

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, October 9, 2013, at 8:00 p.m. in Council Chambers at City Hall. *The Council will convene at 7:30 p.m. and it is expected they will adjourn into Executive Session at 7:31 p.m. to discuss labor relations.*

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meeting of the City Council held September 11, 2013.
5. Mayor's Management Report
 - Capital Projects Update
 - Labor Contracts Update
 - Legal Update
6. Update on the Rye Playland Improvement Plan from Sustainable Playland, Inc.
7. Public Hearing for October 9, 2013 to amend local law Chapter 197, Zoning, of the Rye City Code, Section §197-1, "Definitions and Usage", to amend the definition of "STORY, HALF", and Section §197-43.2, Subsection B, "Attics" to amend the Calculation of Attics in Gross Floor Area.
8. Public Hearing for October 9, 2013 to: 1) adopt a local law amending Chapter 53, Architectural Review, of the Rye City Code, Section §53-1, "Definitions" to amend the definition of "Small Project", and 2) adopt a local law to amend Chapter 197 Article IV "Use Regulations" and Article VI "Appeals" to establish regulations regarding outdoor fire pits and outdoor kitchens.
9. Discussion regarding the addition of a new article to the Rye City Code to provide tax exemptions for improvements to historic properties.
10. Summary of the 2014 Budget Process and Consideration of setting the 2014 Budget Workshop schedule.
11. Discussion of the proposed Safe Routes to School Initiatives.
12. Consideration of Resolution to establish a "Complete Streets" Policy for the City of Rye.
13. Consideration of the proposed revision of the Rules and Regulations of the City of Rye Police Department General Order #111.05 regarding a Prescription Drug Collection Box.

14. Resolution to appropriate \$90,000 from the Building and Vehicle Fund, Fund Balance to the 2013 Public Works Fund for the purchase of a sidewalk plow to enhance the sidewalk cleaning program for critical corners and routes.
Roll Call.
15. Resolution to transfer additional funds from the Contingency account to fund the support design and survey work for Safe Route To School project submissions and SEQRA Lead Agency declaration (\$40,000) and for the retro-fit of Fire Department air pack sets (\$50,000).
Roll Call.
16. Residents may be heard on matters for Council consideration that do not appear on the agenda.
17. Authorization for City Manager to enter into an Agreement for Emergency Medical Transport with the Village of Port Chester, the Village of Rye Brook and Port Chester-Rye-Rye Brook Volunteer Ambulance Corps, Inc.
Roll Call.
18. Three appointments to the Rye Golf Club Commission for a three-year term expiring January 1, 2017, and the designation of one member to the Rye Golf Club Nominating Committee.
19. One appointment to the Rye Cable and Communications Committee for a three-year term expiring on January 1, 2017, by the Mayor with Council approval.
20. Consideration of a request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, December 1, 2013 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event.
21. Appeal of denial of FOIL request by Timothy Chittenden.
22. Miscellaneous communications and reports.
23. Old Business.
24. New Business.
25. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, October 23, 2013 at 8:00 p.m.

** 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 by appointment by emailing dfrench@ryeny.gov.



CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: October 9, 2013

CONTACT: Dawn Nodarse

AGENDA ITEM Draft unapproved minutes of the regular meeting of the City Council held September 11, 2013, as attached.

FOR THE MEETING OF:

October 9, 2013

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 11, 2013, as attached.

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on September 11, 2013 at 8:00
P.M.

PRESENT:

DOUGLAS FRENCH Mayor
LAURA BRETT
RICHARD FILIPPI
PETER JOVANOVIĆH
JULIE KILLIAN
JOSEPH A. SACK
Councilmembers

ABSENT: CATHERINE F. PARKER, Councilwoman

1. Pledge of Allegiance

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

2. Moment of Silence in remembrance of 9/11

Mayor French called for a moment of silence in remembrance of 9/11 as Councilman Filippi read the names of the 15 people from Rye who were lost that day.

3. Roll Call

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

4. General Announcements

Mayor French noted the passing of Board of Architectural Review member Mark Schindler.

Other announcements were also made regarding events and activities of interest to the community.

Representatives of the Fire Department said that they will be selling tee shirts to raise money for the "Sole Ryeders" in support of Breast Cancer Research and asked if the Members of the City Council would wear them to the next Council meeting. The shirts will be on sale at the

Firehouse. Mayor French made a motion, seconded by Councilwoman Killian and unanimously carried to adopt the following Resolution:

RESOLVED, that the members of the City Council will wear shirts at the October 9th City Council meeting in support of the “Sole Ryeders” and the fight against Breast.

5. Draft unapproved minutes of the regular meeting of the City Council held August 5, 2013

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to adopt the minutes of the regular meeting of the City Council held on August 5, 2013, as amended.

6. Mayor’s Management Report

- Capital Projects Update

City Manager Pickup noted that the Central Avenue Bridge had been opened and the paving of the Boston Post Road had been completed prior to the opening of school. He said sidewalk improvements were done near Milton School, Midland School and the High School/Middle School. The contractor is getting ready to start work on the Old Milton Road Drainage Project. City staff are in discussions on the next phase of Central Business District (CBD) improvements. Hopefully, the next major project to get in the field will be the restoration of the Theodore Fremd Avenue Wall. Work will begin on some of the Safe Routes to Schools projects so that the work can be programmed for next summer. The Council was provided with a copy of the existing agreement with MTA for the parking lot. Mr. Pickup added that it would be helpful if a member of the Council would be able to join any discussions with the MTA regarding making improvements to the lot. The City has been working with Rye Town Park on the storm damage to the Dearborn Avenue seawall and the next phase will be to put out a bid spec for the repairs.

- School Crossing Guards

City Manager Pickup reported that all of the crossings are fully staffed including a new crossing at Midland and additional crossings at the High School. It was also suggested that an additional crossing should be staffed at the corner of Milton and Palisade Roads. The City Manager was asked to provide the Council with a list of the hours for the crossing guards prior to and since the new company took over.

Mayor French suggested that the City Manager contact the School District to find a date for a joint meeting with the School Board.

- Rye Golf Club Operations Update

The Club is in the beginning stages of their 2014 budget. The goal is to have a budget through the Commission process by early October and to the City by the middle of October. The Club is on target for a cash positive year, for the first time in five years. A decision on whether or not to hire a full-time Manager will impact the budget discussions. Mr. Pickup has spoken with some professional firms regarding the search for a new manager and will discuss with the Commission about how to go forward. A suggestion was made to set up a committee. The City is hoping to have a draft of the update to the Maximus study to the Commission prior to the completion of the budget. Corporation Counsel Wilson reported that the City has still not received a coverage letter from Travelers in connection with the claim for employee theft. She has provided them with all information that they have requested. One issue that has come up is if it is more than one claim over several years.

- Boat Basin Operations Update

City Manager Pickup said that a preliminary meeting has been held with a new consultant regarding putting together the next potential application for dredging options that might include other parties.

- Storm Preparations

Meetings have been held with Con Ed. They have a new App for Smart Phones that has an enhanced outage capability and ability to communicate with Con Ed and provide better information as well as an App limited to emergency operations personnel. They are making other improvements to their emergency response capability, which seem to be positive improvements. FEMA is updating their Coastal Maps for Inundation Zones.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

- *American Leisure* filed a Notice of Claim against the City in early August for anticipatory breach of the contract. Travelers has denied coverage since it is a contractual claim. She has sent out a demand for a supplemental notice and a demand for a 50H hearing for the beginning of October.
- *Westchester Joint Water Works* – the appeal will be fully submitted next week. It involves both school districts and the City regarding Westchester Joint Water Work’s pipes in the City. There is a significant notice issue with respect to the Rye Neck School District because most of the pipes are under their property and they were never served. Oral arguments should take place before the end of the year.

7. Public Hearing to adopt the Westchester County Sluice Gate legislation: “Development and Planning Standards” Intermunicipal Agreement Compliance (Local Law to repeal Chapter 173 and modify Chapter 174)

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

City Planner Miller said that the proposed legislation would eliminate Chapter 173 and modify Chapter 174 of the City Code to apply one standard to all properties. A requirement to receive funding for the Sluice Gate from the County was for the City to adopt the County's Planning and Development Standards. These standards have been incorporated into Chapter 174.

Scott Peterson, 38 Davis Avenue, asked if the City would lose anything in accepting the County's terms. City Planner Miller said that the County is asking the City to adhere to standards that are currently practiced in other communities, including the City of Rye.

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

Councilwoman Brett made a motion, seconded by Councilman Jovanovich, to adopt the following local law repealing Chapter 173 and amending Chapter 174 of the Rye City Code:

**LOCAL LAW
CITY OF RYE NO. 1-2013**

A Local law to Repeal Chapter 173 "Surface Water, Erosion and Sediment Control" and Amend Chapter 174 "Stormwater Management" of the Code of the City of Rye, New York

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

Section 1. Chapter 173, *Surface Water, Erosion and Sediment Control*, is hereby repealed in its entirety.

Section 2. The title of Article I, *Erosion and Sediment Control for Development of One Acre or More*, is hereby amended as follows:

ARTICLE I
Erosion and Sediment Control

Section 3. Article I, *Erosion and Sediment Control*, Section 197-5, *Exemptions*, of the Code of the City of Rye is hereby amended as follows:

- C. Routine maintenance activities that disturb less than three-hundred (300) square feet and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility unless the Storm Water Management Officer determines that the disturbance is subject to the requirements of §174-7(F).

Section 4. Article I, *Erosion and Sediment Control*, Section 197-6, *Definitions*, of the Code of the City of Rye is hereby amended to modify the definition of "LAND DEVELOPMENT/REDEVELOPMENT ACTIVITIES" and "STORM WATER POLLUTION PREVENTION PLAN (SWPPP)" as follows:

LAND DEVELOPMENT/REDEVELOPMENT ACTIVITY - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than three-hundred (300) square feet, or activities disturbing less than three-hundred (300) square feet of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development or redevelopment activities may take place at different times on different schedules.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP) – a plan for controlling storm water runoff and pollutants from a site involving a disturbance equal to or greater than three-hundred (300) square feet during and after construction activities.

Section 5. ***Article I, Erosion and Sediment Control, Section 174-7.A, Storm Water Pollution Prevention Plan Requirement, of the Code of the City of Rye is hereby amended as follows:***

A. Storm Water Pollution Prevention Plan Requirement

No application for approval of a land development or redevelopment activity shall be reviewed until the Planning Board or City Engineer has received a Storm Water Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this Chapter. Where possible SWPPP shall include the sustainable development practices as identified in the following sources:

“Low Impact Development Design Strategies: An Integrated Design Approach” (1999), by the Prince George’s County (Maryland) Department of Environmental Resources.

“Low Impact Development: Urban Design Tools” Website, by the Low Impact Development Center.

“Polluted Runoff (Nonpoint Source Pollution): Low Impact Development (LID)” Website, by U.S. Environmental Protection Agency.

Section 6. ***Article I, Erosion and Sediment Control, Section 174-7.B(2) of the Code of the City of Rye is hereby amended as follows:***

- (2) Land development or redevelopment activities as defined in Section 6 of this Chapter and meeting Condition “A”, “B” or “C” below shall also include water quantity and water quality controls (post-construction storm water runoff controls) as set forth in Section 174-7.B(3) below as applicable. Land development or redevelopment activities as defined in Section 6 of this Chapter and falling below the thresholds established in Conditions “A”, “B” or “C”, but meeting Condition “D” shall also include water quantity and water quality controls (post-construction storm water

runoff controls) as set forth in Section 174-7.B(4) below as applicable

Condition A - Storm water runoff from land development or redevelopment activities including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in storm water have been identified as a source of the impairment.

Condition B - Storm water runoff from land development or redevelopment activities disturbing five (5) or more acres.

Condition C - Storm water runoff from land development or redevelopment activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

Condition D – All other land development or redevelopment activities not meeting Conditions “A”, “B” or “C” above.

Section 7. Article I, Erosion and Sediment Control, Section 174-7.B, Contents of Storm Water Pollution Prevention Plans, of the Code of the City of Rye is hereby amended to add the following sub-section:

- (4) SWPPP Requirements for Condition D:
- (a) All information in Section §174-7.B(1) of this Chapter;
 - (b) Description of each post-construction storm water management practice;
 - (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction storm water management practice;
 - (d) Hydrologic and hydraulic analysis for all structural components of the storm water management system for the applicable design storms;
 - (e) Comparison of post-development storm water runoff conditions with pre-development conditions;
 - (f) Dimensions, material specifications and installation details for each post-construction storm water management practice;
 - (g) Maintenance schedule to ensure continuous and effective operation of each post-construction storm water management practice;
 - (h) Maintenance easements, if applicable, to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan

- and shall remain in effect with transfer of title to the property;
- (i) Inspection and maintenance agreement, if applicable, binding on all subsequent landowners served by the on-site storm water management measures in accordance with Section 9 of this Chapter; and (J) For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all storm water management practices meet the requirements in this Chapter.

Section 8. Chapter 173, *Surface Water, Erosion and Sediment Control*, Section 174-7.F, *Requirements for Land Development/Redevelopment Activity for Less than One Acre*, is hereby repealed in its entirety.

Section 9. Chapter 173, *Surface Water, Erosion and Sediment Control*, Section 174-8, is hereby amended as follows:

§174-8 Performance and Design Criteria for Storm Water Management Plans

All land development or redevelopment activities equal to or greater than three-hundred (300) square feet shall be subject to the following performance and design criteria:

Section 10. Severability

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

Section 11. Effective Date

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

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack

NAYS: None

ABSENT: Councilwoman Parker

The Local Law was adopted by a 6-0 vote.

8. Public Hearing to amend local law Chapter 15, “Code of Ethics”, to reflect the addition of the Conflict of Interest form

Councilman Filippi made a motion, seconded by Councilwoman Brett and unanimously carried, to open the public hearing.

Corporation Counsel Wilson summarized the changes that had been made at the last City Council meeting to Sections 15-2B, 15-2C and 15-16A. There was a discussion among the Council regarding who should grant the waivers to employees doing work for the City referred to under Section 15-16A, the City Manger or the City Council. Corporation Counsel Wilson was asked to add section 15-16C, which sets up a Council review process for waivers issued by the City Manager.

There was only one member of the public who commented on the proposed local law. *Scott Peterson* suggested that the City Manager should issue the waivers but the City Council should review them and set policy on how they should be issued.

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

Councilman Filippi made a motion, seconded by Councilwoman Brett, to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO. 2 2013**

**A Local Law to amend Chapter 15 “Ethics, Code of” §§ 15-2
“Conflicts of Interest”, 15-4 “Disclosure of interest” and to
add § 15-16 “Waiver procedure” of the Rye City Code**

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

Section 1: Chapter 15 Ethics, Code of

§ 15-2. Conflicts of interest.

- A.** Unless otherwise defined herein, all terms shall have the same meanings as set forth in the New York Public Officers Law. No elected official, officer or employee of the city shall have any interest, financial or otherwise, direct or indirect or engage in any business or transaction or professional activity or incur any obligation of any nature which is in conflict with or might reasonably tend to conflict with the proper discharge of his duties in the public interest.

- B. No member of the Rye Golf Commission or Boat Basin Commission shall be permitted to engage in any business or transaction with the city for pay or for anything of value.
- C. No elected official, officer, employee, department head or assistant department head (or any spouse/domestic partner of any person holding one of the aforementioned positions) shall be an employee, subcontractor, agent, servant, representative, or hold any other position with a vendor of the city.

§ 15-4. Disclosure of interest.

A member of the Council or any officer, employee, department head, or board or commission member who has a direct or indirect financial interest in any matter before the Council, who participates in the discussion before or makes a recommendation to or gives an opinion to the Council on that matter, shall publicly disclose on the official record of the Council the nature and extent of such interest and recuse him/herself from the discussion and taking any action on the matter.

§ 15-5. Solicitation or acceptance of gifts and favors.

No officer or employee shall, directly or indirectly, solicit any gift, or accept or receive any gift having a value of fifty (\$50) dollars or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part, or grant in the discharge of his duties any improper favor, service or thing of value.

§ 15-16. Waiver procedure.

Any officer, employee, department head, or board or commission member may apply for a waiver of the prohibitions set forth in this Chapter by following the procedures outlined in A and B below.

- A. An employee or department head shall apply for a waiver to the City Manager. Any applications shall be in writing. The City Manager has the authority to condition any waiver on reasonable terms. The City Manager shall seek an advisory opinion from the Board of Ethics if he/she needs clarification on an issue. All waivers and advisory opinions shall also be provided to the City Council as soon as such waiver application is received.
- B. An elected or appointed official shall apply for a waiver to the Board of Ethics. All applications shall be in writing. The Board of Ethics has the authority to condition any waiver on reasonable terms.
- C. The City Council shall review all waivers on a monthly basis.

Section 2: Severability.

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 3: Effective date.

This local law will take effect immediately on filing in the office of the Secretary of State.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich and Killian
NAYS: Councilman Sack
ABSENT: Councilwoman Parker

The Local Law was adopted by a 5-1 vote.

9. Resolution to adopt a Conflict of Interest form

There was a discussion among the Council regarding whether members of the Boat Basin and Golf Club Commissions and Board of Fire Wardens should be required to sign the Conflict of Interest form. It was determined that unless it was required of all members of City Boards and Commissions, that they should not be included at this time.

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

RESOLVED, that the City Council of the City of Rye hereby adopts the proposed Conflict of Interest form to be signed by the following parties: Mayor and City Council Members, City Manager, Corporation Counsel, Assessor, Deputy Assessor, Building Inspector, City Clerk, Comptroller, Deputy City Comptroller, Fire Lieutenant, Boat Basin Supervisor, Rye Golf Club Manager, Coordinator of Computer Services, City Planner, Police Commissioner, City Engineer, DPW General

Foreman, DPW Assistant General Foreman, Recreation Superintendent and Rye TV Access Coordinator. This will take effect on November 15, 2013.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack
NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

10. Consideration to set a Public Hearing for October 9, 2013 to amend local law Chapter 197, Zoning, of the Rye City Code, Section §197-1, "Definitions and Usage", to amend the definition of "STORY, HALF", and Section §197-43.2, Subsection B, "Attics" to amend the Calculation of Attics in Gross Floor Area

City Planner Miller said that the proposed legislation addresses house scale concerns and focuses on the use of attic space and how it counts in floor area ratio. He said it is easier to have the same standard as the New York State Building Code. Corporation Counsel Wilson noted that the draft local law would have to be referred to the County Planning Department.

David Torriano and Paul Benowitz questioned the advisability of setting a public hearing on the proposed law at this time.

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

WHEREAS, the Council wishes to amend Chapter 197 "Zoning" of the Code of the City of Rye; and

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

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

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on October 9, 2013 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 197 “Zoning”, of the Code of the City of Rye,
New York to amend the definition of “Story, Half” (§197-1) and
the calculation of Attics in Gross Floor Area (§197-43.2 Subsection B).**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 9th day of October 2013 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 197 “Zoning” of the Code of the City of Rye, New York to amend the definition of “Story, Half” (§197-1) and the calculation of Attics in Gross Floor Area (§197-43.2 Subsection B).

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

Dawn F. Nodarse
City Clerk
Dated: September 25, 2013

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack
NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

11. Consideration to set a Public Hearing for October 9, 2013 to: 1) adopt a local law amending Chapter 53, Architectural Review, of the Rye City Code, Section §53-1, “Definitions” to amend the definition of “Small Project”, and 2) adopt a local law to amend Chapter 197 Article IV “Use Regulations” and Article VI “Appeals” to establish regulations regarding outdoor fire pits and outdoor kitchens and to establish a referral process between the BAR and Board of Appeals

Corporation Counsel Wilson said that she had met with the Board of Architectural Review (BAR) and the proposed local laws reflect concerns they have raised. She noted that the Zoning Board of Appeals had expressed concerns with the suggested change to Chapter 197 Article VI “Appeals”, which would establish a referral process between the BAR and the Board of Appeals. There was a discussion of having the two Boards meet to discuss the proposed

change before proceeding with setting a public hearing for the portion of the proposed local law that deals with Article VI “Appeals”.

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

WHEREAS, the Council wishes to amend Chapter 53 “Architectural Review” of the Code of the Code of the City of Rye; and

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

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

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on October 9, 2013 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 53 “Architectural Review”, of the Code of the City of Rye, New York by amending Section 1 “Legislative findings; definitions” to amend the definition of “Small Project”.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 9th day of October 2013 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 53 “Architectural Review” of the Code of the City of Rye, New York by amending Section 1 “Legislative findings; definitions” to amend the definition of “Small Project”.

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

Dawn F. Nodarse
City Clerk
Dated: September 25, 2013

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

WHEREAS, the Council wishes to amend Chapter 197 “Zoning” of the Code of the Code of the City of Rye; and

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

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

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on October 9, 2013 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 197 “Zoning”, of the Code of the City of Rye,
New York by amending Article IV “Use Regulations”,
§179-9 Accessory uses, to establish regulations
regarding outdoor fire pits and outdoor kitchens.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 9th day of October 2013 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 197 “Zoning” of the Code of the City of Rye, New York by amending Article IV “Use Regulations”, §179-9 Accessory uses, to establish regulations regarding outdoor fire pits and outdoor kitchens.

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

Dawn F. Nodarse
City Clerk
Dated: September 25, 2013

12. Discussion to amend the Governing Procedures of City Enterprise Funds

Mayor French said the proposed Governance document puts into practice the theory of providing oversight in governance for the stakeholders. There was a discussion among the members of the Council and the Golf Commission members who were in attendance regarding the proposed document, which included the appointment of non-elected members to the Commission; allowing time for the Commission to receive feedback from the membership of the Club on the proposed changes before the discussion continues; and separate documents covering the Golf Club Commission and the Boat Basin Commission

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

RESOLVED, that this agenda item is adjourned in order to give the document to the Golf Commission to discuss with their membership prior to bringing it back to the City Council for a more productive further discussion.

13. Resolution to adopt a City of Rye Sustainability Plan

Mayor French noted that a great deal of work went into the creation of the City of Rye Sustainability Plan over the last few years. He recommended that people review the plan online and begin to practice the tips and recommendations it contains.

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

RESOLVED that the City Council of the City of Rye hereby adopts the first City of Rye Sustainability Plan.

14. Resolution to amend the City's Management Employment Agreements

This agenda item was deferred.

15. Authorization for the City Manager to conduct an Executive Search for the Police Commissioner position

City Manager Pickup said that time is of the essence to engage a firm that can produce as many candidates as possible. He anticipates that there will be some public participation in the process as well before a final offer is made to a candidate.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to commence an Executive Search for the position of Police Commissioner.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack
NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

16. Resolution authorizing the Corporation Counsel and the Mayor to seek settlement of the litigation with Rye Town

This Agenda item was deferred.

17. Resolution to approve a Tax Certiorari settlement with Old Post Road Associates, Inc. for the property located at 120 Old Post Road

Corporation Counsel Wilson said that the School Board has not yet considered the settlement proposal but they need to sign off on it as well.

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

RESOLVED, that the City Council of the City of Rye hereby approves the Tax Certiorari settlement with Old Post Road Associates, Inc. for the property located at 120 Old Post Road.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack
NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

18. Discussion to provide temporary parking alternatives for Blind Brook Lodge residents in City lots during the construction phase of the new Blind Brook Lodge parking facilities

City Manager Pickup reported that temporary parking opportunities have been created for residents of Blind Brook Lodge until their parking lot construction project is completed. There may be requests to modify the "Snow Ordinance" if the project is not completed by November.

19. Resolution authorizing the City Manager to extend the Agreement with the Rye Art Center, Inc. to lease the property located at 51 Milton Road
Roll Call.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to extend the Agreement with the Rye Art Center, Inc. to lease the property located at 51 Milton Road for an additional 25 years commencing on April 25, 2016.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack
NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

20. Resolution to declare certain City of Rye Police equipment as surplus
Roll Call.

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

WHEREAS, the Police Department has received a new boat through a grant from the New York State Department of Parks, Recreation, and Historical Preservation for use by the Marine Unit, now, therefore, be it

RESOLVED, that the Police Department has recommended that the existing 1990 Mako boat currently in use be declared surplus, and, be it further

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

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack
NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

21. Resolution to appropriate \$30,011 from the Building and Vehicle Fund, Fund Balance to the 2013 Police Vehicles Fund for the purchase of a fleet car

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

WHEREAS, City staff has determined that the amounts required for the purchase of a fleet car for the Police Department were not anticipated and were not provided for in the adopted 2013 budget by \$30,011, and;

WHEREAS, the Building and Vehicle Fund, Fund Balance Account has enough funds to be appropriated for the purchase, now, therefore, be it;

RESOLVED, that the City Comptroller is authorized to transfer \$30,011 from the Building and Vehicle Fund, Fund Balance to the 2013 Police Vehicles Fund for the purchase of a fleet car.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack
NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

22. Consideration of proposed revisions of the Rules and Regulations of the City of Rye Police Department:

- General Order #117.09 establishes a required policy for the deployment of all-terrain vehicles
- General Order #106.05 updates the Department's procedures regarding "Stopping

Violators”

- General Order #105.04 updates the Department’s procedures regarding “Airborne or Bloodborne Pathogens”

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

RESOLVED, that the City Council of the City of Rye hereby approves the proposed revisions to the Rules and Regulation of the City of Rye Police Department: General Order #117.09, “Deployment of All Terrain Vehicles”; General Order #106.05, “Stopping Violators”; and General Order #105.04, “Airborne or Bloodborne Pathogens”.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack
NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

23. Authorization for the Police Commissioner to enter into an agreement with the New York State Police and the Westchester County Department of Public Safety for the TraCS System, an automated traffic ticket issuing system
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 Police Commissioner to enter into an agreement with the New York State Police and the Westchester County Department of Public Safety for the TraCS System, an automated traffic ticket issuing system.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Jovanovich, Killian and Sack
NAYS: None
ABSENT: Councilwoman Parker

The Resolution was adopted by a 6-0 vote.

24. Residents may be heard on matters for Council consideration that do not appear on the agenda

Scott Peterson, 38 Davis Avenue, asked the Council to prove to him why he shouldn't move out of Rye.

25. Resolution ratifying the appointment of one member to the Emergency Medical Services Committee for a three-year term ending June 30, 2016

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

RESOLVED, that the City Council of the City of Rye hereby ratifies the reappointment of David Byrnes to the Emergency Medical Services Committee as the Community Representative from the Village of Port Chester for a three year term expiring on June 30, 2016.

26. One appointment to the Board of Assessment Review for a five-year term expiring on September 30, 2018, by the Mayor with Council approval

Mayor French made a motion, seconded by Councilman Jovanovich and unanimously carried, to appoint Franklin Chu to the Board of Assessment Review for a five-year term expiring on September 30, 2018.

27. Three appointments to the Boat Basin Commission, by the Council, for two-year terms expiring January 1, 2016 and the designation of one member to the Boat Basin Nominating Committee

Councilman Filippi made a motion, seconded by Councilwoman Brett and unanimously carried, to appoint George DeFillippo, Robert Rispoli and George Szczerba to the Boat Basin Commission for two-year terms expiring on January 1, 2016 and to appoint Alan Caminiti to the Boat Basin Nominating Committee.

28. Appointment of a Marriage Officer for the City of Rye

Councilman Jovanovich made a motion, seconded by Councilwoman Brett and unanimously carried, to reappoint Susan Morison and appoint Diane Moore as Marriage Officers for the City of Rye for a term of four years.

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

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

RESOLVED, that the City Council of the City of Rye hereby approves the request of the Recreation Department for use of City streets on Saturday, November 30, 2013 to hold their annual Turkey Run.

30. Miscellaneous Communications and Reports

Corporation Counsel Wilson said that she had spoken with Bob Freeman of the Committee on Open Government regarding a potential FOIL appeal from Timothy Chittenden to appeal the cost that was estimated to provide him with electronic records. Mr. Freeman confirmed that the City was acting within its authority to charge him for the costs associated with providing the records. She advised that it was not an appealable issue and should not be heard by the Council.

31. Old Business

Councilwoman Brett asked that the “Ithaca Law” that the Landmarks Committee has requested the Council adopt be put on the agenda for discussion and setting of a public hearing at the October 9th meeting.

32. New Business

There was nothing discussed under this item.

33. Adjournment

There being no further business to discuss Councilman Filippi made a motion, seconded by Councilwoman Killian and unanimously carried, to adjourn the meeting at 11:25 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: October 9, 2013

CONTACT: Mayor Douglas French

AGENDA ITEM: Mayor's Management Report

FOR THE MEETING OF:

October 9, 2013

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:

- Capital Projects Update
- Labor Contracts Update
- Legal Update



CITY COUNCIL AGENDA

NO. 6

DEPT.: City Council

DATE: October 9, 2013

CONTACT: Councilwoman Catherine Parker

AGENDA ITEM: Update on the Rye Playland Improvement Plan from Sustainable Playland, Inc.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council review the plans for Playland.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Kim Morque, President, Sustainable Playland, Inc. (SPI) and Bruce Macleod, Board Member, SPI will provide an update on the Rye Playland Improvement Plan.

SPI's plan for a Sustainable Playland includes multi-use facilities for recreation including amusement park components, educational, cultural and arts related activities that are open to the public and within the parameters of the county issued RFP.

Design Elements

- Sports - Soccer, Lacrosse, Baseball and Softball
- Recreation - Bike paths and trails, playground/s, boating/sailing, fitness courses
- Restaurants, cafes and picnicking
- Amusement Park Components
- Westchester Children's Museum
- Outdoor Stage
- Ice Casino
- Boardwalk & Promenade
- Sculpture Garden
- Mini-golf
- Skate Park
- Beach
- Outdoor Green Space/Park

Playland

Improvement Plan



September 6, 2013



Sustainable
Playland



Playland Improvement Plan

EXECUTIVE SUMMARY

Sustainable Playland Inc. (SPI) is pleased to present our Playland Improvement Plan (PIP) to restore and revitalize Playland Park for the 21st Century. Enhancing Playland for the benefit of the citizens of Westchester County and minimizing Playland's burden on County Government is the goal of SPI's Board of Directors that coincides with the long-held goals of County Leadership. SPI Board members are experienced and successful business leaders from a broad array of industries including finance, real estate development, and law, all of which gives SPI's board a unique perspective. In addition, SPI plans to engage professional park management and has been working with Biederman Redevelopment Ventures to serve in that role.

The PIP outlines a work plan and a new path for Playland around an exciting development and stewardship framework for the future of the park. SPI is committed to being a partner with the county government in resolving the issues facing Playland Park. This public-private partnership model was recommended in the 2006 Playland Master Plan.

The work plan is a multi-year and multi-million dollar vision that has many challenges but great opportunities as well. The plan is outlined below and detailed within the document. In short, it is a plan to begin a systematic restoration of Westchester County's most iconic and wonderful park for Westchester's residents.

The plan seeks to balance the amusement park and seasonal uses with new amenities, venues, and programs. The investments will be in excess of \$34 million over the term of the management agreement if all improvements are approved and completed as proposed. The first improvements can begin in 2014 with significant upgrades to the Amusement Zone, and Kiddyland specifically.

The PIP also focuses on the historic preservation and restoration of the National Landmark buildings, amusement rides, and landscape, while adding new rides and venues to the amusement park area, and state-of-the-art sports and recreation amenities (e.g. sports fields, water deck, etc.) needed by Westchester County residents. SPI plans to discuss with the County seeking the National Trust for Historic Preservation's designation of Playland Park as a "National Treasure" to increase its exposure and prominence as a significant American historic landmark.

By diversifying Playland's programs and providing more public amenities, the PIP makes the most of Playland Park in terms of both public use and revenue potential:

- The **Amusement Zone** will be revitalized with new rides, venues and attractions; it will also be systematically restored using the 2006 Master Plan as a guiding document. This zone, includes all of the four amusement area quadrants and will be operated by Central Amusements International (CAI). CAI is a significant amusement park operator in the New York area (Coney Island and Central Park), and worldwide. CAI's parent company, Zamperla, is also a major amusement ride manufacturer. CAI will continue and greatly enhance Playland's unique amusement park legacy and optimize attendance and revenues from this iconic and most important element of the park.
- **The Westchester County Children's Museum** will complement SPI's vision, creating a year-round destination for families – targeted users who will have the opportunity not only to go to the museum, but also to spend the entire day at Playland, dining at a waterfront restaurant, playing in a waterfront park, amusement zone or sports fields and attending public events.
- The new **Field Zone** – operated by Playland Sports LLC – will include a state of the art indoor 95,000 square foot field house and multi-purpose outdoor fields to help fill a significant gap in the supply of athletic venues for the County and beyond. The new athletic facilities will further enhance Playland's reputation as a destination for athletics, tapping into excess demand in the region and also helping establish year-round activity at Playland Park.
- The **Fountain Plaza Zone** will present opportunities for multiple restaurateurs to activate the area with seasonal kiosks, programs and events and take advantage of the shoreline and views of Long Island Sound.
- The **Ice Casino**, is currently closed due to damage from Hurricane Sandy but will soon to be restored by the County. After its restoration is completed, this key component of the park can once again be a dependable revenue source. SPI will seek to leverage the operation of its two ice rinks while also maximizing the value of its prominent location on the Sound and its year-round use.

- **The Beach & Aqua Zone** bathhouse, beach, water deck, and waterfront eateries will enhance the public park seasonally and will also be operated by CAI.
- **The Shore Zone** will buffer the Edith Read Sanctuary from the more active uses of the remainder of the park, while providing needed overflow parking for peak summer weekends and holidays.

Sustainable Playland's proposed not-for-profit development and stewardship model is based on "best practices" for park management around the country. This approach provides a flexible framework for Playland redevelopment – a framework that is best positioned to withstand shifts in market supply and demand or other organizational pitfalls that may come with a for-profit developer/manager.

Ultimately, while our 501(C)3 organizational model will endow an SPI-County public-private partnership with opportunities to derive revenue from almost any program elements that could be developed at the site, our Vision Plan and PIP – and our philosophy for the ongoing improvement of Playland – are based on three overarching goals:

- **Restoring and Revitalizing Playland Park for Westchester County Residents –** Playland was built as the signature park of Westchester County. It was a public park endowed with quality architecture, spectacular gardens, and beachfront facilities for active recreation that were complemented by a seasonal amusement component. As the County's residential population has increased and its demographics changed, its public parks no longer have the supply of active play and recreational facilities to meet this increasing demand. SPI proposes to reverse this situation, to return Playland to its former splendor and provide state-of-the-art sports and active recreation facilities, including new athletic fields, an indoor field house, revamped ice rinks and new park areas to be complemented by an enhanced amusement zone optimized for sustainability together with a range of quality dining and catering destinations that take advantage of Playland's remarkable waterfront setting.
- **Expanding Revenues with Year Round Venues, Uses and Activities -** Under the stewardship of a not-for-profit public-private partnership, this business model will be insulated from significant shifts in real estate markets and can also leverage additional sources of revenue not available to for-profit developers, including philanthropic and government grants and sponsorships, as well as low-cost financing. Led by a board with a range of skills including

concerned citizens, business executives, philanthropists, and others, this stewardship model also comes with the promise that Playland will never again be allowed to deteriorate.

- **Minimizing Risk to the County** – In addition to sustained revenue streams, SPI's not-for-profit management model brings private sector business practices to bear and will help minimize risk to the County. The balancing of seasonal and year-round uses not only enhances the use of the park, but the multiple business partners – focused on their core-business areas – are foundational to the success of this 21st century park.

We are confident that our Vision Plan and PIP for a Sustainable Playland provides the greatest opportunity to the County to realize these goals for Playland Park for the following reasons:

- **We have experienced and high quality development and management partners for each program element.** Our revenue assumptions have been developed and refined in collaboration with the best performing developer/operators for each program element, many of whom have teamed with SPI.
- **We are committed to providing the leadership and securing funds from a variety of sources that are required to enable SPI to mature into a top-quality park management and stewardship organization that can endure as a responsible not-for-profit partner of the County for decades to come.** Our organization has grown quickly, and with the County's representatives the Board will soon be fifteen (15) strong. We understand the amount of time and effort that will be needed to implement this plan, as well as the organizational staff resources that will be required.
- **Playland Park will be a place for everyone.** By returning the public park elements to Playland, augmenting the number and diversity of uses, and eliminating the entrance fee, Playland will once again be a public park for everyone – not only families and teenagers who enjoy the amusements, but also senior citizens who want to enjoy a waterfront park, young couples looking to stroll on the boardwalk or row in the lake, multi-generational families from all over who pack their bags to spend the day at Playland Park. The PIP seeks maximal inclusivity – not only to help create a vibrant public

Playland Improvement Plan Executive Summary

park for families and Westchester County residents, but also to maximize Playland's revenue potential.

The detail of this Playland Improvement Plan is provided to allow the County to identify which of the capital improvements proposed by SPI are required to be approved by the County and to provide the information and detail necessary for the County to grant such approvals.

Future Park Zones

REINVENTING PLAYLAND FOR THE 21ST CENTURY



AMUSEMENT ZONE Playland's historic rides will remain, including the Dragon Coaster and the Derby Racer, as well as Kiddyland and arcade games.

AQUA/BEACH ZONE Playland's beach area will feature more amenities including chair and sun umbrella rentals, cafes and activities such as water slides and floats.

FIELD ZONE Will provide a Field House for indoor sports plus outdoor athletic fields for soccer, lacrosse and other sports.

FOUNTAIN PLAZA ZONE Will feature year-round restaurants, cafes, outdoor dining, special events, as well as the Ice Casino.

GREAT LAWN ZONE This area will feature the Central Promenade, which will remain open to the public year-round, as well as picnic shelters, mini-golf, a seasonal performance stage, and the historic Grand Carousel.

SHORE ZONE Will provide enhanced access to the Edith Read Wildlife Sanctuary, and feature the historic boathouse as well as boat and kayak rentals.



CITY COUNCIL AGENDA

NO. 7

DEPT.: City Manager's Office

DATE: October 9, 2013

CONTACT: Scott Pickup, City Manager

ACTION: Consideration to set a Public Hearing for October 9, 2013 to amend local law Chapter 197, Zoning, of the Rye City Code, Section §197-1, "Definitions and Usage", to amend the definition of "STORY, HALF", and Section §197-43.2, Subsection B, "Attics" to amend the Calculation of Attics in Gross Floor Area.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER 197

SECTION 1, 43.2

RECOMMENDATION: That the Council set the Public Hearing for October 9, 2013 to amend the City Code.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Concerns were expressed to the City Council that some new residential construction is considered potentially out of scale in size, height, and or bulk. The City Planner drafted changes to Rye Local Law to address some of the bulk and height concerns associated with residential attics and provide greater consistency between the requirements of the City Zoning Code and the New York State Building Code. The attached was reviewed by the Planning Commission at their August 14, 2013 meeting and was unanimously supported.

See attached draft Local Law to amend Chapter 197, "Zoning" to amend the definition of "STORY, HALF" and the Calculation of Attics in Gross Floor Area.

Christian K. Miller, AICP
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CITY OF RYE
Department of Planning

Memorandum

To: Rye City Council

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

cc: Kristen K. Wilson, Esq., Corporation Counsel
Maureen Eckman, Building Inspector

Date: August 15, 2013

Subject: **Recommendation to Address House Scale Concerns**

Attached hereto for the City Council's consideration is a draft local law amending the City Zoning Code clarifying the definition of "Story, Half" and changing how attic space is included in the calculation of gross floor area of a residence. This local law was prepared by the City Planner in response to the City Council's discussion at its May 22, 2013 meeting and to address concerns heard by City Council members that some new residential construction is considered potentially out of scale in its size, height and or bulk.

The attached draft local law is supported by the Planning Commission. It will address some of the bulk and height concerns associated with residential attics and provide greater consistency between the requirements of the City Zoning Code and the New York State Building Code.

Background

The recommendations contained herein build on work and analysis contained a report entitled, *A Local Law Addressing House Scale Concerns*, prepared by the City-Council-appointed House Scale Sub-Committee and the City Planning and Building Departments¹. Based on the recommendations of that report the City Council adopted a local law in 2003 amending the City Zoning Code as follows:

¹ Report is available on the digital documents page of the City's website (www.ryeny.gov).

Recommendation to Address House Scale Concerns

August 15, 2013

Page 2 of 4

- *Building Height.* The maximum permitted building height (measured from the average grade to the mid-point between the roof eaves) was reduced in the R-1, R-2 and MC Districts from 35 feet to 32 feet and the height in the R-3, R-4, R-5, R-6, RT and RS Districts was reduced from 35 feet to 28 feet.
- *Reduction in FAR for Oversized Properties.* The maximum permitted floor area was reduced for properties that exceed 150% and 250% of the minimum lot area of the applicable zoning district. This provisions means that significantly oversized properties are subject to an incremental reduction in their maximum permitted floor area as the size of the lot significantly exceeds the minimum required lot area of the zoning district.
- *Attic.* The definition of attic was amended. Under the 2003 local law fifty (50) percent of the attic floor area was required to be counted in the computation of gross floor area where the floor-to-headroom height exceeds seven (7) feet, six (6) inches and the distance between real or theoretical five-foot high knee walls exceeds seven (7) feet. Prior to 2003, no portion of attic space was included in the calculation of maximum permitted gross floor area of a residence.
- *Voids.* The 2003 Zoning Code amendments required the interior floor area, excluding stairways, with a floor-to-ceiling height in excess of fourteen (14) feet shall be counted twice in the calculation of gross floor area. This provision was added to address concerns regarding residences with large bulk or mass.
- *Basements.* Prior to 2003 basements were not counted in maximum gross floor area of a residence. Under the 2003 amendments twenty-five (25) percent of the basement floor area is included in the computation of gross floor area where the pre-existing grade abutting the exterior of the basement wall has been reduced by more than three (3) feet to create an exposed wall more than seven (7) feet in height and five (5) feet in width. This provision was intended to address residential construction with excessive grade manipulation to expose basement facades to construct garages under the first floor. Exposed foundations can contribute to the bulk and mass of a residence.
- *First Floor Elevations.* The 2003 amendments required that new construction can not have a first floor more than three feet above the pre-existing grade. Requiring a maximum elevation above grade helped reduce the height and scale of a residence.
- *Porches.* The 2003 amendments excluded unenclosed porches at or below the first floor elevation from the computation of gross floor area. Porches are a desirable amenity from a streetscape and neighborhood planning perspective and can help break up the mass and scale of a residence. Prior to 2003 any

Recommendation to Address House Scale Concerns

August 15, 2013

Page 3 of 4

roofed structured (including open porches) were included in the calculation of maximum permitted gross floor area.

Recent Experiences and Recommendations

Ten years after the adoption of the zoning code amendments there continues to be concerns regarding the bulk or scale of residential construction. Building activity in Rye is high. Many residential applications involve substantial renovations or demolition of existing residences and construction of new homes that are significantly larger than the homes they replaced. In many cases the proposed gross floor area of the residences are only a few square feet shy of the maximum permitted floor area.

At the time the 2003 amendments were adopted the New York State Building Code (NYSBC) required habitable space to have a minimum ceiling height of 7 feet, 6 inches. In drafting the 2003 amendments the ceiling height for attic space was defined to be consistent with the NYSBC. Each law was separate, but by making the two regulations consistent one would help enforce the other.

The NYSBC has been amended to reduce the minimum ceiling height for habitable space to seven feet. Often new residential construction will provide collar ties (a horizontal member located between the roof rafters) between 7 feet and 7 feet, 5 inches above the attic floor. This strategic placement of collar ties results in a restricted ceiling height that is not counted as floor area under the City Zoning Code, but is now considered habitable space under the NYSBC. From an enforcement perspective, it would be preferred if the two standards were consistent.

The attached local law changes the ceiling height provision in attics to seven feet. Floor area under roof rafters (not collar ties) having a ceiling height of seven feet or greater would be required to be included in the maximum permitted floor area for a residence. Unlike the current law this floor area would be counted at 100%, not at 50% and there would be no seven-foot minimum width requirement for such floor area to be counted. In addition, the floor area under dormers within attics having a ceiling height of five feet or greater would also be required to be included in the maximum permitted floor area. The attached local law is consistent with existing laws in Greenwich, Connecticut. Attached is a copy of the diagram included in the Greenwich Building Zone Regulations illustrating the conditions for attic floor area to be counted.

The attached local law also addresses concerns related to the scale and height of attic spaces associated with some new residential construction. These areas are often cited as contributing to new construction that is out-of-scale with neighboring properties. Other floor area, such as basements, are typically excluded from the calculation of maximum permitted floor area because they are below grade and do not contribute to house scale concerns.

Recommendation to Address House Scale Concerns

August 15, 2013

Page 4 of 4

Regulatory Impact

Under the draft local law attic floor area would be counted in many instances where today it is not. This will result in some existing properties adopted under the current or former law to become legally non-conforming. This often occurs with changes in the zoning code.

More significantly, it is anticipated that under the draft local law residences will be redesigned to reduce roof pitch and/or eliminate or reduce the size of dormers to avoid attic space from being included in the calculation of gross floor area. From an aesthetic perspective some may find steeper roofs and dormers desirable. Others may disagree and find that the treatment of roofed areas can contribute to creating residences that are perceived as, tall, large and out-of-scale. This was debated quite extensively in the discussion of attic regulation in the 2003 amendments.

The draft local law does not regulate use of attic space (i.e. storage vs. bedrooms) but instead focuses on the exterior impact of attic space, which often has little to do with the interior use. The draft local law also does not regulate access to attics, such as whether attics are accessible by pull-down steps or fixed stairs. Staff would discourage such regulations because they are difficult to enforce and may encourage illegal conversions after certificate of occupancies are issued to create habitable attic space that does not meet all the requirements of the NYSBC.

DRAFT

LOCAL LAW
CITY OF RYE NO. _____ 2013

A Local law to amend Chapter 197 “Zoning”, of the
Code of the City of Rye, New York
to Amend the Definition of “Story, Half” and the
Calculation of Attics in Gross Floor Area.

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

Section 1. Article I, *Definitions, Section 197-1, Definitions and Usage*, of the Code of the City of Rye is hereby amended to amend the definition of “STORY, HALF” as follows¹:

STORY, HALF — A ~~story space~~ under a gable, hip or gambrel roof, the gross floor area of which (measured between the wall plates of which on at least two opposite exterior walls extending are not more than two (2) or more feet above the floor of such story) does not exceed, when not more than sixty (60) percent% of the floor area is used for rooms, baths or toilets of the next floor area immediately below.

Section 2. Article V, *Lot, Floor Area, Height, Yard and Court Regulations, Section 197-43.2.B, Attics*, of the Code of the City of Rye is hereby amended as follows:

B. Attics. ~~Fifty percent~~ The area of the finished attic floor that is seven (7) or more feet below the bottom of the roof rafters floor area shall be counted in the computation of gross floor area only where the headroom height exceeds seven feet, six inches and the distance between existing or theoretical five-foot high knee walls exceeds seven feet. In the case of dormers within attics, whether individual or shed type, the area of the finished attic floor that is five (5) or more feet below the bottom of the roof rafters shall be counted in the computation of gross floor area.

Section 3. Severability

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

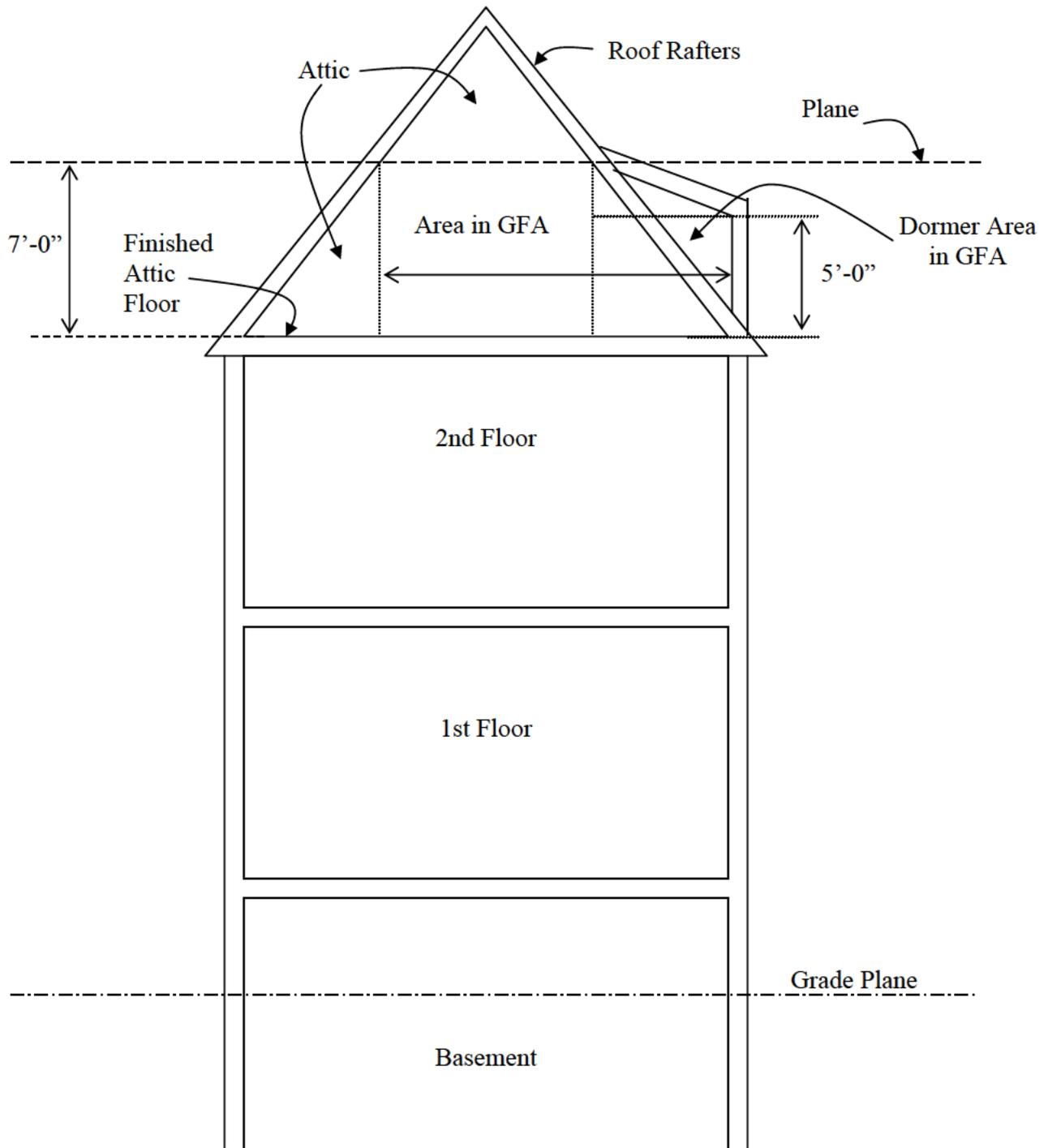
Section 4. Effective Date

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

¹ All changes to the existing code are shown with underline for additions and ~~strikethrough~~ for deletions.

DIAGRAM 2

ATTIC AREA INCLUDED IN GROSS FLOOR AREA (GFA)





CITY COUNCIL AGENDA

NO. 8

DEPT.: City Manager's Office

DATE: October 9, 2013

CONTACT: Scott Pickup, City Manager

ACTION: Public Hearing for October 9, 2013 to: 1) adopt a local law amending Chapter 53, Architectural Review, of the Rye City Code, Section §53-1, "Definitions" to amend the definition of "Small Project", and 2) adopt a local law to amend Chapter 197 Article IV "Use Regulations" and Article VI "Appeals" to establish regulations regarding outdoor fire pits and outdoor kitchens.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER 53, 197
SECTION

RECOMMENDATION: That the Council set two Public Hearings for October 9, 2013 to amend: 1) Chapter 53 and 2) Chapter 197 of the City Code.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: A proposal has been put forward to amend changes to the Board of Architectural review process regarding the following:

- amend the definition of "small project"; and
- amend the local law to add regulations regarding outdoor fire pits/kitchens

See attached Draft Local Laws.

CITY OF RYE
LOCAL LAW NO. ___ 2013

**A Local Law to amend Chapter 53 “Architectural Review”
Section 1 “Legislative findings; definitions” of the Rye City
Code**

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

**Section 1: Chapter 53 Architectural Review; Section
1 “Legislative findings; definitions”**

§ 53-1. Legislative findings; definitions.

SMALL PROJECT

Any addition to or alteration or modification of an existing single- or two-family residence structure:

- (1) For which valid certificate of occupancy exists for all structures on the property;
- (2) Upon which property there are no open building permits and no building permit or certificate of occupancy was issued within the immediate past 12 months;
- (3) That:
 - (a) ~~Has a gross floor area of 300 square feet or less where located in Zoning Districts R-1, R-2 and R-3 and 200 square feet or less where located in all other zoning districts;~~
 - (b) ~~Does not create a second story if none previously existed on the structure; and~~
 - (c) ~~Is less than 15% of the existing floor area of the structure; and~~
- (4) That does not ~~substantially~~ change the appearance visible from the street of any front or side facade or roof.

Section 2: Severability.

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 3: Effective date.

This local law will take effect immediately on filing in the office of the Secretary of State.

CITY OF RYE
LOCAL LAW NO. ____ 2013

**A Local Law to amend Chapter 197 “Zoning” Article IV
“Use Regulations” of the Rye City Code**

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

Section 1: Chapter 197 Zoning; Article IV “Use Regulations”

§ 197-9. Accessory uses.

A. Residence districts.

(1) Outdoor fireplaces may be permitted by the Architectural Review Board subject to the following conditions:

- (a) Not be wood burning unless the chimney is attached to the residence.**
- (b) Not be located in a required front yard.**
- (c) Be set back from side and rear yards at least 20 feet in R.1 Districts and 15 feet in all other districts.**
- (d) The outdoor fireplace structure shall not be greater than 8’ in height, measured from grade, if it is freestanding. Attached chimneys shall comply with all other regulations for chimneys in the Rye City Code.**
- (e) Have no floodlighting, directly or indirectly, and all other lighting shall be arranged and shaded as to reflect light away from adjoining premises or a public street.**

Section 2: Severability.

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 3: Effective date.

This local law will take effect immediately on filing in the office of the Secretary of State.



CITY COUNCIL AGENDA

NO. 9

DEPT.: Corporation Counsel

DATE: October 9, 2013

CONTACT: Kristen K. Wilson, Corporation Counsel

ACTION: Discussion regarding the addition of a new article to the Rye City Code to provide tax exemptions for improvements to historic properties.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council review the proposed tax exemption for improvements to historic properties.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: A proposal has been made to add a new article to the Rye City Code to provide tax exemptions for improvements to historic properties. The law allows a property owner to seek a tax exemption (for a certain number of years) for any increase in assessed value as a result of rehabilitation and/or alteration to historic structures. The percent tax exemption decreases over a ten year period as set forth in the draft law. The law is based on legislation that was enacted in Ithaca, North Castle, and Northport. The proposed Draft Local Law will be referred to the Planning Commission, Board of Architectural Review, the Board of Appeals, and the Board of Assessment Review for review.

See attached:

- Draft Local Law
- Information on communities that have enacted a Historic Tax Exemption
- New York Real Property Tax Law section that provides the authority for municipalities to adopt laws providing for tax exemptions for historic properties
- Application that owners would have to fill out and provide to the City Assessor

CITY OF RYE
LOCAL LAW NO. ___ 2013

**A Local Law to add Chapter 177 “Taxation” Article XII
“Exemption for Historic Districts” to the Rye City Code**

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

**Section 1: Chapter 177 Taxation; Article XII
“Exemption for Historic Districts”**

§ 177-1. Legislative intent; review process; historic determination; rights of property owner.

- A. This real property tax exemption for historic property is being enacted in order to achieve the following goals: to increase incentives for property owners in historic districts to invest in the upkeep and rehabilitation of properties; to provide an incentive for the restoration and rehabilitation of commercial structures which qualify as landmarks in order to provide financial advantages, not available elsewhere in the country at this time, which may help to attract and retain businesses in the City of Rye; to assist homeowners who are interested in restoring their own properties but may not be able to afford to do so when faced with potential increases in taxation as the result of alterations which would qualify for this exemption; and to provide a concrete benefit for restoring or improving historically or architecturally significant properties which are subject to the regulations of Chapter 117, Landmarks Preservation.
- B. The City of Rye real property tax exemption is intended to apply to alterations or rehabilitations of historic property as authorized pursuant to §§ 96-a and 119-aa through 119-dd of the General Municipal Law and § 444-a of the Real Property Tax Law and all other powers granted to the City of Rye to provide such exemptions.
- C. This article is intended to create a real property tax exemption that preserves or increases the historic character of real property located within the City of Rye.

§ 177-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meanings.

ALTERATION

Only exterior work on a building that requires a building permit or demolition permit.

CERTIFICATE OF APPROPRIATENESS

A certificate issued by the Board of Architectural Review authorizing a material change of appearance of a Protected Site or Structure or within a district, subject to other applicable permit requirements.

DEMOLITION

The destruction of the exterior of a building, in whole or in part, whether or not the foundation is also destroyed pursuant to the requirements of a duly issued demolition permit.

HISTORIC BUILDING

Any building that was built pre-1904 and for which the Landmarks Advisory Committee has determined to be of an historic nature consistent with the criteria outlined in Chapter 117 of the Rye City Code. An historic building does not have to be designated as a Protected Site or Structure.

LANDMARK

Any parcel or building or structure designated as a Protected Site or Structure not located in a Preservation District, which nonetheless meets one or more of the criteria enumerated in § 117-5 and is designated as a Protected Site or Structure pursuant to § 117-5E.

§ 177-3. Amount; criteria.

Real property within the City of Rye altered or rehabilitated subsequent to the effective date of this article shall be exempt from City real property and special ad valorem levies, subject to and in accordance with the schedule set forth in § 177-3B and conditions outlined in § 177-3B and C.

A. Historic property which shall be defined hereafter shall be exempt from taxation to the extent of any increase in value attributable to such alteration or rehabilitation pursuant to the following schedule:

Year of Exemption	Percentage of Exemption
1	100%
2	100%
3	100%
4	100%
5	100%
6	80%
7	60%
8	40%

9	20%
10	0%

B. No such exemption shall be granted for such alterations or rehabilitation unless all of the following criteria are met.

- (1) Such property must be “historic,” which means: 1) that the property has been designated as a landmark pursuant to Chapter 117 of the Rye City Code; or 2) that the structure was built pre-1904 and which has been found to meet the criteria of being an historic building by the Landmarks Advisory Committee;
- (2) Alterations or rehabilitation are consistent with the character of the historic building;
- (3) Such alterations or rehabilitation or reconstruction of the historic building are approved by the Landmarks Advisory Committee and the Board of Architectural Review prior to the commencement of work and a certificate of appropriateness issued;
- (4) The alterations or rehabilitation or reconstruction must otherwise result in an increase in the assessed valuation of the real property; and
- (5) Alterations or rehabilitation or reconstruction are commenced subsequent to the effective date of this article.

C. In the event an historic building is substantially demolished due to fire or other act of nature not caused by the property owner, the reconstruction of such building consistent with its historic character as reviewed and approved by the Board of Architectural Review shall qualify for the partial tax exemption, but in no event shall the assessment for the taxes to be paid be less than the assessment that existed prior to the substantial demolition.

§ 177-4. Application for exemption; approval.

- A. The exemption may be granted only upon application of the owner or owners of such historic building on a form prescribed by the New York State Office of Real Property Services, or any successor agency.
- B. The application must be filed with the Assessor on or before the appropriate taxable status date.

C. The exemption shall be granted where the Assessor is satisfied that the applicant is entitled to an exemption pursuant to this section.

D. All of the terms, conditions and exceptions as set forth in § 444-a of the Real Property Tax Law of the State of New York, as amended, are adopted herein unless otherwise specified, as though fully set forth within this article.

Section 2: Severability.

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 3: Effective date.

This local law will take effect immediately on filing in the office of the Secretary of State.

Historic Property Exemption

Municipality	# of Properties that Qualify	# of Properties That applied	Financial Impact
Ithaca	575 properties	Abatement has been used five times since the local ordinance was adopted back in 1997 **	The 10-year abatement period has expired for two of the properties and is still running for the other three. The total financial impact for all five properties over the entire 10-year period of their abatements will be forgone taxes on a total of \$3,831,000 in taxable value, which represents \$50,108 in taxes forgone. This represents a negligible annual impact for the City.
North Castle	93 properties	None applied	n/a
Northport		One property with a very small exemption for a porch. One property will be receiving the exemption upon completion of the renovations.	

** Ithaca noted that the likely reason for the low level of usage is that the City has a fairly stable tax base with reasonable high property values and not a lot of underutilized, vacant, or significantly deteriorated properties that would be eligible for the program. In a location where there were more depressed properties that would see a big assessment increase following renovation, Ithaca anticipated that the program might be used much more heavily.

Five properties in Ithaca include:

- a large single-family home being converted for use as a bed-and-breakfast
- a former residence that had been used as office space that was renovated for use as a bed and breakfast
- a former residence that has been used commercially for many years and was being renovated for a retreat center
- a duplex that remained a duplex
- a single family home that remained a single family home.

N.Y. RPT. LAW § 444-a : NY Code - Section 444-A: Historic property

1. Real property altered or rehabilitated

subsequent to the effective date of a local law or resolution adopted pursuant to this section shall be exempt from taxation and special ad valorem levies as herein provided. After a public hearing, the governing body of a county, city, town or village may adopt a local law and a school district, other than a school district governed by the provisions of article fifty-two of the education law, may adopt a resolution to grant the exemption authorized pursuant to this section. A copy of such law or resolution shall be filed with the state board and the assessor of such county, city, town or village who prepares the assessment roll on which the taxes of such county, city, town, village or school district are levied.

2. (a) Historic property shall be exempt from taxation to the extent of any increase in value attributable to such alteration or rehabilitation pursuant to the following schedule:

year of exemption	percent of exemption
1	100
2	100
3	100
4	100
5	100
6	80
7	60
8	40
9	20
10	0

(b) No such exemption shall be granted for such alterations or rehabilitation unless:

(i) Such property has been designated as a landmark, or is a property that contributes to the character of an historic district, created by a local law passed pursuant to section ninety-six-a or one hundred nineteen-dd of the general municipal law;

(ii) Alterations or rehabilitation must be made for means of historic preservation;

(iii) Such alterations or rehabilitation of historic property meet guidelines and review standards in the local preservation law;

(iv) Such alterations or rehabilitation of historic property are approved by the local preservation commission prior to commencement of work;

(v) Alterations or rehabilitation are commenced subsequent to the effective date of the local law or resolution adopted pursuant to this section.

3. Such exemption shall be granted only by application of the owner or owners of such historic real property on a form prescribed by the state board. The application shall be filed with the assessor of the county, city, town or village having power to assess property for taxation on or before the appropriate taxable status date of such county, city, town or village.

4. Such exemption shall be granted where the assessor is satisfied that the applicant is entitled to an exemption pursuant to this section. The assessor shall approve such application and such property shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in subdivision three of

this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

5. A county, city, town or village by local law or a school district by resolution may:

(a) Reduce the per centum of exemption otherwise allowed pursuant to this section; and

(b) Limit eligibility for the exemption to those forms of alterations or rehabilitation as are prescribed in such local law or resolution.



NYS DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

APPLICATION FOR PARTIAL EXEMPTION FOR ALTERATION OR
REHABILITATION OF HISTORIC REAL PROPERTY

(General information and instructions for completing this form are on back.)

1. Name and telephone no. of owner (s)
2. Mailing address of owner(s)
Day no. ()
Evening no. ()
E-mail (optional)

3. Location of property
Street address
Village (if any) City/Town
School district

Parcel identification no. (see tax bill or assessment roll)

Tax map number or section/block/lot

4. General description of property:

5. Use(s) of property:

6a. Date construction of alteration or rehabilitation was commenced:

b. Date completed (attach certificate of occupancy or other documentation of completion):

7. Cost of alteration or rehabilitation:

8. Describe how alteration or rehabilitation made to property accomplishes the purposes of historic preservation:

9. Attach proof of landmark or historic district designation. For property in a historic district, explain how property contributes to the district's historic character:

10. Attach approval of local preservation commission for alteration or rehabilitation.

I certify that all statements made above are true and correct.

Signature of Owner

Date

INSTRUCTIONS FOR APPLICATION FOR PARTIAL EXEMPTION FOR ALTERATION OR REHABILITATION OF HISTORIC REAL PROPERTY

Authorization for exemption: Section 444-a of the Real Property Tax Law authorizes a partial exemption from real property taxation for the alteration or rehabilitation of historic property. Counties, cities, towns, and villages may enact local laws authorizing the exemption; school districts may do so by resolution. Municipalities authorizing the exemption may limit eligibility to forms of alteration or rehabilitation prescribed in the local law or resolution.

Criteria for exemption: Assuming local authorization for the exemption, to qualify, (1) the improved property must be designated as a landmark or be property which contributes to the character of a locally created historic district; (2) the alteration or rehabilitation must be made for purposes of historic preservation; (3) the alteration or rehabilitation must satisfy local guidelines and review standards in the local preservation law; (4) prior to the commencement of the alteration or rehabilitation, such change must be approved by the local preservation commission; and (5) the alteration or rehabilitation must be commenced after adoption of the local law resolution authorizing the exemption. Landmark designation, if any, and approval from the local preservation commission must be attached to the application.

Duration and computation of exemption: Generally, the amount of the exemption in the first year is 100% of the increase in the value attributable to the alteration or rehabilitation. The amount of the exemption remains the same for years two through five; thereafter the exemption is phased out over the next four years (that is, in year six, the exemption is 80 percent of the increase in value; then 60 percent in year seven, and so on). Municipalities authorizing the exemption, however, may reduce the percentages of exemption.

Place of filing application:

Application for exemption from city, town, or village taxes must be filed with the city, town, or village assessor. Application for exemption from county or school district taxes must be filed with the city or town assessor who prepares the assessment roll used to levy county or school taxes. In Nassau County, applications must be filed with the Nassau County Board of Assessors. In Tompkins County, applications for exemption from county, city, town or school district taxes must be filed with the Tompkins County Division of Assessment.

Time of filing application:

The application must be filed in the assessor's office on or before the appropriate taxable status date. In towns preparing their assessment roll in accordance with the schedule provided by the Real Property Law, the taxable status date is March 1. In Nassau County towns, taxable status date is January 2. Westchester County towns have either a May 1 or June 1 taxable status date; contact the assessor. In cities, the taxable status date is determined from charter provisions and the city assessor should be consulted to determine the appropriate date. Taxable status date for most villages which assess is January 1, but the village clerk should be consulted for variations.

FOR ASSESSOR'S USE

1. Date application filed: _____ 2. Applicable taxable status date: _____
3. Action on application: Approved Disapproved
4. Assessed valuation or parcel in first year of exemption: \$ _____
5. Increase in total assessed valuation in first year of exemption: \$ _____
6. Amount of exemption in first year:

	<u>Percent</u>	<u>Amount</u>
County	_____	_____
City/Town	_____	_____
Village	_____	_____
School District	_____	_____

Assessor's signature

Date



CITY COUNCIL AGENDA

NO. 10

DEPT.: City Manager

DATE: October 9, 2013

CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Summary of the 2014 Budget Process and Consideration of setting the 2014 Budget schedule.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council review the 2014 Budget process and assign dates for the upcoming 2014 Budget Workshops.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Tentative dates for the Budget process include:

Wednesday, November 6: Presentation of the Budget

Wednesday, November 13: Budget Workshop

Monday, November 18: Budget Workshop

Wednesday, November 20: Council Meeting/Budget Workshop

Wednesday, December 4: Public Hearing on the Budget

Wednesday, December 11: Budget Workshop (if needed)

Wednesday, December 18: Adoption of the Budget

See attached.

2014 Budget Schedule

<u>Meeting Date</u>	<u>Budget Topic</u>
11/06/13	Presentation of Manager's Budget
11/13/13	Presentation of Citizen's Budget: 4-year Budget Plan Fire Department Budget review Boat Basin Budget review
11/18/13	Golf Club Budget review
11/20/13	Police Department Budget Review Library Budget review Review Council Budget questions
12/04/13	Public Hearing on 2014 Budget
12/11/13	Budget Workshop (if necessary)
12/18/13	Budget Adoption

November 2013

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5 Election Day	6 Council Meeting Budget Presentation	7	8	9
10	11 Veterans Day	12	13 Budget Workshop Citizen's Budget Fire Budget Boat Basin Budget	14	15	16
17	18 Budget Workshop Golf Budget	19	20 Council Meeting/ Budget Workshop Police Budget Library Budget	21	22	23
24	25	26	27	28 	29	30

December 2013

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4 Council Meeting Public Hearing	5	6	7
8	9	10	11 Budget Workshop (if needed)	12	13	14
15	16	17	18 Council Meeting Budget Adoption	19	20	21
22	23	24	25	26	27	28
29	30	31				



CITY COUNCIL AGENDA

NO. 11

DEPT.: City Manager's Office

DATE: October 9, 2013

CONTACT: Scott Pickup, City Manager

AGENDA ITEM Discussion of the proposed Safe Routes to School Initiatives.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council review the Safe Routes to School Initiatives.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The City was awarded a federally funded Safe Routes to School Grant, coordinated by the Rye YMCA, in the amount of \$223,952. The projects included in the grant include the following:

- Pedestrian Activated Rectangular Rapid Flash Beacons
- Theall/Osborn Road Intersection Pedestrian Improvements
- Grace Church Street Intersection Pedestrian Improvements
- Milton School Sidewalk Safety Improvements

A preliminary meeting with NYSDOT was held to review project implementation, schedule and reimbursement under the Federal grant program. The timeframe for the projects is dependent on NYSDOT requirements, but the City hopes to complete the projects in 2014.

See attached specifics on the projects.

Safe Routes To Schools Grant Projects

Project Name	Description	Estimated Cost (Preliminary)
<i>Pedestrian Activated Rectangular Rapid Flash Beacons (RRFB)</i>	<p>This project would involve the installation of Rectangular Rapid Flash Beacons (RRFB) at existing un-signalized intersections near existing Rye City Schools. The signals are pedestrian activated and would serve to alert drivers of pedestrians within crosswalks. These intersections were specifically chosen because of they are not currently manned by school crossing guards. Each pair of signals cost approximately \$20,000 to install. The following intersections have been indentified for the installation of RRFB and the schools they would serve:</p> <p>Boston Post Road @ Old Post Road (High/Middle School and Osborn Elem. School) Hewlett Avenue @ Forest Avenue (Milton Elem. School) Apawamis Avenue @ Forest Avenue (High/Middle School) Forest Avenue @ Eve Lane (Midland Elem. School)</p>	\$80,000
<i>Theall/Osborn Road Intersection Pedestrian Improvements</i>	<p>This project would extend the existing curbs at the Theall Road/Osborn Road intersection to reduce the approximately 90-foot crossing distance by approximately 30%. Reducing the crossing distance of this street is a pedestrian safety enhancement especially for children attending Osborn Elementary School. The project would also replace deteriorated sidewalk at the intersection, providing ADA-compliant ramps and increasing the size of the landing area for pedestrian waiting to cross Osborn Road.</p>	\$25,000
<i>Grace Church Street Intersection Pedestrian Improvements</i>	<p>This project would extend the existing curbs on Grace Church Street at its intersection with Midland Avenue. The existing crossing distance of this signalized intersection is nearly 100 feet and creates a barrier to children walking from the Loudon Woods neighborhood to nearby Midland School. The intersection does not include pedestrian signals. In addition to extending the existing curb lines the project would modify the existing narrow center island in Grace Church Street to provide a pedestrian refuge area. Re-configure Center Island.</p>	\$45,000
<i>Milton School Sidewalk Safety Improvements</i>	<p>This project would elevate an existing sidewalk and install a six inch curb to better separate vehicles from the pedestrian area. Currently, approximately 450 feet of sidewalk on Hewlett Avenue adjacent to Milton Elementary School is at the same elevation as the street. There is no physical barrier to prevent vehicles in the adjacent drop-off zone from encroaching into the sidewalk, which is heavily used by children.</p>	\$75,000



CITY COUNCIL AGENDA

NO. 12

DEPT.: City Council

DATE: October 9, 2013

CONTACT: Mayor Douglas French

AGENDA ITEM Consideration of Resolution to establish a "Complete Streets" Policy for the City of Rye.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider the approval of a Complete Streets resolution.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Rye Shared Roadways Committee has proposed the passage of a Complete Streets Resolution. Complete streets are designed and operated to enable safe access for all users including pedestrians, bicyclists, motorists and transit riders of all ages and abilities. Complete Street roadway design features include sidewalks, lane striping, bicycle lanes, paved shoulders suitable for use by bicyclists, signage, crosswalks, pedestrian control signals, bus pull-outs, curb cuts, raised crosswalks, ramps and traffic calming measures.

In conjunction with the Complete Streets Resolution, the City Council presented at the Westchester County Mobility Advisory Forum, County Legislator Mary Jane Shimsky, is sponsoring a Complete Streets policy proposal for Westchester County, and the House of Representatives has called for national standards for complete streets policies as one of the central proposals of the Safe Streets Act of 2013.

See attached:

- Complete Streets Resolution
- List of other Cities and Counties that have passed Complete Streets Resolutions or Policies
- YMCA letter of support for Westchester County's Complete Streets legislation

**RESOLUTION OF THE CITY OF RYE
ESTABLISHING A COMPLETE STREETS POLICY**

WHEREAS the City of Rye is committed to improving the safety of pedestrians and cyclists, especially children and elderly who are at greater risk due to their dependence on non-motorized facilities; and,

WHEREAS the presence of walkers and cyclists in a community is an indication of a vibrant and healthy community; and,

WHEREAS walkable neighborhoods increase community interaction and create sense of community pride; and,

WHEREAS the City of Rye is committed to encouraging healthy lifestyles for all by promoting active living; and,

WHEREAS the City of Rye is committed to reducing both dependence on fossil fuels and well as the air and noise pollution associated with automobile use; and,

WHEREAS the City of Rye is committed to providing viable transportation alternatives to the automobile; and,

WHEREAS, if a roadway is not reasonably meeting the needs of the types of users who would logically benefit from traveling along that route, it is not considered to be complete; and,

WHEREAS a street is considered complete when it is designed and operated to safely accommodate all users including motorists, pedestrians, bicyclists, transit riders and people of all ages and abilities; and,

WHEREAS streets that support and invite multiple uses, including safe space for pedestrians, bicycles and public transportation, are more conducive to the efficient and safe movement of people than streets designed primarily to move automobiles and trucks; and,

WHEREAS Complete Streets result in safe routes for children to walk and bicycle to school; and,

WHEREAS when roads are better designed for bicycling, walking and transit, more people do walk and bike; and,

WHEREAS more children are likely to walk or bike to school when sidewalks or footpaths are present and there are safe street crossings; and,

WHEREAS designing roads with all users in mind from the beginning saves costly retrofits; and,

WHEREAS a Complete Streets concept recognizes the need for flexibility, that all streets are different, that user needs should be balanced, and that the roadway design must fit in with the context of the community.

NOW, THEREFORE, BE ITRESOLVED that the City of Rye commits to a Complete Streets Policy which provides as follows:

1. Vision

It is envisioned that these actions will result in a greater number of individuals freely choosing alternative transportation modes (walking, bicycling, mass transit, etc.), which will lead to healthier lifestyles, improved air and water quality, and a safer, more sustainable transportation system.

2. Definitions

The term "Complete Streets Policy" means a transportation policy that ensures the consideration in all phases of project planning and development, of the needs of all users of the transportation system including pedestrians, bicyclists, public transit users, children, older individuals, individuals with disabilities, as well as those of motorists including buses, trucks, and emergency vehicles.

3. Purpose

The purpose of this Policy is to promote the design of surface transportation corridors that balance the needs of all users of the network while incorporating community values as well as qualities of environmental stewardship; scenic, aesthetic, historic and natural resource preservation; safety; security; mobility and individual freedom.

4. Directives

- a. The City of Rye will seek to enhance the safety, access, convenience and comfort of all users of all ages and abilities, including pedestrians, people requiring mobility aids, bicyclists, transit users and motorists, through the design, operation and maintenance of the transportation network so as to create a connected network of facilities accommodating each mode of travel that is consistent with and supportive of the local community, recognizing that all streets are different and that the needs of various

users will need to be balanced in a flexible manner.

- b. Early consideration of all modes for all users will be important to the success of this Policy. Those planning and designing street projects will give due consideration to bicyclists and pedestrians, from the very start of planning and design work. This will apply to all roadway projects, including those involving new construction, reconstruction, repaving, or changes in the allocation of pavement space on an existing roadway.
- c. In addition to design elements such as bike lanes, street treatments that are used to make streets more complete include, but are not limited to: sidewalks, frequent and safe crossing opportunities, median islands, accessible pedestrian signals, curb extensions, narrower travel lanes, and roundabouts.
- d. The City will seek to carry out projects that eliminate identified gaps in the sidewalk and key corridor networks. The project development process should include identification of gaps or deficiencies in the network for various user groups that could be addressed by the project, and an assessment of the tradeoffs to balance the needs of all users. Factors that should be addressed when making that assessment include the following:
 - i. Whether the corridor provides a primary access to a significant destination such as a community or regional park or recreational area, a school, a shopping / commercial area, or an employment center;
 - ii. Whether the corridor is in an area where a relatively high number of users of non-motorized transportation modes can be anticipated during the expected life of the project;
 - iii. Whether a road corridor provides important continuity or connectivity links for an existing trail or path network; or
 - iv. Whether nearby routes that provide a similar level of convenience and connectivity already exist.
- e. The needs of bicyclist and pedestrian transportation users shall be incorporated into all roadway projects except under one or more of the following conditions:

- i. A project involves only ordinary maintenance activities designed to keep assets in serviceable condition, such as mowing, cleaning, sweeping, spot repair, concrete joint repair, or pothole filling.
 - ii. The cost of establishing a bikeway, walkway or other transit enhancement is excessive and disproportionate.
 - iii. The construction is not practically feasible because of significant or adverse impacts on neighboring land uses or the environment.
 - iv. There is a clear absence of both current and expected future bicycling and pedestrian use.
- f. Any exception to the application of this Complete Streets Policy to a specific roadway project must be approved by the City Council.

BE IT FURTHER RESOLVED, that a Complete Streets Advisory Board shall be designated within 90 days of passage of this Resolution.

BE IT FURTHER RESOLVED that the City Council commits to including this Complete Streets policy and its principles in all future City Plans.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the Governor of the State of New York, State Assemblyman George Latimer, Westchester County Legislator Judy Myers, the New York State Department of Transportation, and the Westchester County Planning Department.

Complete Streets Information

● 08/15/2011

Governor Andrew Cuomo signed the Complete Streets Act requiring state, county and local agencies to consider the convenience and mobility of all users when developing transportation projects that receive state and federal funding. The New York State Department of Transportation (NYSDOT) is working to ensure that its policies and procedures meet the new standards.

● 06/17/2013

The Westchester County Government Operations Committee unanimously endorsed both a Complete Streets Policy, as well as a Complete Streets ACT, that would require that the policy be applied. Both will advance to the full Board of Legislators, after the required NYS environmental quality review (SEQR) is completed. Legislators Catherine Borgia and MaryJane Shimsky are co-sponsors of both measures.

Villages, Towns and Cities with Complete Streets Resolutions or Policies

- Angelica
- Babylon
- Bethlehem
- Binghamton
- Brookhaven
- Buffalo
- Canandaigua
- Chester
- Clyde
- Cuba
- Dobbs Ferry
- East Hampton
- Elizabethtown
- Fort Edward
- Glens Falls
- Great Neck Plaza
- Gowanda
- Hinsdale
- Independence
- Islip
- Kingston
- Lake Luzerne
- Lewis
- Lewisboro
- Malone
- New York City
- Newcomb
- New Rochelle
- North Hempstead
- Rochester
- Salamanca
- Saratoga Springs
- Somers
- South Hampton
- Warrensburg
- Westport
- White Plains
- Willsboro
- Williamson
- Wilmington

Counties with Complete Streets Resolutions or Policies

- Alleghany County
- Cattaraugus County
- Erie County
- Essex County
- Nassau County
- Suffolk County
- Ulster County



FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

June 17, 2013

Hon. Judith Myers
Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue, 8th Floor
White Plains, New York 10601

Dear Ms. Myers:

I am writing to express the Rye YMCA's strong support for the Complete Streets proposal currently being considered by the Westchester County legislature.

The Rye YMCA is a family oriented community service organization which welcomes all people and promotes positive values through programs that build spirit, mind and body. Since 2004, the Rye Y's Healthier Communities Coalition has brought together health professionals, public officials and community activists to advocate for programs and policies that support physical activity, nutrition, and healthy living.

We believe that infrastructure improvements can support a healthy lifestyle by allowing all people to walk and bike safely. Our work around the issue of Complete Streets includes:

- **Complete Streets Workshop.** The Y hosted a Complete Streets Workshop with Alta Planning and Design, a renowned urban planning firm. Also involved: the Rye Shared Roadways Committee, city officials and the Westchester County Department of Transportation (DOT). (October 2010)
- **Complete Streets for the Sound Shore – NYU Capstone Project.** The Y obtained the services of a team of New York University graduate students who were asked to develop Complete Streets strategies for the City of Rye, Village and Town of Mamaroneck and Village of Larchmont. Over the course of several months, these urban planning students conducted public meetings and field studies and developed several recommendations for each of the communities. (September 2010 – May 2011)
- **Forest Avenue Sharrows.** One of the recommendations from the Capstone Team was the creation of sharrows on Forest Avenue in Rye. Sharrows are markings on the pavement that indicate to drivers that the road is shared with pedestrians and cyclists. In 2012, the Rye Y funneled a \$20,000 Y-USA grant to the City of Rye to

RYE YMCA

21 Locust Avenue, Rye, New York 10580

P 914 967 6363 F 914 967 0644 www.ryeymca.org

paint sharrows on a 2.5 mile stretch of Forest Ave. At the same time, the City made improvements to the shoulder, making walking and cycling on this heavily traveled road easier and safer. (August 2012)

While many local municipalities have adopted Complete Streets ordinances, there is no comprehensive, county-wide legislation requiring transportation projects to consider all roadway users. We believe that Westchester County can be a leader in this regard.

The main objective of Complete Streets is to implement design features and policies that make streets safe and accessible for multiple users, including pedestrians, cyclists, disabled individuals and public transportation. During this time of soaring obesity rates and resulting chronic disease, what could be more important for the health of our communities?

Thank you in advance for your consideration of this proposal. Please let me know if there is anything else the Rye YMCA can do to lend our support.

Sincerely,

A handwritten signature in black ink that reads "Gregg Howells". The signature is written in a cursive, flowing style.

Gregg Howells
Executive Director



CITY COUNCIL AGENDA

NO. 13

DEPT.: Police

DATE: October 9, 2013

CONTACT: William R. Connors, Police Commissioner

AGENDA ITEM: Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order #111.05.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: Adoption of General Order #111.05, "Prescription Drug Collection Box."

IMPACT: Environmental Fiscal Neighborhood Other:

Enhancement of the operational effectiveness of the Department; providing enhanced service to the community; environmental protection.

BACKGROUND: A prescription drug collection box has been installed in the lobby of Police Headquarters to provide the community with a safe, secure location for the disposal of unwanted prescription medication in order to reduce access to addictive medications resulting in accidental or intentional misuse by children or adults in the home. The collection box was obtained at no cost through the Westchester County Office of Drug Abuse Prevention and STOP-DWI, and was funded by the Westchester County Department of Environmental Facilities in conjunction with the Westchester Coalition for Drug and Alcohol Free Youth.

The proposed General Order implements procedures for the use of the box and the disposition of collected materials.

A copy of the proposed order is attached. The proposed revision was provided to the Rye Police Association on August 30, 2013 for review pursuant to the provisions of the collective bargaining agreement.

CITY OF RYE POLICE DEPARTMENT

General Order #111.05	New [x]	Revised [x]
Supersedes:		
Subject: Prescription Drug Collection Box		
Date Issued xx/xx/13	Date Effective xx/xx/13	Page 1 of 2
Issuing Authority: William R. Connors, Police Commissioner		

Purpose: The City of Rye Police Department recognizes the importance of providing the community with a safe, secure location for the disposal of unwanted prescription medication. The Department encourages residents to remove unneeded medications from their homes in order to reduce access to addictive medications resulting in accidental or intentional misuse by children or adults in the home. This program provides an environmentally safe alternative to disposing of medications in landfill or sewer systems that can negatively affect the environment.

Policy: It shall be the policy of the City of Rye Police Department to comply with all applicable state and federal laws regarding the collection and disposal of prescription medication.

Operational Guidelines:

- 1) The Department will provide a steel mailbox style disposal vault in which citizens may deposit unwanted medications. The collection box shall be clearly marked for this purpose. The disposal vault shall be locked and securely mounted to prohibit removal of the vault or retrieval of medications from within the vault without a key. Citizens may anonymously place their unused medication/drugs into the disposal vault. Signage shall be posted to assist citizens in the disposal procedures. Prescription bottles should be secured by their caps and placed into the disposal vault.
- 2) Sharps and other bio-hazard items such as syringes, or liquids are prohibited from being placed into the vault.
- 3) This program is for personal/residential use only. Commercial entities (such as medical facilities) will be directed to arrange for disposal of medication by other means.
- 4) The Commanding Officer, Detective Division or his/her designee will be responsible for oversight of collection of the deposited medications. Collection of the deposited prescription medication will be conducted on a monthly basis or more often if needed.
- 5) The collection vault will be secured with a locking mechanism. The Commanding Officer, Detective Division or designee will control the key. A log of disposal of collected medications will be kept.

- 6) At a predetermined day and time, or as necessary, the Commanding Officer, Detective Division or designee will schedule a collection. A regular collection vault schedule shall be developed for consistent disposal practice. An entry will be created in the CAD system to document the drug collection.
- 7) For recordkeeping purposes, collected medications will be considered abandoned property.
- 8) The Commanding Officer, Detective Division or designee will document each collection on a Property Receipt captioned "Drug Collection/Disposal Program." One Incident Report number will be generated for each collection effort.
- 9) The Commanding Officer, Detective Division or designee will package and seal the deposited drugs, enter a general description on the property receipt, and dispose of the packaged drugs in accordance with paragraph (12). At least two (2) members of the Department, including at least one ranking officer, will be present for the removal and packaging of the contents of the collection box.
- 10) The Property Receipt will include the approximate weight of the drugs and should contain an appropriate description of the items. "Miscellaneous medications to be destroyed as abandoned property" will be appropriate as a description.
- 11) The Commanding Officer, Detective Division or designee will supervise the vault collection process. The designated officer will destroy the collected medications as per department policy and procedure.
- 12) Collected medications will be disposed of through either of two sources:
 - (a) Through the Westchester County Department of Environmental Facilities at the Household Material Recovery Facility (H-MRF) at 15 Woods Road, Valhalla, NY 10595 (<http://www.westchestergov.com/hmrf>). At this time the Department of Environmental Facilities collects medications once a month (either the first Tuesday or Thursday of each month). Delivery to the H-MRF will be scheduled by calling (914) 813-5453 with an estimate of how many pounds of medications are being delivered.
 - (b) Through the Drug Enforcement Administration (DEA), telephone 800-882-9539 or www.dea.gov, by participation in the agency's National Prescription Drug Take-Back Day. The DEA will collect the drugs directly from a registered site.



CITY COUNCIL AGENDA

NO. 14

DEPT.: Finance

DATE: October 9, 2013

CONTACT: Joseph S. Fazzino, Deputy Comptroller

AGENDA ITEM: Resolution to appropriate \$90,000 from the Building and Vehicle Fund, Fund Balance to the 2013 Public Works Fund for the purchase of a sidewalk plow to enhance the sidewalk cleaning program for critical corners and routes.

FOR THE MEETING OF:
October 9, 2013

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, City staff has determined that the amounts required for the purchase of a sidewalk plow for the Public Works Department were not anticipated and were not provided for in the adopted 2013 budget by \$90,000, and;

WHEREAS, the Building and Vehicle Fund, Fund Balance Account has enough funds to be appropriated for the purchase, now, therefore be it;

RESOLVED, that the City Comptroller is authorized to transfer \$90,000 from the Building and Vehicle Fund, Fund Balance to the 2013 Public Works Fund for the purchase of a sidewalk plow.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Public Works Department needs to purchase an enclosed sidewalk plow for use during the upcoming winter to enhance the sidewalk cleaning program for critical corners and routes. Funds need to be transferred internally to make this purchase.



CITY COUNCIL AGENDA

NO. 15

DEPT.: Finance

DATE: October 9, 2013

CONTACT: Joseph S. Fazzino, Deputy Comptroller

AGENDA ITEM: Resolution to transfer additional funds from the Contingency account to fund the support design and survey work for Safe Route To School project submissions and SEQRA Lead Agency declaration (\$40,000) and for the retro-fit of Fire Department air pack sets (\$50,000).

FOR THE MEETING OF:
October 9, 2013

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, City staff has determined that the amounts required for the cost to support the design and survey work for SRTS project submissions, SEQRA declaration for Lead Agency and Type II action were not anticipated and were not provided for in the adopted 2013 budget by \$40,000, and,

WHEREAS, City staff has determined that the amounts required for the cost to retro-fit the expiring Fire Department Scott air pack sets were not anticipated and were not provided for in the adopted 2013 budget by \$50,000, and,

WHEREAS, the General Fund Contingent Account has a balance of \$164,800, now therefore be it

RESOLVED, that the City Comptroller is authorized to transfer \$90,000 from the General Fund Contingent Account to the Capital Projects Fund and the Fire Department Equipment Fund.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Use and status of the Contingent Account in 2013:

01/01/2013 Beginning balance	\$300,000
02/27/2013 Transfer to City Council Legal Services Account	(102,000)
03/20/2013 Transfer to City Council Legal Services Account	(12,000)
04/03/2013 Transfer to City Council Legal Services Account	(21,200)
10/09/2013 Transfer to Capital Projects Fund	(40,000)
10/09/2013 Transfer to Fire Department Equipment Fund	<u>(50,000)</u>
10/09/2013 Balance	<u>\$ 74,800</u>



CITY COUNCIL AGENDA

NO. 17

DEPT.: City Manager

DATE: October 9, 2013

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Authorization for the City Manager to enter into an Agreement for Emergency Medical Transport with the Village of Port Chester, the Village of Rye Brook and Port Chester-Rye-Rye Brook Volunteer Ambulance Corps, Inc

FOR THE MEETING OF:

October 9, 2013

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Mayor and Council authorize the City Manager to enter into the agreement.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The Agreement is for a five-year period commencing July 1, 2014 through June 30, 2019.

See attached documentation.

Extension agreement for the period of
July 1st, 2014 to June 30th 2019.

EXTENSION AGREEMENT

AGREEMENT made this ___ day of ___ 2014 between **THE CITY OF RYE, THE VILLAGE OF PORT CHESTER AND THE VILLAGE OF RYE BROOK, NEW YORK**, (hereinafter "Municipalities") and **PORT CHESTER-RYE-RYE BROOK VOLUNTEER AMBULANCE CORPS, INC.** (hereinafter "Contractor").

WITNESSETH:

Whereas, the Municipalities and the Contractor have entered into a certain Emergency Medical Transport Agreement, herein after "The Agreement", dated November 22, 1994; and

Whereas, on April 8, 2009 the Municipalities approved a contract entered into by all parties, thereafter "EMS Agreement", for five (5) years, commencing on July 1, 2009 and continuing until June 30, 2014; and

Whereas, said Contract can be extended twice for a period of five (5) years by extension agreement, and

Whereas, extension of said contract would be in effect for the term of July 1, 2014 through June 30, 2019

Whereas, the parties desire to extend said contract;

Now, Therefore, in consideration of the promises herein set forth, the parties mutually agree that all terms and conditions of said contract and shall remain in full force and effect.

**Emergency Medical Transport
Agreement, signed April 8th, 2009**

Expiring June 30th, 2014

EMERGENCY MEDICAL TRANSPORT AGREEMENT
(THIS "AGREEMENT")

BETWEEN

**THE CITY OF RYE, THE VILLAGE OF PORT CHESTER AND THE VILLAGE OF
RYE BROOK, NEW YORK**

AND

THE PORT CHESTER-RYE-RYE BROOK VOLUNTEER AMBULANCE CORPS, INC.

WITNESSETH

WHEREAS, the Port Chester-Rye-Rye Brook Volunteer Ambulance Corps, Inc. herein referred to collectively as the "Contractor" has served the communities for the past 35 years and desires to continue to perform the services outlined herein, and

WHEREAS, the Village of Port Chester, City of Rye and Village of Rye Brook have entered into an inter-municipal agreement for Emergency Medical Services, and

WHEREAS, the Village of Port Chester, City of Rye and Village of Rye Brook, herein referred to collectively as the "Municipalities," have the authority to contract for the provision of emergency medical services within the municipal boundaries of the above-identified communities;

NOW, THEREFORE, in consideration of the promises set out herein, the parties mutually agree as follows:

Section 1. Definitions

For the purposes of the Agreement, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. Advanced Life Support (ALS) – Emergency pre-hospital care that uses invasive medical acts, the provision of advanced life support shall be under the medical supervision and control of a licensed physician. For ambulance services, includes the services of Basic Life Support (BLS) and advanced emergency care. ALS ambulance personnel use these services: intravenous therapy, endotracheal airway, cardiac monitor (EKG), cardiac defibrillator, drugs, relief of pneumothorax or other advanced procedures and services.
- B. Advanced Life Support (ALS) Vehicle – A vehicle that is designed for transporting the sick and injured and that meets the requirements of a basic life support vehicle and has sufficient equipment and supplies for providing intravenous therapy and endotracheal or esophageal intubation or both.
- C. Ambulance – Any motor vehicle equipped with facilities to convey infirmed or injured persons, regardless of their physical condition, secured to a cot, reclining, seated on a bench or in a wheelchair, to or from health care facilities.
- D. Base Station Physician – An emergency physician knowledgeable in the medical protocols, radio procedures and general operating policies of the Regional EMS System,

and a person from whom emergency medical technicians, at any training level, may take medical direction by radio or other remote communication device.

- E. Basic Life Support (BLS) – Emergency pre-hospital care that uses non-invasive medical acts. The provision of basic life support may be under the medical supervision and control of a licensed medical physician. For ambulance services, includes only transportation and first aid for the ABC's of life support (airway, breathing, circulation) without adjunctive equipment and/or invasive procedures.
- F. Basic Life Support (BLS) Vehicle – A vehicle that is designed for transporting the sick or injured and that has sufficient equipment and supplies for providing basic life support.
- G. Communication Center/Centers – The designated facility/facilities from which all emergency ambulances servicing the communities shall be dispatched and controlled.
- H. Emergency Medical Dispatch – The use of a series of questions to help determine how a given situation fits a preset response configuration. Also included in EMD are pre-arrival instructions given to callers to begin first aid and patient stabilization before ALS arrives on-scene.
- I. Emergency Medical Services Committee – The entity organized pursuant to an inter-municipal agreement to administer any contract related to the operation and administration of ambulance service.
- J. EMS Inter-Municipal Agreement – Means the inter-municipal agreement between the City of Rye, Village of Port Chester and the Village of Rye Brook, dated November 22, 1994.
- K. Emergency Medical Technician (EMT) – Ambulance personnel certified by the State of New York as minimally proficient in performing skills required to provide emergency pre-hospital care that is necessary for basic life support and that includes the control of hemorrhaging and cardiopulmonary resuscitation.
- L. Emergency Medical Technician -- Intermediate (EMT-I) – An individual who is certified by the State of New York as minimally proficient in performing skills required to provide emergency pre-hospital care by initiating under medical supervision certain procedures, including intravenous therapy and endotracheal or esophageal intubation or both.
- M. Emergency Medical Technician – Paramedic (EMT-P) – An individual who is certified by the State of New York as minimally proficient to provide emergency pre-hospital care by providing advanced life support that includes initiation under medical supervision of certain procedures, including intravenous therapy, endotracheal intubation or both, electrical cardio defibrillation or cardioversion, and drug therapy.
- N. First Responder - Any person, fire department vehicle, police vehicle or non-transporting ambulance unit capable of providing appropriate first responder service, under the first responder program authorized by the Medical Director.
- O. Life Threatening Emergency Response – Any incident that is presumptively defined as life-threatening at call reception by the Communications Center personnel in strict accordance with approved dispatch protocols.
- P. Medical Audit – An official inquiry into the circumstances involving an ambulance run or request for service, conducted by the Medical Director, or the Medical Control Board (MCB), or licensed physician designated thereby.
- Q. Medical Control – Direction given ambulance personnel by a base station physician through direct voice contact, with or without vital sign telemetry, as required by applicable medical protocols endorsed by the Medical Director.
- R. Medical Director – The licensed physician who provides medical oversight of the operation of the EMS system.
- S. Medical Protocol – Any diagnosis-specific or problem-oriented written statement of standard procedure, or algorithm, endorsed by the MCB as the normal standard of pre-hospital care for a given clinical condition.

- T. Mutual Aid Call – Request for emergency ambulance service issued by an EMS dispatcher or ambulance crew in a neighboring political jurisdiction.
- U. Non-Emergency Response – Any request for service that falls outside the established protocols for emergency life-threatening and emergency non-life threatening responses, including prescheduled transfers, for response time purposes, shall be considered a non-emergency response.
- V. Non-Life Threatening Emergency Response – Any incident that is presumptively defined as non-life threatening at call reception by communication center personnel in strict accordance with approved telephone protocols.
- W. Priority – The assigned call priority number (i.e., Priority 1, 2, 3) of all requests for an ambulance which are received by the EMS Control Center at the time of the conclusion Of receipt of a request for ambulance services.
 - Priority 1 calls shall be life-threatening calls.
 - Priority 2 calls shall be all other emergency calls.
 - Priority 3 calls shall be a non-emergency ambulance transport of a patient.
- X. Response Time – The actual elapsed time between conclusion of receipt of notification at the EMS Control Center that an ambulance is needed at a location and the actual arrival of an ambulance staffed and equipped to operate at the EMT/Advanced level, or higher level, at that location within the service area.
- Y. Response time Standards –
 - Priority 1 – 8 minutes, fifty-nine seconds;
 - Priority 2 – 12 minutes, fifty-nine seconds;
 - Priority 3 – 60 minutes, zero seconds.
- Z. System Standard of Care – The written body of standards, protocols, and policies governing clinical aspects of the EMS system, including:
 1. Input Standards - (i.e., personnel certification requirements, in-service training requirements, equipment specifications, on-board inventory requirements, and other requirements which the EMS system must fulfill before receipt of a request for service);
 2. Performance Standards – (i.e., priority dispatching protocols and pre-arrival instructions, medical protocols, standing orders, response time standards, data and record keeping requirements and methods, and other performance specifications describing how the EMS system should perform upon receipt of a request for service); and,
 3. Outcome Standards – (i.e., target survival rates for certain narrowly defined presenting problems or presumptive diagnoses, such as witnessed cardiac arrests involving patients whose medical histories meet defined criteria). Outcome standards define the results the system intends to achieve by meeting its “input” and “performance” standards.

For purposes of this definition, the response time standards set forth in the Contract for Primary Ambulance Coverage shall be automatically incorporated into the System Standard of care as the response time standard applicable to calls originating from within each respective jurisdiction.

Section 2. Term of the Agreement

The terms and covenants contained in this agreement shall be in effect for a primary term commencing July 1st 2009, and continuing until June 30th 2014, unless terminated earlier any either party with one hundred eighty (180) days written notice. During the first three years, the parties shall research and review alternative model agreements for shared EMS services and if a more efficient model is found, the new model, or portions of such model, may be implemented

after the third year. This agreement may be renewed in five (5) year terms with the agreement of the parties.

Section 3. Primary Service Area

Contractor shall be responsible for dispatch and response to all emergency and non-emergency requests for ground transportation and ambulance services originating within the municipal limits of those communities participating in the EMS Inter-Municipal Agreement, and transportation of patients, twenty-four (24) hours per day – seven (7) days a week. The municipal limits are identified on the Official Municipal Map as on record with the Municipal Clerk in each community. This map is designated herein either as the “Map of Primary Service Responsibility” or “Primary Service Area,” made a part hereof by this reference, and transportation of patients associated with such requests, and operation of the Communication Center as more particularly described in Section 4.B. hereof.

Should the communities annex new area into the Primary Service Area, the Contractor shall be included in the development of the service plan for such new area. The Contractor shall provide service to such area immediately upon annexation, but will have a sixty (60) day period to bring the level of service to be commensurate with the performance as outlined in this Agreement.

Section 4. Medical Direction

A Medical Director shall be selected by, directed by, and shall serve at the pleasure of the Corps' Board of Directors. The Medical Director shall be Board-eligible in emergency medicine and shall have the following duties:

1. To develop and recommend an appropriate System Standard of Care to be adopted as provided in this agreement;
2. To administer the approval, testing (if necessary) and authorization of EMS personnel, and to establish and promulgate written guidelines in connection therewith;
3. To initiate the suspension or revocation of Medical Director's authority to provide care by any provider or EMS person covered by this agreement;
4. To regulate on-line medical control in accordance with established protocols and regulations;
5. No less frequently than one time every three (3) months, to report on the clinical aspects of the quality of care and on the response time performance being provided by operations contractor to the EMSC;
6. Once each year, to report, in writing, to the governing body of each member jurisdiction of the Agreement on the quality of care and response time performance being provided by all components of the EMS System in each member jurisdiction;
7. To monitor all aspects of system performance, including clinical quality of care and verification of response time performance reported by first responders and ambulance service providers;
8. To attend meetings of the Corps and to represent the EMS System at appropriate regional and national EMS related meetings, seminars, and conferences in order to stay abreast of developments in emergency medical care (i.e., ACEP and NAEMSP conference and workshops);
9. To make final determinations regarding requests by Operations Contractor and all other permitted ambulance providers for relief from late run deductions in accordance with applicable provisions for such relief defined in the Operations Contract.

Section 5. Performance Standards

In furnishing ambulance services pursuant to this Agreement, Contractor shall meet or exceed the following minimum standards of performance:

- A. **Response Times:** Throughout the term of the Agreement, Contractor's Response Time reliability on requests for service originating from within the Primary Service Area shall meet or exceed the following performance standards:
 1. **Emergency Requests:** For emergency requests for service, the Contractor shall produce a Paramedic/Advanced Life Support unit response to maintain compliance with the standards established in the Inter-Municipal Agreement.
 2. **Non-Emergency Requests:** Although there are no specific requirements for non-emergency response requests, Contractor will provide non-emergency (priority 3 calls) on an as available basis. The Contractor is not obligated to provide such non-emergency services. However, Contractor will make every effort to provide these services.
 3. **Exceptions:** In performing calculations to evaluate Contractor's performance in regard to these standards, every emergency request originating from within Contractor's Primary Service Area shall be included except as follows:
 - A. Runs shall be excluded which occur during periods of severe weather which could reasonably be expected to substantially impair Contractor's response time performance. It shall be Contractor's responsibility to document these conditions, the time period affected, and the affected runs to apply for this exception as provided for in Section 5, Subsection A.5, hereof.
 - B. Excess runs occurring during periods of "unusual system overload" defined for these purposes as a period of time during which more than two (2) emergency requests originating from within the Primary Service Area are simultaneously in progress. Response times to calls in excess of that number shall not be included in Response Time calculations. It is the Contractor's responsibility to apply for an exemption in accordance with Section 5, Subsection A.5, hereof.
 - C. In cases of multiple response incidents (i.e., where more than one ambulance is sent to the same incident). Only the response time of the first arriving ambulance shall be counted for the purposes of measuring Contractor's response time performance. However the total number of units involved in the response will be noted for reporting to the EMSC.
 - D. The response time requirements of the Agreement shall be suspended during a declared disaster in the municipality, or during a declared disaster in a neighboring jurisdiction which has requested assistance from the Contractor or the municipality.
 - E. No other causes of poor response time performance, such as traffic congestion, vehicle failure, or other such causes, shall be allowed as exceptions to these response time requirements.
 4. **Runs Cancelled Enroute:** Where Contractor's unit is cancelled enroute due to transport of the patient by other means, Contractor's response time on that run shall be calculated either to the moment of cancellation or to the moment of arrival of the Contractor's unit on scene, which ever occurs first. The Communications Center shall not cancel Contractor's enroute unit except where another unit has already initiated transport, or in cases where public safety providers already on the scene find no patient present. No other call shall be downgraded or cancelled unless it is in accordance with established medical protocols.

5. Exception Request Procedure: For any run in which the Contractor feels that an exception to response times should be considered, the Contractor shall submit, in writing to the EMSC, clear documentation for the incident in question. Exception requests, with a narrative, shall be submitted to the EMSC Board with the monthly report.
- B. Communications Center Operations: The contractor shall furnish or arrange with the Municipal Police Departments or another entity for staffing and supervision of the Dispatch/Communication Center. The following standards for Communication Center operations shall apply during the term of this Agreement:
1. All personnel assigned to Communications Center operations shall be experienced Communications personnel.
 2. At all times during the term of this Agreement, Communications Center staffing shall be sufficient to handle predictable call volumes and demand fluctuations.
 3. All incoming telephone lines used by the public to request ambulance service (minimum of two), ring-down lines, radio channel and telephone lines used to communicate with ambulances and interactive medical direction shall be recorded at all times. The Communications Center shall retain all such recordings for a period of not less than forty-five (45) days, and shall make available such recordings to the Contractor's representatives upon request.
- C. Level of Care: Initial 9-1-1 emergency response by Contractor shall be made by a Paramedic ALS unit. Contractor shall use best efforts to see that any further response units will be staffed by a Paramedic.
- D. In-Service Training: Contractor shall furnish, at its own expense, all in-service training necessary to the performance of this Agreement.

Section 6. Mutual Aid Calls

Contractor shall negotiate in good faith with providers serving neighboring service areas to establish written mutual aid call agreements, which will allow efficient coverage and nearest unit dispatching along the border dividing the Primary Service Area from the area served by a neighboring provider. Such agreements may incorporate reasonable and fair compensation provisions to adjust for differences in frequency or requests for Mutual Aid call response.

Contractor shall also coordinate and cooperate with all public safety agencies, hospitals, and other medical transport providers at the local, regional, and state levels for mass casualty and disaster planning.

Section 7. Municipal Department Services Provision

The Contractor and the participating Municipalities' fire and police departments shall prospectively identify and agree to those types of incidents in which the contractor will provide ambulance protective services. These services will be provided, on request, at no charge from the Contractor during agreed upon incidents such as fire suppression, hazardous material incidents, or other public safety activities. If the Contractor should provide services as a result of said protective services, the Contractor may bill the patient and/or patient's insurance for services rendered.

Section 8 Access to Record and Reporting Requirements

Contractor shall comply with the following record keeping and reporting requirements throughout the terms of this agreement.

A. Dispatch Data: The Contractor shall complete a dispatch record on every emergency and non-emergency ground request and response and shall, at the Municipalities option, furnish copies of such dispatch records, along with the communications center records, to the Emergency Medical Services Committee.

1. Coverage Plans: Contractor shall routinely report the Contractor's Deployment Strategies and Plans, and changes thereto to the communications center. To be included in that report are: post locations, post priorities, response time compliance, and around the clock coverage levels.

2. Use of Dispatch Data and Flexible Deployment Information: EMSC shall use dispatch data and flexible deployment information supplied by Contractor in periodic reports to monitor Contractor's compliance with Response Time and Mutual Aid response requirements of this agreement.

Section 9 Consideration

As consideration for Contractor's agreement to provide the services required hereunder in accordance with the standards of performance specified herein, the Municipalities shall utilize the Contractor exclusively for the provision of 9-1-1 emergency medical services originating from within the Primary Service Area. For the period July 1, 2004 to June 30, 2005, the total payment to the contractor by the Municipalities shall be \$239,000.00. It shall be apportioned among the Municipalities in accordance with the terms of the EMS Inter-Municipal Agreement and each municipality will remit its share in four equal installments payable to the contractor upon execution, January 1, April 1, July 1, and October 1. Each municipality shall be responsible for its own share.

For 2005 and subsequent years, the Contractor shall submit a request to the Municipalities for an annual appropriation of funds necessary to meet any anticipated operation deficit in a format acceptable to the EMSC. As a minimum, it shall include a line item expense budget for the operation contractor and medical control functions, and detailed revenue budget. This request shall be submitted to the EMSC not later than September 1 of each year. The EMSC, after consultation with the contractor, will transmit its recommendation to the governing boards of the respective municipalities by November 15 of each year for approval.

The Municipalities will annually apportion the amount due the contractor in accordance with the terms of the EMS Inter-Municipal Agreement and each municipality will remit its share in equal quarterly installments payable to the Contractor on or before January 1, April 1, July 1 and October 1. Each municipality shall be solely responsible for its share.

Section 10. Insurance and Indemnification

Throughout the term of this agreement, the Contractor shall meet or exceed the following requirements:

A. Prior to the time Contractor is entitled to commence any part of the project, work or services under this Agreement, Contractor shall procure, pay for and maintain the minimum insurance coverage and limits as provided for in this section. Said insurance shall be evidenced by delivery to the Municipalities of (a) certificates of insurance executed by insurance carriers certified by the New York Insurance Department or similar agency listing coverage and limits, expiration dates and terms of policies and all endorsements whether or not required by the EMSC, and listing all carriers issuing said policies; and (b) a certified copy of each policy, including all endorsements. The insurance requirements shall remain in effect throughout the term of this Agreement.

1. Comprehensive General liability Insurance: To include but not limited to, Contractual, Independent Contractor, and Incidental Malpractice, covering the liability assumed under the indemnification provisions of this Agreement, with combined single limits of not less than \$3,000,000.00 each occurrence. Liability coverage will include personal injury and/or bodily injury, death and property damage. Coverage shall be on "occurrence" basis, and the policy shall include Broad Form Property Damage coverage, and Fire Legal Liability of not less than the minimum levels as required by New York State law per occurrence, unless otherwise stated by exception herein.

2. Worker's Compensation Insurance: The Contractor shall provide coverage of not less than the minimum levels as required by New York State law.

3. Comprehensive Automobile Liability Insurance: To cover owned, hired and non-owned vehicles with minimum limits of \$1,000,000.00 combined Single Limits, each occurrence for bodily injury including death and property damage. Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards.

4. "Occurrence Form" Availability: The parties recognize that the insurance market for ambulance service is somewhat unpredictable. Should the Contractor demonstrate to the EMSC's satisfaction that "occurrence form" insurance is not available, or available at a reasonable cost, then the EMSC shall approve in the alternative a "claims made" for policy. However, such a "claims made" policy shall include an extended reporting feature for the last two (2) years after the expiration date of policy.

B. Each insurance policy shall include the following conditions by endorsement to the policy:

1. Each policy shall require that sixty (60) days prior to expiration, cancellation, non-renewal or any material change in coverage or limits, a notice thereof shall be given to the manager of each municipality. Contractor shall also notify the EMSC within twenty-four (24) hours after receipt of any notices of expiration, cancellation, non-renewal or material change in coverage received by said Contractor from its insurer, and nothing contained herein shall absolve the Contractor of this requirement to provide notice.
2. Companies issuing the insurance policy, or policies, shall have no recourse against the Municipalities for payment of premiums or assessments for any deductibles which all are the sole responsibility and risk of the Contractor.
3. The Municipalities signing the Inter-Municipal Agreement and its elected and/or appointed officials shall be endorsed to the required policy or policies and added as an "additional names insured".

C. Indemnification:

1. Contractor shall be solely responsible and liable for and shall fully defend, indemnify, and save harmless Principal against any and all claims, liabilities, demands, actions, proceedings, judgments or payments and expenses of any nature whatever asserted against

Principal by the Contractor's and/or subcontractors' employees and/or any or all third parties who may bring claim for personal injury or damage to property as a result of or incidental to the work performed by the Contractor. The Contractor agrees to assume on behalf of Principal the defense of any action at law or in equity which may be brought against Principal upon such claim and to pay all costs and expenses of whatever nature including punitive damages resulting there from and to pay on behalf of Principal upon their demand the amount of any judgment which may be recovered or entered against Principal in any such action. The obligation of the Contractor to indemnify and hold harmless Principal is not dependent upon the question of negligence of Principal. The approval by Principal, its agents or employees of the methods of doing work or the failure to call attention to improper and inadequate methods or to require a change in methods or to direct the Contractor to take any particular precautions or to refrain from doing any particular thing shall not excuse the Contractor. The provisions of this Agreement apply only to the extent permitted by law. Should any provision in this Agreement be found in violation of applicable law, only that provision shall be voided and the remainder of this Agreement shall continue in full force and effect.

2. Waiver of Damage to Property – The Contractor hereby agrees to hold Principal harmless from any claims or damage of any type including consequential loss or use thereof, for any personal property belonging to the Contractor, his sub-contractors, suppliers, employees or representatives regardless of whether or not Principal is deemed responsible in whole or in part by Principal's negligence.

Section 11. Markings and Equipment Required for Vehicles

All Contractor vehicles will be distinctively marked with Contractor name and unit number. All vehicles used will be equipped with appropriate warning devices, and will prominently display the 9-1-1 emergency telephone number. All vehicles will meet the minimum equipment ambulance requirements established by the New York Department of Health.

Section 12. Assignment

This Agreement is not intended nor shall it be construed to inure to the benefit of any third person or entity not a party hereto and no right, duty or obligation of the Contractor under this Agreement shall be assigned to any person, private association or corporation, not-for-profit corporation or public body, without the prior written consent of the Municipalities, except pursuant to mutual aid agreements, or as specifically provided for herein. Any change in Contractor's legal charter and/or structure shall, for the purposes of this Agreement, be considered a form of assignment. The Municipalities shall not unreasonably withhold their approval of a requested change in legal charter and/or structure so long as the transferee is of comparable experience to provide the services at the performance levels outlined in this Agreement.

Section 13. Compliance with Laws

All services furnished by the Contractor under this Agreement shall be rendered in full compliance with all applicable federal, state and local laws, ordinances, rules and regulations. It shall be the Contractor's sole responsibility to determine which laws, rules and regulations apply to the services under this Agreement, and to maintain compliance with all applicable standards at all times.

Section 14. Non-Discrimination

Contractor agrees as follows:

A. Contractor, during the performance of this Agreement, agrees to comply with all applicable provisions of federal, state and local laws and regulations pertaining to prohibited discrimination.

B. Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, age, or handicap status. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, national origin, sex, age, or handicap status. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

C. Subject to applicable insurance requirements imposed on the Contractor with regard to minimum age of employees, Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, provide that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, age, or handicap status.

Section 15. Independent Contractor

The parties acknowledge that Contractor is providing the services contemplated hereunder as an independent contractor and is neither agent, employee, partner nor joint venture of the Municipalities, or of any of the governmental entities located in Westchester County.

Section 16. Contractor's Labor Affairs

The Contractor shall have full responsibility for conducting its affairs with its work force, including managing personnel and resources fairly and effectively in a manner that assures compliance with this Agreement. The Municipalities will not involve themselves in the Contractor's labor affairs or problems.

Section 17. Restricted Activities

During the term of this Agreement, and in regard to every request for response defined herein, Contractor shall not engage in the following practices: telephone call screening, refusal to transport a patient to the nearest medically appropriate facility as defined by applicable protocols, refusal to treat and/or transport a patient requiring medically necessary transportation based on the patients ability to pay for services or maintenance of adequate health insurance to pay for services. However, Contractor may employ priority dispatching practices (emergency medical dispatch) in accordance with approved telephone and dispatch protocols as endorsed by the MCB. Contractor shall not engage in collections at the time of service for 9-1-1 requests; however, at Contractor's option, it may engage in on scene collections relative to patient transfers originating or terminating outside the primary service area.

Section 18. Termination

Prior to its scheduled termination, neither party may terminate this Agreement except as provided for in Section 2 of this Agreement or in the event of a major breach by the other party. For the purposes of this provision, "major breach" by Contractor shall include the chronic failure to meet any of the various performance standards required under this Agreement, provided the nature of such performance deficiency must be such that the Municipalities determine that public health and safety are endangered. Prior to any declaration of major breach, Contractor shall be informed in writing by the Municipalities of the existence and specific nature of the deficiency and be allowed a reasonable opportunity to correct the breach. Nothing herein shall be deemed as prohibiting the Municipalities from taking appropriate and necessary steps to assure ongoing and continuous service, regardless of the nature of the breach or its underlying causes.

Conditions and circumstances which shall constitute a major breach of contract by the Contractor shall include the following:

- A. Failure of the Contractor to operate the ambulance service system in a manner which enables the Contractor to remain in substantial compliance with the requirements of the applicable federal, state and local laws, rules and regulations. Minor infractions of such requirements shall not constitute a major breach of this contract; rather, failure of the Contractor to substantially comply with such provisions can only be determined by the Municipalities after Contractor has been afforded reasonable written notification of the deficiency, and reasonable time to correct said deficiency:
- B. Willful falsification of information supplied by the Contractor;
- C. Willful falsification of data supplied to the Municipalities during the course of operations, including by way of example but not by way of exclusion, dispatch data, patient report data, response time and data, or willful downgrading of presumptive run code designations to enhance Contractor's apparent performance, or falsification of any other data required under this Agreement.
- D. Chronic and persistent failure of Contractor's employees to conduct themselves in a professional and courteous manner, and to present a professional appearance, to the extent that the Contractor's reputation as a provider of high quality emergency ambulance service suffers.
- E. Chronic and persistent failure of the Contractor to meet established performance criteria such as: provision of twenty-four (24) hour a day ALS ambulance service, meeting established response time criteria, or maintaining proper telephone and radio communication.
- F. Contractor's refusal to treat and/or transport patients due to their inability to pay for service.

In the event a major breach is declared as a result of Contractor deficiencies, which are dangerous to the public health and safety, with thirty (30) days written notice, emergency take-over or "step-in-rights" may be exercised by the Municipalities. Contractor shall not be prohibited from disputing any such finding of major breach through litigation, provided, however, that such litigation shall not have the effect of delaying, in any way, the immediate takeover of operations by Municipalities. Neither shall such action delay the Municipalities access to system funds under the lock box arrangement.

Section 19. Equipment and Vehicle Provisions

A. Step-in-Rights. In order for the Municipalities to exercise Step-in-Rights under the terms of this Agreement, Contractor will maintain agreements providing Municipalities immediate access to equipment and vehicles which would allow Municipalities continued operations in the event of

a major breach of the agreement. In the event Municipalities would exercise its Step-in authority under this Agreement, it will reimburse Contractor for the use of said vehicles and equipment at fair market value.

- B. Vehicle and On-Board Equipment Arrangement. Contractor may choose to hold title to vehicles and on-board equipment or enter into some form of lease agreement. If Contractor ownership is desired, Contractor must provide a plan whereby Municipalities, at their discretion, can assume immediate control of the ambulances and on-board equipment in the event of a breach of contract, declared bankruptcy, unforeseen cessation of operations, or termination of contract for whatever reason. If a lease arrangement is desired, Contractor must provide a plan whereby Municipalities have step-in-rights to the lease so that immediate control of vehicles and on-board equipment can be exercised by the Municipalities, at their discretion, in the event of breach of contract, declared bankruptcy, unforeseen cessation of operations, or termination of contract for whatever reason. It is understood between Municipalities and Contractor that any similar agreements will also be entered into for future rolling stock/equipment purchase. These agreements may be modified in the future by the written mutual consent of the parties, however there shall be a requirement of each lease that, in the event that Municipalities exercise their "step-in-rights" under this agreement, or at the option of the Municipalities, in the event of the termination of this agreement that the vehicles and equipment shall be transferred to and assumed by the Municipalities. The desired plan shall be subject to the review and approval of the Municipalities designated legal counsel. The ownership or lease instrument, when developed and approved, shall be maintained by the Contractor and copies provided to the Municipalities.

Section 20. Bills, Collections, Accounts Receivable

The billing for service shall be at rates no less than the then current approved Medicare reimbursement rate for the service provided. Bills for emergency ambulance service will be processed by the Contractor or its agent in a timely manner. Every reasonable effort will be made to collect such billings for service. Should a billing subcontractor be utilized, a current copy of the agreement between Contractor and its billing agent shall be filed with the Municipalities and shall include insurance provisions, assurance of compliance with all applicable federal and state laws and regulations, and hold harmless clauses protecting Contractor and municipalities from the billing agent's handling of billing and collection activities. Contractor agrees to utilize a Lock Box arrangement, or other similar mechanism acceptable to the Municipalities, that ensures that the EMS system's accounts receivable are under the control of the Municipalities, at its discretion, in the event of a breach of contract, declared bankruptcy, unforeseen cessation of operations, or termination of contract for whatever reason.

Section 21. Quality Improvement Program

Contractor will maintain and support a Quality improvement (QI) program in order to maintain and assure ongoing quality of the clinical and operational performance of the Contractor's organization. The QI programs and their subsequent reports, which are not of a proprietary or confidential nature, will be included in routine reports to the Municipalities.

Section 22. Reporting

A. Operational. Contractor will report to the Municipalities on a monthly, quarterly, and annual basis the progress, status, and/or compliance of the following measurements: flexible deployment plans, response time compliance, response time that exceeds the response time standards herein, QI programs, run volumes, and patient types, for example.

B. Financial. Contractor will report to the Municipalities on a quarterly basis its internal financial reports including at least a statement of Income and Expenditures, cash flow, balance sheet, and current billing rates. Contractor will provide the Municipalities, within ninety (90) days of the close of the Contractor's fiscal year, its independently reviewed financial statements. At the Municipalities request, Contractor shall provide an independent financial audit annually.

Section 23. Complaint Handling

Any complaints regarding patient care or billing will be considered to be of highest priority to the Contractor. Any patient care or billing complaints lodged with a municipal official and subsequently with the Contractor will be thoroughly investigated by the Contractor with investigation findings and outcome reported to the individual municipal manager. Any complaints regarding patient care or billing lodged directly with the Contractor will be equally investigated. Findings and outcome from those investigations will likewise be reported to the appropriate oversight board.

Section 24. Miscellaneous Provisions

- A. Time is of the Essence. Time is of the essence in this Agreement.
- B. Notice. All notices required hereunder will be in writing and served personally or by certified mail, return receipt requested, postage prepaid, at the address shown below:

City Manager
City of Rye
1051 Boston Post Road
Rye, N.Y. 10580

Village Manager
Village of Port Chester
10 Pearl Street
Port Chester, N.Y. 10573

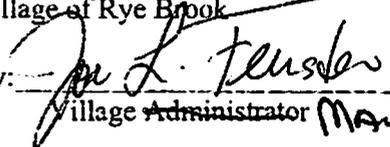
Village Administrator
Village of Rye Brook
938 King Street
Rye Brook, N.Y. 10573

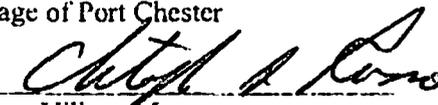
Administrator
Port Chester – Rye - Rye Brook VAC, Inc.
417 Ellendale Avenue
Port Chester, N.Y. 10573

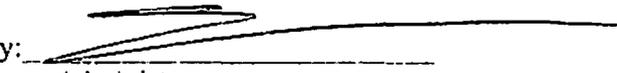
- C. Entire Agreement. This Agreement constitutes the entire agreement between the Contractor and the Municipalities and there are no agreements, understandings, warranties or representations between the parties except as provided for herein. This Agreement cannot be amended except in writing executed by the parties.
- D. Applicable Law. The validity, construction, performance, and effect of this Agreement will be governed by the laws of the State of New York, and any questions arising there under shall be construed or determined according to such laws.
- E. Binding Effect. This Agreement will inure to the benefit of and bind the respective parties, their successors, personal representatives and permitted assigns.
- F. Headings. The heading in this Agreement are inserted for convenience of reference only and are not to be used in construing or interpreting any provisions of this Agreement.
- G. Counterparts. This Agreement may be executed in any number of counterparts, any of which shall constitute the agreement between the parties.
- H. Invalidity. If any term, provision, covenant or condition of this Agreement, or any application there, should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all terms, conditions, covenants and conditions of this Agreement, and all applications thereof, not held invalid, void, or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated there.
- I. Waiver. Except as otherwise provided for in this Agreement, no waiver of any of the provisions of this Agreement shall be deemed to be, or shall constitute a waiver of any other provision or similar occurrence, whether or not similar, nor shall any waiver be binding unless evidenced by an instrument in writing executed by the party making the waiver.
- J. Omnibus Provision. Until the expiration of four (4) years after the furnishing of any service pursuant to this Agreement, the Contractor shall make available, upon written request to the Secretary of the United States Department of Health and Human Services or upon written request to the United States Comptroller General, or any fully authorized representative, this Agreement and such books, documents, and records as are necessary to certify the nature and extent of the reasonable cost of services.
- K. Delay in Commencement. If the delay in the commencement date is caused by events outside the direct and immediate control of the parties hereto, neither party shall be liable to the other for any loss caused by such a delay.

IN WITNESS HEREOF, this Agreement has been executed by the parties this _____ day of _____, _____.

City of Rye
 By: 
 City Manager

Village of Rye Brook
 By: 
 Village Administrator Mayor

Village of Port Chester
 By: 
 Village Manager

Port Chester-Rye-Rye Brook VAC, Inc.
 By: 
 Administrator



CITY COUNCIL AGENDA

NO. 18

DEPT.: Golf Club

DATE: October 9, 2013

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Three appointments to the Rye Golf Club Commission for a three-year term expiring January 1, 2017, and the designation of one member to the Rye Golf Club Nominating Committee.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council approve the individuals elected to serve on the Rye Golf Club Commission.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: On September 8, 2013, the following individuals were elected to serve on the Rye Golf Club Commission for the terms as noted. Term begins January 1, 2014.

<u>Electee</u>	<u>Term</u>
Mack Cunningham	3-year term
John Duffy	3-year term
Leon Sculti	3-year term

The extension of term for Terence Caffrey to serve on the Rye Golf Club Commission Nominating Committee for one year effective January 1, 2014.

See attached voting results.

September 9th, 2013

[REDACTED]
Rye Golf Club
[REDACTED]
[REDACTED]

Dear [REDACTED]

The following election results are certified by Simply Voting to have been securely processed and accurately tabulated by our independently managed service. We conducted a standard review of the Activity Log and did not find any anomaly in organizer or voter activity. The organizers cannot see what each voter has voted, and the secrecy of the vote has been preserved.

2013 RGC Commission Election

Start: 2013-08-29 16:00:00 (Eastern Time) **End:** 2013-09-08 20:00:00 (Eastern Time)

Turnout: 490 (22.1%) of 2220 electors voted in this ballot.

2013 RGC Commission

The three candidates receiving the highest number of votes shall be elected to the Commission for a three year term.

Akhil Kumar	168 (34.3%)
Angela Sposato	199 (40.6%)
Barry McGowan	72 (14.7%)
Bob DiMaggio	118 (24.1%)
John Duffy	212 (43.3%)
Leon Sculti	272 (55.5%)
Mack Cunningham	322 (65.7%)

SUMMARY

Answered Questions	490 (100.0%)
Abstain	0 (0.0%)
Total	490

Respectfully yours,

Bret Scofield
Elections Director
Simply Voting Inc.
1-800-585-9694 ext. 802
bscofield@simplyvoting.com





CITY COUNCIL AGENDA

NO. 19 DEPT.: City Council DATE: October 9, 2013
CONTACT: Mayor French

AGENDA ITEM: One appointment to the Rye Cable and Communications Committee for a three-year term expiring on January 1, 2017, by the Mayor with Council approval.

FOR THE MEETING OF:
October 9, 2013
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council approve the appointment of Elizabeth Dowling.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Committee may have 9 members. Current Committee Members include:

<u>Current Committee Members</u>	<u>Expiration Date</u>
Stephen Fairchild, Chair	1-01-16
Kate Conn	1-01-16
Mark DelliColli	1-01-14
Mary Ellen Doran	1-01-16
Paula Fung	1-01-14
Ken Knowles	1-01-16
Susan Olson	1-01-14
Lisa Tidball (*non-voting member)	1-01-14
VACANCY	



CITY COUNCIL AGENDA

NO. 20

DEPT.: City Manager

DATE: October 9, 2013

CONTACT: Scott D. Pickup

AGENDA ITEM: Consideration of a request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, December 1, 2013 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event.

FOR THE MEETING OF:

October 9, 2013

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, December 1, 2013 from 10:00 a.m. to 3:00 p.m.

See attached request.



September 10, 2013

Ms. Dawn Nodarse
City Clerk
City of Rye
1051 Boston Post Road
Rye, New York 10580

Re: Rye Chamber of Commerce "Mistletoe Magic"

Dear Ms. Nodarse:

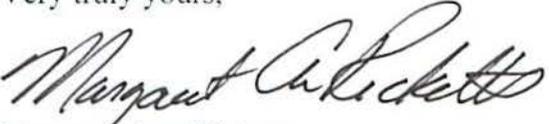
On behalf of the Rye Chamber of Commerce, I am writing to request permission from the City for use of city streets on **Sunday, December 1, 2013** for the Mistletoe Magic event. Specifically, we are requesting that Purchase Street be closed from the Square House north to Purdy Avenue from the hours of 10 a.m. to 3 p.m.

Our members will be providing entertainment with costumed characters, Rye Art Center children's musical ensembles, strolling carolers, a horse and buggy ride and assorted refreshments and arcade games and more.

If approved, I understand we must coordinate logistics with Lt. Falk of the Rye City Police Department. An insurance certificate will be provided upon approval.

Thank you in advance for your consideration.

Very truly yours,



Margaret Ann Ricketts

cc: Ms. Susan McNamee
City Manager – Scott Pickup



CITY COUNCIL AGENDA

NO. 21

DEPT.: City Manager

DATE: October 9, 2013

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Appeal of denial of FOIL request by Timothy Chittenden.

FOR THE MEETING OF:

October 9, 2013

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council make a decision on the FOIL appeal.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The requestor submitted a FOIL request seeking "All EZ Pass invoices for all city vehicle assigned to the Rye Police Department since January 1, 2003." He was informed by the FOIL Records Access Officer that "Records exist in connection with this request, but they are exempt pursuant to POL Sections 87(2)(e)(iii), (iv) and 87(2)(f)." The requestor is appealing this decision.

See attached documentation.

Work Order Form

FOIL

Tracking Number: 6666261100
Date Time Received: 9/17/2013 11:00AM
Created By: Timothy Chittenden (Citizen)

Contact Information

First Name: Timothy
Last Name: Chittenden
Business Name:
Email: [REDACTED]
Daytime Phone: [REDACTED]
Fax:
Address: [REDACTED]
City: Rye
State: NY
Zip: 10580
Country:

Issue Location

Street:
Unit:
City: Rye
State: NY
Zip: 10580
Comments:

Request Details

Is this a request for commercial purposes?
No

Describe records being sought - One request per submission.
All EZ Pass invoices for all city vehicle assigned to the Rye Police Department since January 1, 2003.

Please indicate your preference:
Electronic Copies

Please note, if more than two hours are spent in preparing records, the requestor will be charged for the additional time at the hourly rate of the lowest paid employee who has the skill level required to accomplish the task. You will be informed of any charges exceeding \$10.00. Any charges due must be paid within five (5) business days of the City notifying you. If you fail to pay fees from prior FOILs, any future FOIL requests will not be processed until all outstanding fees are paid. By submitting this request, I agree to pay costs related to this FOIL request up to \$10 without further notification.

Request Activity

9/27/2013 10:11 AM -- Rye Foil - RESOLVED
-----Note to Citizen: Records exist in connection with this request, but they are exempt pursuant to POL Sections 87(2)(e)(iii), (iv) and 87(2)(f). If you wish to appeal this denial you may do so by directing your appeal to the City Council

Work Order Form

FOIL

Tracking Number: 6666261100
Date Time Received: 9/17/2013 11:00AM
Created By: Timothy Chittenden (Citizen)

by way of the City Clerk.

-----Internal Note: This FOIL is complete. Requestor has been notified by email that records exist but access is denied under POL Sections 87(2)(e)(iii), (iv) and 87(2)(f).

9/26/2013 5:16 PM -- Preflight Foil - INPROGRESS

-----Internal Note: Dawn please send Mr. Chittenden the following response: The records sought are not subject to disclosure under POL 87(2)(e)(iii), (iv) and 87(2)(f).
 This item has been re-assigned to Rye Foil.

9/20/2013 8:33 PM -- Police Foil - INPROGRESS

-----Note to Citizen: Request has been referred for internal review.

-----Internal Note: The records sought are not subject to disclosure pursuant to the Freedom of Information Law (as per previous discussion).
 This item has been re-assigned to Preflight Foil.

9/17/2013 11:04 AM -- Rye Foil - INPROGRESS

-----Note to Citizen: Your FOIL request has been forwarded to the pertinent department for response.

-----Internal Note: Please respond to this FOIL request.
 This item has been re-assigned to Police Foil.

9/17/2013 11:00AM -- Timothy Chittenden (Citizen) - SUBMITTED