 10).

Will not adversely impact this LWRP Policy. Provides sewer service to existing recreational boat basin.



LWRP Consistency Application

City of Rye, New York Planning Department

- (8) Minimize flooding and erosion hazard through non-structural means, carefully selected, long-term structural measures and appropriate siting of structures (Policies 11, 12, 13, 14, 16, 17, and 28).

Will not adversely impact this LWRP Policy.

- (9) Safeguard economic, social and environmental interests in the coastal area when major actions are taken (Policy 18).

Will not adversely impact this LWRP Policy.

- (10) Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 19B, 20, 21 and 22).

Will not adversely impact this LWRP Policy.

- (11) Protect and restore historic and archaeological resources (Policy 23).

Will not adversely impact this LWRP Policy.



LWRP Consistency Application

City of Rye, New York Planning Department

(12) Protect and upgrade scenic resources (Policy 25).

Will not adversely impact this LWRP Policy.

(13) Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29 and 40).

Will not adversely impact this LWRP Policy.

(14) Prevent ice management practices which could damage significant fish and wildlife and their habitats (Policy 28).

Will not adversely impact this LWRP Policy.

(15) Protect surface and groundwaters from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34, 35, 36, 37 and 38).

Will not adversely impact this LWRP Policy. Project would eliminate older septic systems providing a water quality benefit to Long Island Sound.



LWRP Consistency Application

City of Rye, New York Planning Department

Page 7 of 10

- (16) Perform dredging and dredge spoil disposal in a manner protective of natural resources. (Policies 15 and 35).

Will not adversely impact this LWRP Policy.

- (17) Handle and dispose of hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policy 39).

Will not adversely impact this LWRP Policy.

- (18) Protect air quality (Policies 41, 42 and 43).

Will not adversely impact this LWRP Policy.

- (19) Protect tidal and freshwater wetlands (Policy 44).

Will not adversely impact this LWRP Policy.



LWRP Consistency Application

City of Rye, New York Planning Department

L. Evaluation of Actions Inconsistent with LWRP Policies:

If it is determined that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the determining agency makes a written finding with respect to the proposed action. If applicable, please give any pertinent information that will permit the Planning Commission to make a determination on the following: (If the space provided is insufficient, please attach additional sheet(s))

- (1) No reasonable alternatives exist which would permit the action to be undertaken in a manner that would not substantially hinder the achievement of such LWRP policy standards and conditions.

Consistent with LWRP policies. Project will provide environmental benefit with the elimination of older septic systems.

- (2) The action would be undertaken in a manner that will minimize all adverse effects on such LWRP policy standards and conditions.

Consistent with LWRP policies.

- (3) The action will advance one or more of the other LWRP policy standards and conditions.

Project will eliminate septic systems and provide sewer service to an existing water dependant boat basin.



LWRP Consistency Application

City of Rye, New York Planning Department

(4) The action will result in an overriding city, regional or statewide public benefit.

Project is consistent with LWRP policies.

M. Regulatory Compliance

1. Will the proposed project place any fill or a structure within a Flood Zone? Yes No
(If yes, Chapter 100, Floodplain Management, may apply)
2. Is the proposed activity located within a designated preservation area? Yes No
(If yes, Chapter 117, Landmarks Preservation, may apply)
3. Is a fence or wall proposed as part of the application? Yes No
(If yes, Chapter 90, Fences and Walls, may apply)
4. Does the application also involve site plan approval? Yes No
(If yes, Chapter 197, Zoning, may apply)
5. Does the application also involve the subdivision of a property? Yes No
(If yes, Chapter 170, Subdivision of Land, may apply)

N. Prior Approvals – Application Checklist for Permits:

To facilitate the approval process, the City of Rye requests that applicants indicate below all permit applications that are **pending**, have been **approved** or have been **rejected** for the subject property. The following checklist will allow the City authorities to be more familiar with properties that are the subject of the current application. Please indicate all applications submitted for the property in question, including those that were prepared for projects separate from the current one. Intentionally omitting any items from this checklist is cause for delay or rejection of the application(s) being considered.



LWRP Consistency Application

City of Rye, New York Planning Department

Board, Commission or Inspector:	Date(s) of Prior Approval(s):	City Identifier Reference(s):	Previous Action(s) on Application(s):	New Permit(s) Applied for: (Check Boxes)
Appeals				<input type="checkbox"/>
Architectural Review				<input type="checkbox"/>
Conservation				<input type="checkbox"/>
Landmarks				<input type="checkbox"/>
Planning Commission				<input type="checkbox"/>
Building Inspector				<input type="checkbox"/>
City Engineer				<input type="checkbox"/>
Naturalist				<input type="checkbox"/>
City Planner				<input type="checkbox"/>
Other: city council	pending			<input type="checkbox"/>

O. Signatures

By signing this application the applicant attests that to the best of his or her knowledge all information provided herein is accurate and truthful. The signature of the applicant and owner also grants consent to having any City Staff or City Board or Commission members responsible for of the review or approval of this application(s) to enter the property of the subject application.

Applicant Signature
 Christian K. Miller, AICP
 Rye City Planner

1/5/11

Date

Property Owner Signature(s)

Date



Wetlands & Watercourses Application

City of Rye, New York Planning Department

1051 Boston Post Road, Rye, New York 10580

Phone: (914) 967-7167

Fax (914) 967-4641

www.ci.rye.ny.us/planning.htm

The undersigned applicant hereby applies to the Rye City Planning Commission for approval of a Wetlands and Watercourses Permit in accordance with Chapter 195, Wetlands and Watercourses, of the Rye City Code, and Planning Commission Resolution #1-99, dated January 12, 1999, the Rules and Regulations of the Planning Commission Adopted Pursuant to Chapter 195, Wetlands and Watercourses, of the Code of the City of Rye, and, therefore, represents and states as follows:

A. Application Name: Kirby Lane Extension Sanitary Sewer Special Assessment District

B. Applicant (If Applicant is not owner, attach document confirming interest in property):

Name: City of Rye
Address: 1051 Boston Post Road
City: Rye State: NY Zip: 10580
Phone: (914) 967-7676
Fax: (914) 967-4641
Email: _____

C. Property Owner:

Name: City of Rye
Address: 1051 Boston Post Road
City: Rye State: NY Zip: 10580
Phone: (914) 967-7676
Fax: (914) 967-4641

D. Architect/Landscape Architect/Engineer or Surveyor:

Name: Dolph Rotfeld Engineer, PC
Address: 200 White Plains Road
City: Tarrytown State: NY Zip: 10591
Phone: (914) 631-8600
Fax: _____

For Planning Department Use Only:

Application Receipt Date:

	Application No.:	_____
	Application No.:	_____
	Fee Check No.:	_____
	Prior Approvals:	_____
	Prior Approvals:	_____



Wetlands & Watercourses Application

City of Rye, New York Planning Department

F. Property Information:

Street Address:	<u>Kirby Lane south of Grace Church St.</u>		
City:	<u>Rye</u>	State: <u>NY</u>	Zip: <u>10580</u>
Property Area (Acres):	_____		
Tax Map Designation:	Sheet: _____	Block: _____	Lot(s): _____
	Sheet: _____	Block: _____	Lot(s): _____
	Sheet: _____	Block: _____	Lot(s): _____
Zoning District:	<u>R-1</u>		
Flood Insurance Zone:	<u>X, AE (elevation 13)</u>		

G. Fee (as per City of Rye Fee Schedule)

Please include application fee and indicate amount here: \$_____

H. City Naturalist's Determination:

Please attach a copy of the City Naturalist's wetland determination (separate form required).

I. Statement of Proposed Work:

Please provide as statement of the proposed work and purpose thereof and, if applicable, an explanation why the proposed activity cannot be located at another site, including an explanation of how the proposed activity is dependent upon wetlands or water-related resources.

The project proposes to install approximately 1,925 feet of 2" sanitary sewer forcemain, 1,500 feet of 3" forcemain, and 11 clean-out manholes entirely within the existing asphalt roadway of Kirby Lane. The forcemain will connect to an existing municipal sanitary sewer system via approximately 25 feet of 8" gravity sewer pipe - all within existing asphalt roadway. The project also includes the installation of lateral connections with shut-off valve boxes for each lot served. The common forcemain will extend through a regulated wetland buffer for that portion of the Kirby Lane adjacent to the Mill Pond. In addition, sewer laterals may extend through wetland or wetland buffer areas properties at 5, 7, 11, 5, 90, 131, 134, 141, 154, 162 and 168 Kirby Lane.

J. Request for Wavier:

In the case of applications for projects where the total amount of disturbed area is less than one-quarter acre, or projects whose total cost does not exceed \$10,000.00, or projects which propose encroachment into the wetland/watercourse buffer only, the Planning Commission may, pursuant to §195-5.B.(2)(b), waive the requirements for complete plans and estimates set forth in its rules and regulations adopted pursuant to this Chapter, provided a plan clearly showing the extent and details of the project, its location with respect to the wetland, watercourse and wetland/watercourse buffer, the actual acreage of the area to be disturbed, and the total cost of the proposed project is submitted with this application.

Are you requesting a waiver? (check one) Yes No



Wetlands & Watercourses Application

City of Rye, New York Planning Department

K. Impact to Wetland Functions:

In granting, denying, or conditioning any permit, the Planning Commission must evaluate wetland functions and the role of the wetland in the hydrologic and ecological system, and must determine the impact of the proposed activity upon public health and safety, rare and endangered species, water quality and additional wetland functions listed in Section 1 of Chapter 195. They must find that impacts and losses are avoided to the maximum extent practicable or, if they cannot be avoided, they must find that they have been minimized to the maximum extent practicable. In this determination, the Planning Commission must consider the following factors, and issue written findings with respect to those factors that are applicable. Please give any pertinent information which will permit the Planning Commission to make findings on the following factors (If the space provided is insufficient, please attach additional sheet(s):

- (a) the impact of the proposed activity, and existing and reasonably anticipated similar activities, upon neighboring land uses and wetland functions as set forth in §195-1 of the City Code, including but not limited to the following:

- [1] filling of a wetland or other modification of natural topographic contours;

No impact.

- [2] disturbance or destruction of natural flora and fauna;

All areas of disturbance shall be restored to pre-construction conditions as is practical.



Wetlands & Watercourses Application

City of Rye, New York Planning Department

Page 4 of 8

- [3] influx of sediments or other materials causing increased water turbidity and/or sediment build up;

No impact. Best Management Practices shall be adhered to during construction to avoid impacts.

- [4] removal or disturbance of wetland soils;

Soils within sewer trenches shall be backfilled with material suitable for sewer pipe installation.

- [5] reductions in wetland water supply;

No impact.

- [6] interference with wetland water circulation;

No impact.



Wetlands & Watercourses Application

City of Rye, New York Planning Department

[7] damaging reduction or increases in wetland nutrients;

No impact.

[8] influx of toxic chemicals and/or heavy metals;

Positive impact. New sewers will eliminate the use of domestic waste disposal (septic) systems in the area.

[9] damaging thermal changes in the wetland water supply;

No impact.

[10] destruction of natural aesthetic values;

No impact.



Wetlands & Watercourses Application

City of Rye, New York Planning Department

Page 6 of 8

- (b) any existing wetland impacts and the cumulative effect of reasonably anticipated future wetland activities in the wetland subject to the application;

Any wetland impacts are limited to construction activities. Best management practices shall be adhered to during construction to provide erosion and sediment control. Upon completion of construction, areas shall be restored to natural conditions.

- (c) the impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage, storm barriers, and water quality;

The proposed activity shall have a positive impact on water quality in that the project will eliminate the use of domestic waste disposal (septic) systems.

- (d) the safety of the proposed activity from flooding, erosion, hurricane winds, soil limitations, and other hazards and possible losses to the applicant and subsequent purchasers of the land;

No impact.



Wetlands & Watercourses Application

City of Rye, New York Planning Department

- (e) the adequacy of water supply and waste disposal for the proposed use;

The existing sewer lines have adequate capacity for the proposed extension of the system.

- (f) consistency with Federal, State, County, and local comprehensive land use plans and regulations; and

Project is consistent with land use plans in that it provides municipal sewer to existing residences.

- (g) the availability of preferable alternative locations on the subject parcel or, in the case of activity that cannot be undertaken on the property without disturbance to wetlands, the availability of other reasonable locations for the activity.

Due to engineering constraints, the project must disturb portions of the wetland buffers. The only alternative is the "no-build" alternative, which will leave the area on individual domestic waste disposal (septic) systems.

L. Regulatory Compliance

1. Will the proposed project place any fill or a structure within a Flood Zone? Yes No
(If yes, Chapter 100, Floodplain Management, may apply)
2. Is the proposed activity located within a designated preservation area? Yes No
(If yes, Chapter 117, Landmarks Preservation, may apply)
3. Is a fence or wall proposed as part of the application? Yes No
(If yes, Chapter 90, Fences and Walls, may apply)



Wetlands & Watercourses Application

City of Rye, New York Planning Department

4. Is the property located within a designated coastal area boundary? Yes No
(If yes, Chapter 73, Coastal Zone Management, may apply)
5. Does the application also involve the Subdivision of a Property? Yes No
(If yes, Chapter 170, Subdivision of Land, may apply)

M. Prior Approvals – Application Checklist for Permits:

To facilitate the approval process, the City of Rye requests that applicants indicate below all permit applications that are **pending**, have been **approved** or have been **rejected** for the subject property. The following checklist will allow the City authorities to be more familiar with properties that are the subject of the current application. Please indicate all applications submitted for the property in question, including those that were prepared for projects separate from the current one. Intentionally omitting any items from this checklist is cause for delay or rejection of the application(s) being considered.

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Planning Commission				<input type="checkbox"/>
Building Inspector				<input type="checkbox"/>
City Engineer				<input type="checkbox"/>
Naturalist				<input type="checkbox"/>
City Planner				<input type="checkbox"/>
Other: City Council	Pending			<input type="checkbox"/>

By filing an application, the owner thereby consents to entry onto his land by the City Naturalist, City Planner, or other agents designated by the Planning Commission for the purpose of undertaking any investigation, examination, survey, or other activity necessary for the purposes of Chapter 195. If the owner of the property bars such entry, the City Naturalist, Planning Commission and their agents or employees, are empowered to apply to the City Court for an Administrative Search Warrant, permitting such inspection.

 Applicant Signature 1/5/11

 Date

 Property Owner Signature(s) _____
 Date



LWRP Consistency Application

City of Rye, New York Planning Department

Board, Commission or Inspector:	Date(s) of Prior Approval(s):	City Identifier Reference(s):	Previous Action(s) on Application(s):	New Permit(s) Applied for: (Check Boxes)
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O. Signatures

By signing this application the applicant attests that to the best of his or her knowledge all information provided herein is accurate and truthful. The signature of the applicant and owner also grants consent to having any City Staff or City Board or Commission members responsible for of the review or approval of this application(s) to enter the property of the subject application.

Applicant Signature
 Christian K. Miller, AICP
 Rye City Planner

1/5/11

Date

Property Owner Signature(s)

Date



CITY COUNCIL AGENDA

NO. 15

DEPT.: City Council

DATE: January 12, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: Appointment of the 2011 Deputy Mayor by the Mayor.

FOR THE MEETING OF:

January 12, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: that the following resolution be adopted:

RESOLVED, that _____ be appointed the Deputy Mayor for a one-year term commencing January 1, 2011, to serve as Acting Mayor in the Mayor's absence.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:



CITY COUNCIL AGENDA

NO. 16

DEPT.: City Council

DATE: January 12, 2011

CONTACT: Mayor Douglas French

ACTION: Appointment of a Council Member as Trustee of the Police Pension Fund, by the Mayor with Council approval, for a one-year term.

FOR THE MEETING OF:

January 12, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: that the following resolution be adopted:

RESOLVED, that _____ be appointed as Trustee of the Police Pension Fund for a one-year term commencing January 1, 2011.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:



CITY COUNCIL AGENDA

NO. 17

DEPT.: City Council

DATE: January 12, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: Designation of the City Council's Audit Committee by the Mayor.

FOR THE MEETING OF:

January 12, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: that the following resolution be adopted:

RESOLVED, that _____ and _____ be appointed to the City Council's Audit Committee for a one-year term commencing January 1, 2011.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Audit Committee consists of the Mayor and two Council members appointed by the Mayor.



CITY COUNCIL AGENDA

NO. 18

DEPT.: City Council

DATE: January 12, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: Resolution to establish and appoint a Legal Case Management Committee.

FOR THE MEETING OF:

January 12, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider establishing a Legal Case Management Committee.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

A proposal has been put forward to establish a Legal Case Management Committee.



CITY COUNCIL AGENDA

NO. 19

DEPT.: City Council

DATE: January 12, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: Designation of the City Council Liaisons by the Mayor.

FOR THE MEETING OF:

January 12, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council approve the appointments as presented by the Mayor.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Designation of the following City Council Liaisons by the Mayor:

Board of Appeals
Conservation Commission/Advisory Council
Finance Committee
Rye City School Board
Rye Merchants Association



CITY COUNCIL AGENDA

NO. 20

DEPT.: City Manager's Office

DATE: January 12, 2011

CONTACT: Scott Pickup, City Manager

ACTION: Designation of the official City newspaper.

FOR THE MEETING OF:

January 12, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Mayor and City Council designate the Journal News as the official City newspaper for purposes of publishing legal notices.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Rye City Charter requires that the Council designate a newspaper circulated regularly at least once a week in the city as the official newspaper of the city. The City Clerk advises that a daily newspaper provides her with the most flexibility in meeting notice deadlines. Each of the newspapers covering the City provides different types of coverage but working with a weekly paper is much more difficult in meeting notice deadlines and a monthly paper cannot meet the notice needs of the City.



CITY COUNCIL AGENDA

NO. 21

DEPT.: City Manager's Office

DATE: January 7, 2011

CONTACT: Scott Pickup, City Manager

ACTION: Designation of the amounts of faithful performance bonds.

FOR THE MEETING OF:
January 12, 2011

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Mayor and City Council designate faithful performance bonds in the following amounts: City Comptroller \$1,000,000, City Clerk \$500,000, and City Marshal \$100,000.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: