

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, October 5, 2011, at 8:00 p.m. in the Council Room of City Hall. The meeting will be preceded by a *Workshop on Streets, Sidewalks, and Parking* beginning at 7:00 p.m. detailing findings and recommendations from the Shared Roadways Committee.

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Presentation by Mayor and City Manager of Certificates of Public Service to members of the City staff who have served Rye for twenty-five or thirty years.
5. Resolution to accept a donation from the Rye YMCA to the City in the amount of \$20,000.
6. Draft unapproved minutes of the regular meeting of the City Council held September 14, 2011 and the special meeting of the City Council held September 16, 2011.
7. Mayor's Management Report
 - Sustainability Committee Update on potential environmental and energy saving projects for the City
 - Transportation Project Update including Locust/Purchase, Central Avenue Bridge, North Street Bridge, Central Avenue closure
 - Legal Update
8. Presentation on Pedestrian Safety update on Sonn/Boston Post Road and Midland/Palisades.
9. Public Hearing to amend Chapter 100, "Floodplain Management" of the Code of the City of Rye by amending §100-5(B) "Standards for all structures" regarding requirements for homes in the floodplain.
10. Residents may be heard who have matters to discuss that do not appear on the agenda.
11. Summary of the 2012 Budget Process and Consideration of setting the 2012 Budget Workshop schedule.
12. Resolution for a Budget Amendment to increase tax certiorari expense by \$1,330,850 for the Osborn Settlement.
13. Consideration to set a Public Hearing to adopt a Local Law to override the State enacted tax levy limitation.

14. Consideration of a request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, November 27, 2011 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event.
15. Miscellaneous communications and reports.
16. Old Business.
17. New Business.
18. Adjournment.

The next regular meeting of the City Council will be held on Wednesday, October 19, 2011.

** City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at www.ryeny.gov under "RyeTV Live".

* Office Hours of the Mayor on 10/5/11 will be held from 6:30 pm to 7:00 pm in the Mayor's Conference Room.



CITY COUNCIL AGENDA

NO. 4

DEPT.: Police

DATE: October 5, 2011

CONTACT: Commissioner William R. Connors

AGENDA ITEM: Presentation by Mayor and City Manager of Certificates of Public Service to members of the City staff who have served Rye for twenty-five or thirty years.

FOR THE MEETING OF:

October 5, 2011

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Awards will be presented to the following City of Rye employees who have served Rye for twenty-five or thirty years.

EMPLOYEE	DEPARTMENT	YEARS OF SERVICE
James Detlefs	Public Works	25
Scott Fontecchio	Public Works	25
Philip Moccio	Public Works	25
Sgt. Louis Olivier	Police	25
Daniel DeCarlo	Fire	30
Sgt. Nicholas Groglio	Police	30
Richard Roode	Fire	30
Jeffrey Simpson	Public Works	30



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Manager's Office

DATE: October 5, 2011

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Resolution to accept a donation from the Rye YMCA to the City in the amount of \$20,000.

FOR THE MEETING OF:

October 5, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Gregg Howells, the Rye YMCA Executive Director, will present to the City the donation of \$20,000 on behalf of the YMCA.



CITY COUNCIL AGENDA

NO. 6

DEPT.: City Clerk

DATE: October 5, 2011

CONTACT: Dawn F. Nodarse

AGENDA ITEM Draft unapproved minutes of the regular meeting of the City Council held September 14, 2011 and the special meeting of the City Council held September 16, 2011, as attached.

FOR THE MEETING OF:

October 5, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council approve the draft minutes.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Approve the minutes of the regular meeting of the City Council held September 14, 2011 and the special meeting of the City Council held September 16, 2011, as attached.

DRAFT UNAPPROVED MINUTES of the
Regular Meeting/Workshop of the City Council of the
City of Rye held in City Hall on September 14, 2011
at 7:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
RICHARD FILIPPI (Arrived at 7:16 p.m.)
PAULA J. GAMACHE
PETER JOVANOVICH
SUZANNA KEITH
CATHERINE F. PARKER
JOSEPH A. SACK
Councilmembers

ABSENT: None

Mayor French began the meeting noting the great sadness in the City due to the sudden death of Building Inspector Vinny Tamburro. He said Vinny was a dedicated and principled individual who made the City a better place and said his last words to Vinny had been “keep up the good work.” The Mayor added that a common trait mentioned by people who spoke at his funeral was that Vinny was a family man and said everyone’s hearts go out to his wife Karen and their four children. The Mayor then asked everyone to rise and join in a moment of silence.

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.

Storm Workshop

Mayor French began the Workshop portion of the meeting by commending City employees for great work in getting the City back on its feet after the storms and the sudden loss of Building Inspector Vinny Tamburro.

City Manager Pickup provided a summary on the areas of (1) storm preparedness; (2) storm response; (3) disaster relief; and (4) rebuilding.

Storm Preparedness

The City started preliminary work 72 hours before the storm. Catch basins were cleaned, Police, Fire and Department of Public Works equipment was prepositioned; reverse 911 calls and Nixle alerts were sent (45,000 calls were sent to residents and businesses between August 25th and September 2nd) and evacuation warnings were issued. The City did not issue mandatory evacuations, but provided information to allow individuals to make their own choice on whether or not to evacuate. The Emergency Operations Center was opened on Saturday night.

Storm Response

The predicted storm surge levels and sustained wind speeds never reached the levels that were initially predicted. The storm surge was four to five feet and the winds were periodic gusts but never maintained at a gale force. However, the City received a significant amount of rain that created flooding conditions. The City increased the monitoring of the dam to measure the amount of water behind the dam. Heavy bands of rain began about 3:00 a.m. and by 4:30 a.m. the community was under water. The City was able to maintain people in the field during the entire period of the storm. Rescues were made of motorists trapped in cars and people in lower level apartments of Highland Hall and Laurel Street and Orchard Avenue. Due to the amount of water and the speed at which it was traveling, the swift water rescue equipment had difficulty getting through the current. Boats with a greater capacity engine were borrowed from the American Yacht Club in order to make some of the rescues. About 3:00 p.m. on Sunday the wind picked up and there were about 40-45 reports of trees down with wires in trees over the next two hours. This created a second wave of problem conditions for some neighborhoods that initially had not lost power as Con Ed began turning off power due to dangerous conditions. People who had been able to utilize pumps began to experience flooding. The Fire Department was dispatched to Highland Hall in connection with a report of a strong odor of gas or diesel. It was discovered that areas in the basement that contained spilled hearing oil were being pumped out. The pumping was stopped and attempts were made to stop additional flooding into streets and storm drains. The Office of Emergency Management and the Health Department were called and they took over the scene from 5:00 p.m. on Sunday. A mandatory evacuation order was posted on Monday. By 8:00 a.m. on Monday, Con Ed had teams in the City to do electrical and gas inspections and a municipal liaison to help with tree removal work. Beginning Monday morning crews were out doing initial assessments of homes to see if water levels had damaged the gas lines or electrical panel equipment. Con Ed turned off the power to homes whose equipment had been under water during the storm. The effect of Tropical Storm Lee had not been expected, but the City received an extended period of heavy rain that caused more tidal influenced flooding. Between September 3rd and 8th the City sent out another 6,274 email messages and 4,059 text messages.

Recovery

There is a Presidential Disaster Declaration but at this point no formal State Declaration for Westchester County. The FEMA kick off meeting with public assistance teams will be held next week and inspectors will be assigned who will be taken out in the field and shown the public damages. The State CEDAR teams of building inspectors have been in the field and have inspected about 200 structures. The damage numbers are down from the last storm, seeming to indicate that previous actions taken such as raising homes and utilities have helped.

Rebuild

The NYS Department of State has done additional research into the model ordinance, which was adopted by the City in 2007 in order to keep people eligible for the National Flood Insurance Program. Calls have been made to the floodplain administrators in Albany to express concern and ask for assistance. The State has reviewed the model ordinance and will be providing the City with an update, so the City can give people clear guidance as to how they can go about the rebuilding process. The City is encouraging people to raise their homes and the process is being coordinated by City Planner Christian Miller. The City will waive building permit fees as it did in 2007. The City Assessor is not able to provide tax relief at this point because the taxable status date and grievance date have passed. Tax relief may be sought for 2013 from the taxable status date of May 2012.

Members of the public also commented about the recent storm. They included: *Peter Sinnott, Nelson Sales, Carolina Johnson, Holly Kennedy, Bernard Althoff, Kay Beha, Eric Moy, Orly and Sis D'Angelo, Richard Azer, Mitch Schafner, Vickie Edmund, Cedric Raine, Ann Goldsmith, Jim Donovan, Matt Fahey, Jim Amico, Ken McComb, Ted Carroll and Patricia Sales.* Their comments and suggestions included:

- Flooding measures recommended in 1976 by Dolf Rotfeld have yet to be implemented.
- A public/private approach is needed to secure the money necessary to fix flooding, which should be a regional approach.
- A 4' x 10' high plastic interlocking fence should be installed to control the flow of water to stop the brook from overflowing.
- The Rye Flood Action Committee has been working with the City since the 2007 floods.
- Raising homes is not a solution. It doesn't stop flooding.
- The City staff and emergency responders did a great job in preparing for the storm and rescuing people and cleaning up the debris.
- Flooding is a community-wide problem that affects everyone in Rye.
- After the sluice gate is installed, a soil survey should be done regarding enlarging the upper pond to store more water; and a group should be formed to explore building a retaining basin on the SUNY campus north of Anderson Hill Road.
- Landscapers are dumping into the brook.
- Two weeks after the flood, there is still debris in the brook. Rye should be cleaned up.
- Rye can't solve flooding – it must be done by the Federal Government. A 1972 government study suggested building walls along the brook but no one wanted it.
- Flooding is manageable. Maintain the dam. Identify the little things that can be done such as turning impervious surface back to grass in order to show FEMA that the City is serious about flooding.
- Indian Village flooding is man-made due to the engineering of I-95. They get more water than nature intended.
- Ask volunteers to pick up debris from the brook.
- Downstream flow of the brook must be improved. Don't rebuild the Central Avenue Bridge. Buy the Black Bass Grill property to use for flood control.
- The YMCA renovations add to the flooding problem. They should be forced to remove the blacktop and build a levy or put in a culvert to divert the water.

- There was no flooding near Beaver Swamp prior to Harrison's actions.
- Create a volunteer effort to help people prepare for storms and be the eyes and ears for the first responders.
- There should have been mandatory evacuations.
- Flooding must remain a top priority. The City should put money into getting the top flood mitigation people. People would be willing to contribute.
- Rye is not a priority of the State. Rye shouldn't pay taxes until the State gives Rye respect.
- Homeowners can do things to protect themselves.

County Legislator Judy Myers said that the City should look to the County to reinstate the Flood Action Task Force. She said that Rye was one of the few municipalities that got money from that Task Force. She added that a regional approach to flooding is the best.

City Manager Pickup said that the sluice gate is in the last stages of approvals and could be operational in four to six months. He added that the FEMA grant is still pending for the upper pond study and there has been discussion with engineers about doing a smaller scale soil/rock analysis and testing to determine what types of toxins might be in the dredge material. Mayor French noted that discussions have been held with the President of SUNY Purchase within the last year. Mr. Pickup also said that since the model ordinance was adopted in September 2007 in order to allow people to participate in the National Flood Insurance Program, the City has been using it to get people to raise structures and elevate utilities in the floodplain. The dam is inspected every two years by the State and does not fail. He added that cleaning up the brook requires special permits from the Department of Environmental Conservation (DEC).

Members of the Council offered the following comments:

- The DEC does not like dredging. The only way to get flood control projects like increasing the upper pond and building a retaining basin at SUNY Purchase done is to get the support of the Governor to make state-wide flood mitigation a priority.
- The City should more scrupulously enforce its wetland and buffer laws.
- Communities must come together to work on flooding projects to benefit the entire watershed.
- Notifications to residents should indicate street names, not neighborhood names such as "Indian Village."
- The City must focus on upper pond flooding projects.
- Things in government take longer. People should contact Nita Lowey's office to get federal funding in order to get the projects done.
- A system should be worked out for mandatory evacuations.
- The City should look into the legality of below flood level apartments.
- The Council does care about flooding and wants to keep the discussion alive and follow up on the suggestions made.

Mayor French said everyone has a job to do and the City will start to point them in the right direction. The Council will compare notes and come back to the community with a list of the feedback received at this meeting.

The workshop portion of the meeting ended at 9:28 p.m. and the regular meeting began. Agenda items 6, 7 and 10 were taken out of order.

3. General Announcements

- The City has received the funds from the Save America's Treasures Grant for work on the Friends Meeting House.
- The Department of Transportation has rescinded the mandate to replace street signs.

4. Draft unapproved minutes of the regular meeting of the City Council held August 10, 2011

Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried, to approved the minutes of the August 10, 2011 City Council meeting, as submitted.

5. Mayor's Management Report

- Sustainability Committee Update on potential environmental and energy saving projects for the City (This item was postponed to the next meeting.)

- Legal Update

Corporation Counsel Wilson reported on the following matters:

- *Shew v. City of Rye* – A Notice of Appeal has been received in this matter. Our insurance carrier has been notified.
- *Bassett v. City of Rye* – The City's Motion to Set Aside the Jury Verdict in this matter has been granted and plaintiff's motion for attorney's fees has been dismissed.

6. Continuation of Public Hearing regarding a change to the zoning district designation of the 1051, 1037, and 1031 Boston Post Road properties from the B-1 Neighborhood Business District to the B-2 Central Business District and Change the parking district designation of 1031 Boston Post Road from the "C" to the "A" Parking District

Mayor French said that his recommendation to the Council is to close the public hearing, not take action on the proposed local law, and sell the building under its current zoning.

Several members of the public commented on the proposed local law. They included: *School Board President Laura Slack; Scott Berringer, Nancy Pasquale, Ann McCarthy, Bill*

O'Connor, Mitch Palais, John Mayo-Smith, Jim Amico, Library Director Kitty Little, and Priscilla Young. Their comments included:

- The School Board is concerned about the Planning Commission recommendation that would allow the creation of 60 units of housing. School enrollment is higher than it has ever been. The schools could not absorb children coming out of a 60-unit housing development and the taxes generated would not cover the cost of educating the students.
- The idea should never have been considered by the Council.
- There should have been a sign put up on the property noticing the public hearing.
- The Planning Commission should have discussed their proposal with the School Board.
- What can be done to prevent the County Executive from using this suggestion as a way to put more low income housing into Westchester?
- There was not enough notice to the public about the proposals.
- Tax the two and one-half story buildings that are really being used as three story buildings accordingly.
- This issue has been discussed at several meetings.
- The Council should not just close the public hearing - it should vote on the proposal.
- The Library is concerned that whatever is done with the property will impact the services of the library.
- The “secretive” process is what is objected to – not affordable housing or mixed uses for properties.

City Planner Christian Miller explained the process utilized in changing zoning and land use regulations. It is the practice in Rye to refer proposed zoning changes to the Planning Commission. The Planning Commission was asked by the Council to consider if it was appropriate to change the zoning of the properties on the 1037 and 1031 Boston Post Road side of City Hall to make it the same as the properties on the other side of City Hall. He said that in answer to this question the Planning Commission put forth a variety of scenarios, only one of which was for multi-family housing. The Planning Commission did not approve anything. It only put forth suggestions for the City Council to consider.

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

Councilwoman Gamache made a motion, seconded by Councilman Filippi to adopt the proposed local law to change the zoning district designation of the 1051, 1037 and 1031 Boston Post Road properties from the B-1 Neighborhood Business District to the B-2 Central Business District and change the parking district designation of 1031 Boston Post Road from the “C” to the “A” Parking District.

ROLL CALL:

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

The proposed local law was defeated by a 7-0 vote.

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

Jonathan Kraut, Preston Street, spoke about Agenda Item #10. He said he had recently learned that there may not be a line-of-duty death benefit for members of the City's Administrative Pay Group (APG). He urged the City to adopt a policy that would offer health benefits for the survivors of employees in this group in light of the recent death of City Building Inspector Vinny Tamburro. He said he did not suggest that the benefit should be a lifetime benefit, but one that would last until the surviving spouse reached Medicare age and surviving children reached the age of emancipation. He said it was both the moral and the right thing to do and added that in the last 50 years there has been no other line-of-duty death of a member of the APG group. He asked the Council to discuss the matter in Executive Session and make a decision at this meeting. *Jim Amico, Peter Lane and Tony Piscionere* all offered support for the proposal. *Bob Byrne* asked what action the Council was considering taking. City Manager Pickup said that the Council will consider how a modification might be made to extend current retirement benefits to survivors in a situation where there was a line-of-duty death.

Jim Amico, 350 Midland Avenue, spoke about the construction project on Purchase Street and said there should have been better communication with the merchants before the street was closed down on a Saturday morning and said construction equipment should not be left in the street.

Councilwoman Keith made a motion, seconded by Councilman Filippi and unanimously carried to adjourn into Executive Session at 10:57 p.m. to discuss a personnel matter related to Agenda Item 10.

Councilwoman Keith made a motion, seconded by Councilman Sack and unanimously carried, to adjourn the Executive Session at 11:30 p.m. The regular meeting reconvened at 11:32 p.m. The Council then discussed Agenda Item 10.

8. Authorization for Harris Beach PLLC to commence an action challenging the Negative Declaration issued by the DEC in the Beaver Swamp Brook Administrative proceeding
Roll Call.

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 authorizes the firm of Harris Beach PLLC to commence an action challenging the Negative Declaration issued by the Department of Environmental Conservation (DEC) in the Beaver Swamp

Brook Administrative proceeding at the rate of \$215.00 per hour.

ROLL CALL:

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

The Resolution was adopted by a 7-0 vote.

9. Authorization for Joseph A. Maria, P.C. to defend the City of Rye in the Article 78 Petition *Runes v. Board of Assessment Review and City Assessor*
Roll Call.

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 authorizes the firm of Joseph A. Maria, P.C. to defend the City of Rye in the Article 78 Proceeding *Runes v. Board of Assessment Review and City Assessor* at the rate of \$215.00 per hour.

ROLL CALL:

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

The motion was adopted by a 7-0 vote.

This Agenda Item was discussed out of order after the Council came out of Executive Session.

10. Authorization for City Manager to make a benefit update to the Administrative Professionals Group (APG) policy

Corporation Counsel Wilson said the Council cannot take action this evening because it does not have the specific language of the policy change before it, but the Council can authorize the City Manager to clarify the language in the APG policy and vote on the change at the September 28th meeting. The effective date would be retroactive to August 1, 2011.

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

RESOLVED, that the City Manager is hereby authorized to clarify the APG policy by extending the line-of-duty death benefits to the spouse and dependents of the employee until such age that the spouse is eligible for Medicare and the children are emancipated.

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

11. Authorization for City Manager to enter into an Intermunicipal Agreement with the County of Westchester for an Employee Assistance Program

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

RESOLVED, that the City Manager is hereby authorized to enter into an Intermunicipal Agreement with the County of Westchester for an Employee Assistance Program, for a term expiring on December 31, 2014.

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.

12. Authorization for transfer of \$38,296 from RCTV fund balance to RCTV budget for the purchase of a digital productions switcher
Roll Call.

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

RESOLVED, that the City Comptroller is hereby authorized to transfer \$38,296 from RCTV Fund Balance to RCTV Budget for the purchase of a digital productions switcher.

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.

13. Bid Award for City Hall Digital Production switcher and monitor (Bid # 3-11)
Roll Call.

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

RESOLVED, that Bid # 3-11 is hereby awarded to HB Communications for the amount of \$38,296.00.

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. Authorization of a date change for the regular City Council Meeting from November 7, 2011 to November 9, 2011

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to change the date for the City Council meeting originally scheduled for November 7, 2011 to November 9, 2011.

15. Three appointments to the Boat Basin Commission, by the Council, for two-year terms expiring January 1, 2014 and the designation of one member to the Boat Basin Nominating Committee

Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the appointments of Andrew Bodnar, George DeFilippo and Robert Rispoli to

the Boat Basin Commission for two year-terms expiring on January 1, 2014 and Ford Winters to the 2012 Boat Basin Nominating Committee for a one-year term expiring January 1, 2013.

16. One appointment to the Finance Committee for a three-year term expiring on January 1, 2014, by the Mayor with Council approval

Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously approved to appoint John Monaghan to the Finance Committee for a three-year term expiring on January 1, 2014.

17. One appointment to the Rye Town Park Advisory Committee for a two-year term expiring on January 1, 2013, by the Mayor with Council approval

Mayor French made a motion, seconded by Councilman Filippi and unanimously carried to appoint Jason L. Mehler to the Rye Town Park Advisory Committee for a two-year term expiring on January 1, 2013.

18. One appointment to the Rye Playland Advisory Committee to fill out a term expiring on January 1, 2013, by the Mayor with Council approval

Councilwoman Parker made a motion, seconded by Councilman Filippi and unanimously carried, to appoint Garrick Gelinis to the Rye Playland Advisory Committee to fill out a term expiring on January 1, 2013.

19. Consideration of request by the Recreation Department to hold their annual Turkey Run on Thanksgiving Weekend

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

RESOLVED, that the City Council hereby approves the request of the Recreation Department to hold their annual Turkey Run on Saturday, November 26, 2011.

20. Miscellaneous Communications and Reports

Councilwoman Keith said that Governor Cuomo has signed into law the Complete Streets Law. She added that there are no unfunded mandates associated with the law. The Complete Streets team and the Sustainability Committee will be reporting to the Council at future meetings.

21. Old Business

Councilman Sack said that the City and School Board should be held to the same standard that is required of everyone else in connection with land use changes on their properties. If signs are put up on these properties, it will let people know that something important will be discussed relating to the property. Corporation Counsel Wilson said any change would have to be done by local law.

Councilman Jovanovich said that the Council should support the Boards and Commissions that deal with the wetland and wetlands buffer laws in adhering to the law.

Councilman Filippi said that the report from the Water Runoff Committee should be brought back so the issues could be readdressed by the Council.

Councilwoman Gamache asked about the status of the Milton Harbor House drain project. City Manager Pickup said the project is designed and is being discussed with attorneys for Harbor House. The final design may come back to the Council this Fall and then go out to bid.

Councilwoman Keith asked about the Playland Bridge project. City Manager Pickup said that the County sent a notice in late August saying the project was going to be put out to bid. Representatives of the City have met with the County to discuss the City's concerns regarding the continuation of the sidewalk as well as issues related to detours during the project. Ms. Keith also asked if there should be a policy discussion with the community about issues relating to people living in basement apartments in Highland Hall. City Manager Pickup said building codes do not restrict habitable spaces within a floodplain and any change would impact more than those living in Highland Hall. She asked the City Manager to research what other communities do. Ms. Keith also asked for an update on the Black Bass property. City Manager Pickup said there is an action in Rye City Court. Corporation Counsel Wilson said that the owners have filed for a demolition permit but she is not sure if it has been filed yet.

Councilman Filippi asked when the Tree Ordinance would be discussed. City Manager Pickup said it would be on the agenda for the meeting on September 28th.

22. New Business

City Manager Pickup reported that it was the City's turn to hold the Municipal Officials Association meeting in October. It will be held on October 13th at Whitby Castle.

Councilwoman Keith asked if there could be an update on the sluice gate at the next meeting. She also asked how the City could proceed with a reduced soil study for the upper pond. City Manager Pickup said that the Council would have to authorize a transfer from Contingency because there is no money appropriated for this project.

Councilman Sack asked if the Council wanted to reconsider going forward with replacing the Central Avenue Bridge. City Manager Pickup said he would forward the engineering study that the previous Council used when making the decision to go forward with the project.

Councilwoman Keith said that the Traffic Safety Pledge would be postponed while people deal with other priorities.

23. Adjournment

There being no further business to discuss Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the meeting at 12:16 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk

DRAFT UNAPPROVED MINUTES of the
Special Meeting of the City Council of the City of
Rye held in City Hall on September 16, 2011 at 4:00
P.M.

PRESENT:

DOUGLAS FRENCH Mayor
PETER JOVANOVIK
SUZANNA KEITH
CATHERINE F. PARKER
JOSEPH A. SACK
Councilmembers

ABSENT: RICHARD FILIPPPI
PAULA J. GAMACHE
Councilmembers

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 Manager to call the roll; a quorum was present to conduct official city business.

3. Consideration to adopt the proposed New York State changes to the Local Law for Flood Damage Prevention

City Manager Pickup provided a brief history of Chapter 100 (Floodplain Management) of the City Code. In 2007 the New York State Floodplain Manager (a division of the NYS Department of Environmental Conservation) forwarded their Model Ordinance to the City. Adoption of the ordinance was a requirement for the City and properties located in the floodplain to continue to participate in the National Flood Insurance Program. The City Council passed the law (Chapter 100) in September 2007. The goal was to establish standards of compliance for people who live in floodplain areas. The State Building Codes Division (under the Department of State) adopts the New York State Building Codes, which are adopted by the City of Rye and enforced at the local level by the Building Department. Key words in the floodplain law are “substantial improvement” or “new.” A homeowner who is building an entirely new structure must comply with elevating the home above the base flood elevation, which includes utilities. Substantial improvement would be damages that occur to a home that are greater than 50% of the value of the property. The value of homes in Rye is such that many do not meet the 50%

threshold that triggers the elevation requirement. However, there is a utility section under the NYS Building Codes that addresses replacement requirements, which is causing a conflict. The City has asked our NYS Regional Building Official (Erica Kreiger) to provide a written interpretation of this section as it relates to the floodplain law and to the building codes to resolve the conflict. The City is currently applying the stricter standard of the State Building Code. The Floodplain Administrator has updated the 2007 floodplain law, which adds additional language to differentiate the application of the standard for elevating above base flood elevation based on the flood insurance portion of the law. Most of the Rye properties will not meet that standard. It is suggested that the Council set a public hearing for the October 5th meeting on the updated law with the idea of adopting it in October or early November.

There was a lengthy discussion with residents in the audience regarding reconciling the differences between Chapter 100 and the Building Code as they look to repair their homes.

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

WHEREAS, the Council wishes to amend Chapter 100, “Floodplain Management” of the Code of the City of Rye by amending Section 100-5(B) “Standards for all structures”; and

WHEREAS, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

RESOLVED, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on October 5, 2011 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

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

PUBLIC NOTICE
CITY OF RYE

Notice of Public Hearing on a proposed local law to amend Chapter 100, “Floodplain Management” of the Code of the City of Rye by amending § 100-5(B) “Standards for all structures”.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 5th day of October, 2011 at 8:00 P.M. at

City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend Chapter 100, "Floodplain Management" of the Code of the City of Rye by amending § 100-5(B) "Standards for all structures".

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

Dawn F. Nodarse
City Clerk
Dated: September 27, 2011

4. 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 5:55 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk



CITY COUNCIL AGENDA

NO. 7

DEPT.: City Council

DATE: October 5, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: Mayor's Management Report

FOR THE MEETING OF:

October 5, 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:

- Sustainability Committee Update on potential environmental and energy saving projects for the City
- Transportation Project Update including Locust/Purchase, Central Avenue Bridge, North Street Bridge, Central Avenue closure
- Legal Update



Presentation to City Council

Update on Rye Sustainability Committee Activities

October 5, 2011

Summary of RSC Initiatives

- Greenhouse Gas Emissions Audit
- Reusable Bag Initiative
- Outreach/Best Practices
- Potential Biodiesel Initiative
- Energy Efficiency

Go Green to Save Green

Greenhouse Gas Emissions Audit

- Completed:
 - Municipal: Entered all 2009 electricity and gas bills into ICLEI software
 - Community: All data items gathered or estimated and entered into ICLEI software
- In Progress:
 - Municipal: Awaiting fuel oil usage figures and all data confirmation by City staff
 - Community: Awaiting revised 2009 total vehicle miles travelled in Rye from New York Metropolitan Transportation Council
 - Drafting GHG Inventory Summary, to be attached as appendix to the Sustainability Plan

Reusable Bag Initiative

- Studying Best Practices:
 - ▣ Working with neighboring coastal communities
- Promoting Public Awareness:
 - ▣ Created information sheets; posters; BYOB decals
 - ▣ Dispensed information at Sidewalk Sale & Wainwright House events
 - ▣ Organizing “Bag It” Movie on October 21
- Promoting Merchant Awareness:
 - ▣ Presented at June meeting with Rye Chamber of Commerce
 - ▣ Gathered merchant pledge of support signatures (approx. 50 to date)
- Highlighting Cost Considerations:
 - ▣ Plastic litter cleanup and enforcement costs
 - ▣ Added cost of purchasing plastic bags passed onto consumer
 - ▣ Plastic bags clog drains and impede storm water mitigation
- Next Step: Public Hearing on October 19

Outreach Activities

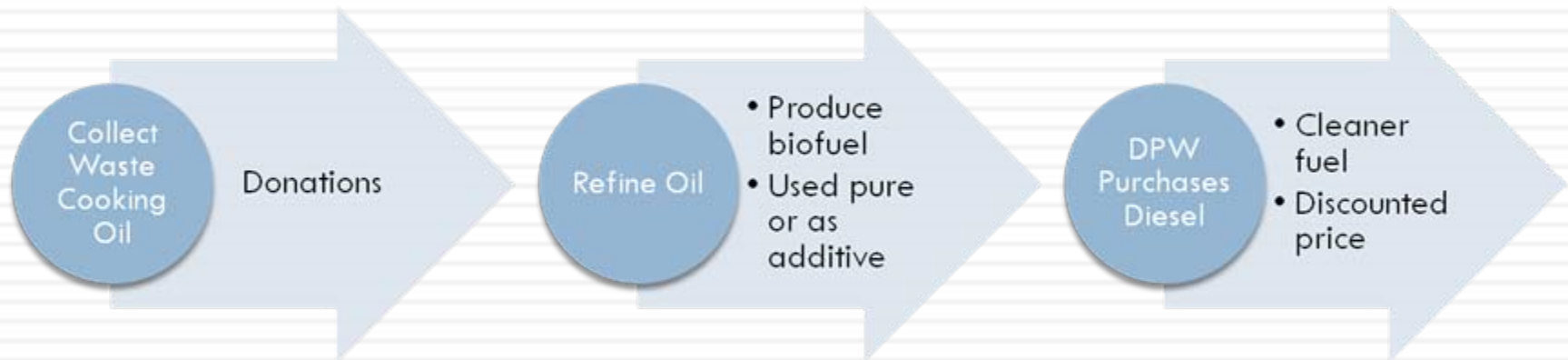
- Expanding page on Ryeny.gov site to include:
 - RSC Mission and Plan
 - Local news/events
 - Relevant links
 - Feedback through online survey
- Creating public awareness:
 - Sidewalk Sale; Wainwright House Community Day event
 - “Bag It” movie on October 21
- Participating in “Eye on Rye” segments related to RSC’s mission and environmental issues
- Outreach to other committees/community organizations
 - Westchester MRF tour on October 17
 - Reusable bag initiative
 - Assisting EAGR on update to Tree Ordinance

Go Green to Save Green

Potential Grease Recycling Initiative

- Potential initiative to recycle waste cooking oil from local businesses
- Collected oil is refined and converted into ultra low sulfur diesel for use in Rye's municipal diesel fleet
- Opportunity to promote a community-wide recycling campaign

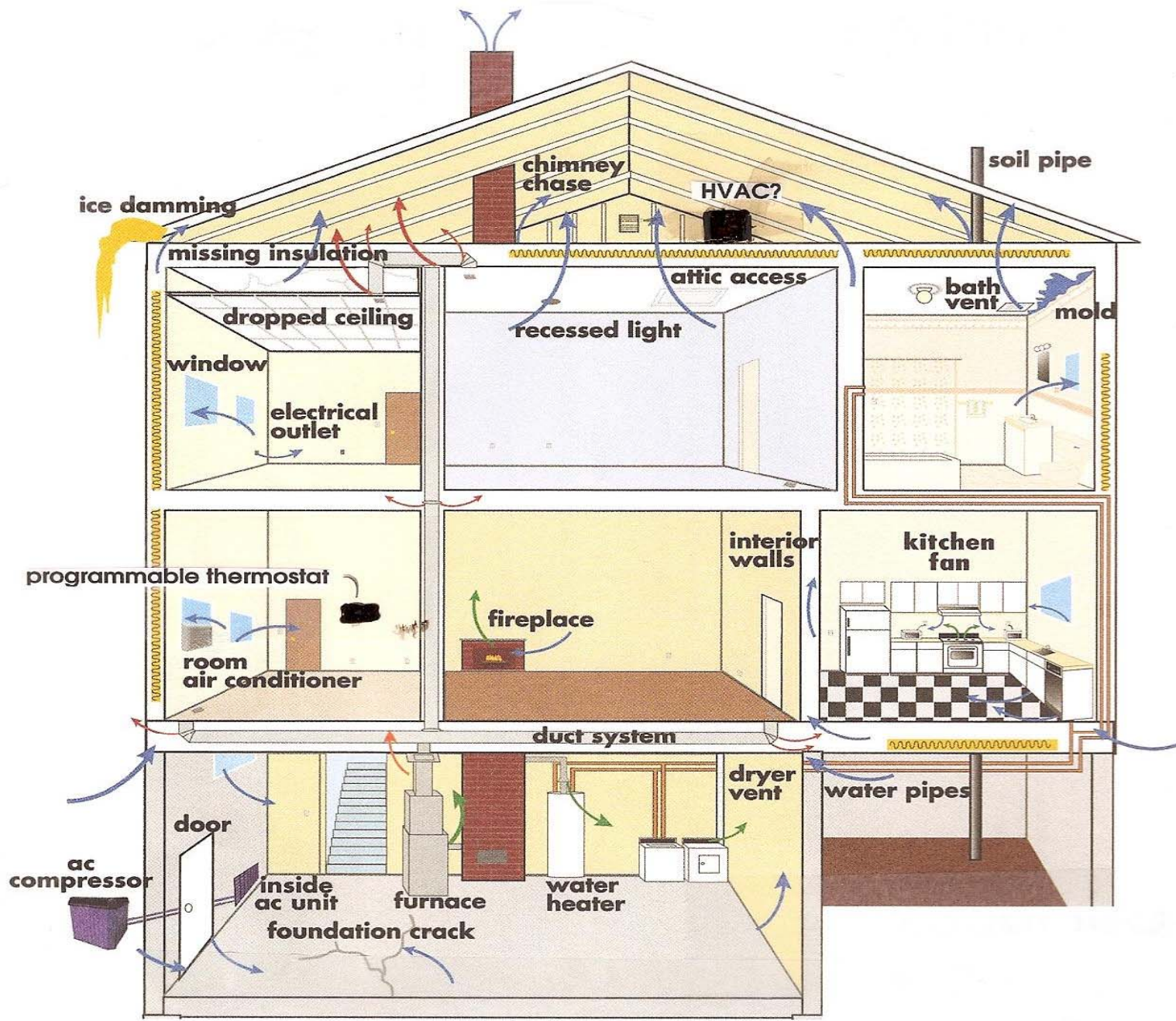
Potential Grease Recycling Initiative



Go Green to Save Green

Energy Efficiency Initiatives

- Background – Judith Martin of Green Home Consulting
- Whitby Castle Walk-through
- City Hall Walk-through



Next Steps

- Completion of GHG Inventory summary
- Continued community awareness initiatives
- Continue to partner with neighboring communities on specific initiatives
- Identify a person to source grants and necessary funding
- Completion of sustainability plan



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[Suggested Welcome Remarks]

"Our commitment to thoughtful planning has enabled us to preserve what's special about Rye while at the same time embracing exciting, new opportunities. Today, more than ever, it's important for us to conscientiously plan for a sustainable future. Being responsible, reducing our impact, finding new solutions, throwing away less, knowing the facts - all while reducing costs.

Douglas H. French
Mayor of Rye

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Welcome

Welcome to the Rye Sustainability Committee, a ten-member group of volunteers tasked by City Council to engage our community in sustaining Rye's natural beauty. Our city's unique position as one of the County's most desirable communities depends on preserving its open spaces, maintaining an attractive shoreline and promoting a healthy environment, all without hampering economic growth. The creation of a Rye Sustainability Plan will enable us to provide a blueprint for the community's shared goals and policies for sustainable and economic development.



Rye Sustainability Mission and Plan



Key Initiatives

- Lorem ipsum cum solis
- Praesent vestibulum
- Magnis dis partiureint

[Read more >](#)



Rye Greenhouse Gas Inventory Results

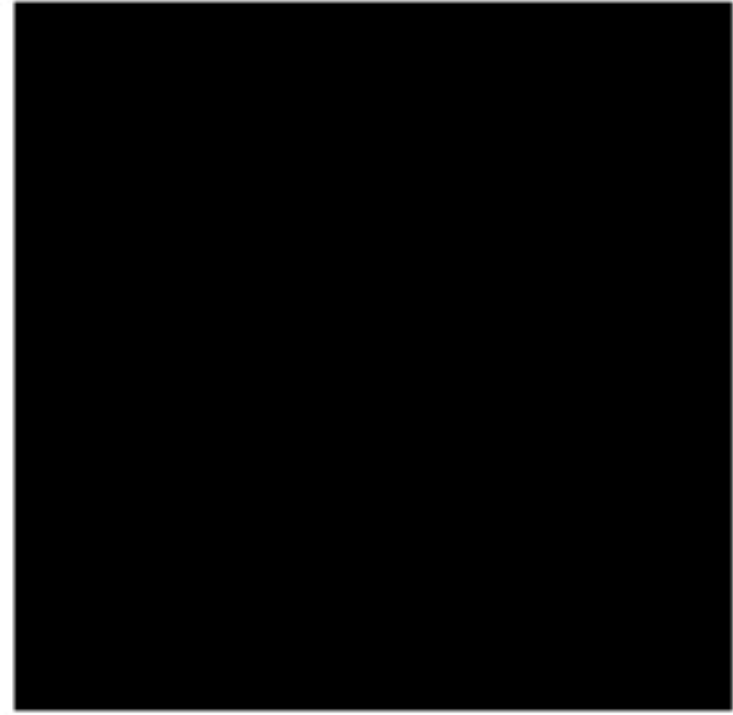
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Find Out What You Can Do

Lorem ipson praesent vestibulum molestie lacus. Anenan nonummy hendrit maris. Phaseoul portat. Fusce sucept varius mei. Cu solcidkkf natoque penat -but et magnis dis particular monthese , anetle



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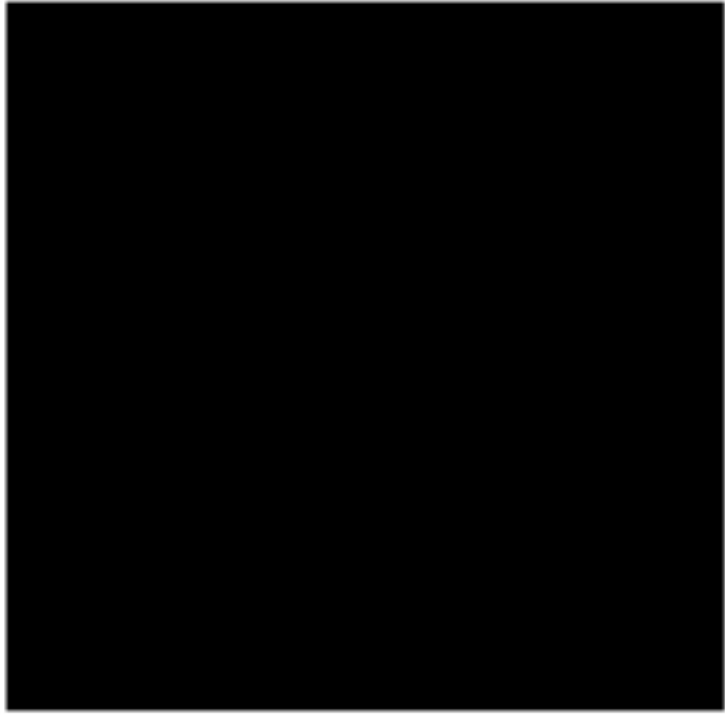
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Rye Sustainability Mission and Plan



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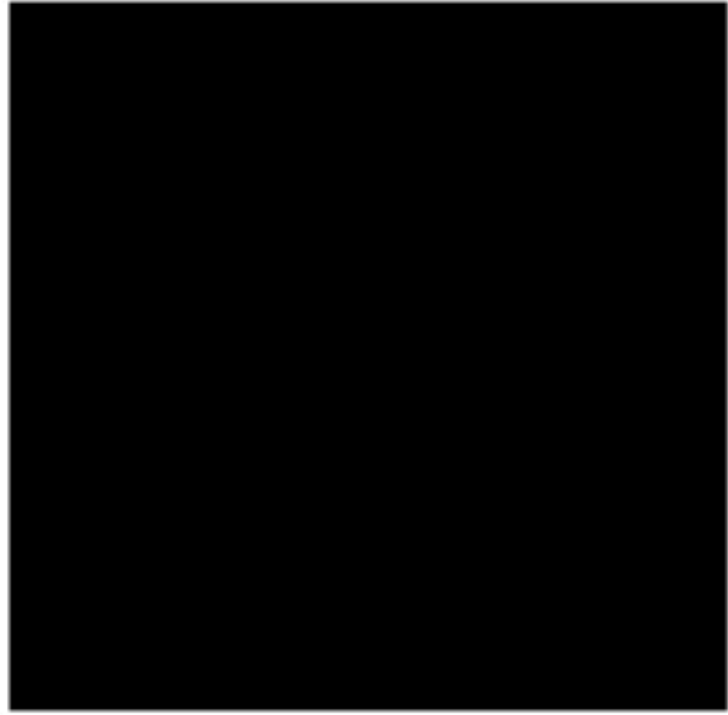
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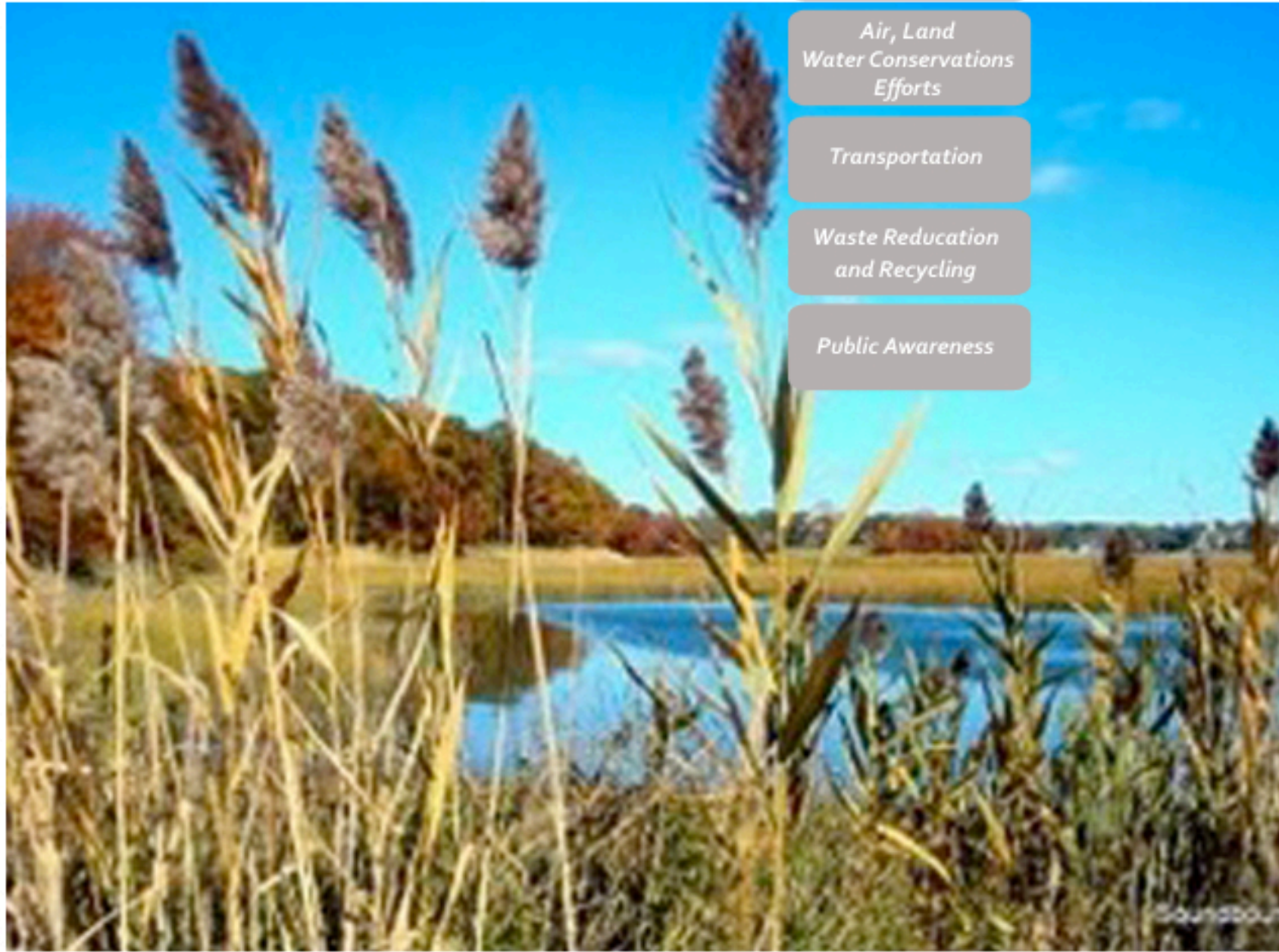


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- Energy Initiatives
- Air, Land Water Conservations Efforts
- Transportation
- Waste Reduction and Recycling
- Public Awareness



[Suggested Welcome Remarks]

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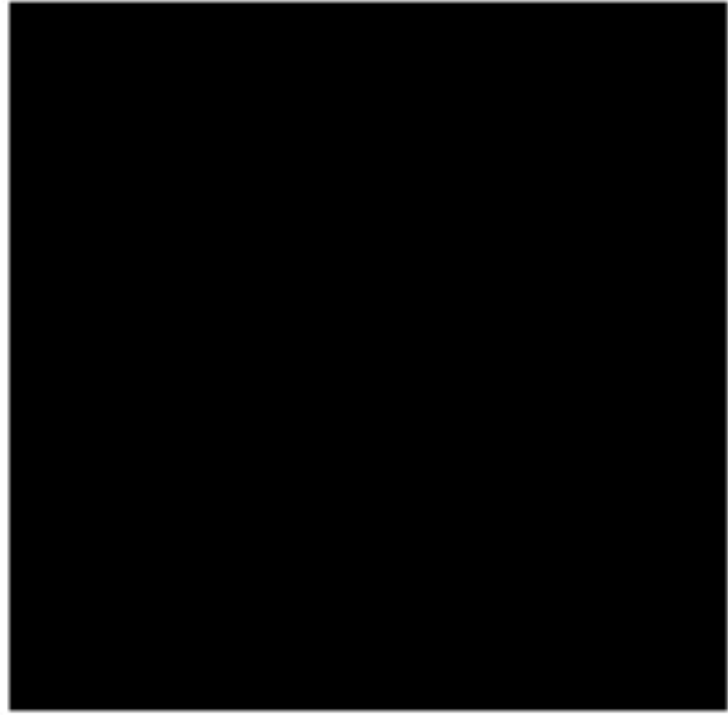
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Rye Greenhouse Gas Inventory Results

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Energy Initiatives

The RSC audit of Rye's greenhouse gas (GHG) emissions indicate that energy usage of Rye buildings accounts for ___% of the community's total GHG emissions. Energy task force projects are designed to reduce GHG emissions by improving energy efficiency while reducing costs. Residential, commercial and municipal sectors are all areas of focus.

Task Force Members



- [Sara Goddard](#)
- [Suzanna Keith](#)
- [Gretchen Crowley](#)
- [Birgit Townley](#)
- [Suzanne Clary](#)
- [Paul Berte](#)
- [Mimi Bateman](#)
- [Marci Raab](#)
- [Annalise Stack](#)
- [Melissa Brown-Grieco](#)
- [Dan Allen](#)
- [Christine Korduba](#)
- [Karen Bresolin](#)

On-going Initiatives

On-going Projects

• *Municipal*



• *Residential*



• *Commercial*



Completed Projects

• *Municipal*

• *Residential*

• *Commercial*





CITY COUNCIL AGENDA

NO. 8

DEPT.: City Manager

DATE: October 5, 2011

CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Presentation on Pedestrian Safety update on Sonn/Boston Post Road and Midland/Palisades.

FOR THE MEETING OF:

October 5, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Presentations will be made on pedestrian safety in the following locations:

- John Collins Engineers, P.C. will present on Sonn Drive and Boston Post Road
- TRC Engineers Inc. will present on Midland Road and Palisades

DRAFT

TECHNICAL MEMORANDUM

Intersection of Midland Avenue & Palisade Road
City of Rye, Westchester County, New York

Prepared for

City of Rye
Rye, New York

Prepared by

TRC ENGINEERS, INC.
Hawthorne, New York

September 29, 2011
TRC Project No. 185685

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A. INTRODUCTION

TRC Engineers, Inc. (TRC) has prepared this Technical Memorandum for the City of Rye, to evaluate the operating conditions for pedestrians and vehicles at the intersection of Palisade Road and Midland Avenue in Rye. The intersection of Midland Avenue and Palisade Road is currently controlled by a STOP sign facing the Palisade Road approach. Crosswalks and ADA-compliant handicapped ramps were recently installed by the City at the intersection, along with sidewalk bumpouts and radar speed measurement signs, as part of an ARRA project to help improve the safety of the intersection. Pedestrians, including Elementary School children, utilize the intersection.

Midland Avenue is a County Roadway that services various residential, recreational and commercial uses as well as Midland Elementary School. Midland Avenue is a 30 mph roadway connecting Playland Parkway with the Village of Port Chester, providing access to the I-95/I-287 interchange, and consists of a single lane in each direction in the vicinity of the intersection with Palisade Road. Parking is permitted along the southern side of the roadway.

Palisade Road is a local roadway providing access for various residences and connects Midland Avenue with Milton Road. Palisade Road consists of a single lane in each direction and operates under STOP control. Sidewalks are located along all approaches of the intersection.

This Technical Memorandum documents the findings of TRC's review, including the manual turning movement traffic counts conducted, travel speeds along Midland Avenue, the existing Levels of Service during the Peak AM and PM School and Commuter Hours, as well as the field observations that were performed by TRC personnel to observe traffic operating conditions. TRC has evaluated the operation of the intersection under stop control for Palisade Road, the impacts of converting the intersection to an All-Way Stop, and the potential for relocating the crosswalk across Midland Avenue.

The City does have a Stop Sign Policy that should be considered.

B. RECENT ARRA IMPROVEMENTS

In conjunction with grant money received by the City under the American Recovery and Reinvestment Act (ARRA), pedestrian safety improvements were constructed at the intersection of Midland Avenue and Palisade Road. These included bumpouts or curb extensions at the southeast and southwest quadrants of the intersection. New ADA-compliant handicapped ramps were installed.

A new crosswalk was provided across Midland Avenue. Because of the existence of a residential driveway, the NYSDOT required the crosswalk to be shifted east of its desired location (and the NYSDOT did not want a skewed crosswalk), further away from the intersection than a typical standard crosswalk location. The tightness of the houses and the multiple curbcuts on the east side make it difficult to locate a crosswalk.

Yield bars and "Yield to Pedestrian" signs were also added. An updated crosswalk was also added along Midland Avenue across Palisade Road.

In addition, four radar speed measurement signs (two per direction) were installed along Midland Avenue, alerting drivers of their traveling speed. While two of the signs were installed closer to the School, the other two were installed on each side of the intersection.

The ARRA project was proposed to improve pedestrian safety and provide ADA ramps at the intersection of Midland Avenue and Palisade Road. At the time, there was no

crosswalk across Midland Avenue at Palisade Road while ADA ramps were also not present.

The main purpose of the bumpouts was to improve pedestrian safety by increasing visibility and reducing crossing distance. Sight distance has been an issue at the intersection due to parked cars along Midland Avenue and vegetation at the corner. The bumpouts allow the pedestrian to be further into the intersection while not in the travelway so that they can see traveling vehicles and drivers along Midland Avenue can see them. The bumpouts also help improve the visibility for drivers on Palisade Road, allowing them to see greater distances along Midland Avenue and also providing for them to pull out further into the intersection. (Unrelated to the ARRA project, the City also had some vegetation cleared at the intersection to further improve sight distance.) With the bumpouts, pedestrians crossing Midland Avenue have less of a distance to cross. No accidents have been reported since the installation of these modifications.

The bumpouts and the installation of the radar speed measurement signs were installed to help pedestrians as well as to slow vehicles traveling through the area. The bumpouts narrow the roadway width, resulting in vehicles driving slower. The radius of the bumpouts causes drivers to take sharper turns, thus also slowing the traveling speeds. The radar speed signs were provided to alert drivers of their traveling speeds, with the hope that drivers notice their speed and drive slower.

C. TRAFFIC DATA COLLECTION

To evaluate operating conditions during these peak demand periods, TRC conducted vehicle turning movement traffic counts from 7:00 AM to 9:00 AM and from 2:00 PM to 6:00 PM on Wednesday, September 21, 2011, while Midland Elementary School was in session. In addition to the manual traffic counts, pedestrian counts were conducted, and field observations were performed to observe traffic operating conditions and to determine roadway geometry, traffic control, etc. Pedestrian observations were also

performed. The Peak AM Hour was determined to be 7:45 AM to 8:45 AM and the Peak PM Hour was 2:45 PM to 3:45 PM. The School Exiting period of 2:45 PM to 3:45 PM had higher traffic volumes than the typical peak commuter hour of 5:00 PM to 6:00 PM.

D. FIELD OBSERVATIONS

Representatives of TRC observed the operating conditions of the intersection when Midland School opens and closes and during the peak commuter period.

In addition, Automatic Traffic Recorder (ATR) counts were performed for a one-week period on both sides of Palisade Road to measure the travel speeds of vehicles along Midland Avenue.

Even with the ARRA improvements including the new crosswalk and the bumpouts, pedestrians, both adults and children, were observed jaywalking, not crossing at the intersection.

E. SPEED MEASUREMENTS

The higher the speed, the more serious a potential accident could be. Also, higher speeds increase the distance needed to stop a vehicle. Therefore, reducing speeding is an admirable goal.

Thus, Automatic Traffic Recorder (ATR) counts were performed from Thursday, September 15, 2011 to Thursday, September 22, 2011 to measure travel speeds along Midland Avenue. One set of the recorders were placed between Ellis Court and Goldwyn Street, while the other set was placed between Palisade Road and Sylvan Road. These locations were the locations that were previously measured by the County. The County

had measured speeds between Ellis Court and Goldwin Street from May 2, 2006 to May 9, 2006, and from June 11, 2007 to June 14, 2007. Between Palisade Road and Sylvan Road, the County measured speed from May 2, 2006 to May 9, 2006.

The following Tables summarize the speeds measured currently, as well as compare the speeds to what the County had recorded:

SPEED MEASUREMENTS			
Northbound Midland Avenue between Ellis Court and Goldwyn Street			
	5/2/06 to 5/9/06	6/11/07 to 6/14/07	9/15/11 to 9/22/11
50 th Percentile	20	20	18
85 th Percentile	34	33	27
95 th Percentile	39	38	32
Mean Speed	21	20	19

SPEED MEASUREMENTS			
Southbound Midland Avenue between Ellis Court and Goldwyn Street			
	5/2/06 to 5/9/06	6/11/07 to 6/14/07	9/15/11 to 9/22/11
50 th Percentile	19	21	18
85 th Percentile	31	35	27
95 th Percentile	35	39	32
Mean Speed	19	21	19

SPEED MEASUREMENTS		
Northbound Midland Avenue between Palisade Road and Sylvan Road		
	5/2/06 to 5/9/06	9/15/11 to 9/22/11
50 th Percentile	19	18
85 th Percentile	32	27
95 th Percentile	37	31
Mean Speed	19	19

SPEED MEASUREMENTS		
Southbound Midland Avenue between Palisade Road and Sylvan Road		
	5/2/06 to 5/9/06	9/15/11 to 9/22/11
50 th Percentile	23	18
85 th Percentile	38	27
95 th Percentile	43	31
Mean Speed	23	19

As illustrated in the above tables, speeds have been reduced in the area, most likely due to the speed radar signs and the bumpouts, as well as the general public awareness. Thus, the ARRA modifications have been relatively effective. During the school entering and exiting periods, speeds are lower than during other parts of the day when there is less traffic. There is not a significant speed issue on this portion of Midland Avenue, though there are some vehicles that do speed through the area.

F. ACCIDENT HISTORY

TRC has reviewed the accident data provided by the Police Department for the intersection and its vicinity since 2006. In 2006, there was a fatal bicyclist accident which occurred near the intersection between #360 and #362 Midland Avenue. There was also a pedestrian hit in the vicinity of the intersection in 2010. There were no reported vehicle accidents at the intersection. Two minor accidents occurred near the intersection, but were not related to the intersection.

G. INTERSECTION CAPACITY ANALYSIS

TRC conducted Level of Service Capacity Analyses for the intersection. The analyses were conducted during the critical Peak AM and Peak PM Hours. The following table summarizes the results of the Capacity Analyses (worksheets are contained in Appendix B).

TABLE NO. 1 PALISADE ROAD AND MIDLAND AVENUE EXISTING CONDITIONS		
APPROACH	PEAK AM HOUR	PEAK PM HOUR
	LOS (Delay)	LOS (Delay)
MIDLAND AVENUE		
Northbound Left/Through	a 7.9	a 7.9
PALISADE ROAD		
Eastbound Left/Right	b 11.8	b 11.4

As illustrated in the above Table, good Levels of Service exist for the intersection, even during the Peak Hours.

H. POTENTIAL TRAFFIC SIGNAL/ROUNDAABOUT

A traffic signal is not warranted based upon the vehicular and pedestrian volume criteria at this intersection based upon the Federal and State Manual on Uniform Traffic Control Devices. A traffic signal would potentially cause greater delays during the majority of the day.

There is not enough right-of-way available to install a roundabout at this location.

I. ALL-WAY STOP SIGN INSTALLATION

The Federal Manual on Uniform Traffic Control Devices (MUTCD) states that STOP signs are to be installed to regulate traffic, but are not to be installed to regulate speed. Studies have shown that STOP signs actually increase speeds in some situations as drivers speed up to make up for lost time. Unwarranted STOP signs can lead to more accidents, particularly rear-end accidents, as drivers are not expecting to stop, as well as disregard for other STOP signs. They also increase noise and air pollution and possibly increase driver frustration leading to more aggressive driving. Based upon the criteria established in the MUTCD, an all-way STOP is not warranted. If someone drives through the STOP

through the STOP sign when the pedestrian is expecting them to stop, a serious accident could occur. The National Safe Kids Campaign states that each year, STOP sign violations are associated with approximately 200 fatal crashes and 17,000 non-fatal injury crashes a year.

If the intersection is to be controlled by a three-way STOP, the existing crosswalk would potentially need to be relocated. TRC has prepared conceptual designs of a three-way STOP without and with relocating the crosswalk. The problem with the existing crosswalk is that, due to its location as a result of the residential driveway, it is further from the intersection than typical. This then would push the stop bar and stop location further back and may confuse some drivers.

As Midland Avenue is a County roadway, TRC has discussed the possibility of converting the intersection to a three-way STOP. The County Traffic Engineer is against this conversion due to the potential increase in rear-end accidents. However, as Rye is a City, it does have the legal authority to install an All-way STOP. Therefore, TRC has analyzed the intersection during the Peak Hours as an All-way STOP. The results of these analyses are illustrated in the table below and indicate that good Levels of Service will be maintained. (However, vehicles on Midland Avenue will now be required to stop.)

APPROACH	PEAK AM HOUR	PEAK PM HOUR
	LOS (Delay)	LOS (Delay)
MIDLAND AVENUE		
Northbound Left/Through	a 10.16	a 9.65
Southbound Left/Through	a 8.64	a 8.48
PALISADE ROAD		
Eastbound Left/Right	a 8.46	a 8.18

J. IMPACTS ON ARRA FUNDING

Because of the current location of the crosswalk or required by NYSDOT, adding STOP signs should result in the shifting of the crosswalk (see attached Sketch in Appendix C). This would required a modification of the ARRA project.

TRC has held discussions with Westchester County regarding the impacts of modifying an ARRA project. Based upon these discussions, modifying an ARRA project within ten years of construction requires approval from NYSDOT and could result in a forfeiture of the funding (most likely the portion for the curb ramp and crosswalk).

If the curb ramp is to be relocated, County approval is also required because it is a physical improvement to a County Road.

K. TESTING OF STOP SIGNS

A possibility is installing the stop signs on a temporary basis and to monitor traffic and pedestrian patterns to determine their effect. However, TRC cautions too much installing/uninstalling STOP signs as drivers will get confused and expect (or not expect) a STOP sign in a particular location. If STOP signs are established, "STOP AHEAD" signs are recommended.

L. SUMMARY AND CONCLUSIONS

Based upon the analysis conducted and the field observations performed, as well as Traffic Engineering Principles and Guidelines, TRC offers the following summary and conclusions:

The Westchester County Traffic Engineer is against the addition of a three-way STOP due to the fact that the location has not been a high accident location and that the additional STOP signs have the possibility of increasing the number of accidents. However, as Rye

However, as Rye is a city, it has the legal authority to install the STOP signs.

The addition of STOP signs most likely would not have eliminated the tragic accident that did occur, as the driver was already driving at a relatively slow speed. However, the crosswalk and bumpouts, as well as possibly a STOP sign, may have further encouraged the crossing to occur at the intersection.

The City Council should consider if Palisade Road is the correct location for STOP signs as opposed to a possible other location such as Goldwyn Street, which is a four-leg intersection, or the School/Recreation Driveway.

Based upon the criteria established in the MUTCD, an All-way STOP is not warranted.

Therefore, TRC Engineers, Inc. does not recommend the installation of the stop signs.



CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager's Office

DATE: September 28, 2011

CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Public Hearing to amend Chapter 100, "Floodplain Management" of the Code of the City of Rye by amending §100-5(B) "Standards for all structures" regarding requirements for homes in the floodplain.

FOR THE MEETING OF:

September 28, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: A Public Hearing will be held regarding changes to Chapter 100 of the City Code: Floodplain Management.

See attached Local Law:

- a) Local Law amending Chapter 100, "Floodplain Management", Section 5(B), "Standards for all structures"
- b) Updated Model Local Law from the New York State Department of Environmental Conservation (DEC) for Flood Damage Prevention (see highlighted section on page 15)

**CITY OF RYE
LOCAL LAW No. 2011**

**A Local Law amending Chapter 100, “Floodplain Management”
of the Code of the City of Rye by amending
Chapter 100-5(B) “Standards for all structures”.**

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

Section 1. Chapter 100-5(B) “Standards for all structures” is hereby amended by adding the following language after the section title:

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 100-3B.

Section 2. Severability

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

Section 3.

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

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
LOCAL LAW FOR FLOOD DAMAGE PREVENTION
INSTRUCTIONS**

The attached MODEL LOCAL LAW is designed to comply with the floodplain management requirements of the National Flood Insurance Program contained in 44 CFR 60.3(b,c,&d). The Department of Environmental Conservation (DEC) has included several optional administrative provisions in the MODEL LOCAL LAW which are strongly recommended for proper administration. **Any changes made to this MODEL should be reviewed by the community's attorney and either the DEC or the Federal Emergency Management Agency (FEMA) before enacting. DEC and FEMA must be provided a list of any changes to this model at the time of filing.**

Department of State Filing Forms – insert all required information. Blank Local Law Filing Forms, including instructions and an online interactive version, can be found at <http://www.dos.state.ny.us/lgss/publications.htm>.

The following sections must be completed by the community:

Page 1, Sect. 1.1 - Insert legislative body and the name of the community twice.

Page 7, Sect. 3.1 - Insert the name of the community.

Page 7, Sect. 3.2 - Complete (1) through (5) as necessary, according to the documents your community has been furnished by the Federal Emergency Management Agency (FEMA). Cross out or delete any unused subsections. Documents you may have received are:

- (a) Flood Insurance Study report--a brown or buff colored booklet, which contains technical data on flooding in the community;
- (b) Flood Insurance Rate Map (FIRM)--a map in either an 11"x17" flat or a Z-fold (road map style) format. If the map consists of more than one panel, an index panel is usually included. The FIRM shows locations of areas of special flood hazard in the community; and,
- (c) Flood Boundary and Floodway Map (FBFM)--a Z-folded sheet that shows the location of floodways in the community.

If your community received only a single FIRM map, fill in (1). The community number, a six digit number whose first two digits are 36, is required and is found in the lower right corner of the FIRM. The community number may also have a letter suffix, which should also be included. Also include the "effective date" shown on the map.

If you received a FIRM map with more than one panel, fill in (2). Be sure to show the community number and the panel numbers (e.g., 361540 0001-0025) and the letter suffix, if one is shown. Also include the "effective date" shown on the index panel.

If you received a Flood Insurance Study report, fill in (3) with the community name, name of your county(s) as shown on the report and date.

If you received a single FBFM, fill in (4).

If your community received a FBFM with multiple panels, fill in (5) with data from the index sheet.

If you are unsure what documents were sent to you, contact the DEC Regional Coordinator for your county (listed on page v) or the DEC Central Office (listed on page iv).

If you received a completed Page 7 from NYS DEC, you may substitute out that page. However, make sure you insert the location where the Flood Insurance Study and the maps are on file.

Page 7, Sect. 3.2 – Insert the location where the Flood Insurance Study and maps are on file.

Page 8, Sect. 3.5 - Same as 3.1.

Page 8, Sect. 3.6 - Same as 3.1.

Page 8, Sect. 4.1 - Insert the title of the individual or group responsible for administering the local law, such as the Building Inspector, Code Enforcement Officer or Planning Board. May not be the same as Sect. 6.1(1).

Page 9, Sect. 4.2-2 - Insert fee amount and community name.

Page 14, Sect. 5.1-3 - Insert the name of the community in the six blanks.

Page 17, Sect. 6.1(1) - Insert the name of the appeals board (in many instances the Zoning Board of Appeals serves this role) and the name of the community. It may be necessary to create a 3-5 person board to fulfill these duties. **In accordance with Town/Village/City Law, the appeals board may neither be the Town/Village/City Board, nor have any common members, nor be the same person or body as named in Sect. 4.1.**

Page 23, Sect. 6.1(2) - Insert the name of the appeal board.

Page 23, Sect. 6.1(3) - Same as 6.1(2).

Page 23, Sect. 6.1(4) - Same as 6.1(2).

Page 24, Sect. 6.1(5) - Same as 6.1(2).

Page 26 - Insert date of enactment, the names of the governing body, community and county, and the date on which the law becomes effective.

Attachment "A" (4 pages) to this document provides a recommended "Floodplain Development Permit Application" form. This form or its equivalent must be used in conjunction with Section 4.2 of this model local law.

Attachment "B" (1 page) to this document provides a recommended "Certificate of Compliance for Development in a Special Flood Hazard Area." This form or its equivalent should be used in conjunction with Section 4.4-7 of this model local law.

Please contact one of the DEC Central Office Program Coordinators listed on page iv should you have any questions about filling in the blanks or if you find any errors or omissions to these instructions, content, or attachments.

Optional Language is provided should your community wish to enact additional requirements to increase the level of safety. Note that many of these options result in points that can result in discounts on flood insurance premiums within communities that participate in FEMA's Community Rating System. Contact DEC for information about the Community Rating System.

NOTE: This document must be adopted in a manner that is legally enforceable. File the indicated number of certified copies with each of the five offices listed below. Follow all instructions and use the official filing form.

1. **FEDERAL AGENCY** (1 copy)

Federal Emergency Management Agency
Mitigation Division
26 Federal Plaza, Room 1337
New York, New York 10278-0002

2. **COUNTY PLANNING** (1 copy)

The planning department for your county.

3. **SECRETARY OF STATE** (3 copies)

State Records and Law Bureau
Department of State
One Commerce Plaza
Albany, New York 12231

4. **DEC CENTRAL OFFICE** (1 copy)*

NYS Department of Environmental Conservation
Floodplain Management Section
Attn: William Nechamen
625 Broadway, 4th Floor
Albany, NY 12233-3504
(518) 402-8185

5. **DEC REGIONAL OFFICE** (1 copy)*

Regional Office address is determined by the county in which the community is located. See page iv for address of Regional Office covering your county.

***Please submit one copy of the "Local Law Acknowledgement" to the DEC Central Office and the DEC Regional Office upon receipt from the Department of State.** However, to expedite approval of your Local Law, please send a copy to the DEC Central Office immediately upon passage, prior to receipt of the "Local Law Acknowledgement."

**New York State Department of Environmental Conservation
Bureau of Flood Protection and Dam Safety
625 Broadway, 4th Floor
Albany, NY 12233-3504
(518)402-8185**

Central Office Floodplain Management Coordinators

Bill Nechamen:	518-402-8146	Chief, Floodplain Management	wsnecham@gw.dec.state.ny.us
Kelli Higgins:	518-402-8143	Environmental Engineer	kahiggin@gw.dec.state.ny.us
Dondi Saltsman:	518-402-8215	Environmental Engin. Tech	djsaltsm@gw.dec.state.ny.us

Regional Floodplain Management Coordinators

1	Nassau & Suffolk	NYS DEC Region 1 Loop Rd., Building 40 SUNY Campus Stony Brook, NY 11790-2356	Eric Star (631) 444-0423 exstar@gw.dec.state.ny.us
2	Bronx, Kings, New York, Queens & Richmond	NYS DEC Region 2 1 Hunters Point Plaza 4740 21st Street Long Island City, NY 11101-5407	Vichit Aramsombatdee (718) 482-4946 vxaramso@gw.dec.state.ny.us
3	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster & Westchester	NYS DEC Region 3 21 S. Putt Corners Rd. New Paltz, NY 12561	Mark Lewis (845) 256-3822 melewis@gw.dec.state.ny.us
4	Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady & Schoharie	NYS DEC Region 4 1150 North Westcott Road, Schenectady, NY 12306	Tom Blanchard (518) 357-2379 teblanch@gw.dec.state.ny.us
5 North	Clinton, Essex, & Franklin	NYS DEC Region 5 Route 86, PO Box 296 Ray Brook, NY 12977-0296	Fred Dunlap (518) 897-1243 fddunlap@gw.dec.state.ny.us
5 South	Fulton, Hamilton, Saratoga, Warren & Washington	NYS DEC Region 5 232 Hudson St. Warrensburg, NY 12885	Rob Streeter (518) 623-1211 rwstreet@gw.dec.state.ny.us
6 South	Herkimer, & Oneida	NYS DEC Region 6 207 Genesee Street Utica, NY 13501	Albert Ash (315) 793-2358 awash@gw.dec.state.ny.us
6 North	Jefferson, Lewis, & St. Lawrence	NYS DEC, Rome Fish Hatchery 8306 Fish Hatchery Rd. Rome, NY 13440	Carl Quance (315) 338-0481 cbquance@gw.dec.state.ny.us
7 North	Cayuga, Madison, Onondaga & Oswego	NYS DEC, Region 7 615 Erie Blvd. West Syracuse, NY 13204-2400	Kevin Delaney (315) 426-7501 kddelane@gw.dec.state.ny.us
7 South	Broome, Chenango, Cortland, Tioga & Tompkins	NYS DEC, Region 7 1679 NY Route 11 Kirkwood, NY 13795	Larry Lepak (607) 775-2545 ext 121 ltlepak@gw.dec.state.ny.us
8 North	Genesee, Livingston, Monroe, Ontario, Orleans, & Wayne	NYS DEC Region 8 6274 E. Avon-Lima Rd. Avon, NY 14414	Colleen Donovan (585) 226-5446 crdonova@gw.dec.state.ny.us
8 South	Chemung, Schuyler, Southern Seneca, Steuben & Yates	NYS DEC, Region 8 276 Sing Sing Rd. Horseheads, NY 14845	Scott Rodabaugh (607) 739-0809 sarodaba@gw.dec.state.ny.us
9	Allegany, Cattaraugus, Chautauqua, Erie, Niagara & Wyoming	NYS DEC, Region 9 270 Michigan Ave. Buffalo, NY 14203-2999	Rebecca Anderson (716) 851-7070 rjanders@gw.dec.state.ny.us

A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36

**SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE**

1.1 FINDINGS

The _____ of the _____ of _____ finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the _____ of _____ and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard;
and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone VI-V30, VE, VO or V.

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood- related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or

(ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or **"100-year flood"** has the same meaning as "Base Flood".

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and

- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

**SECTION 3.0
GENERAL PROVISIONS**

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the _____ of _____, Nassau County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the _____ of _____, Community Number _____ are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers:

whose effective date is, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

- (2) A scientific and engineering report entitled "Flood Insurance Study, Nassau County, New York, All Jurisdictions" dated .

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: _____

_____.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the _____ of _____ from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the _____ of _____, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The _____ is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to

scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$ _____. In addition, the applicant shall be responsible for reimbursing the _____ of _____ for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1-V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (3) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (4) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (5) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.5, NON-RESIDENTIAL STRUCTURES.
- (6) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The

applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- (7) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (8) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.
- (9) In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, designs and specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of 20 pounds per square foot.
- (10) In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, for all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications, prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect, and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this local law.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-2 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(8), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) In Zones V1-V30 and VE, and also Zone V if base flood elevation data are available, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the Local Administrator a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (3) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 COASTAL HIGH HAZARD AREAS

The following requirements apply within Zones V1-V30, VE and V:

- (1) All new construction, including manufactured homes and recreational vehicles on site 180 days or longer and not fully licensed for highway use, shall be located landward of the reach of high tide.
- (2) The use of fill for structural support of buildings, manufactured homes or recreational vehicles on site 180 days or longer is prohibited.
- (3) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

5.1-2 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-3 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the _____ of _____ agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the _____ of _____ for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the _____ of _____ for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the _____ of _____ agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the _____ of _____ for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the _____ of _____ for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

- (4) Within Zones V1-V30 and VE, and also within Zone V if base flood elevation are available, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with non-supporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts are subject to the design requirements for breakaway walls.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES (EXCEPT COASTAL HIGH HAZARD AREAS)

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-2, SUBDIVISION PROPOSALS, and 5.1-3, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 RESIDENTIAL STRUCTURES (COASTAL HIGH HAZARD AREAS)

The following standards, in addition to the standards in sub-sections 5.1-1, COASTAL HIGH HAZARD AREAS, and 5.1-2, SUBDIVISION PROPOSALS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to new and substantially improved residential structures located in areas of special flood hazard shown as Zones V1-V30, VE or V on the community's Flood Insurance Rate Map designated in Section 3.2.

5.4-1 ELEVATION

New construction and substantial improvements shall be elevated on pilings, columns or shear walls such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor (excluding columns, piles, diagonal bracing attached to the piles or columns, grade beams, pile caps and other members designed to either withstand storm action or break away without imparting damaging loads to the structure) is elevated to or above two feet above base flood elevation so as not to impede the flow of water.

5.4-2 DETERMINATION OF LOADING FORCES

Structural design shall consider the effects of wind and water loads acting simultaneously during the base flood on all building components.

- (1) The structural design shall be adequate to resist water forces that would occur during the base flood. Horizontal water loads considered shall include inertial and drag forces of waves, current drag forces, and impact forces from waterborne storm debris. Dynamic uplift loads shall also be considered if bulkheads, walls, or other natural or man-made flow obstructions could cause wave runoff beyond the elevation of the base flood.
- (2) Buildings shall be designed and constructed to resist the forces due to wind pressure. Wind forces on the superstructure include windward and leeward forces on vertical walls, uplift on the roof, internal forces when openings allow wind to enter the house, and upward force on the underside of the house when it is exposed. In the design, the wind should be assumed to blow potentially from any lateral direction relative to the house.
- (3) Wind loading values used shall be those required by the building code.

5.4-3 FOUNDATION STANDARDS

- (1) The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse or lateral movement due to the effects of wind and water pressures acting simultaneously on all building components. Foundations must be designed to transfer safely to the underlying soil all loads due to wind, water, dead load, live load and other loads (including uplift due to wind and water).
- (2) Spread footings and fill material shall not be used for structural support of a new building or substantial improvement of an existing structure.

5.4-4 PILE FOUNDATION DESIGN

- (1) The design ratio of pile spacing to pile diameter shall not be less than 8:1 for individual piles (this shall not apply to pile clusters located below the design grade). The maximum center-to-center spacing of wood piles shall not be more than 12 feet on center under load bearing sills, beams, or girders.
- (2) Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) associated with the base flood acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of 5 feet below mean sea level (msl) datum if the BFE is +10 msl or less, or to be at least 10 feet below msl if the BFE is greater than +10 msl.
- (3) Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. Pilings may be horizontally or diagonally braced to withstand wind and water forces.
- (4) The minimum acceptable sizes for timber piles are a tip diameter of 8 inches for round timber piles and 8 by 8 inches for square timber piles. All wood piles must be treated in accordance with requirements of EPEE-C3 to minimize decay and damage from fungus.
- (5) Reinforced concrete piles shall be cast of concrete having a 28-day ultimate compressive strength of not less than 5,000 pounds per square inch, and shall be reinforced with a minimum of four longitudinal steel bars having a combined area of not less than 1% nor more than 4% of the gross concrete area. Reinforcing for precast piles shall have a concrete cover of not less than 1 1/4 inches for No. 5 bars and smaller and not less than 1 1/2 inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than 2 inches.
- (6) Piles shall be driven by means of a pile driver or drop hammer, jetted, or augered into place.
- (7) Additional support for piles in the form of bracing may include lateral or diagonal bracing between piles.
- (8) When necessary, piles shall be braced at the ground line in both directions by a wood timber grade beam or a reinforced concrete grade beam. These at-grade supports should be securely attached to the piles to provide support even if scoured from beneath.
- (9) Diagonal bracing between piles, consisting of 2-inch by 8-inch (minimum) members bolted to the piles, shall be limited in location to below the lowest supporting structural member and above the stable soil elevation, and aligned in the vertical plane along pile rows perpendicular to the shoreline. Galvanized steel rods (minimum diameter 1/2 inch) or cable type bracing is permitted in any plane.
- (10) Knee braces, which stiffen both the upper portion of a pile and the beam-to-pile connection, may be used along pile rows perpendicular and parallel to the shoreline.

Knee braces shall be 2-by-8 lumber bolted to the sides of the pile/beam, or 4-by-4 or larger braces framed into the pile/beam. Bolting shall consist of two 5/8-inch galvanized steel bolts (each end) for 2-by-8 members, or one 5/8-inch lag bolt (each end) for square members. Knee braces shall not extend more than 3 feet below the elevation of the base flood.

5.4-5 COLUMN FOUNDATION DESIGN

- (1) Masonry piers or poured-in-place concrete piers shall be internally reinforced to resist vertical and lateral loads, and be connected with a movement-resisting connection to a pile cap or pile shaft.

5.4-6 CONNECTORS AND FASTENERS

- (1) Galvanized metal connectors, wood connectors, or bolts of size and number adequate for the calculated loads must be used to connect adjoining components of a structure. Toe nailing as a principal method of connection is not permitted. All metal connectors and fasteners used in exposed locations shall be steel, hot-dipped galvanized after fabrication. Connectors in protected interior locations shall be fabricated from galvanized sheet.

5.4-7 BEAM TO PILE CONNECTIONS

- (1) The primary floor beams or girders shall span the supports in the direction parallel to the flow of potential floodwater and wave action and shall be fastened to the columns or pilings by bolting, with or without cover plates. Concrete members shall be connected by reinforcement, if cast in place, or (of precast) shall be securely connected by bolting and welding. If sills, beams, or girders are attached to wood piling at a notch, a minimum of two (5/8)-inch galvanized steel bolts or two hot-dipped galvanized straps 3/16 inch by 4 inches by 18 inches each bolted with two 1/2 inch lag bolts per beam member shall be used. Notching of pile tops shall be the minimum sufficient to provide ledge support for beam members without unduly weakening pile connections. Piling shall not be notched so that the cross section is reduced below 50%.

5.4-8 FLOOR AND DECK CONNECTIONS

- (1) Wood 2- by 4-inch (minimum) connectors or metal joist anchors shall be used to tie floor joists to floor beams/girders. These should be installed on alternate floor joists, at a minimum. Cross bridging of all floor joists shall be provided. Such cross bridging may be 1- by 3-inch members, placed 8 feet on-center maximum, or solid bridging of same depth as joist at same spacing.
- (2) Plywood should be used for subflooring and attic flooring to provide good torsional resistance in the horizontal plane of the structure. The plywood should not be less than (3/4)-inch total thickness, and should be exterior grade and fastened to beams or joists with 8d annular or spiral thread galvanized nails. Such fastening shall be supplemented by the application of waterproof industrial adhesive applied to all bearing surfaces.

5.4-9 EXTERIOR WALL CONNECTIONS

- (1) All bottom plates shall have any required breaks under a wall stud or an anchor bolt. Approved anchors will be used to secure rafters or joists and top and bottom plates to studs in exterior and bearing walls to form a continuous tie. Continuous 15/32-inch or thicker plywood sheathing--overlapping the top wall plate and continuing down to the sill, beam, or girder--may be used to provide the continuous tie. If the sheets of plywood are not vertically continuous, then 2-by-4 nailer blocking shall be provided at all horizontal joints. In lieu of the plywood, galvanized steel rods of 1/2-inch diameter or galvanized steel straps not less than 1 inch wide by 1/16 inch thick may be used to connect from the top wall plate to the sill, beam, or girder. Washers with a minimum diameter of 3 inches shall be used at each end of the 1/2-inch round rods. These anchors shall be installed no more than 2 feet from each corner rod, no more than 4 feet on center.

5.4-10 CEILING JOIST/RAFTER CONNECTIONS

- (1) All ceiling joists or rafters shall be installed in such a manner that the joists provide a continuous tie across the rafters. Ceiling joists and rafters shall be securely fastened at their intersections. A metal or wood connector shall be used at alternate ceiling joist/rafter connections to the wall top plate.

Gable roofs shall be additionally stabilized by installing 2-by-4 blocking on 2-foot centers between the rafters at each gable end. Blocking shall be installed a minimum of 8 feet toward the house interior from each gable end.

5.4-11 PROJECTING MEMBERS

- (1) All cantilevers and other projecting members must be adequately supported and braced to withstand wind and water uplift forces. Roof eave overhangs shall be limited to a maximum of 2 feet and joist overhangs to a maximum of 1 foot. Larger overhangs and porches will be permitted if designed or reviewed and certified by a registered professional engineer or architect.

5.4-12 ROOF SHEATHING

- (1) Plywood, or other wood material, when used as roof sheathing, shall not be less than 15/32 inch in thickness, and shall be of exterior sheathing grade or equivalent. All attaching devices for sheathing and roof coverings shall be galvanized or be of other suitable corrosion resistant material.
- (2) All corners, gable ends, and roof overhangs exceeding six inches shall be reinforced by the application of waterproof industrial adhesive applied to all bearing surfaces of any plywood sheet used in the sheathing of such corner, gable end, or roof overhang.
- (3) In addition, roofs should be sloped as steeply as practicable to reduce uplift pressures, and special care should be used in securing ridges, hips, valleys, eaves, vents, chimneys, and other points of discontinuity in the roofing surface.

5.4-13 PROTECTION OF OPENINGS

- (1) All exterior glass panels, windows, and doors shall be designed, detailed, and constructed to withstand loads due to the design wind speed of 75 mph. Connections for these elements must be designed to transfer safely the design loads to the supporting structure. Panel widths of multiple panel sliding glass doors shall not exceed three feet.

5.4-14 BREAKAWAY WALL DESIGN STANDARDS

- (1) The breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot, with the criterion that the safety of the overall structure at the point of wall failure be confirmed using established procedures. Grade beams shall be installed in both directions for all piles considered to carry the breakaway wall load. Knee braces are required for front row piles that support breakaway walls.
- (2) Use of breakaway wall strengths in excess of 20 pounds per square foot shall not be permitted unless a registered professional engineer or architect has developed or reviewed the structural design and specifications for the building foundation and breakaway wall components, and certifies that (1) the breakaway walls will fail under water loads less than those that would occur during the base flood; and (2) the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by the building code.

5.5 NON-RESIDENTIAL STRUCTURES (EXCEPT COASTAL HIGH HAZARD AREAS)

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-2, SUBDIVISION PROPOSALS, and 5.1-3, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood elevation must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

(i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

(ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-Section 5.2-3.

- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of sub-Section 5.5(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.6 NON-RESIDENTIAL STRUCTURES (COASTAL HIGH HAZARD AREAS)

- (1) In Zones V1-V30, VE and also Zone V if base flood elevations are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall have the bottom of lowest member of the lowest floor elevated to or above two feet above the base flood elevation. Floodproofing of structures is not an allowable alternative to elevating the lowest floor to two feet above the base flood elevation in Zones V1-V30, VE and V.

5.7 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE, AH, V1-V30, V, and VE shall either:
- (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.7(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH, V1-V30, V, and VE shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (3) Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The _____ as established by the _____ of _____ shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The _____ shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the _____ may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the _____, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the _____ may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and

- (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this _____ day of _____, 20__ by the

_____ of the

_____ , -

_____ County, New York, to be effective

_____.

SEAL

ATTEST _____ CLERK

Attachment A
MODEL FLOODPLAIN DEVELOPMENT
APPLICATION FORM

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit is invalid if no work is commenced within six months of issuance, and expires 2 years from date of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) _____ DATE

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT)

NAME	ADDRESS	TELEPHONE
APPLICANT	_____	_____
BUILDER	_____	_____
ENGINEER	_____	_____

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A map attached to this application, and a sketch showing the project layout would be helpful.

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

<u>ACTIVITY</u>	<u>STRUCTURE TYPE</u>
<input type="checkbox"/> New Structure	<input type="checkbox"/> Residential (1-4 Family)
<input type="checkbox"/> Addition	<input type="checkbox"/> Residential (More than 4 Family)
<input type="checkbox"/> Alteration	<input type="checkbox"/> Non-residential (Floodproofing? <input type="checkbox"/> Yes)
<input type="checkbox"/> Relocation	<input type="checkbox"/> Combined Use (Residential & Commercial)
<input type="checkbox"/> Demolition	<input type="checkbox"/> Manufactured (Mobile) Home
<input type="checkbox"/> Replacement	(In Manufactured Home Park? <input type="checkbox"/> Yes <input type="checkbox"/> No)

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES:

- Fill Mining Drilling Grading
- Excavation (Except for Structural Development Checked Above)
- Watercourse Alteration (Including Dredging and Channel Modifications)
- Drainage Improvements (Including Culvert Work), Stormwater Control Structures or Ponds
- Road, Street or Bridge Construction
- Subdivision (New or Expansion)
- Individual Water or Sewer System
- Other (Please Specify) _____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

- The proposed development is reasonably safe from flooding. Entire property is in Zone B, C or X.
- The proposed development is in adjacent to a flood prone area.
100-Year flood elevation at the site is:
_____Ft. NGVD 1929/ NAVD 1988 (MSL)
 Unavailable
- See Section 4 for additional instructions for development that is or may be in a flood prone area.

SIGNED _____ DATE _____

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by LOCAL ADMINISTRATOR)

The applicant must submit the documents checked below before the application can be processed:

- G A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- G Development plans and specifications, drawn to scale, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, details of enclosures below the first floor, openings in foundation for entry and exit of floodwaters.
Other _____
- G Elevation Certificate
- G Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- G Plans showing the watercourse location, proposed relocations, Floodway location.
- G Topographic information showing existing and proposed grades, location of all proposed fill.
- G Top of new fill elevation _____ Ft. G NGVD 1929/ G NAVD 1988 (MSL)
- G PE Certification of Soil Compaction
- G Floodproofing protection level (non-residential only) _____ G NGVD 1929/ G NAVD 1988 (MSL)
For floodproofed structures, applicant must attach certification from registered engineer or architect.
- G Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity: A. G Is
 B. G Is not
in conformance with provisions of Local Law # _____, (yr) _____. This permit is hereby issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.
If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

Expiration Date: _____

APPEALS: Appealed to Board of Appeals? Yes No
Hearing date: _____
Appeals Board Decision --- Approved? Yes No

Conditions: _____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is: _____ FT. NGVD 1929/
 NAVD 1988 (MSL).
Attach Elevation Certificate FEMA Form 81-31

2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. NGVD 1929/ NAVD 1988 (MSL).
Attach Floodproofing Certificate FEMA Form 81-65

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by LOCAL ADMINISTRATOR)

The **LOCAL ADMINISTRATOR** will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE _____ BY _____ DEFICIENCIES? YES NO
DATE _____ BY _____ DEFICIENCIES? YES NO
DATE _____ BY _____ DEFICIENCIES? YES NO

SECTION 8: CERTIFICATE OF COMPLIANCE (To be completed by LOCAL ADMINISTRATOR)

Certificate of Compliance issued: DATE: _____

BY: _____

Attachment B

**SAMPLE
CERTIFICATE OF COMPLIANCE**

for Development in a Special Flood Hazard Area

**CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA**

(Owner Must Retain This Certificate)

Premises located at:

Owner:

Owner's Address:

Permit No. _____ Permit Date: _____

Check One:

- New Building
- Existing Building
- Fill
- Other:

The Local Floodplain Administrator is to complete a. or b. below:

a. Compliance is hereby certified with the requirements of Local Law No. _____ of _____

Signed: _____ Dated: _____

b. Compliance is hereby certified with the requirements of Local Law No. _____ of _____,
as modified by variance no. _____, dated _____.

Signed: _____ Dated: _____



CITY COUNCIL AGENDA

NO. 11

DEPT.: City Manager

DATE: October 5, 2011

CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Summary of the 2012 Budget Process and Consideration of setting the 2012 Budget schedule.

FOR THE MEETING OF:

October 5, 2011

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Council review the 2012 Budget process and assign dates for the upcoming 2012 Budget Workshops.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Tentative dates for the Budget process include:

- Wednesday, November 9: Presentation of the Budget
- Monday, November 14: Budget Workshop
- Wednesday, November 16: Budget questions can be addressed at the regular Council Meeting
- Monday, November 21: Budget Workshop
- Wednesday, November 30: Budget Workshop
- Wednesday, December 7: Public Hearing on the Budget
- Wednesday, December 14: Budget Workshop
- Wednesday, December 21: Adoption of the Budget



CITY COUNCIL AGENDA

NO. 12

DEPT.: Finance

DATE: October 5, 2011

CONTACT: Jean Gribbins, Comptroller

AGENDA ITEM: Resolution for a Budget Amendment to increase tax certiorari expense by \$1,330,850 for the Osborn Settlement.

FOR THE MEETING OF:

October 5, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: Transfer of Fund Balance Designated for Tax Challenges to Tax Certiorari expense.

IMPACT: Environmental x Fiscal Neighborhood Other:

BACKGROUND:

In anticipation of a settlement, the City has been reserving Fund Balance to cover a settlement regarding the Osborn tax challenge. In 2011, the challenge was settled, and the City issued a check in the amount of \$1,330,850 to the Osborn.



CITY COUNCIL AGENDA

NO. 13

DEPT.: City Manager

DATE: October 5, 2011

CONTACT: Scott D. Pickup, City Manager

ACTION: Consideration to set a Public Hearing to adopt a Local Law to override the State enacted tax levy limitation.

FOR THE MEETING OF:

October 5, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: New York State enacted a 2% tax cap on June 24, 2011. A provision in the law allows a municipality to override this tax cap under certain provisions including:

- Local governments may override the tax levy limit only by first passing a local law that allows for the tax levy limit to be exceeded.
- This override vote requires a 60 percent vote of the total voting power of the governing body to pass.
- In a case where a weighted vote is used to pass the budget, the override will require a 60 percent weighted vote of the local government 's governing body.
- The override vote must precede the vote on adoption of the budget although both votes may occur on the same day.

See attached draft Local Law.

CITY OF RYE

LOCAL LAW NO. ___ FOR THE YEAR 2011

**A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED
IN GENERAL MUNICIPAL LAW §3-C**

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

Section 1. Legislative Intent: It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the City of Rye pursuant to General Municipal Law §3-c, and to allow the City of Rye to adopt a budget for the fiscal year beginning January 1, 2012 and ending December 31, 2012 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

It is the determination of the City Council of the City of Rye that the property tax cap recently enacted by the State Legislature is unfair to the residents of the City of Rye and would severely curtail the ability of the City of Rye to provide necessary services to the City residents. The City Council finds that this local law would provide the City the flexibility it may need when it adopts the 2012 budget. Thus, the City Council of the City of Rye finds that it is in the best interests of the City to enact the local law.

Section 2. Authority: This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the City Council to override the tax levy limit by the adoption of a local law approved by vote of at least sixty percent (60%) of the City Council.

Section 3. Tax Levy Limit Override: The City Council of the City of Rye, County of Westchester is hereby authorized to adopt a budget for the fiscal year 2012 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 4. Severability: If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date: This local law shall take effect immediately upon filing with the Secretary of State.

The Property Tax Cap

Guidelines for Implementation



The information presented is current as of this publication's revision date.

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On June 24, 2011 the property tax cap was signed into law (see Chapter 97 of the NYS Laws of 2011). Below is guidance to assist local governments in the implementation of the property tax cap.

Key Components of the Tax Cap

- ✓ **What is the property tax cap?**
The tax cap law establishes a limit on the annual growth of property taxes levied by local governments and school districts to two percent or the rate of inflation, whichever is less.
- ✓ **Who is subject to the tax cap?**
The cap applies to all independent school districts outside of the Big Five Cities (i.e. dependent school districts) and to all local governments including counties, cities, towns, villages and special districts (except those special districts noted below). The cap does not apply to New York City.
- ✓ **Are there exceptions to the tax cap?**
There are limited, narrow exclusions to the cap, including certain costs of significant judgments arising out of tort actions and unusually large year-to-year increases in pension contribution rates.
- ✓ **Is there an override mechanism to the tax cap?**
The tax levy cannot exceed the cap unless 60 percent of voters (for school districts) or 60 percent of the total voting power of the governing body (for local governments) approve such increase.
- ✓ **When is the tax cap effective?**
The cap first applies to local fiscal years beginning in 2012. Local budgets that commenced in 2011 but conclude in 2012 are not affected.

Technical Information

I. Applicability

The tax cap applies to all independent school districts and all local governments outside of New York City, and is intended to capture the broad range of property taxes levied in New York. Accordingly, the tax cap applies broadly to property taxes that support all local governments, including special districts that are independently governed as well as special districts that are established, governed and administered by another municipality. Where a local government, such as certain special districts, is wholly integrated within another local government – i.e. the special district is established, administered and governed by the board of that other local government, and is supported by a tax levy imposed by and under the authority of that other local government – then any property tax being levied by the overarching local government to support the operations of the subordinate special district is considered part of the tax levy of the overarching local government for purposes of administering the tax cap and override vote, if any. The following entities are covered by the cap:

- All Counties (except those within NYC)
- All Cities (except NYC)
- All Towns
- All Villages
- All Fire Districts
- School Districts (including common, union free, central, central high school, and city school districts, but excluding NYC and the Big Four¹)
- Special Districts (including, but not limited to sewer, water, library and fire protection districts). In the case of special districts the tax cap applies as follows:
 - The tax levy of a special district (such as a water or sewer district) that (i) has a separate independent elected board, and (ii) has the authority to levy a tax, or can require a municipality to levy a tax on its behalf, **is subject to the tax levy limit.**
 - The tax levy of a special district that (i) has a separate independent board appointed by the governing body of another local government, and (ii) has

¹ The budgets for the school districts in the Big Four Cities are within the cities' budgets, and those school districts have no separate taxing authority. The portion of the tax cap law applicable to local governments applies to the budgets of the Big Four Cities.

the authority to levy a tax, or can require a municipality to levy a tax on its behalf, **is subject to the tax levy limit.**

- To the extent the budget of a special district, such as a library district, is comprised of revenues generated by its own taxing authority, or by a tax levy of another local government that the local government is required to impose on behalf of that special district, those tax revenues fall within the tax levy limit of the special district. To the extent the budget of that special district is comprised of revenues generated by the taxing authority of another local government (such as a town or village), and that local government is not required to impose that tax levy on behalf of the special district, those tax revenues fall within the tax levy limit of the town or village.
- A tax levy that supports the operations of a special district that is established, administered and governed by the governing body of another local government— such as a tax levy imposed by a town or county board, under its authority, to support an improvement district created, administered and governed by that town or county board - is part of that town or county's tax levy, and **is to be applied to the tax levy limit of that town or county** – it is not to be separately reported by the special district.
- A special district that raises revenue solely through fees based on use **is not subject to the tax levy limit.**

II. Quantity Change

The Quantity Change Factor adjusts the tax levy limit to reflect an increase in the full value of taxable real property in a local government due to physical or quantity change – i.e. new growth or significant additions to existing properties.

- The Commissioner of Taxation and Finance will issue a Quantity Change Factor for all local governments that have experienced an increase in the full value of taxable real property due to a physical or quantity change.
 - Increases in full value due to changes in assessment only do not constitute a basis for a quantity change factor. A physical or quantity change does not result from the splitting or merging of parcels.
 - Property returning to the tax rolls after the expiration of a PILOT does not constitute a basis for a Quantity Change Factor.

III. Inflationary Factor

The growth in annual levy is limited to the lesser of 2 percent or the Consumer Price Index (CPI), subject to certain limited exceptions and adjustments. For the purposes of the cap the applicable CPI will be the unadjusted "All Items Consumer Price Index for All Urban Consumers" (CPI-U), the broadest and most comprehensive measure released by the Bureau of Labor Statistics. The CPI-U is released on a monthly basis, generally in the third week of the subsequent month.

Based on the most recently released calendar of release dates, the following table illustrates when the inflationary factor will be available for use by local governments in preparing their levy limit for upcoming budgets.

Chart 1. Timing of the Release of CPI-U Index for the Property Tax Cap Inflation Factor

Fiscal Year beginning	CPI-U period ends	CPI-U released
January 1, 2012	June 30, 2011	July 15, 2011
April 1, 2012	September 30, 2011	October 19, 2011
June 1, 2012	November 30, 2011	December 15, 2011
July 1, 2012	December 31, 2011	January 14, 2012

IV. Calculating the Tax Levy Limit

Each local government shall calculate the tax levy limit for the coming year as follows:

- First, determine the total amount of **taxes levied**, not collected, in the prior fiscal year.
 - Property taxes levied by a town to fund the town budget under its taxing authority fall within the town's tax levy limit.
 - Property taxes levied by a town on behalf of another local government (e.g. fire district) pursuant to the taxing authority of that other local government fall within that other local government's tax levy limit.
- Second, if a "tax base growth factor" has been reported to the local government by the Commissioner of Tax and Finance, the total amount of taxes levied for the prior year is to be multiplied by the growth factor.
- Third, add any PILOTs that were receivable in the base year. The total amount of PILOTs receivable is to be included in the calculation of the tax levy limit. No adjustment is permitted.

- Fourth, beginning for fiscal year 2013, subtract the tax levy necessary to support expenditures for tort actions for any amount that exceeds 5 percent of the local government's tax levy in the prior fiscal year. There is no subtraction for these expenditures in the calculation for the 2012 fiscal year.
- Fifth, multiply the result by the allowable levy growth factor, which will be provided by the Office of the State Comptroller.
- Sixth, subtract any PILOTs receivable in the coming year. The total amount of PILOTs receivable is to be included in the calculation of the tax levy limit. No adjustment is permitted.
- Seventh, beginning with fiscal year 2013 budgets, add any available carryover from the prior fiscal year. There is no available carryover for the 2012 fiscal year.
- Eighth, unused exclusions associated with growth in pension costs or tort judgments may not be carried forward.

V. Filing the Levy Limit Calculation

Each local government shall submit to the Office of the State Comptroller any information necessary for calculating the tax levy limit for the coming fiscal year prior to adopting a budget for that year. The Comptroller's office will provide additional information on the form and manner in which such submissions are to be made.

- A special district whose tax levy is determined by the board of another local government (such as a town or county board) does not have to separately submit the above information to the Office of the State Comptroller. The tax levy for that special district is part of that town or county's tax levy, is to be applied to the tax levy limit of that town or county, and is to be included within the information submitted by that town or county to the Office of the State Comptroller.
- A special district that raises revenues solely through fees based on use is not subject to the tax levy limit, and therefore does not have to submit the above information to the Office of the State Comptroller.
- All other special districts are each responsible for ensuring that its tax levy limit is calculated and reported in an accurate and timely manner.
- A special district may authorize another local government that handles its administrative affairs to calculate and report the tax levy limit on its behalf.

VI. Limited Exclusions

The tax cap law allows for a limited number of exclusions to the tax levy limit. These exclusions are:

- **Torts.** Local governments can increase their property tax levy beginning for fiscal year 2012 above the levy limit (the base year levy as adjusted for growth and inflation) for costs resulting from court orders or judgments against the local government arising out of tort actions to be paid in the coming fiscal year. The adjustment can only be made for costs of those court orders or judgments that exceed 5 percent of the total prior year's tax levy. Tax certioraris and breach of contract actions are among the types of actions that **are not** tort actions.
- **Pensions.** The pension exemption is triggered if the annual growth in the average actuarial contribution rate for the Employees' Retirement System (ERS), the Police and Fire Retirement System (PFRS), or the normal contribution rate for Teachers' Retirement System (TRS) exceeds two percentage points. Under the exemption, pension costs associated with the annual growth in the employer contribution rate above two percentage points are exempted from the cap.
 - **Variance in Plans.** In years in which the pension exclusion is triggered, the pension exemption rate is the same percentage of salary (growth in the system average actuarial rate minus two percentage points) for all employers.

Determining the Pension Exclusion

- In accordance with the employer contribution rates recently promulgated by the Office of the State Comptroller, the pension exemption will be triggered for both ERS and PFRS in local governments' FY 2012 budgets. The ERS average contribution rate is increasing by 2.6 percentage points and the PFRS average contribution is increasing by 4.2 percentage points. As a result, the ERS exemption is 0.6 percentage points and the PFRS exemption is 2.2 percentage points. These exemptions are calculated by subtracting two percentage points from the year-to-year increases in the ERS and PFRS average contribution rates (2.6 and 4.2 percentage points, respectively, for FY 2012). A similar exemption is allowed for local governments with TRS pension costs.
- For a hypothetical employer with a \$1 million ERS salary base and a separate \$1 million PFRS salary base, the ERS exemption would be calculated by multiplying 0.6 percent by the \$1 million salary base (\$6,000), and the PFRS exemption would be calculated by multiplying 2.2 percent by the separate \$1 million salary base (\$22,000), for a total pension exemption of \$28,000. All other pension costs fall within the property tax cap limitation.
- The system average contribution rate is to be utilized in calculating the amount of the exemption, even when the system average contribution rate is different than the actual contribution rate that the local government pays for its ERS pension plans. For example, if the ERS average contribution rate is increasing by 2.6 percent, and a local government's actual ERS plan contribution rate increased by only 2 percent, that local government would still be eligible to exclude 0.6 percent of its ERS salary base of \$1 million (or \$6,000). On the other hand, in years where the ERS average contribution rate increased by 3 percent and a local government's actual contribution rate increased by 3.5 percent, that local government can only exempt an amount equal to 1 percent of its \$1 million ERS salary base (or \$10,000).

- **Adjustments and Reconciliations.** Salary reconciliations and adjustments are not to be factored into the pension exclusion.

- **Contribution Rates.** The system average actuarial contribution rate is the average contribution rate paid by all employers in ERS and PFRS. It is published annually by the Office of the State Comptroller.
 - For fiscal years beginning in 2012, the Office of the State Comptroller recently published the ERS and PFRS contribution rates. TRS first published its estimated employer contribution rate in February 2011 for fiscal year 2012.
 - Local governments should use the ERS and PFRS contribution rates recently promulgated by the Office of the State Comptroller to calculate their exclusion for fiscal year 2012. Local governments with TRS pension costs should use the TRS contribution rate formally adopted in August 2011 (which was first published as an estimate in February 2011) for their FY 2012 budgets.
 - In future years, no local government may assume a pension exclusion until the Office of the State Comptroller officially promulgates the ERS and PFRS contribution rates. Accordingly, local governments will not be eligible to take advantage of the pension rate exclusion unless they use these contribution rates. If a local government's local law requires an earlier budget calculation and adoption, the local law must be changed with respect to when the budget is due in order to utilize the pension exception.

- **Salary Base.** The Office of the State Comptroller will provide local governments with their estimated salary bases to calculate their ERS and PFRS pension exclusions. Local governments with TRS pension costs must use their own salary base estimates to determine their TRS pension exclusion.
 - For ERS and PFRS, local governments must use the salary base projected by the Office of the State Comptroller in the calculation of their pension exclusion.
 - For TRS, local governments must continue to use their own initial salary base projections.

- **Amortization.** Local governments utilizing amortization may not levy for the pension exclusion.

VII. Erroneous Levies

Excess levies that are collected due to calculations that are inconsistent with the statute are required to be placed in reserve.

- The law provides for no minimum threshold before funds are placed in reserve, although the Office of the State Comptroller may issue guidelines in this area.
- The law requires that cash be put in reserve.
- If the levy exceeds the tax levy limit due to technical or clerical errors, the excess amount shall be placed in reserve in accordance with Office of the State Comptroller requirements.
- If the Office of the State Comptroller finds upon audit that a local government has levied in excess of the tax levy limit, the local government must place an amount equal to the excess amount of the levy in reserve.

VIII. Overrides of the Tax Levy Limit

Local governments **may override the tax levy limit only by first passing a local law** (or a resolution in the case of a fire or other special district) that allows for the tax levy limit to be exceeded.

- This override vote requires a 60 percent vote of the total voting power of the governing body to pass.
 - In a case where a weighted vote is used to pass the budget, the override will require a 60 percent weighted vote of the local government's governing body.
 - The override vote must precede the vote on adoption of the budget although both votes may occur on the same day.
- The local government may exercise reasonable discretion in drafting a local law or resolution that overrides the tax levy limit, but any such local law or resolution must contain language that clearly overrides the levy limit.
- The local governing body may adopt the budget right after adopting the local law. If the Secretary of State rejects the local law for filing because of technical reasons, and those technical reasons are not cured within a reasonable period of time, the amount of the tax levy that exceeded the tax levy limit (other than a levy for those items excluded from the tax levy limit) shall be placed in reserve pursuant to paragraph 6 of section 3-c of the General Municipal Law.

- In the event that a local government successfully overrides the tax levy limit, the base for the following year's tax levy limit calculation is the amount that was levied in the prior year inclusive of the override amount, less any amounts to be subtracted as set forth in the statute.
- In the case of a special district that requires a popular vote to pass the budgetary increase, the 60 percent voting requirement only applies to the board's vote, not to the popular vote (where only a majority vote continues to be required).

Example: Non-Charter Counties Budget Process

- The budget officer of a non-charter County has to submit a tentative budget by November 15, but may be required by the County's board of supervisors to submit that tentative budget by October 1.
- Members of the committee of the board of supervisors designated or created to review the tentative budget are entitled to investigate and inquire about the estimate of any administrative unit or the request for an appropriation of any authorized agency, and are entitled to attend all hearings conducted by the budget officer.
- The board of supervisors of that County has until December 20 to adopt a budget.
- Accordingly, that County has between 5 to 11 weeks to enact a local law that overrides the tax levy limit (which local law has to be upon the desks or tables of the board of supervisors for at least 7 calendar days, excluding Sundays, unless there is a message of necessity).
- As is required for all local laws, the proposed local law that overrides the tax levy limit is subject to a public hearing on five days notice, unless a local law prescribes a different notice requirement.
- See attached charts entitled "**Timeline for Tentative County Budget that Requires Tax Cap Override**" and "**Timeline for Tentative County Budget as Amended by Board of Supervisors that Requires Tax Cap Override.**"

Example: Town Budget Process

- The town clerk of a town has to submit a tentative budget to the town board on or before September 30 (or on or before October 30 for towns in Westchester and Monroe Counties).
- A town board has until November 20 (or December 20 for towns in Westchester and Monroe Counties) to adopt the budget.
- Accordingly, towns in counties other than Westchester and Monroe have more than 6 weeks to enact a local law that overrides the tax levy limit (which local law has to be upon the desks or tables of the town board members for at least 7 calendar days, excluding Sundays, unless there is a message of necessity). Towns in Westchester and Monroe Counties have nearly 6 weeks to pass such a local law.
- As is required for all local laws, the proposed local law that overrides the tax levy limit is subject to a public hearing on five days notice, unless a local law prescribes a different notice requirement.
- See attached charts entitled “**Timeline for Tentative Town Budget that Requires Tax Cap Override**” and “**Timeline for Tentative Town Budget as Amended by the Town Board that Requires Tax Cap Override.**”

IX. Budget Process: Final Adoption of a Budget

A budget officer, or chief executive, may prepare a tentative budget that requires a tax levy in excess of the levy limit. However, the governing body cannot, without first complying with override requirements, (i) adopt a budget that requires a levy in excess of the tax levy limit, or (ii) impose or cause the imposition of a tax levy to the extent that a budget requires a levy in excess of the levy limit.

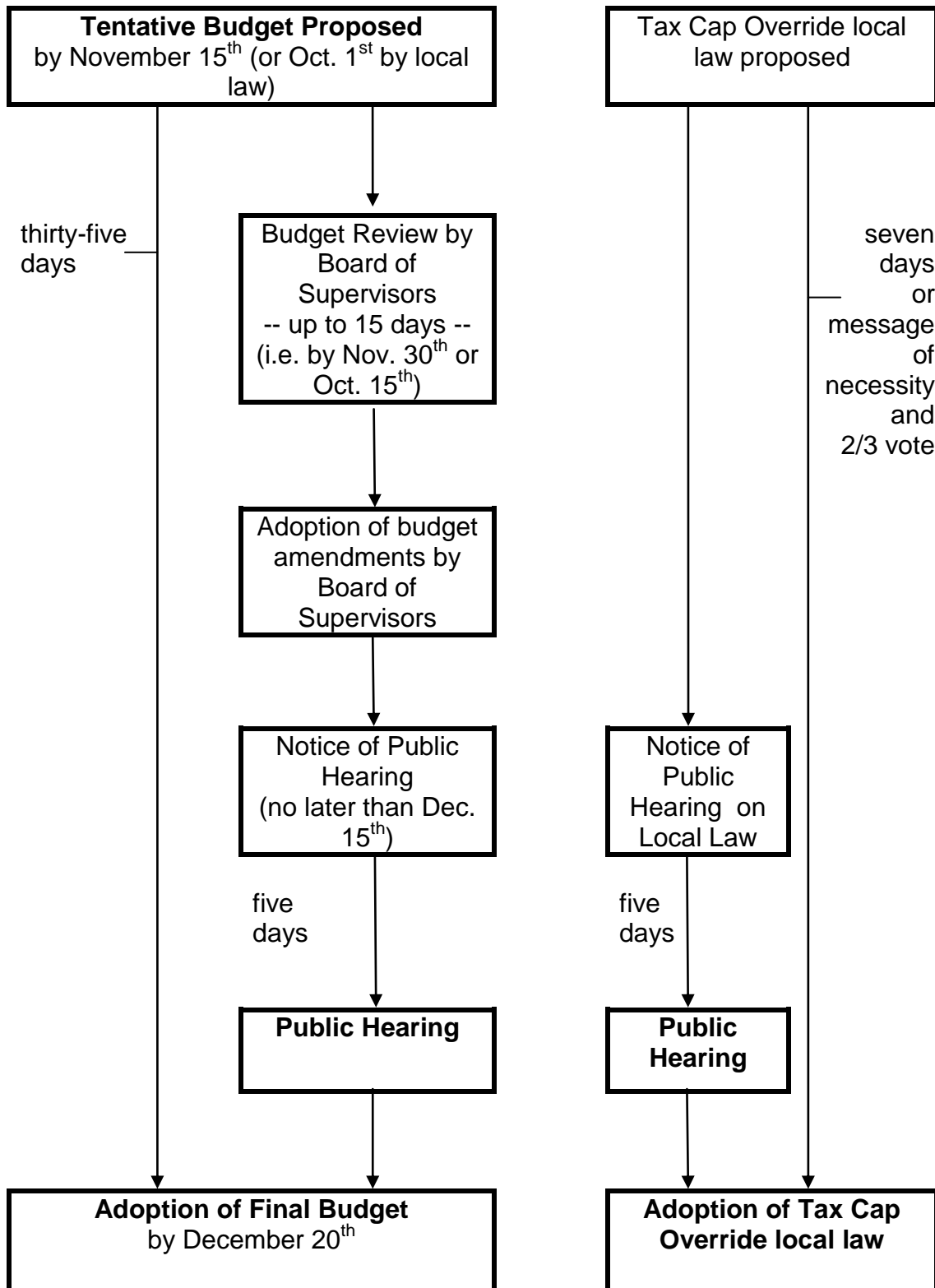
X. Special Circumstances: Consolidation, Dissolution & Transfer of Functions

When significant changes are made to the structure or governance of a local government, the tax levy limit calculation will need to be determined by the Office of the State Comptroller.

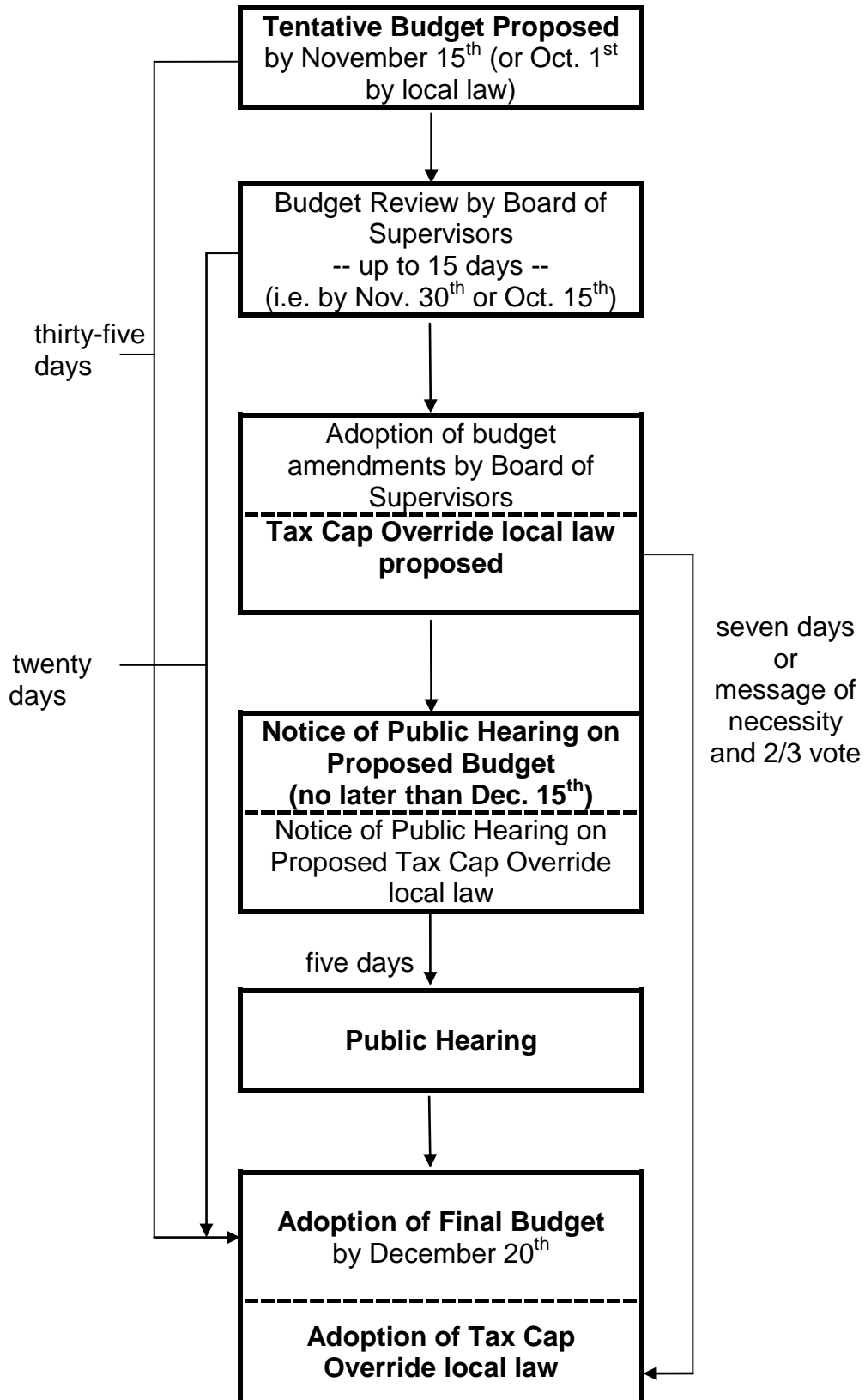
- **Consolidation.** When two or more local governments consolidate, the Office of the State Comptroller will calculate the tax levy limit for the first year after the consolidation. This calculation will be based upon the prior year tax levy limits of both local governments, but other factors pertaining to the consolidation may also be considered.

- **Transfer of Functions.** If a local government determines that it is in the best interest of the citizens to transfer the function for a governmental activity (such as policing) to another local government, the Office of the State Comptroller shall determine the costs and savings of the associated function for both local governments. This determination will be provided to the local governments so that the appropriate adjustments can be made to their tax levy limit calculations.
- **Dissolutions.** When a local government dissolves, the Office of the State Comptroller will calculate the tax levy limit for the local government that assumes the debts, liabilities and obligations of the former local government. This calculation will be based upon the prior year tax levy limits of both local governments, but other factors pertaining to the dissolution may also be considered.
- **New Local Governments.** The tax levy limit does not apply to the first fiscal year of a newly established local government (which is not the result of a consolidation or dissolution).

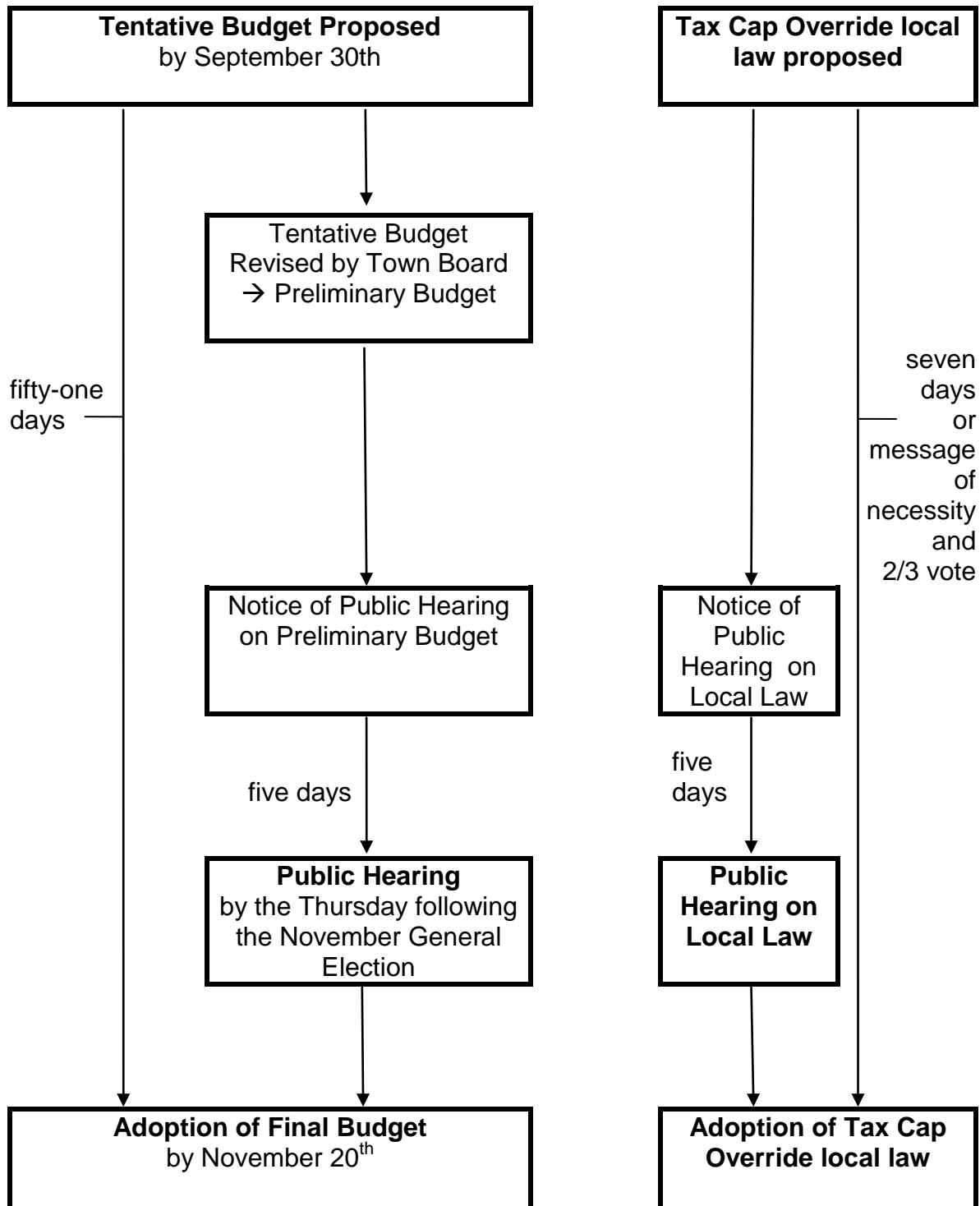
Appendix A Timeline for Tentative County Budget that Requires Tax Cap Override



Appendix B
Timeline for Tentative County Budget as Amended by Board of Supervisors
that Requires Tax Cap Override

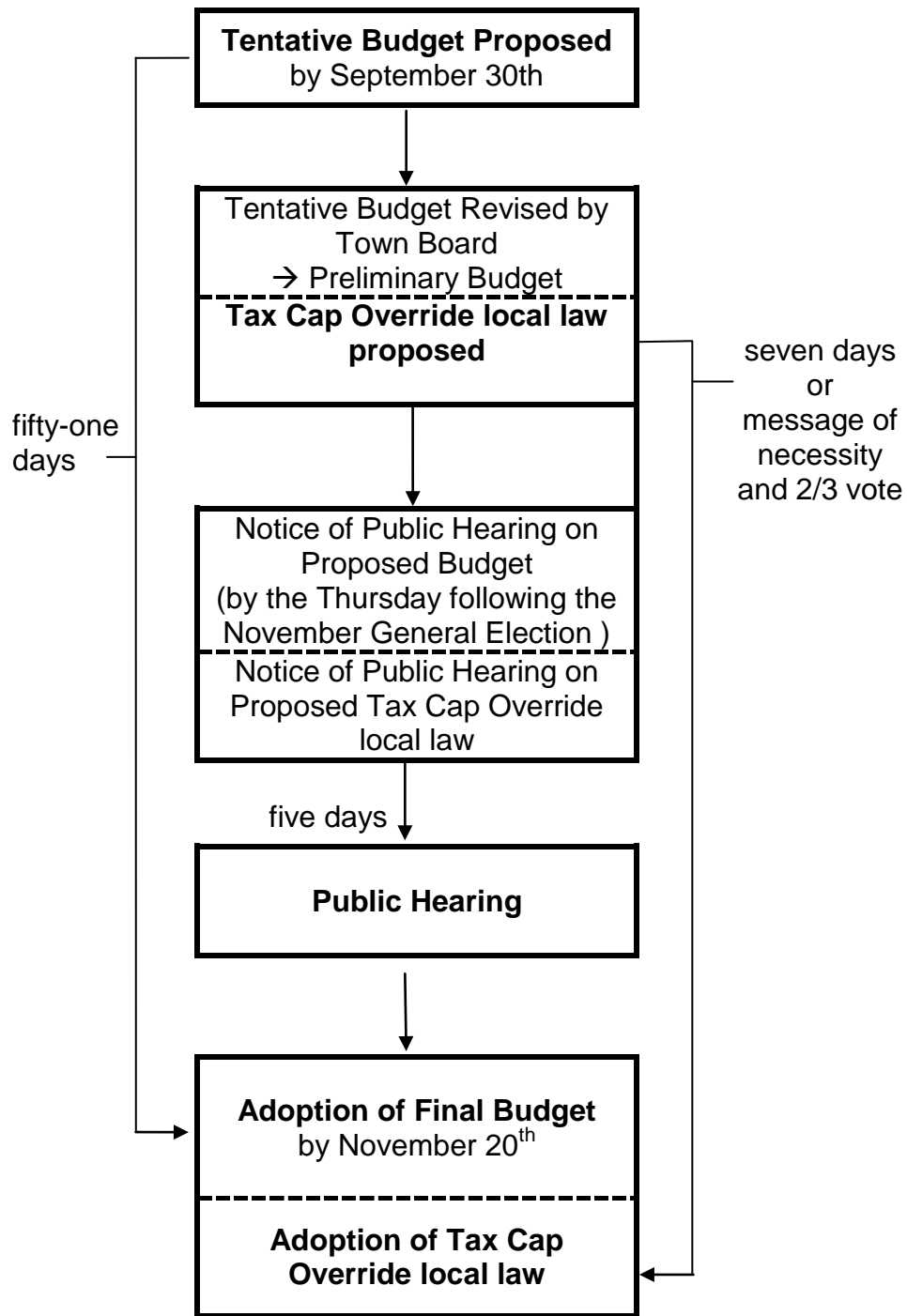


Appendix C
Timeline for Tentative Town Budget that requires Tax Cap Override*



* The budget calendars are different for towns in Monroe and Westchester Counties

Appendix D
Timeline for Tentative Town Budget as Amended by the Town Board
that requires Tax Cap Override*



* The budget calendars are different for towns in Monroe and Westchester Counties



CITY COUNCIL AGENDA

NO. 14

DEPT.: City Manager

DATE: October 5, 2011

CONTACT: Scott D. Pickup

AGENDA ITEM: Consideration of a request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, November 27, 2011 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event.

FOR THE MEETING OF:

October 5, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider granting the request.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The Merchants Association is requesting the Council authorize the closing of Purchase Street for its annual Mistletoe Magic event to be held this year on Sunday, November 27, 2011 from 10:00 a.m. to 3:00 p.m.