

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, January 25, 2017, at 7:30 p.m. in Council Chambers at City Hall. *The Council will convene at 6:30 p.m. and it is expected they will adjourn into Executive Session at 6:31 p.m. to discuss litigation.*

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. Resolution for the Mayor and Council to approve the appointment of the Commissioner of Public Safety of the City of Rye.
4. General Announcements.
5. Draft unapproved minutes of the regular meeting of the City Council held December 21, 2016 and January 11, 2017.
6. Issues Update/Old Business.
7. Consideration to set a Public Hearing for February 1, 2017 to amend the Rye City Code: (a) local law Chapter 133, "Noise", by amending Section §133-4, "Points and method for measuring intensity of sound" to regulate placement and noise of telecommunication devices; (b) local law Chapter 167, "Streets and Sidewalks", to add a new Article IV "Placement of Permanent Facilities in the Rights of Way", Sections §167-66 through §167-71, to regulate placement of devices in the right of way; and (c) local law Chapter 196, "Wireless Telecommunications Facilities", by amending Sections §196-3 through §196-8, §196-14, §196-17, §196-18, and §196-22 to regulate wireless facilities and structures regarding size, visual impact and permit process.
8. Residents may be heard on matters for Council consideration that do not appear on the agenda.
9. Bid Award for the Theodore Fremd Infrastructure Project contract (Contract #2016-18).
Roll Call.
10. Resolution to transfer \$40,000 from the Contingent Account to the Dearborn Avenue Seawall Project for repair of the Dearborn Avenue seawall.
Roll Call.
11. Consideration of a request by the Rye Little League to approve a parade to kickoff Opening Day of the 60th Little League Season on Saturday, April 22, 2017 beginning at 12:00 p.m.
12. Consideration of a request by the Rye YMCA for the use of City streets for the 29th Annual Rye Derby on Sunday, April 30, 2017 from 9:00 a.m. to 2:00 p.m.

13. Consideration of a request by the American Legion Post 128 and the Ladies Auxiliary of Post 128 to approve a parade to commemorate Memorial Day to be held on Monday, May 29, 2017 from 9:45 a.m. to 10:15 a.m.
14. Miscellaneous communications and reports.
15. Old Business.
16. New Business.
17. Adjournment.

The next regular meeting of the City Council will be held on Wednesday, February 1, 2017.

** 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 jsack@ryeny.gov or contacting the City Manager's Office at (914) 967-7404.



CITY COUNCIL AGENDA

NO. 3

DEPT.: City Manager

DATE: January 25, 2017

CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: Resolution for the Mayor and Council to approve the appointment of the Commissioner of Public Safety of the City of Rye.

FOR THE MEETING OF:

January 25, 2017

RECOMMENDATION: That the Council consider the following resolution:

RESOLVED, that the City Council of the City of Rye hereby approves the appointment of Michael C. Corcoran, Jr. as the Commissioner of Public Safety of the City of Rye effective January 25, 2017.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Clerk

DATE: January 25, 2017

CONTACT: Carolyn D'Andrea, City Clerk

AGENDA ITEM: Draft unapproved minutes of the Regular Meeting of the City Council held December 21, 2016 and January 11, 2017.

FOR THE MEETING OF:

January 25, 2017

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 December 21, 2016 and January 11, 2017, as attached.

DRAFT UNAPPROVED MINUTES
of the Regular Meeting of the City Council of
the City of Rye held in City Hall on December
21, 2016 at 7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor
KIRSTIN BUCCI
EMILY HURD
JULIE KILLIAN
TERRENCE McCARTNEY
RICHARD MECCA
DANIELLE TAGGER-EPSTEIN (left at approximately 8:10 p.m.)
Councilmembers

ABSENT:

None

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried to immediately adjourn into Executive Session to discuss litigation and personnel matters. Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried, to adjourn the Executive Session at 7:30 P.M. The regular meeting convened at 7:45 P.M.

Mayor Sack welcomed everyone to the final meeting of the year.

1. Pledge of Allegiance.

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

2. Roll Call.

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

13. Consideration of settlement in the litigation *Rvin Reyes, et al v. City of Rye, Rye Golf Club, RM Staffing & Events, Inc., Morris Yacht and Beach Club, Inc. and Scott Yandrsevich, Jointly and Severally.*
Roll Call.

This item was taken out of order. Councilman McCartney announced that he was happy to report that a settlement had been reached in a class action lawsuit that was brought against the City for unpaid tips and wages at the Rye Golf Club. He recognized Corporation Counsel Wilson for her diligent efforts in this litigation. He also recognized the current and past workers of the Rye Golf Club that had been affected by the prior issues at the Rye Golf Club. He announced that the parties settled at \$1 million. There

was also an agreement that there will be an appreciation event scheduled for next summer for those employees.

Mayor Sack thanked Corporation Counsel Wilson and Councilman McCartney for their efforts. He said that this settlement will be the final step with the unfortunate events of the Rye Golf Club.

Councilman McCartney made a motion, seconded by Councilwoman Bucci, to approve the payment of \$1 million in full satisfaction to satisfy the settlement agreement in the litigation *Rvin Reyes, et al v. City of Rye, Rye Golf Club, RM Staffing & Events, Inc., Morris Yacht and Beach Club, Inc. and Scott Yandravovich, Jointly and Severally*.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca and Tagger-Epstein
NAYS: None
ABSENT: None

3. General Announcements.

Councilwoman Killian announced that with regard to Rye Town Park, the Rye Town Park Commission has formalized the process for an expression of interest for the space formerly known as Seaside Johnny's for 2017. Interested parties who would like to propose a concession space must inform the Town of Rye by January 12, 2017. She also stated that four proposals have been received for the position of restaurant consultant, to advise the commission on a more permanent restaurant situation for 2018. Mayor Sack agreed with the approach and stated that he looked forward to the future of the space. Councilwoman Killian announced that Rye Town Park had great revenue in the past year and can cover a possible deficit that might present itself.

Councilman Mecca stated that on December 13, 2016, there was a public hearing concerning the site at 120 Old Post Road. There will be another hearing on Tuesday, January 10, 2017 at 7:00 P.M.

Councilman McCartney stated that unfortunately, Ike Kuzio, Assistant Recreation Superintendent, will be moving on to another position. He stated the City is happy for him in his new endeavor. He announced that Winter Recreation programs will take place during the school break. He encouraged interested families to sign up for the program and contact the Rye Recreation Department. He also announced that the Rye Golf Club celebrated its end of season and is now closed for the winter. He noted the positive capital projects at the club that have improved conditions, and looks forward to the season next spring.

Councilwoman Killian stated that she encouraged everyone to utilize Whitby Castle for their next catering event. She also thanked Commissioner Corcoran for organizing the City's Drug Take-back Day.

Councilwoman Hurd thanked Ike Kuzio for all his help at the Boat Basin in 2016 and wished him good luck in his new job. She encouraged everyone to shop local for the holidays. She also stated that the hearing on Mile Marker 25 will be held in January 2017.

Mayor Sack stated that he had been reading the Rye chronicles from 50 years ago, and was interested to see that issues then have been constant and repeated today. He said that one story he read was about children being safe and careful with drinking and substance abuse. This issue is still just as important and prevalent today.

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

This item was taken out of order.

Sherri Jordan, former Director of the Rye Historical Society, addressed the Council concerning the Benjamin Franklin Mile Marker 25. She stated that when considering this request, it is important to consider the authenticity of the marker's placement, best practices for preservation standpoint, and public accessibility and convenience. She presented historical books and documents that explained the history of Rye and the Mile Markers' significance. She gave a brief history of the Mile Markers and mileage "odometer" placed at each mile between New York and Boston. She clarified some interesting points about rerouting the Post Road and replacing the Mile Markers. She also reiterated the history of Mayor Morehead and his preservation efforts of the Mile Markers. She felt that moving the current Mile Marker may not be helpful for authenticity purposes.

Suzanne Clary, President of the Jay Heritage Center, discussed the placement of the Markers. She stated that in terms of preservation, once something historic is moved, its authenticity is changed and may remove the ability for it to be deemed a landmark. She also stated that there should be caution exercised with the moving of a historic object. She also discussed specifics about preservation. She encouraged that the Council give this further thought and review.

Jennifer Plick, Acting Director of the Rye Historical Society, proposed signage and brochures as a compromise to educate citizens on the important historical aspects of Mile Marker 25.

Councilwoman Hurd thanked Ms. Jordan, Ms. Clary, and Ms. Plick for their presentation. She commented that the placement of the Mile Marker was a significant concern of the Landmarks Committee.

Bob Zahm, Rye Resident, expressed concern over the sidewalk on the corner of Mead Place and Locust Avenue. He stated that he had expressed concern and reported unsafe condition of this area many times over the course of five years.

4. Draft unapproved minutes of the Budget Workshop held November 28, 2016 and the Regular Meeting of the City Council held December 7, 2016.

Councilman McCartney made a motion, seconded by Councilwoman Hurd, to adopt the Draft unapproved minutes of the Budget Workshop held November 28, 2016 and the Regular Meeting of the City Council held December 7, 2016.

5. Issues Update/Old Business.

- Update on the Dearborn Avenue Seawall project.

City Manager Serrano updated the Council and community on the Dearborn Avenue Seawall project. He stated that the City attempted to work together with engineers from both the City and Rye Town Park to come to a resolution. The internal decision has been made to fix the City's portion of the wall, as FEMA's recommendation to replace it in its entirety would cost \$1.3 million. The City will be fixing the wall as soon as possible. City Manager Serrano stated that the project will cost \$50,000 and FEMA is expected to reimburse the City up to 90%.

6. Continuation of the Public Hearing to adopt a Local Law to override the State enacted tax levy limitation.

7. Continuation of the Public Hearing on the proposed 2017 Budget.

The public hearings for Items 6 and 7 were opened simultaneously. City Comptroller Fazzino addressed the Council. He reiterated highlights from his budget presentation in November 2016. He stated that several changes that had been made since the budget was first proposed were the removal of dedicated funding for the Five Point intersection, the reduction from 38 to 37 police officers, and the \$50,000 added revenue to the projected traffic enforcement budget.

Mack Cunningham, 502 Forest Avenue, addressed the Council. He handed out some materials to the Council. There was general discussion regarding funding from FEMA for the Dearborn Avenue Seawall. City Manager Serrano stated that he was hopeful that there would be a future IMA between the City and the Rye Town Park Commission regarding the seawall.

Mr. Cunningham discussed a number of issues, including the Starwood project proposed in Port Chester and concerns about that development. He expressed concern about the Thruway property and the future of that land, especially considering the traffic implications regarding the Starwood property.

Mayor Sack responded that there will be a Capital Projects meeting in January 2017 to begin discussing important projects.

Mr. Cunningham also complimented the Council for their help settling all remaining issues with the Rye Golf Club. He reviewed the general projects and issues

regarding the Rye Golf Club, including several recent capital projects. He thanked City Comptroller Fazzino, Angela Terrones, and Chip Lafferty for their hard work.

Mr. Cunningham discussed bonding and interest rates as the City looks to the future. He discussed the Dearborn Pump Station improvements for \$300,000. He asked the City staff to look into grant funding for projects such as these. He also discussed the creation of a dedicated fund for high priority capital improvements. He also urged the Council to consider a Sewer Rent Fund pursuant to General Municipal Law. He then discussed the personnel expenses and issues concerning the Boat Basin. He encouraged the addition of a full time tradesman employee at the Boat Basin. Mr. Cunningham then commented that he felt that parking enforcement should be present after 3:00 P.M. on weekdays and on weekends. There was lastly discussion about mooring revenues from the Boat Basin.

Councilman Mecca made a motion, seconded by Councilman McCartney, to close the public hearings.

Councilwoman Bucci stated that it is true that the tax rate increase is significant to fund major projects and operating expenses. The expenses are important to look at. With roughly two-thirds of the budget dedicated to employee benefits, it will be important to reconsider items such as health benefits.

Councilwoman Hurd stated that the tax cap puts the City in a challenging situation, but it allows the services provided to be maintained.

Councilwoman Killian agreed and stated that while she feels that the tax increase is significant, it is difficult to maintain services and operating without the increase. She is hopeful that next year, expenses might be different to lessen the burden on the taxpayer.

Councilman McCartney stated that it was a difficult decision to override the tax cap. He said that the services from the City staff are important to maintain. However, expenses should be considered.

Councilman Mecca agreed with all the statements previously made.

Mayor Sack thanked City Comptroller Fazzino, City Manager Serrano, and Assistant City Manager Militana for their hard work on the 2017 Budget.

Mayor Sack made a motion, seconded by Councilman Mecca, to adopt the following resolution:

CITY OF RYE

LOCAL LAW NO. 5 FOR THE YEAR 2016

A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED

IN GENERAL MUNICIPAL LAW §3-C

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

Section 1. Legislative Intent: It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the City of Rye pursuant to General Municipal Law §3-c, and to allow the City of Rye to adopt a budget for the fiscal year beginning January 1, 2017 and ending December 31, 2017 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

The City Council finds that this local law would provide the City the flexibility it may need when it adopts the 2017 budget. Thus, the City Council of the City of Rye finds that it is in the best interests of the City to enact the local law.

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

Section 3. Tax Levy Limit Override: The City Council of the City of Rye, County of Westchester is hereby authorized to adopt a budget for the fiscal year 2017 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

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

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

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca
NAYS: None
ABSENT: Councilwoman Tagger-Epstein

8. Resolution to adopt the 2017 Budget and establish the 2017 tax levy and 2017 tax rate.
Roll Call.

Mayor Sack made a motion, seconded by Councilman McCartney, to adopt the 2017 Budget and establish the 2017 tax levy and 2017 tax rate.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca
NAYS: None
ABSENT: Councilwoman Tagger-Epstein

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

Councilman McCartney made a motion, seconded by Councilman Mecca to authorize the City Comptroller to make the necessary year-end closing transfers.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca
NAYS: None
ABSENT: Councilwoman Tagger-Epstein

10. Continuation of the Public Hearing to amend local law Chapter 194, "Water", of the Rye City Code by amending Section §194-1, "Conservation in times of emergency", to give the City Manager the authority to declare conservation in times of water emergency.

Bob Zahm, 7 Ridgewood Drive, stated that he was concerned about the language of the current local law. Specifically, he was concerned about the process in which an emergency is declared.

Councilwoman Killian commented that she agreed with Mr. Zahm's points. She asked that the text be proofread and modified. She also inquired about the penalties.

Mayor Sack recommended putting this matter over to February, 2017.

Councilman Mecca gave a brief history of the water companies within the City of Rye.

11. Continuation of the Public Hearing on the proposed revision to the Rye City Charter to rescind Article 12 “Police Department” and Article 13 “Fire Department” and create a new Article 12 “Department of Public Safety” and to create a new position of “Commissioner of Public Safety” which position shall have charge and supervision of the Police and Fire Departments.

Mayor Sack explained that this amendment was a follow-up on the Charter revision that had been approved by referendum in the November 2016 election regarding the position of Commissioner of Public Safety. The proposed amendment would require City Council approval of the City Manager’s recommendation.

Councilman Mecca made a motion, seconded by Councilman McCartney, to close the public hearing.

Councilman Bucci made a motion, seconded by Councilman Mecca, to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO. 6 2016**

A local law to rescind Article 12 “Police Department” and Article 13 “Fire Department” of the Rye City Charter and create a new Article 12 “Department of Public Safety” and to create a new position of “Commissioner of Public Safety”, which position shall have charge and supervision of the Police and Fire Departments as follows:

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

Section 1: Repeal City Charter Article 12 “Department of Police” in its entirety and replace same with a new Article C12 “Department of Public Safety”

Section 2: Repeal City Charter Article 13 “Fire Department” in its entirety.

Section 3: Department of Public Safety.

Article C12-1. “Commissioner of Public Safety”

- A. There shall be Department of Public Safety, the head of which shall be the Commissioner of Public Safety, who shall be appointed by the City Manager, and he/she shall serve at the pleasure of the City Manager **except that the City Manager shall obtain the consent of the Mayor and the City Council when appointing the Commissioner of Public Safety.** The Commissioner of Public Safety shall have at least the qualifications and experience specified by the City Council. The Commissioner of Public Safety shall report directly to the City Manager.
- B. The Commissioner of Public Safety shall have charge and supervision of

the Fire and Police Departments and shall provide in all ways possible for the safety, care, comfort and protection of the inhabitants of the City of Rye and of their property.

Article C12-2. Powers and Duties of Commissioner of Public Safety.

- A. The Commissioner of Public Safety shall have jurisdiction, supervision and control of the government, administration, disposition and discipline of the officers and members of the Fire and Police Departments; and shall possess and exercise fully and exclusively all powers and perform all duties pertaining to the government, maintenance and direction of the fire department, and the apparatus and property thereof, and buildings furnished therefore and of the Police Department and equipment furnished therefore, and shall have the general directions and supervision of the expenditure of all moneys appropriated to the Department of Public Safety. He/she shall have authority to administer oaths and take evidence, affidavits and acknowledgements in all matters and proceedings pertaining to the Department of Public Safety.
- B. The Commissioner of Public Safety shall have the power to make rules and regulations, approved by the City Council, in regard to the government, administration, disposition and discipline of the members Fire Department and the Police Department. Such rules and regulations may provide for the hearing, examination, investigation, trial and determination of charges made or prepared against any officer or member of said department for neglect of official duty or incompetency or incapacity to perform his official duties, or some delinquency seriously affecting his general character or fitness for the office, and may, in his/her discretion, punish, discipline and/or terminate any officer or member found guilty thereof, after reasonable notice and upon due trial by the aforesaid Commissioner of Public Safety in the form and manner prescribed by the rules and regulations of his Department.
- C. The Commissioner of Public Safety shall have the power to appoint all officers and members of the Fire Department, except those positions which are elected positions by the Volunteer Fire Department and all officers and members of the Police Department, including Bay Constables, subject to civil service rules and regulations, to such positions in said departments as are established by the City Council.
- D. The Commissioner of Public Safety shall have general supervision over the records of the Department of Public Safety and its officers and employees and shall possess such other powers and perform such other duties as may be prescribed by law or by resolution of the City Council.
- E. The Commissioner of Public Safety shall be responsible for the administration and supervision of police officers assigned to policing and enforcing all laws and ordinances applicable to Rye Town Park and the

maintenance of order therein.

- F. The Commissioner of Public Safety shall assist the City Manager in the administration of flood, disaster and other emergency plans.
- G. The Commissioner of Public Safety shall be responsible for the administration, in coordination with other municipalities, of an emergency ambulance service on behalf of the inhabitants of the City.

Article C12-3. Constitution of the Fire Department and the Police Department.

The Fire Department shall be supervised by the supervisory career officers and such other officers as the Commissioner of Public Safety shall authorize. The Police Department shall consist of the paid division, including the Bay Constables, and the auxiliary police division and shall be supervised by the supervisory career officers of the Police Department and such other officers as the Commissioner of Public Safety shall authorize. The supervisory career officers of the Fire Department and the supervisory career officers of the Police Department, under the direction and control of the Commissioner of Public Safety, shall have the supervision and management of the officers, employees and members of the respective departments.

Article C12-4. Election and approval of officers of the Rye Volunteer Fire Department.

The Rye Volunteer Fire Department shall be constituted of a/several volunteer fire company(ies) and shall have the power to elect a chief, a first assistant chief, a second assistant chief, and all company officers to be elected from the company(ies); however, such positions shall only be filled if such volunteers meet all of the training requirements established by the Commissioner of Public Safety. All elected officers shall be approved by the Commissioner of Public Safety and the City Council. The chief, first assistant chief and second assistant chief shall work with the supervisory career officers of the Fire Department and report directly to the Commissioner of Public Safety. Each company shall have the power to elect company officers as are necessary and to select members to fill any vacancies which may occur in their ranks. The company(ies) may adopt by-laws, subject to the approval of the Public Safety Commissioner, City Manager and City Council, to govern the leadership, management and direction of their respective company(ies). The Commissioner of Public Safety may remove any member on the ground of incompetence or misconduct after a hearing upon due notice and upon stated charges with the right of such officer and member to a review pursuant to article seventy-eight of the civil practice law and rules.

Section 4: 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 5: Effective date.

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

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca
NAYS: None
ABSENT: Councilwoman Tagger-Epstein

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

City Manager Serrano stated that the contracts with Westchester County are renewed each year.

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

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

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

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

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

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

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca

NAYS: None

ABSENT: Councilwoman Tagger-Epstein

15. Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2017.
Roll Call.

Councilwoman Hurd made a motion, seconded by Councilwoman Killian, to enter into the following agreement with the Rye Free Reading Room:

THIS AGREEMENT, made as of the ____ day of January, 2017, by and between the CITY OF RYE, a municipal corporation located within the County of Westchester and State of New York, party of the first part, and RYE FREE READING ROOM, a free library association duly registered by the Regents of the University of the State of New York at a meeting thereof on January 24-25, 1917, and maintaining a free library in the City of Rye, County of Westchester and State of New York, party of the second part:

WITNESSETH, that the parties hereto, pursuant to section 256 of the Education Law of the State of New York, do hereby mutually covenant and agree as follows:

1. The party of the second part does hereby agree to furnish library privileges to the people of the City of Rye, under reasonable rules and regulations of the party of the second part, during the terms of this agreement.

2. The party of the second part does hereby agree that the Rye Free Reading Room will make all best efforts to offer service to the public a minimum of 43.5 hours in the winter and 43.5 hours in the summer. The Library will make all best efforts to ensure that within its hours of operation that Saturday is open. In addition, the Rye Free Reading Room will guarantee that they will be open for "special events" in accordance with the policies and procedures of the library as they occur throughout the year.

3. The party of the second part does hereby agree to submit to the City of Rye a financial report within two months of the close of its fiscal year and to provide copies of an annual narrative report prepared for association members. Copies of all audit reports

prepared by independent audit firms or the State of New York will be filed, within 30 days of receipt, with the City Comptroller and the City Council's Audit Committee.

4. In consideration of the foregoing the party of the first part does hereby agree to pay the sum of One Million Two Hundred Thirty Thousand Dollars (\$1,230,000) to the party of the second part during the calendar year: Six Hundred Fifteen Thousand Dollars (\$615,000) to be paid in January, and Six Hundred Fifteen Thousand Dollars (\$615,000) to be paid in July.

5. Pursuant to said statute, such total sum shall be a charge upon the City of Rye and shall be raised, appropriated and paid in the same manner as other City charges.

6. If the capital improvements that were part of the 2012 bond resolution are installed in 2017, the Rye Free Reading Room will be responsible for all maintenance and repair costs of same.

7. This agreement shall be effective and continue for the calendar year 2017.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca
NAYS: None
ABSENT: Councilwoman Tagger-Epstein

16. Resolution designating the days and time of regular meetings of the City Council for 2017 setting January 11, 2017 as the first regular meeting.

Mayor Sack made a motion, seconded by Councilwoman Killian, and unanimously carried, to adopt the proposed calendar of regular meetings of the City Council for 2017, setting January 11, 2017 as the first regular meeting.

17. Bid Award for the Parking Pay Station Replacement contract (Contract #2016-17).

Roll Call.

City Manager Serrano explained that the Pay Station contract had expired and the City issued a bid for services moving forward. The replacement pay stations would have up-to-date technology and be in better working order than the current pay stations.

Councilman McCartney made a motion, seconded by Councilman Mecca, to award Contract 2016-17 be awarded to the sole bidder, Integrated Technical Systems, Inc. in the amount of one hundred two thousand six hundred eighty-eight dollars (\$102,688.00) as recommended by the City Engineer.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca
NAYS: None

ABSENT: Councilwoman Tagger-Epstein

18. Acceptance of donation to the Rye Police Department from the Rye Rotary Club in the amount of One Thousand Five Hundred (\$1,500.00) Dollars.
Roll Call.

Councilman Mecca made a motion, seconded by Councilman McCartney, to adopt the following resolution:

WHEREAS, the Rye Rotary Club desires to donate One Thousand Five Hundred (\$1,500) Dollars to the Rye Police Department; and

WHEREAS, the fiscal 2016 General Fund budget did not anticipate this donation; now, therefore be it

RESOLVED, that the City Council of the City of Rye accepts the aforementioned donation; and be it further

RESOLVED, that the City Comptroller is authorized to amend the fiscal 2016 General Fund budget as follows: Increase Deferred Revenues - Police Donations \$1,500.00.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca
NAYS: None
ABSENT: Councilwoman Tagger-Epstein

19. Four appointments to the Boat Basin Commission, by the Council, for three-year terms expiring January 1, 2020.

The following individuals were elected to serve on the Boat Basin Commission for three-year terms ending January 1, 2020:

Resident

Brendan Doyle
Greg Gavlik
Matthew Malouin

Non-Resident

Stephen Monaldo

Mayor Sack announced that in addition to those listed above, Mr. Bob November will be filling a current term, which will expire January 1, 2018.

All were in favor of the appointments.

20. Miscellaneous communications and reports.

Councilwoman Killian asked if the calendar could be amended to change that Council meetings for August 2017. Mayor Sack responded that it could be discussed at a later date.

21. New Business.

There was nothing discussed under this agenda item.

22. Adjournment.

There being no further business to discuss, Councilwoman Hurd made a motion, seconded by Mayor Sack and unanimously carried, to adjourn the regular meeting of the City Council at 10:05 P.M.

Respectfully submitted,

Carolyn E. D'Andrea
City Clerk

DRAFT UNAPPROVED MINUTES
of the Regular Meeting of the City Council of
the City of Rye held in City Hall on January
11, 2017 at 7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor
KIRSTIN BUCCI
EMILY HURD
JULIE KILLIAN
TERRENCE McCARTNEY
RICHARD MECCA
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

None

The Council convened at 7:00 P.M. Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried to immediately adjourn into Executive Session to discuss personnel matters. Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried, to adjourn the Executive Session at 7:30 P.M. The regular meeting convened at 7:35 P.M.

Mayor Sack welcomed everyone to the first meeting of the year.

1. Pledge of Allegiance.

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

2. Roll Call.

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

3. The State of the City Address by the Mayor.

Mayor Sack made the following statement:

“This month, we are celebrating Rye’s 75th Anniversary as a city.

On January 1, 1942, the City of Rye was formed. Prior to that, our municipality was a village within the Town of Rye. However, by special act of the New York State Legislature, we seceded from the Town and became our own independent, stand-alone city.

There has not been another city created in the state since then. So we are the latest... and the greatest! We should congratulate ourselves for reaching this important milestone.

This year, I myself am starting my fourth year as mayor.

The most fun I have as mayor, hands down, is a little tradition I started of hosting the second grade classes each year from the Osborn, Midland and Milton schools for tours of City Hall.

As an extension of the tours, I also began inviting the fourth and fifth grade student government representatives to attend the mayor's annual State of the City address. I believe that many of the students here tonight received their first introduction to city government on one of those second grade tours.

When you hear your name, please stand, and remain standing until I have called all names.

Midland School

Lila Byrne
Hannah Cali
Kate Foster
Isabella Garcia
Eli Kerlan
Ryan Lunstead
Charlie Margiloff
Tucker Press
Mali White
Dan Yamaguchi

Milton School

Thomas Anderson
Cami Brooks
Molly Budke
Will Crawford-Rubin
Ava Cross
Drew Dolan
Delia Fuchs
Mackenzie Gillen
James Kennedy
Molly Kennedy
Katie Kmetz
Kiera Ladrow
Kayla Lombardo
Charlotte Lorraine
Henry Paul
Kendall Reidy

Jude Sadler
Kendall Scansaroli
Hannah Slavin
Nicholas Vlasto
Luca Zambianchi
Donna Zhang

Osborn School

Kimaya Agarwal
Parker Canna
Brendan Chapman
Riley Doran
Sofie Fu
Dylan Garbutt
Kiran Gounden-Kobes
Ben Orser
Matthew Pellegrini
Dillon Schmidt
Sophia Shoemaker
Luca Strazzini

Mayor Sack recognized his daughters and father who were in attendance at the meeting. Congratulations on taking an interest and active role in student government. Keep up the good work!

During the tours, I have challenged myself to explain to the students what it is exactly that city government does. I have boiled it down to three things: We help keep the city safe, clean and fun.

We do this primarily through our Police and Fire departments, our department of Public Works, our Recreation department, and our Golf Club and Boat Basin enterprise funds. And we try to maintain this high level of service while also keeping increases to the tax rate as low as possible.

Of course that is not all we do, but it helps outline many of our core functions.

This year, during the tours, I could tell the story of many of the recent successes we have had.

For example, in 2016, we did things which have been talked about for ages. But we finally turned words into action.

We spearheaded the passage of a voter referendum – approved overwhelmingly by the residents of Rye – to create a commissioner of Public Safety.

This innovative new position will oversee both the Police and Fire departments. As a result, we will not only save money, but also bring professional management to the Fire department for the first time.

We will of course continue to rely on our volunteer fire chiefs and firefighters, and to respect and honor their long history of service. But this move will balance the needs created by changing circumstances and demographics.

We also approved an increase to the City's debt limit, which had gone unchanged since the current City Charter was first passed a half century ago. This historic debt limit adjustment will allow us to keep up with the changing times, and to have the flexibility to borrow funds necessary to meet our ever increasing public works and infrastructure needs.

And we negotiated a good settlement in the Fair Labor Standards Act class action litigation involving Rye Golf Club. This agreement with the golf club wait staff workers puts to bed the final remnant of the golf club scandal which came to light just over four years ago.

With this unfortunate episode now officially behind us, and as the golf club continues to thrive under new management and a new catering agreement, the future at the club is now brighter than ever.

As we move into 2017, we will continue to address other issues. These are often not new issues, but rather old issues which have either returned or persisted.

We will follow Starwood Capital's application to develop the former United Hospital site, and the Village of Port Chester's consideration of the required zoning change to accommodate that development.

We are cognizant of our limitations in not having approval authority over the application, but we continue to advocate that environmental impacts, including traffic impacts that affect not only the abutting neighborhood but also other areas in the City of Rye, be mitigated to the greatest extent practicable.

We will consider Crown Castle's application to install Distributed Antennae System nodes on pre-existing utility poles in the City's right-of-way. We will also consider residents' concerns that the DAS nodes are unsightly and will have an adverse affect on adjacent property values.

In this situation, while we can exercise some approval authority with regard to placement of the DAS nodes. While we do retain some rights as a result of both contractual agreements and local legislation, we understand that those rights are not absolute, and that our oversight is also limited by the requirements of state and federal laws.

We will maintain in litigation with the County of Westchester regarding Rye Playland, that the County does not have unfettered control over proposed improvements at the amusement park. The County must not only obey the requirements of the State Environmental Quality Review Act, but also allow the City's land use boards to give necessary site plan and other approvals.

We will advance towards a new master plan, with the City Planner last week finally issuing a Request for Proposals to solicit the assistance of outside consultants in drafting the first update to that document in 30 years.

We will work with our neighbors in the Town of Rye to determine the best path forward at Rye Town Park, which is located wholly within the City of Rye, and for which the City covers more than 50 percent of the operating losses, but which is governed by a commission controlled by the Town under state law. The selection of a new restaurant operator is on the agenda this year.

We will negotiate with the City of Rye's collective bargaining units to devise union contracts which fairly recognize the good work of our City employees, but which also confront the reality that out-of-control health care costs are not sustainable and will overwhelm our budget resources.

And we will meet a host of other equally important challenges and opportunities, ranging from flooding, to deer, to sewage and storm water, to freedom of information law requests, to a new agreement with the Rye Nature Center.

The first year I was mayor, when we celebrated the 50th anniversary of the construction of this City Hall, I researched the grand opening of the building by reviewing old copies of the *Rye Chronicle*. Each year since, I have maintained the habit of looking back 50 years.

What I have come to learn through this review is that the hot issues then, are the hot issues now.

It really is uncanny. Whether it be Playland, or residential construction, or teen substance abuse, or parking at the train station. The recurrence of these topics has given me much needed perspective, and some solace, that the issues of today did not begin with us, nor will they end with us.

The repeating nature of these issues does not mean that they are insoluble; rather, it just means that they will always be present, and that we must simply be ever vigilant in addressing them.

This trend extends back more than 50 years, more than 100 years, virtually to the very beginning of public life in Rye.

Recently, a terrific new book was published, authored by local Rye historian Paul DeForest Hicks. Entitled *John E. Parsons: An Eminent New Yorker in the Gilded Age*,

the book covers the life of a famous lawyer from Rye during the mid-1800's into the early years of the last century.

One passage of the book recounts a confrontation over an application for a trolley line in Rye.

At a public hearing in 1899, according to Mr. Hicks, "Parsons stated that he had known Rye all his life and that the proposed trolley line would 'destroy the character of the place.'"

Mr. Hicks writes: "Eventually, a compromise was reached, allowing the trolley company to run a line through the village's business district to Rye Beach. In return, the company agreed to a route that ran along a road beside the railroad tracks to Mamaroneck instead of down the Boston Post Road."

"When construction of the line through the business district commenced, the *Port Chester Journal* commented: 'Of course there are some people who object to the extension, others object to the change of routes and some who want no trolley at all. But one might as well try to stem the Falls of Niagara as to prevent the introduction of a trolley in the present century.'"

All of the controversial issues which capture our attention seem to relate in one way or another to the question of how best to protect the quality of life in Rye. Often this means how to balance change with tradition; how to manage new things, with our desire to keep things just the way they are.

During the second grade tours, I take some time to regale the students with stories of Rye history, by using the examples of our great leaders from the past, whose portraits hang on these walls.

Mayor Morehead (his portrait is in the lobby), who generously donated all the funds to construct the great public building we are in; Mayor Grainger, who led the fight against Governor Rockefeller and Robert Moses and stopped the Oyster Bay Bridge; Mayor Ilse, the first woman to serve as mayor of Rye; and Mayor Otis, who continues to serve us as an elected official in Albany.

Mayor Carey is one of Rye's great citizens, and he has always been generous with me in dispensing sage advice.

Recently, Mayor Carey suggested that I consider establishing an award, presented by the mayor, to someone who embodies civic virtue.

I am doing that tonight, and I am naming the award the Mayor John Carey Merit Award – "Presented annually by the Mayor of the City of Rye to a Rye resident who has made meaningful contributions to public life in the City, both in the past year and over an extended period, in the example of former Rye Mayor John Carey."

This year's first recipient of the Mayor Carey Merit Award is none other than... Henry King.

Henry is a long-time Rye resident and a tireless volunteer at the Rye Nature Center.

Henry, while always modest and humble, has become an expert in the field of beekeeping, and like a true philosopher, has wisely stated that "just when you think you know everything about bees, they teach you something new."

Henry has taken a keen interest in, and been a strong advocate for, flooding issues in Rye, particularly with regard to Beaver Swamp Brook, which runs by his back yard.

Henry is a constant and reassuring presence at Rye City Council meetings, always sitting middle and center in the chamber at our bi-weekly Council meetings, acting as a one-man Greek Chorus on the contested issues of the day.

At the conclusion of meetings, Henry graciously provides – to those who are smart enough to ask – his take on what had transpired, shaping opinions by the clarity of his unvarnished assessment.

Henry is a sharp observer, and has applied his strong powers of perception in a number of areas, benefitting those around him with his soft-spoken but trenchant comments, as he explains the mystery of otherwise hard to understand topics, and reveals important and interesting truths about our environment and ourselves.

Well done, Henry!

During the tours, the students always come well prepared and ask excellent questions. One question I usually get is, "how much time do you spend in your role as mayor?"

If I actually added up all the hours I devoted to the job, I would probably cry. But the students are surprised to learn that I am a volunteer, and that I am employed as an attorney in private practice. As a result, there is a full-time professional City manager and City staff that runs the City on a day-to-day basis.

One of the compliments I get the most comes during the winter when it snows. Residents will approach me and thank me for the great job I did plowing the roads.

The truth is that I have virtually nothing to do with keeping the streets clear. The City Engineer and our great DPW workers take care of that. But since I get blamed all the time for things that are not my fault, I sometimes will say, "you're welcome, nothing to it!"

But tonight, having made this small confession, on behalf of the entire Council, I would like to acknowledge Marcus Serrano and Eleanor Militana and all the department

heads, many of whom are in attendance tonight – thank you for all that you do, and thank you for making the rest of us up here look so good.

Next, the students will inquire, “what is the hardest thing about being mayor?”

Being mayor can certainly be challenging. And it’s not always so glamorous. Constituents can be quite demanding. But this is public service, after all, and it’s my job – our job – to be responsive to constituents.

At the end of the day though, it is also our job to look out for the best interests of all of Rye, and not just to personally advocate for one particular opinion or another. It is important that we resist the temptation to side with one view, no matter how loud or forceful, at the expense of the bigger picture.

For sure, we cannot please everybody in this job. What I have learned is, no matter what the issue, half the people feel one way, and half the people feel the other way. And another half feels a third way. That’s me channeling my inner Yogi Berra.

So what is most important as mayor, in my view, is that I help facilitate a fair process, allowing everybody an opportunity to be heard and to express their points of view. That way, all have a chance to contribute to a compromise outcome.

During the presidential campaign, I speculated that Donald Trump could win the primary and then win the race for the White House. And that has come to pass.

But I opined then, as I do now, that – with all due respect to the President-elect – Mr. Trump could not get elected mayor of Rye, or mayor of any other city for that matter.

Because the qualities and characteristics of a good and effective mayor, are the willingness and ability to listen to all perspectives, to sometimes absorb people’s anger and frustration, and to try to build consensus.

Believe me, I’m only human, and there are plenty of times when I’d like to take a page out of the Trump playbook, and tell an unruly or unreasonable speaker or two where they could go, and what they could do.

That may be the new definition of what it means to be presidential. But it wouldn’t be mayoral.

And it would certainly not be any way to treat my fellow neighbors and residents.

Please don’t forget, I live here too. They don’t just break me out of a glass box for these meetings. I stand on the train platform next to you. I run into you at the drycleaners. I coach your kids in CYO basketball and Little League baseball.

So no matter how strongly held your opinions are, no matter how righteous you think you are, it is my prerogative as mayor to demand that we be nice and treat each other with mutual consideration and respect.

We're all in this together. And that's worth pointing out to students and grown-ups alike.

Naturally, a follow up question is, "do you like being mayor?" Without a doubt, I am extremely fortunate to have the honor of serving as mayor. And no matter how hard it gets, I truly enjoy every minute of it. Because if you don't love it, you shouldn't be doing it.

Once I was asked, "what is the name of your dog?" Before I could respond, one of the other students shouted out that she knew the answer. I asked her how, and she replied somewhat indignantly, "uh, because I've been to your house, several times!" (A friend of one of my daughters.)

As an amateur politician, it's difficult for me to recall all the names and faces of the people I meet. So if you see me on the street, please don't be shy about stepping right up and saying hello and reminding me how we met!

The highlight of the tour is at the end when I bring the students up in small groups to take their seats on the dais. This is a thrill for them, and frankly part of the message that I try to instill, which is: You should envision yourself sitting up here one day.

I always encourage their continued involvement in public life, and empower them with this thought: In this room today, there are future Council members, there is a future mayor.

By luck of the draw, the student who ends up sitting in the mayor's seat, has the gavel in front of him or her. And that student gets a few special pointers in mayoral gavel technique. Of course the real trick is, the best way to wield the gavel, is to use it sparingly.

Finally, as the tour comes to an end, I position myself in the rear of Council chambers, at the bottle neck leading out into the foyer. And I have them all give the mayor a firm handshake, and look me in the eye and state their name. Because that is a skill that you need to develop not just in politics, but in life.

Once, after I had just said farewell to the latest crop of second graders, bringing up the rear on this receiving line, was the school nurse. And she gave me an incredulous look and said – "if I were you, I'd go wash my hands right away..."

Good advice for sure, but let the record reflect that being mayor in Rye is a job where you need to get your hands dirty!

Ladies and gentlemen, boys and girls, leaders of the past, present and future: Upon the 75th anniversary of the City of Rye, as we look back on our accomplishments of the year and years gone by, and as we aspire to achieve even greater goals in the years to come; as we re-new our commitment to one another, and as we strive to elevate all of Rye –assessing the state of our City, I can observe with great faith and confidence, that it is unyieldingly strong.

Thank you, God Bless you, and God Bless Rye.”

4. General Announcements.

Councilwoman Tagger-Epstein addressed the community and stated that hate crimes are a serious issue, even in Rye’s backyard. She gave several examples of recent hate crimes in the vicinity of the City of Rye. She said that she strived to be a constant reminder that these issues exist close to home, and encouraged all to make positive choices and teach our children that words and actions matter. She also announced that she looks forward to spearheading the City of Rye Human Rights Commission. Part of her goal will be promoting awareness within the community, reminding all that words matter, actions matter, and the truth matters because our children are listening.

Councilman Mecca announced that the Rye City Fire Department has put out their training schedule for 2017. He encouraged residents to get involved with volunteering for the Fire Department. The 2017 training schedule includes ice rescue training, vacant structure training, flood management, vehicle extrication, and live-burn training.

Councilman McCartney stated that all were welcome to sign up for the Rye Golf Club 2017 season on the website. He was happy to report that improvements have been made at the golf course and the City has moved forward at the Club. Councilman McCartney also announced that the next meeting of the Rye Recreation Committee will be on January 19, 2017. He stated that he and Councilwoman Tagger-Epstein will be heading the City of Rye Firearm Safety Committee, which will research potential recommendations for the City with regard to important issues surrounding the subject of firearms. He stated that they met recently to consider the local legislation that Harrison is considering with regard to the sale of firearms. Moving forward, Councilman McCartney stated that a large part of any recommendation is public education. In that regard, he stated that each year, there are 606 accidental deaths due to guns, which can be prevented. He encouraged the consideration of trigger locks and other safety measures. Lastly, with regard to general safety, he asked that bright or reflective clothing be worn for those walking in the City at night.

Councilwoman Killian asked that all residents make sure that the sidewalks in front of their homes are clean so that those who walk on the sidewalks are safe in the winter. She also announced that on Friday, January 27, 2017 the Rye Fund for Education would be hosting a fundraiser at Whitby Castle at 7:30 P.M. There will be entertainment and she encouraged all to attend to support Rye schools.

Councilwoman Bucci announced that the Library's annual meeting will be held Sunday, January 22, 2017 at 3:30 P.M. featuring local author Sam Weinman. She also stated that she would dedicate a small portion of each meeting discussing the cost of retirement and healthcare. She said that the City's unfunded liability is \$85 million.

Councilwoman Hurd announced that with regard to the United Hospital site project, the Village of Port Chester accepted its FEIS and will move on to prepare a findings statement. The Rye park neighborhood recently had a meeting concerning the project and are hopeful for a positive outcome. She announced that Tuesday, January 17, 2017 the Village of Port Chester will be hosting a workshop on affordable housing and school-aged children issues. There will be another public hearing on January 31, 2017, and a traffic workshop on February 6, 2017 at the Port Chester Courthouse. Councilwoman Hurd then stated that with respect to landmarks, the discussion on Mile Marker 25 will continue on January 25, 2017. She also said that concerning the Boat Basin, the City has completed a survey of the mooring field, and will be enforcing the fees and permits required with owning a mooring. Councilwoman Hurd lastly discussed the central business district and reported that the construction on Smith Street is not yet completed but is currently accessible. She also announced that the vacant building lot between Poppy's and Woodrow Jewelers will remain vacant until the owner and the City come to an agreement. Lastly, Wine at 5 will be moving to the old Smoke Shop location.

5. Draft unapproved minutes of the Regular Meeting of the City Council held December 21, 2016.

City Clerk D'Andrea recommended amending Item 9 on the draft minutes of December 21, 2016, in which Councilwoman Tagger-Epstein was erroneously included in a vote.

Councilwoman Killian asked the item to be tabled for further discussion until the next City Council meeting. The item was tabled until that time.

6. Issues Update/Old Business.

Councilman Mecca stated that the Planning Commission had a meeting and voted to approve the Senior Housing Project at 120 Old Post Road. The final project is going to be 122 units, with underground parking. He congratulated the Planning Commission and Chairman Everett for their thorough attention to this project. He also announced that there had been PESH (Public Employee Safety and Health Act) violations filed against the Fire Department. The City is working diligently to moving toward a rightful conclusion.

7. Presentation by the City's Legal and Engineering Consultants on the request submitted by Crown Castle to amend their agreement with the City.

Joseph Van Eaton, Best, Best & Krieger, counsel for the City, stated that the purpose of the meeting was not to take action, but rather to give an update of where things stand with regard to Crown Castle. First, he said the City has been working on

developing a revised Chapter 196, dealing with the placement of wireless facilities. He hoped to have a completed version at the end of January and into early February. He said the ultimate goal is first to amend Chapter 196 to ensure that the City is in the best position moving forward and second, to adopt a set of standards that the City's actions are consistent in both state and federal law to be able to control right of way. Lastly, it is important to reward those who propose more favorable, smaller structures with the smallest possible facilities, and minimal intrusion. The idea is to move this forward and create a stronger version of Chapter 196.

Mr. Van Eaton also said that another important item they have been working on is talking to both Crown and Verizon Wireless to resolve the pending disputes on the 64 DAS nodes. He stated the parties had some very positive discussions today, in which the City's goal, to minimize the intrusion, may be successful. He also announced that the parties agreed to extend the shot clock, in that no action will need to be taken on the pending action until March 2017. He lastly stated that the discussion is not about banning cell towers, as that is not permitted under state and federal law.

Councilwoman Killian and Mr. Van Eaton discussed preservation of local land use authority, without prohibiting wireless services. He stated that anything resembling a blanket ban or prohibition would not pass under federal law. He said that State law has a special permit provision. There was also discussion about the FCC currently undergoing a transition to a new administration. Mr. Van Eaton stated that the person who is expected to be the interim FCC Chairman has suggested that local discretion is limited. The FCC staff issued a public notice for comment on this issue. That proceeding is expected to move quickly to act on that petition. There was general discussion about the FCC's rulemaking process.

8. Continuation of the Public Hearing regarding the request submitted by Crown Castle to amend their agreement with the City and for the installation of additional locations to their existing wireless telecommunications located in the City of Rye.

Callie Erickson, 190 Locust Avenue, thanked the Council for the opportunity to speak. She circulated a petition to the Council of those who opposed the application.

Gerry Seitz, 141 Kirby Lane, addressed the Council. He stated that in his experience volunteering on the various boards through Rye, he remains very conscientious of the issues. He stated that the consensus among the residents is that they are opposed. He stated that to the best of his knowledge, no one has complained about lack of service. He said he did not believe that Crown was allowed to move forward. He spoke at length and asked the City to decline to act on the application, regardless of litigation.

Mr. Van Eaton clarified that the goal was to expand City authority as much as possible, to the extent that it is permitted. He warned against letting the action go to Court as if Crown prevails, that is significantly different than the resolution that would be reached under a settlement. The goal is for the City to preserve as much authority as

possible. Further, with regard to the length of a court proceeding, there is an expedited review process and this proceeding would take much less than three years. Mr. Van Eaton said that the goal is to protect the community overtime. There was discussion over the FCC with regard to local governments.

Councilwoman Hurd and Mr. Van Eaton discussed a start from scratch approach to Chapter 196. There was also discussion about technology and the future, with regard to 1G, 2G, and beyond.

Owen Nee, 701 Forest Avenue, addressed the Council. He stated that on the legal issue, it is important to decipher whether the original contract was valid, rather than give deference to the FCC. He then reminded the Council that an election was approaching, and warned of a poor outcome.

Mr. Van Eaton stated that to clarify, the City is not talking to Crown about amending the agreement to allow for larger boxes than what already exists. He stated that once the municipality realizes there are problems with service, the choices become whether it wants large towers, smaller towers, or distributed facilities.

John Mayo-Smith, 3 Fairland Court, stated that the City had a choice in this application. He stated he was concerned about the potential impact on property value. He then discussed technology improvements.

Mr. Van Eaton stated that what Crown Castle was proposing was not what the City was looking to concede to, but rather to look to gain as much control as possible with the most minimal intrusion.

Paul Benowitz, Rye resident, stated that he objected to the residents' group proposal of the large towers, one being near his property at Disbrow Park.

Tricia Agosta, 4 Ridgewood Drive, stated that she was speaking on behalf of residents. She discussed the petition that was presented to the Council. She stated she was happy to hear about some of the comments from Mr. Van Eaton this evening. She expressed concern over the validity of the existing agreement.

Mr. Van Eaton stated that the community is always able to comment on the proceedings during the public hearing. Negotiations prior to public comment must happen between the City and the applicant. He clarified an earlier comment from the public and stated that the test is whether there is a gap in Verizon's service. He also clarified some misunderstandings about previous litigation. He also stated that the information from Crown Castle has been shared.

Michael Zarin, Zarin & Steinmetz, 81 Main Street, White Plains, New York, addressed the Council. He was hopeful for a resolution between all parties. He stated that no one was seeking a prohibition on telecommunications. He discussed the FCC regulations. He stated that the applicant needed to show a gap in coverage and the

remedy of least intrusive means. He asked that the community be involved. He was hopeful for a non-litigation path.

Mr. Van Eaton clarified a point on the FCC proceedings.

Josh Cohn, 24 Green Avenue, stated that the petition is against having DAS nodes on private property. He stated that he was in support of the residents' "slick sticks" alternative.

Mr. Van Eaton clarified that there is case law that says it is very difficult to dictate technology to telecommunications companies. He mentioned that Chapter 196 is "technology neutral," and does not incorporate the federal substantial gap standard.

Mayor Sack stated that the matter would be adjourned to March 15th. Councilman Mecca made a motion, seconded by Councilman McCartney and unanimously carried, to adjourn the public hearing to March 15, 2017.

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

There was no discussion under this agenda item.

10. Appointment of the 2017 Deputy Mayor by the Mayor.

Mayor Sack appointed Councilwoman Killian as the Deputy Mayor. He stated that he felt that Councilwoman Killian's judgment and experience would serve the Council well as deputy. The following resolution was adopted:

RESOLVED, that Councilwoman Julie Killian be appointed the Deputy Mayor for a one-year term commencing January 1, 2017, to serve as Acting Mayor in the Mayor's absence.

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

Mayor Sack appointed Councilman McCartney to serve as Trustee of the Police Pension fund for a one year term. Mayor Sack made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the following resolution:

RESOLVED, that Councilman McCartney be appointed as Trustee of the Police Pension Fund for a one-year term commencing on January 1, 2017.

12. Designation of the City Council's Audit Committee by the Mayor.

Mayor Sack designated Councilwomen Killian and Bucci and himself to the City Council's Audit Committee. The following resolution was adopted:

RESOLVED, that two Council members be appointed to the City Council's Audit Committee for a one-year term commencing January 1, 2017.

13. Designation of the City Council Liaisons by the Mayor.

Mayor Sack designated City Council Liaisons as follows:

Board of Architectural Review – Mayor Sack
Boat Basin Commission – Councilwoman Hurd
Cable TV Franchise Committee - Bucci Killian Hurd
Conservation Commission/Advisory Council – Councilwoman Tagger-Epstein
Deer Committee – Mayor Sack and Councilwoman Tagger-Epstein
Emergency Services – Councilwoman Tagger-Epstein
Finance Committee – Councilwoman Killian
Fire Department Study Group – Councilwoman Bucci and Councilman Mecca
Flood Advisory Committee – Councilwoman Hurd
Gun Safety – Councilmembers McCartney and Tagger-Epstein
Human Rights – Councilwoman Tagger-Epstein
Landmarks Advisory Committee – Councilwoman Hurd
Litigation Committee – Mayor Sack, Councilman McCartney and Councilwoman Hurd
Master Plan Committee – Mayor Sack, Councilwoman Killian and Councilman McCartney
Planning Commission – Councilman Mecca
Recreation Commission – Councilman McCartney
Rye Cable and Communications Committee – Councilwoman Killian
Rye Chamber of Commerce – Councilwoman Hurd
Rye City School Board – Mayor Sack
Rye Free Reading Room – Councilwoman Bucci
Rye Golf Club Commission – Councilwoman Bucci and Councilman McCartney
Rye Playland Advisory Committee – Mayor Sack
Rye Town Park Commission – Mayor Sack and Councilwoman Killian
Traffic and Pedestrian Safety Committee – Councilwoman Tagger-Epstein
Rye Senior Advocacy Committee – Councilwoman Tagger-Epstein
Sustainability Committee – Councilwomen Killian and Tagger-Epstein
Zoning Board of Appeals – Mayor Sack

14. Designation of official City newspaper.

Mayor Sack made a motion, unanimously approved by the Council, to adopt the following resolution:

RESOLVED, that the Journal News is hereby designated as the official City newspaper for purposes of publishing legal notices.

15. Designation of alternate City newspaper.

Mayor Sack made a motion, unanimously approved by the Council, to adopt the following resolution:

RESOLVED, that the Rye City Review is hereby designated as the alternate City newspaper for purposes of publishing legal notices.

16. Designation of the amounts of faithful performance bonds:

Councilman McCartney made a motion, seconded by Councilwoman Tagger-Epstein and unanimously approved by the Council, to designate the amounts of faithful performance bonds:

A.	City Comptroller	\$ 1,000,000
B.	City Clerk	\$ 500,000
C.	City Marshall	\$ 100,000

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca and Tagger-Epstein

NAYS: None

ABSENT: None

17. Appointments to Boards and Commissions, by the Mayor with Council approval.

Mayor Sack made a motion, approved unanimously by the Council to approve the following appointments:

A) Two appointments to the Board of Appeals for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint Susan Brown and Alan Weiner to the Board of Appeals for three-year terms expiring on January 1, 2020.

- B) Three appointments to the Board of Architectural Review for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint Kevin Grainger and Kathy Grainger-Hobbins and Lisa Hogan-Luthringer to the Board of Architectural Review for three-year terms expiring on January 1, 2020.

- C) Two appointments to the Board of Assessment Review for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint Debra Galliard and Howard Husock to the Board of Assessment Review for three-year terms expiring on January 1, 2020.

- D) One appointment to the Board of Ethics for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint Elizabeth Griffin-Matthews to the Board of Ethics for three-year terms expiring on January 1, 2020.

- E) Three appointments to the Conservation Commission/Advisory Council for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint Melissa Grieco and Annalise Stack and to appoint Lori Fontanes to the Conservation Commission/ Advisory Council for three-year terms expiring on January 1, 2020.

- F) Three appointments to the Finance Committee for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint James Jenkins, Robert May and Tiffany O'Toole Flanerty to the Finance Committee for three-year terms expiring on January 1, 2020.

- G) Two appointments to the Planning Commission for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint Hugh Greechan and Al Vitiello to the Planning Commission for three-year terms expiring on January 1, 2020.

- H) Three appointments to the Recreation Commission for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint Caroline Surhoff, Tim Walsh and Linda Ritacco to the Board of Appeals for three-year terms expiring on January 1, 2020.

- I) Seven appointments to the Rye Cable and Communications Committee for a three-year term.

This item was adjourned.

- J) Seven appointments to the Rye Playland Advisory Committee for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint Lucinda McKinnon and Mike Visci to the Rye Playland Advisory Committee for three-year terms expiring on January 1, 2020.

- K) Four appointments to the Rye Town Park Advisory Committee for a three-year term.

This item was adjourned.

- L) Six appointments to the Traffic & Pedestrian Safety Committee for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council, to reappoint James Burke and Ben Stacks to the Traffic & Pedestrian Safety Committee for three-year terms expiring on January 1, 2020.

Mayor Sack announced the passing of longtime resident, Frank Visci. Mayor Sack noted his service with the Rye Seniors and expressed his condolences to the family. There was a moment of silence for Mr. Visci.

Councilwoman Killian announced that Bruce Jenkins also had passed away. She complimented Mr. Jenkins' wonderful family and remembered him for his service as a longtime City of Rye volunteer firefighter. Councilman Mecca added that Mr. Jenkins was a member of Milton Point Fire Department, who served as a volunteer for 50 years. There was a moment of silence for Mr. Jenkins.

18. New Business.

There was nothing discussed under this agenda item.

19. Adjournment

There being no further business to discuss at the regular meeting, Councilman Mecca made a motion at 10:49 P.M., seconded by Councilwoman Tagger-Epstein, to

adjourn the regular meeting of the City Council and recess into executive session to discuss personal matters.

Respectfully submitted,

Carolyn E. D'Andrea
City Clerk



CITY COUNCIL AGENDA

NO. 6 DEPT.: City Council DATE: January 25, 2017
CONTACT: Mayor Joseph A. Sack

AGENDA ITEM: Issues Update/Old Business

FOR THE MEETING OF:
January 25, 2017
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That an update be provided on outstanding issues or Old Business.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:



CITY COUNCIL AGENDA

NO. 7

DEPT.: City Manager's Office

DATE: January 25, 2017

CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: Consideration to set a Public Hearing for February 1, 2017 to amend the Rye City Code: (a) local law Chapter 133, "Noise", by amending Section §133-4, "Points and method for measuring intensity of sound" to regulate placement and noise of telecommunication devices; (b) local law Chapter 167, "Streets and Sidewalks", to add a new Article IV "Placement of Permanent Facilities in the Rights of Way", Sections §167-66 through §167-71, to regulate placement of devices in the right of way; and (c) local law Chapter 196, "Wireless Telecommunications Facilities", by amending Sections §196-3 through §196-8, §196-14, §196-17, §196-18, and §196-22 to regulate wireless facilities and structures regarding size, visual impact and permit process.

FOR THE MEETING OF:

January 25, 2017

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the City Council set a Public Hearing to approve the changes in the City Code regarding telecommunications devices.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Local law Chapter 196, "Wireless Telecommunications Facilities" was adopted in 1997 with modifications in 2003. Due to the continuing evolution of telecommunications technology and demands, the recommendation is to make changes to Chapters 133, 167 and 196 of the Rye City Code to address telecommunications devices regarding size, visual impact, placement and permit process.

See attached Draft Local Laws.

SUMMARY OF MODIFICATIONS TO CODE OF ORDINANCES

Chapter 133: Noise

§ 133-1 Unnecessary noise prohibited.

Subject to the provisions of this chapter, the creation of any unreasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

§ 133-2 Prohibited acts. ***

§ 133-3 Permissible intensity of noise.

[Amended 8-21-1991 by L.L. No. 19-1991]

Except for noise emanating from the operation of motor vehicles, the permissible intensity of noise from any of the foregoing acts, whether such noise is intermittent, impulsive, sporadic or continuous, shall be limited as follows:

A. Maximum sound pressure [db(A)] shall be as follows:

- (1) Fifty-five db(A) for stationary sources and 70 db(A) for outdoor power tools.
- (2) Portable air compressors and their related equipment are limited to 76 db(A).
- (3) Lawn mowers, leaf blowers, and outdoor vacuum cleaners shall have a permitted intensity of 85 db(A); use of this equipment is prohibited between the hours of 8:00 p.m. and 8:00 a.m. on weekdays and between the hours of 6:00 p.m. and 10:00 a.m. on weekends and holidays. The permitted intensity and hours described in this subsection will apply to leaf blowers during months when the use of leaf blowers is permitted.
- (4) Air-conditioning units and pool filters are limited to 60 db(A).

§ 133-4 Points and method for measuring intensity of sound.

A. Except for noise emanating from the operation of motor vehicles, the point at which the intensity of sound is to be measured shall be at a distance of 50 feet, except that noise from

(1) air-conditioning units and pool filters at a distance of 10 feet.

(2) stationary utility or communications facilities located on public property shall be measured at a distance of 50 feet, or, if less, the distance from the facility or its supporting structure to a sidewalk or the nearest private residential property line, but no less than 10 feet. For any such facilities, the measurements should include noise from that facility and all other stationary facilities located on or within 10 feet of the stationary facility or its supporting structure.

B. Measurement shall be made using a meter capable of measuring decibels and of a type meeting ANSI S1.4-1971, Type 2 standard. The measurement is to be made using a free-field microphone directed at the noise source.

PURPOSE: CURRENT LAW REQUIRES MEASUREMENT OF NOISE AT A SHORTER DISTANCE WHERE THE DEVICES IS LIKELY TO BE LOCATED IN A WAY THAT NOISE LEVELS WILL REACH PASSERBYS OR NEIGHBORS, AS OPPOSED TO THE RESIDENTS OR OCCUPANTS OF A BUILDING. THIS PROVISION RECOGNIZES THAT SOME UTILITY FACILITIES ARE LIKELY TO LOCATED IN A WAY THAT RAISES THE

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CONCERNS THAT LED TO THE “10 FOOT” STANDARD UNDER CURRENT LAW, AND SOME WILL NOT. THE AMENDMENTS WOULD ADOPT A SHORTER DISTANCE WHERE THE FACILITY IS NEAR RESIDENTIAL PROPERTIES OR PUBLIC WALKWAYS, AND USES THE LONGER DISTANCE FOR MORE REMOTE FACILITIES.

Chapter 167 – Street and Sidewalks

ADD A NEW ARTICLE VI - PLACEMENT OF PERMANENT FACILITIES IN THE RIGHTS OF WAY

167-66. Consent required for placement of permanent facilities. Except as specifically provided in this Code, or where a consent has been granted by the State, and no consent may be required by the City, any person that wishes to place permanent facilities in the rights of way must have a consent from the City, which consent, if issued after the date of the ordinance, must take the form of a franchise or license. Persons who own or control facilities in the rights of way used to provide cable services to end users must obtain a video franchise from the City as provided in Section 185, but a video franchise under Chapter 185 is not in lieu of the franchise or license described herein if facilities are placed in the rights of way to provide other services.

167.67. No waiver of police powers. No franchise or license may waive or restrict the City's exercise of its police powers. The grant of a right to use or occupy rights of way is not a waiver of the City's authority to control the time, place or manner of placement of the facilities or equipment of a licensee or franchisee, or the right to prohibit the placement of certain types of equipment that present a hazard to persons or property, or that may incommode the public or unduly interfere with use of the rights of way. Placement of wireless facilities in the rights of way will be subject to Chapter 196.

167.68. Effect of loss of utility status. A person that claims the right to use the rights of way as a utility pursuant to New York law loses its franchise if the status of the company changes, or the particular facility installed is not covered by the relevant provision of New York law.

167.69. Consent indivisible. No person may subdivide, sublease or grant any other person the right to install facilities in the rights of way, including, without limitation, where the other person's facilities are enclosed entirely within the facilities of a person authorized to occupy the rights of way

167.70. Exceptions to requirement for franchise or license. Notwithstanding the foregoing, City may permit a person holding a license or franchise issued by the City under this Section to allow another person to place facilities in the rights of way within a base station (as defined in Chapter 196) after the effective date of this provision where:

(1) The base station is as approved by the City as part of the initial authorization under Chapter 196, and the placement does not involve an increase in the size or total volume of the base station;

(2) The base station is wholly under the control and management of person holding the license or franchise, and that person is liable for all acts or omissions, and all harms associated with the base stations and all its components whether the same are its acts or omissions, or the acts or omissions of an owner of any component of the base station;

(3) The person holding the franchise or license must warrant and agree that it will not permit the other person to take any action in the rights of way with respect to the base station or

its components, including but not limited to, installing, physically modifying, maintaining the facilities such person owns; all such activities shall be the sole responsibility of the person holding the franchise or license.

(4) The person for on whose behalf equipment has been installed must acknowledge and agree, in a form acceptable to the City Attorney

(i) that the City has not granted it a franchise or consent to be in the Rights of Way for any purpose;

(ii) that it understand and is bound by Franchisee's representations in the Sections (1)-(3);

(iii) that it shall have no rights or claims against the City of any sort related to its facilities, but shall be jointly and severally liable for any acts or omission of the holder of the license or franchise, or its own acts and omissions that result in any harms to the City or to the public;

(iii) that City may treat any equipment owned by such entity as if it were owned by the person holding the franchise or license for all purposes (including but not limited to removal and relocation).

(iv). that as long as its equipment is in the rights of way, in lieu of a franchise or consent fee, it will pay the fee required by Section 167.71, or cause the person holding the franchise or license to pay on its behalf.

167.71. Compensation for use of the rights of way. Unless a franchise or license provides otherwise:

(1) For an person that has facilities in the rights of way and does not itself hold a franchise or license authorizing placement of facilities in the rights of way to provide those services: 5% of gross revenues derived from the operation of its facilities within the City.

(2) For an entity that operates as a provider of service to end users or entities other than end users and which holds a franchise or license authorizing the use of the rights of way to provide that service, the amount specified in the franchise or license, or if no amount is specified, and a fee may be imposed, the amount specified in Section 3.6.1

(3) An applicant may be required to bear costs associated with negotiating and issuing a franchise or license.

(4) City may waive the fee or impose a different fee where the fee provided under subsection (1) cannot reasonably be applied or is not reasonable in light of the right of way use.

Chapter 196

WIRELESS TELECOMMUNICATIONS FACILITIES

GENERAL REFERENCES

§ 196-1. Purpose and legislative intent.

The Telecommunications Act of 1996 affirmed the City of Rye's authority concerning the placement, construction and modification of wireless telecommunications facilities. The City Council finds that wireless telecommunications facilities and related equipment may pose a unique hazard to the health, safety, public welfare and environment of the City and its inhabitants, and may also have an adverse visual impact on the community, its character and thus the quality of life in the City. The intent of this chapter is to ensure that the placement, construction or modification of wireless telecommunications facilities and related equipment is consistent with the City's land use policies and Zoning Code¹; to minimize the negative and adverse visual impact of wireless telecommunications facilities; to assure a comprehensive review of environmental impacts of such facilities; to protect the health, safety and welfare of the City of Rye; and to encourage shared use of wireless telecommunication facilities.

§ 196-2. Title.

This chapter may be known and cited as the "Wireless Telecommunications Facilities Siting and Special Use Permit Law for the City of Rye," or may otherwise be known as the "Wireless Facilities Law."

§ 196-3. Definitions; word usage.

For purposes of this chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations and their derivations shall have the meanings given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

OVERALL GOAL FOR AMENDMENTS: CONFORM TO FEDERAL DEFINITIONS SO THAT WHEN YOU USE A TERM, YOU ARE USING IT IN THE SAME WAY AS IT IS

¹ 1. Editor's Note: See Ch. 197, Zoning.

COMMONLY USED – THE GOAL IS TO ENSURE THAT AS FAR AS POSSIBLE, YOU ARE USING TERMINOLOGY CONSISTENT WITH FEDERAL REQUIREMENTS

ACCESSORY FACILITY OR STRUCTURE — An accessory facility or structure serving or being used in conjunction with a telecommunications facility and located on the same property or lot as the telecommunications tower, including but not limited to utility or transmission equipment storage sheds or cabinets.

APPLICANT — Includes any individual, corporation, estate, trust partnership, joint-stock company, association of two or more persons, limited liability company or entity submitting an application to the City of Rye for a special use permit for a telecommunications facility.

APPLICATION — The form approved by the Council, together with all necessary and appropriate documentation that an applicant submits in order to receive a special use permit for a telecommunications facility.

ANTENNA — A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited, to radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications.

[REDEFINE TO FOLLOW FED DEFINITIONS: ADD FED DEFINITIONS FOR TOWER (A SUPPORTING STRUCTURE PRIMARILY DESIGNED FOR WIRELESS FACILITIES) and BASE STATION (ALL THE OTHER EQUIPMENT ASSOCIATED WITH A WIRELESS FACILITY, AND THE STRUCTURE TO WHICH EQUIPMENT IS ATTACHED)]

BREAK POINT — The location on a telecommunications tower (tower) which, in the event of a failure of the tower, would result in the tower falling or collapsing within the boundaries of the property on which the tower is placed.

CITY — The City of Rye, New York.

COLLOCATION — The use of the same telecommunications tower or structure to carry two or more antennas for the provision of wireless services by two or more persons or entities.

[REDEFINE TO FOLLOW FEDERAL DEFINITIONS]

COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE — The meaning in this chapter and any special use permit granted hereunder as is defined and applied under the United States Uniform Commercial Code (UCC).

COMPLETED APPLICATION — An application that contains all information and/or data necessary to enable the Council to evaluate the merits of the application and to make an informed decision with respect to the effect and impact of the telecommunications tower on the City in the context of the permitted land use for the particular location requested. [REDEFINE TO FOLLOW FEDERAL RULES – IT IS AN APPLICATION THAT INCLUDES ALL INFORMATION THAT IS REQUIRED BY THE CITY ON AN APPLICATION FORM OR BY ORDINANCE]

COUNCIL — The City Council of the City of Rye, which is the officially designated agency or body of the community to whom applications for a special use permit for a telecommunications facility must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or revoking special use permits for telecommunications facilities. The Council may, at its discretion, delegate or designate other official agencies of the City to accept, review, analyze, evaluate and make recommendations to the Council with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for telecommunications facilities.

EAF — The Environmental Assessment Form approved by the New York Department of Environmental Conservation.

[ADD DEFINITION OF ELIGIBLE FACILITIES REQUEST, TO INCORPORATE CHANGES THAT YOU MUST APPROVE UNDER FEDERAL LAW]

FAA — The Federal Aviation Administration or its duly designated and authorized successor agency.

FCC — The Federal Communications Commission or its duly designated and authorized successor agency.

FREESTANDING TOWER — A tower that is not supported by guy wires and ground anchors or other means of attached or external support. [REPLACE THIS WITH THE FEDERAL DEFINITION OF TOWER; ADD A DEFINITION OF UTILITY POLE. YOU MAY WISH TO ALLOW PLACEMENT OF FACILITIES ON EXISTING UTILITY POLES; YOU MAY NOT WANT TO ALLOW TOWERS IN THE ROW. A TOWER IS DESIGNED TO SUPPORT WIRELESS FACILITIES. A UTILITY POLE IS DESIGNED FOR MULTIPLE USES AND IS AVAILABLE TO ANY UTILITY AT STATE REGULATED RATES]

HEIGHT — When referring to a tower or structure, the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna.

NIER — Nonionizing electromagnetic radiation.

PERSON — Any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons having a joint common interest or governmental entity.

PERSONAL WIRELESS FACILITY — See definition for “telecommunications tower.” [STRIKE]

PERSONAL WIRELESS SERVICES or PWS or PERSONAL TELECOMMUNICATIONS SERVICE or PCS (or any functionally equivalent service or technology that may be developed in the future) — Shall have the same meaning as defined and used in the 1996 Federal Telecommunications Act. [WE WOULD PROPOSE REGULATING ALL WIRELESS FACILITIES ABOVE A CERTAIN SIZE INCLUDING ALL PERSONAL WIRELESS FACILITIES]

SITE — See definition for “telecommunications tower.”

SPECIAL USE PERMIT — The official document or permit by which an applicant is allowed to construct and use a telecommunications tower as granted or issued by the City.

TELECOMMUNICATIONS — The transmission and reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

WIRELESS TELECOMMUNICATIONS FACILITY or TOWER or SITE or PERSONAL WIRELESS FACILITY (or any functionally equivalent service or technology that may be developed in the future) — A structure or location designed or intended to be used or used to support antennas. It includes without limit antennas applied to the facade of a building or roof-mounted antennas, freestanding towers, guyed towers, monopoles and similar structures that employ camouflage technology, and including, but not limited to, structures such as a church steeple, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a facility or structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services or microwave telecommunications, but excluding those used exclusively for fire, police and other dispatch telecommunications, or exclusively for private radio and television reception and private citizens' bands, amateur radio and other similar telecommunications. [THIS SHOULD BE ALTERED SO THAT IT IS CONSISTENT WITH FEDERAL DEFINITIONS. IT IS MEANT TO BE A COLLECTIVE WAY OF REFERRING TO ALL THE COMPONENTS THAT MAKE UP A WIRELESS FACILITY: THE BASE STATION, THE ASSOCIATED POWER SUPPLIES AND CABINETS AS WELL AS A SUPPORTING STRUCTURE DESIGNED OT APPROVED FOR PLACEMENT OF WIRELESS]

TELECOMMUNICATIONS STRUCTURE — Any structure used in, associated with or necessary for the provision of wireless services and as described in the definition of wireless telecommunications facility. [THIS WILL NOT BE NEEDED]

TEMPORARY — In relation to all aspects and components of this chapter fewer than 90 days.

ADD A DEFINITION FOR CARRIERS ON WHEELS [these are temporary wireless facilities that are brought in on trucks to provide additional coverage that may be required for major events. They are removed immediately after the event, by definition, and are subject to special treatment under federal law.]

§ 196-4. Policy and goals for special use permits. [NOTE: TERMS WILL NEED TO BE ALTERED TO CONFORM TO DEFINITIONS]

In order to ensure that the placement, construction and modification of wireless telecommunications facilities conforms to the City's purpose and intent of this chapter, the Council creates a special use permit for ~~a telecommunications facility. As such, the Council adopts a policy with respect to a special use permit for a~~ wireless telecommunications facility~~s~~ for the purpose of achieving the following goals:

- A. Implementing an application process for person(s) seeking a special use permit for a wireless telecommunications facility.

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B. Establishing a policy for examining an application for and issuing a special use permit for a wireless telecommunications facility that is both fair and consistent.

C. Establishing reasonable time frames for granting or not granting a special use permit for a wireless telecommunications facility, or recertifying or revoking the special use permit granted under this chapter.

D. Promoting and encouraging, wherever possible, and where it will result in the least overall visual impact for residential dwelling units, the sharing and/or collocation of a wireless telecommunications facility among service providers.

E. Promoting and encouraging, wherever possible, the placement of a wireless telecommunications facility in such a manner as to cause minimal disruption to the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such a wireless telecommunications facility and to minimize adverse aesthetic impacts to the community.

§ 196-5. Special use permit application and other requirements. [OLD PROVISIONS MOVED DOWN SO THAT THIS SECTION ADDRESSES THE STANDARDS AND SHOWINGS FOR PLACEMENT – AND WHEN A PERMIT IS OR IS NOT REQUIRED]

A. A person who installs facilities pursuant to this section must comply with all safety codes; comply with requirements for RF emissions; and must paint and maintain facilities to minimize visibility of the wireless facilities.

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B. The following do not require zoning approvals, except where the same are on or affect a historic property, or an environmentally sensitive area. Requirements that may apply to the underlying structure to which a facility is to be attached continue to apply.

1. Ham radio/television/wireless Internet antennas installed by end users that meet federal size standards.

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2. Wireless facilities that are less than 1 cu ft. in size, placed on existing structures without increasing the physical dimensions of the existing structures. The "cubic footage" takes into account all the elements of the wireless facility (including meters and power supplies required, if any).

Commented [1]: Note: wireless facilities installed by Cablevision are about 1/2 cu. ft in size

3. Wireless facilities placed on existing, approved towers on private property, or public property off the right of way where the installation does not result in a substantial change in the physical dimensions of the tower.

Commented [2]: This exemption goes beyond what is required by federal law. It only applied to towers and not to other property.

4. Wireless facilities placed on the rooftop of non-residential structures; that are at least 25 feet from any residential unit; and that are not visible from the street.

5. Wireless facilities within existing structures (other than historical properties) that are not visible from outside the structure and do not change the physical dimensions or appearance of the structure within which they are placed.

6. Wireless facilities placed on property owned or controlled by the City, other than Rights of Way.

7. Carriers on wheels.

8. Routine maintenance, or replacement of elements of a facility that do not change the dimensions or visibility of a facility.

C. For eligible facilities requests subject to 47 USC 1455, a conditional special use permit will be issued.

(1) A conditional special use permit may be issued administratively by the Zoning Administrator. The conditional use permit shall specifically provide that it is not being issued at the direction of the federal government and without the consent of the City, and shall be of no further force and effect when the permit for the underlying facility expires, or the federal law changes so that the permit as issued is no longer required.

(2) An application must be submitted containing such information as the Zoning Administrator may require. The application must contain at least the information required to permit the Zoning Administrator to determine whether the application is an eligible facilities request, including the underlying approval for the existing tower and base station and any approved modifications to the same where the modifications were approved prior to February 22, 2012, and detailed information about the tower and base station as the same exist on the date of the application.

(3) The application shall be denied if it is not an eligible facilities request. If an application is denied because it is determined that it is not eligible for a permit under Section 6409, the applicant may request that the application be treated as a request for special permit by submitting all the information required for a special permit within ten (10) days of the denial of application submitted under Section 6409.

D. All other wireless facility installations (including modifications) require a special use permit.

(1) Special use permits may be granted where applicant shows:

a. The facility proposed is not being built speculatively (that is, there is a customer for the facility)

b. The applicant and any entity whose facilities would be included in the installations has all the authorizations required to place the facilities from the state, or the City, or the owner of the property.

c. The facility is designed and placed to minimize the visual impact on the community.

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d. if Applicant claims the status of a utility under New York law, it must show that the facility is necessary for the provision of services, which showing must include a showing that it is the least intrusive alternative for providing service. If applicant claims a right as a provider of wireless services or facilities under Section 332, it must show that absent approval, there will be a prohibition in the provision of wireless services within the meaning of federal law.

(2) City may approve a special use permit without the showing required by Section D.1 where the facility is not located in or does not affect historic properties or environmentally sensitive areas and the facility is:

a. A concealed facility whose size, proportions and dimensions are such that it would not be apparent to a casual observer that the facility is a wireless facility; or the facility is

b. Placed or shielded in such a way that the facility is not visible to surrounding properties

c. Notwithstanding the foregoing, City may require the showing under Section D.1.d if the proposal for the wireless facility requires a change in an existing building that the City determines substantially changes the size, proportions and dimensions of the building within which it is located

E. Demonstration of least intrusive alternative.

(1) As part of showing that it has proposed the least intrusive alternative for placement, an applicant is required to show that

a. It is installing concealed facilities to the extent possible; and

b. It is otherwise installing facilities in the highest priority locations that are available and necessary to the provision of service or to avoid a prohibition.

(2) The highest priority locations are:

a. Existing towers serving Rye.

b. Structures off the rights of way that have existing wireless facilities on rooftops or on building exteriors, including municipally-owned structures. (not including structures listed in Section 196-5.B(1)-(2)).

(3) Other municipally-owned property (other than the rights of way) where service can be provided using an existing structure or a replacement structure of similar height and design; or a new structure whose height does not exceed 40 feet.

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Commented [3]: Note: this may allow those facilities to become more visible.

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Commented [4]: Note that this height limitation is significant, and limits the utility of this requirement.

(4) An applicant is further required to show, that, as to other facilities that are necessary to the provision of service, or that are necessary to avoid a prohibition, to the extent feasible:

a. It has devised a solution that will minimize visibility of the facilities particularly from residential units, and under any modification that could be made to that installation as of right if granted; and

b. It has proposed facilities that are designed to be consistent with the overall characteristics of the area where the facilities are located; and

c. It has minimized the new structures proposed.

d. In considering the visibility of facilities, City may consider the mass and size of the facilities, the scale of the facilities (or the effect of the placement on the mass, size and scale of structures to which or within which the facilities may be attached or concealed) , and any other factor that may affect the impact on the community It may consider the elements of a wireless facility separately, or collectively, and may require a showing the visibility of each element of the wireless facility has been minimized.

(5) The City may approve or require placement in a location that is not the highest priority where the record shows a proposed installation at a different location will result in less impact on the community.

(6) In considering whether a proposal represents the least restrictive alternative, the City will consider the impact of a planned project as a whole, and may consider the impact if it is likely that others providers of wireless facilities or services may require similar facilities.

§ 196-6. Special use permit, and Special Conditional Use Permit Application Requirements

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- A. All applicants for a special use permit for a wireless telecommunications facility or any modification of such facility shall comply with the requirements set forth in this section. In addition to the information required by Section 196-5.C., an applicant for a special conditional use permit must comply with the requirements of subsections 196-6.B-D; E (2)-(6),(10), (14)-(18) and (22); G; H; and where the facilities that are being modified are subject to concealment elements, the visual impact analysis required by subsections I-J so that the City may determine whether the concealment elements are defeated.
- B. An application for a special use permit for a wireless telecommunications facility shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the Council, any false or misleading statement in the

application may subject the applicant to denial of the application without further consideration or opportunity for correction.

C. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Council.

D. The applicant shall include a statement in writing that:

(1) The applicant's proposed wireless telecommunications facility will be maintained in a safe manner and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the Council in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules and regulations.

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(2) The construction of the wireless telecommunications facility is legally permissible, including but not limited to the fact that the applicant is authorized to do business in New York State.

E. No wireless telecommunications facility ~~or tower or other tall structure~~ shall be installed or constructed ~~for the purpose of providing wireless telecommunications service~~ until a plan of the site is reviewed and approved by the Council and, in situations involving towers, until the site plan is reviewed and approved by the Planning Commission. All applications for the construction or installation of a new wireless telecommunications facility shall be accompanied by a report containing the information hereinafter set forth. The report shall be signed by a licensed professional engineer registered in the state and shall contain the following information. Where this section calls for certification, such certification shall be by a qualified New York State licensed professional engineer acceptable to the City, unless otherwise noted. The application shall include, in addition to the other requirements for the special use permit, the following information:

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(1) Documentation that shows applicant satisfies the requirements of Section 196-5.D-E. ~~demonstrates the need for the wireless telecommunications facility to provide service primarily within the City.~~

(2) Name and address of the person preparing the report.

(3) Name and address of the property owner, operator and applicant, to include the legal form of the applicant. Name and address of any person who will own equipment associated with the wireless facility.

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(4) Postal address and Tax Map parcel number of the property.

(5) Zoning district or designation in which the property is situated.

(6) Size of the property stated both in square feet and lot line dimensions and a diagram showing the location of all lot lines where the facility is proposed to be located outside of the right of way, and within the rights of way, the location of the proposed facility in relation to the right of way, pedestrian and non-motorized vehicle pathways and cross-

walks, and the location in relation to driveways and residential structures on the same right of way and within 750 feet.

- (7) Location of all residential structures within 750 feet.
- (8) Location of all habitable structures within 750 feet.
- (9) Location of all structures on the property which is the subject of the application, or for the right of way, within 250 feet of the proposed facility.
- (10) Location, size and height of all proposed and existing ~~antennas~~ wireless facilities and all appurtenant structures.
- (11) Type, size and location of all proposed and existing landscaping.
- (12) The number, type and design of the wireless telecommunications facility(s) antenna(s) proposed and the basis for the calculations of the wireless telecommunications facility's capacity to accommodate multiple users.
- (13) The make, model and manufacturer of the wireless facility and antenna(s).
- (14) A description of the proposed wireless facility and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting. For a modification to a facility, applicant must describe precisely any change in physical dimensions to any portion of the facility and describe in detail any additional equipment installed as part of the modification (including, but not limited to, meters, powers supplies, cabling and other structures).
- (15) The frequency, modulation and class of service of radio or other transmitting equipment.
- (16) Transmission and maximum effective radiated power of the antenna(s).
- (17) Direction of maximum lobes and associated radiation of the antenna(s).
- ~~(18) —The applicant's proposed wireless facility maintenance and inspection procedures and related system of records.~~
- (18) Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC. The certifying engineer need not be approved by the City.
- ~~(20) —Certification that the proposed antenna(s) will not cause interference with existing telecommunications devices. The certifying engineer need not be approved by the City.~~
- (21) A copy of the FCC license applicable for the use of the wireless telecommunications facility, if any, and a copy of any certificate issued by the State of New York for the facility; and proof that applicant and any person who will own facilities

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associated with the proposed wireless facility are authorized to place the facilities at the location proposed.

(22) Certification that a topographic and geomorphologic study and analysis has been conducted and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed wireless telecommunications tower on the proposed site. The certifying engineer need not be approved by the City.

(23) Propagation studies of the proposed site and all adjoining proposed or in-service or existing sites.

(24) The applicant shall disclose, in writing, any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new wireless telecommunications facility that it constructs.

(25) The applicant shall provide a notarized affidavit that either the proposed installation meets all laws, codes and ordinances or that it meets the same except as specifically listed on said affidavit.

- F. In the case of a new wireless telecommunications facility, the applicant shall be required to submit a report demonstrating its efforts to secure shared use of existing wireless telecommunications facility(s). Copies of written requests and responses for shared use shall be provided to the Council.
- G. Certification that the wireless telecommunications facility and attachments both are designed and constructed (“as built”) to meet all county, state and federal structural requirements for loads, including wind and ice loads.
- H. After construction and prior to receiving a certificate of compliance, certification that the wireless telecommunications facility and related facilities are grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- I. The applicant shall submit a completed long form EAF and a completed Visual EAF addendum. The Council may require submission of a more detailed visual analysis based on the results of the Visual EAF addendum. Applicants are encouraged to seek preapplication meetings with the City Council to address the scope of the required visual assessment.
- J. A visual impact assessment shall be provided with each application which shall include:
 - (1) A Zone of Visibility Map, which shall be provided in order to determine locations where the facility may be seen.
 - (2) Pictorial representations of before and after views from key viewpoints to be determined by Council or the City’s Board of Architectural Review, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any

other location where the site is visible to a large number of visitors or travelers. The City will provide guidance concerning the appropriate key sites at a preapplication meeting.

(3) An assessment of the visual impact of the facility base, guy wires and accessory buildings from abutting and adjacent properties and streets.

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- K. The applicant shall identify any concealment elements proposed for the wireless facility, in a manner approved by the Council, ~~demonstrate and provide, in writing and/or by drawing, how it shall effectively screen from view its proposed wireless telecommunications facility base and all related facilities and structures, subject to Council approval.~~
- L. ~~All utilities serving any wireless telecommunications facility shall be installed underground, embedded in existing construction or otherwise shielded from view and in compliance with all laws, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code, where appropriate. The Council may waive or vary the requirements of undergrounding installation of utilities whenever, in the opinion of the Council, such variance or waiver shall not be detrimental to the health, safety, general welfare or environment, including the visual and scenic characteristics of the area.~~
- M. ~~All wireless telecommunications facilities and accessory facilities applications shall contain a demonstration that the facility shall be sited so as to have the least adverse visual impact on the environment and its character, and the residences in the area of the wireless telecommunications facility site. The application shall also include appropriate information addressing the cumulative visual impact of future collocations by the applicant or other telecommunication service providers.~~
- N. Where possible, for wireless facilities located outside of the rights of way wiring and other components shall be located within buildings. Wireless telecommunications facilities installed on the exterior of existing buildings/structures shall be integrated into the design of such buildings/structures. The intent of this provision is to make the installation invisible or indistinguishable from other existing architectural features. Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and with the natural surroundings. Where possible, for facilities in the rights of way, when existing utility poles are replaced, the wireless facility will be placed within a pole approved by the City and the utility.
- O. An access road and parking to assure adequate emergency and service access shall be provided, should such be deemed necessary by the Council. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

P. ~~Every wireless~~ ~~A person who holds a special use permit for a wireless telecommunications facility shall be constructed, operated, maintained, repaired, modify modified or restored the permitted wireless telecommunications facility~~ in strict compliance with ~~the then-current version of~~ all ~~current~~ technical, safety and safety-related codes adopted by the City, county, state or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsibly workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

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Q. ~~Every person constructing or owning a wireless facility~~ ~~A holder of a special use permit granted under this chapter~~ shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or law and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

R. The Council intends to be the lead agency, pursuant to SEQRA. The Council shall conduct a review of the proposed project in combination with its review of the application under this chapter.

S. An applicant shall submit to the Building Inspector the number of completed applications determined to be needed at the preapplication meeting. A copy of the notification of application shall be provided to the legislative body of all adjacent municipalities and to the Westchester County Planning Board.

T. If the applicant is proposing the construction of a tower or installation on an ~~existing~~ building/structure, the applicant shall examine the feasibility of designing the installation to accommodate future demand for at least two additional commercial applications, e.g., future collocations. The scope of this examination shall be determined by the Council. The wireless telecommunications facility shall be structurally designed to accommodate at least two additional antenna arrays equal to those of the applicant and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the wireless telecommunications facility is not technologically feasible, or is commercially impracticable and creates an unnecessary and unreasonable burden, based upon:

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- (1) The number of FCC licenses foreseeably available for the area.
- (2) The kind of wireless telecommunications facility site and structure proposed.
- (3) The number of existing and potential licenses without wireless telecommunications facility spaces/sites.
- (4) Available space on existing and approved telecommunications towers.

U. Unless waived by the Council, there shall be a preapplication meeting required for every special use permit. The purpose of the preapplication meeting will be to address issues which will help to expedite the review and permitting process. Where the application is for the shared use of an existing ~~telecommunications tower(s) or other high structure~~support structure, the applicant can seek to waive any application requirements that may not be applicable. At the preapplication meeting, the waiver requests, if appropriate, will be decided by the City. Costs of the City's consultants to prepare for and attend the preapplication meeting will be borne by the applicant.

~~V. The holder of a special use permit shall notify the City of any intended modification of a wireless telecommunications facility and shall apply to the City to modify, relocate or rebuild a wireless telecommunications facility.~~

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V. Without limiting the foregoing, in the rights of way, except where it is demonstrated that denial would result in a prohibition of the provision of wireless services within the meaning of federal law:

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1. No towers are permitted except as part of a concealed facility. .

2. No wireless facilities are permitted within underground areas except concealed facilities.

3. A new or replacement supporting structure, other than a concealed facility, street lighting or traffic control structure may not be approved that is greater in height from ground level than the average height of existing distribution utility poles in the same area. No extension of an existing structure (other than street lighting or traffic control structures) to permit installation of a wireless facility may be approved that unless the addition complies with subsection 5 and increases the height of the supporting structure by the lesser of 20% or six feet.

4. All structures associated with a wireless facility (including meters) must be placed on a pole with the lowest edge at 8 feet.

5. All structures mounted to the side of a structure in the right of way, other than in the communications space, must be flush-mounted, sized and painted so that the facility to the extent possible the facility is concealed;

6. All facilities mounted to the top of a pole must be designed so that the facilities form a continuous line with the pole, and for concealment purposes, are no more than 10% greater in diameter than the pole itself.

7. In placing facilities, following rules apply:

a. Facilities should be at least 25 feet from any residential structure, and located so that the facilities are not directly in front of any front window or door of a residential structure.

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b. Locations that are less visible from a residential structure are preferred over locations that are more visible.

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§ 196-6. Location of wireless telecommunications facilities.

~~(1) — Priority of location. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities, including towers or other tall structures, in accordance with the following priorities, Subsection being the highest priority and Subsection A(1)(c) being the lowest priority:~~

~~(a) — On existing tall structures or telecommunications towers.~~

~~(b) — Collocation on a site with existing telecommunications towers or structures.~~

~~(c) — In commercially zoned areas along Interstate 95, Interstate 287 or railroad tracks.~~

~~(d) — In nonresidential areas.~~

~~(e) — On other property in the City.~~

~~1. — (2) If the proposed property site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site. (3) — An applicant may not bypass sites of higher priority by stating the site presented is the only site leased or selected. An application shall address collocation as an option, and, if such option is not proposed, the applicant must explain why collocation is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting collocation shall not be a valid basis for any claim of commercial impracticability or hardship. (4) — Notwithstanding the above, the Council may approve any site located within an area in the above list of priorities, provided that the Council finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants.~~

~~2. —~~

~~B. — The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.~~

~~C. — The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant has, is or will be considering, reviewing or planning for wireless telecommunications facilities in the City, and all municipalities adjoining the City, for a two-year period following the date of the application.~~

~~D.—Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Council may disapprove an application for any of the following reasons:~~

- ~~(1)—Conflict with safety and safety-related codes and requirements.~~
- ~~(2)—Conflict with traffic needs or traffic laws or definitive plans for changes in traffic flow or traffic laws.~~
- ~~(3)—Conflict with the historic nature of a neighborhood or historical district.~~
- ~~(4)—The use or construction of a wireless telecommunications facility which is contrary to an already stated purpose of a specific zoning or land use designation.~~
- ~~(5)—The placement and location of a wireless telecommunications facility which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the City or employees of the service provider or other service providers.~~

§ 196-7. Shared use of towers.

- ~~A.—Location of antennas on preexisting structures shall be considered and preferred. Shared use of existing telecommunications towers or other existing structures shall be preferred by the City, as opposed to the proposed construction of new telecommunications towers. Where such shared use is unavailable, the applicant shall submit a comprehensive report inventorying existing towers and other appropriate structures within four miles of any proposed new tower site, unless the applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other preexisting structures as a preferred alternative to new construction.~~
- ~~B.—An applicant intending to share use of an existing telecommunications tower or other tall structure shall be required to document the intent of the existing owner to share use.~~
- ~~C.—In the event that an application to share the use of an existing telecommunications tower does not increase the height of the telecommunications tower, the Council shall waive such requirements of the application required by this chapter as may be for good cause shown.~~
- ~~D.—Such shared use shall consist only of the minimum antenna array technologically required to provide service within the City unless good cause is shown.~~

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§ 196-8. Height of wireless telecommunications facilities.

- A.** The applicant must submit documentation justifying to the Council the total height of any wireless telecommunications facility and/or antenna and the basis therefor. Such justification shall be to provide service within the City, to the extent practicable, unless good cause is shown.
- B.** Wireless telecommunications facilities shall be no higher than the minimum height necessary. Unless waived by the Council upon good cause shown, the maximum height of facilities located outside the rights of way shall be 100-90 feet, based on three collocated antenna arrays and ambient tree height of 70 feet.

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C. The maximum height of any wireless telecommunications facility and attached antennas constructed after the effective date of this chapter shall not exceed that which shall permit operation without artificial lighting of any kind in accordance with municipal, county, state and/or any federal law and/or regulation.

§ 196-9. Visibility of facilities.

A. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.

B. ~~Telecommunications towers and facilities~~ Except where inconsistent with concealment elements, wireless facilities shall be of a galvanized finish, or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the Council and the Board of Architectural Review, and shall be maintained in accordance with the requirements of this chapter.

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C. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the wireless telecommunications facility is located.

§ 196-10. Security of facilities.

All wireless telecommunications facilities ~~and antennas~~ shall be located, fenced or otherwise secured in a manner which prevents unauthorized access. Specifically:

A. Where possible, all wireless facilities antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and

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B. To the extent possible, wireless facilities shall be installed so that powered elements ~~Transmitters and telecommunications control points must be installed such that they~~ are readily accessible only to persons authorized to operate or service them.

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§ 196-11. Signage.

Unless the City determines that the signage required under this section would be inconsistent with minimizing visual impact, ~~W~~ wireless telecommunications facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any wireless telecommunications facilities, antennas, antenna supporting structures or antenna towers, unless required by law, or unless the signage is part of a concealment element. Signs shall be approved by the Board of Architectural Review.

§ 196-12. Lot size and setbacks. [Amended 10-1-2003 by L.L. No. 7-2003]

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A. All proposed ~~telecommunications towers and associated equipment towers~~ shall be set back from abutting parcels, recorded rights-of-way and road and street lines a distance sufficient to substantially contain on site all ice-fall or debris from a tower or tower failure and to preserve the privacy and sanctity of any adjoining properties.

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B. ~~Freestanding wireless telecommunications towers~~, other than towers placed on an existing structure shall be setback from any property line at least a distance equal to the height of the facility plus 10 feet, or the existing setback requirement of the underlying zoning district, whichever is greater. Further, any accessory structure shall be located so as to comply with the minimum zoning setback requirements for the principal building on the property on which it is situated.

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C. Where a wireless facility ~~the facility involves an collocation or attachment to an existing building or structure other than a structure in the rights of way~~, the facility, including but not limited to antennas, accessory structures, and/or other appurtenances, shall be setback from any property line the distance of the setback requirement of the underlying zoning district plus 10 feet.

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§ 196-13. Retention of expert assistance and reimbursement by applicant.

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A. The Council may hire any consultant and/or expert necessary to assist the Council in reviewing and evaluating the application and any requests for recertification.

B. An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the Council in connection with the review of any application. The initial deposit shall be \$7,500 for a facility application and \$5,000 in the case of collocation. These funds shall accompany the filing of an application, and the City will maintain a separate escrow account for all such funds. The City's consultants/experts shall bill or invoice the City no less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the review process the balance of this account falls below \$2,500, additional funds must be submitted to the City to bring the balance of the account to \$5,000, or in the case of collocation, \$5,000, or upon request from the applicant, a lesser amount to be set by the City Council, before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual billing or invoicing, the difference shall be promptly refunded to the applicant.

C. The total amount of the funds set forth in Subsection B of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Council or its consultant/expert to complete the necessary review and analysis. Additional funds, as required, shall be paid by the applicant. The initial amount of the escrow deposit shall be established at a preapplication meeting with the City. Notice of the hiring of a consultant/expert shall be given to the applicant at or before this meeting.

§ 196-14. Existing Facilities ~~exceptions from special use permit.~~

- ~~A. No person shall be permitted to site, place, build, construct or modify or prepare any site for the placement or use of a wireless telecommunications facility as of the effective date of this chapter without having first obtained a special use permit for a wireless telecommunications facility. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those exceptions noted in the definition of wireless telecommunications facility, such as those used exclusively for fire, police and other dispatch telecommunications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar telecommunications.~~
- ~~B. New construction, including routine maintenance on an existing wireless telecommunications facility, shall comply with the requirements of this chapter.~~
- ~~C.A. All wireless telecommunications facilities existing on or before the effective date of this chapter shall be allowed to continue as they presently exist; provided, however, that any modification to existing facilities must comply with this chapter.~~

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§ 196-15. Public hearing required for special use permit.

A. Public hearing and public notification by applicant. Before the City Council acts on any application for a special use permit, it shall hold a public hearing thereon in accordance with the General City Law. To facilitate notification of the public, a public notification list shall be prepared by the applicant, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owners name and owner's mailing address for each property located wholly or partially within 750 feet of the perimeter of the property that is the subject of the application. If a property on the public notification list is also listed as a cooperative or an apartment on a list entitled "Apartment List City of Rye," maintained by the City Assessor's office, the notice shall only be mailed to the property owner of record. When the public hearing is required by the City Council, the applicant shall deliver a copy of the public notice provided by the City Planner to all of the property owners contained on the public notification list by certified mail with certificate of mailing.

The above mailing and posting notice requirements must be performed in accordance with the following requirements:

1. The delivery of mailing shall be limited solely to the public notice provided by the City Planner.
2. The public notice shall be mailed to all property owners by certified mail with certificate of mailing (no return receipt necessary) at a post office or official depository of the Postal Service, at least 10 days prior to the date of the public hearing.
3. At least five business days prior to the public hearing, the applicant shall provide to the City Planner all certificates of mailing.
4. At least one week preceding the date of the public hearing, at least one sign, a minimum of two feet by three feet in size and carrying a legend prescribed by the City Council announcing the public hearing, shall be posted on the property. The height of the

lettering on the sign shall be no less than two inches, except that the words “PUBLIC NOTICE” appearing at the top of the sign shall have no less than five-inch-high lettering. The sign shall be in full public view from the street and not more than 30 feet therefrom. The sign shall be removed from the property within two days after the public hearing.

B. In cases of review by the Board of Architectural Review or the Planning Commission, the notice rules for these bodies shall apply for the properties within the seven-hundred-fifty-foot perimeter as previously set forth.

C. The Council shall schedule the public hearing referred to in Subsection A of this section once it finds the application is complete. The Council, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

D. Council may waive any requirement hereof and of Section 196-16 as required to comply with state or federal law.

§ 196-16. Action on application for special use permit.

A. The Council will undertake a review of an application pursuant to this chapter in a timely fashion and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public’s interest and need to be involved, and the applicant’s desire for a timely resolution.

B. The Council shall refer any application or part thereof to the Board of Architectural Review (BAR) and may refer any application or part thereof to the Planning Commission for their advisory review and comment prior to the public hearing. This referral shall not preclude any final approvals of these or other City boards or departments required by this chapter or other law.

C. After the public hearing and after formally considering the application, the Council may approve and issue or deny a special use permit. Its decision shall be in writing and shall be based on substantial evidence in the record. The burden of proof for the grant of the permit shall always be upon the applicant.

D. If the Council approves the special use permit for a wireless telecommunications facility, then the applicant shall be notified of such approval, in writing, within 10 calendar days of the Council’s action, and the special use permit shall be issued within 30 days after such approval.

E. If the Council denies the special use permit for a wireless telecommunications facility, then the applicant shall be notified of such denial, in writing, within 10 calendar days of the Council’s action.

F. The City’s decision on an application for a special use permit for a wireless telecommunications facility shall be supported by substantial evidence contained in a written record.

§ 196-17. Recertification of special use permit.

A. At any time between 12 months and six months prior to the five-year anniversary date after the effective date of the permit and all subsequent fifth anniversaries of the original special use permit for a wireless telecommunications facility, the holder of a special use permit for such tower shall submit a written request for recertification. In the written request for recertification, the holder of such special use permit shall note the following:

1. The name of the holder of the special use permit for the wireless telecommunications facility.
2. If applicable, the number or title of the special use permit.
3. The date of the original granting of the special use permit.
4. Whether the wireless telecommunications facility has been moved, relocated, rebuilt, repaired or otherwise modified since the issuance of the special use permit.
5. If the wireless telecommunications facility has been moved, relocated, rebuilt, repaired or otherwise modified, then whether the Council approved such action, and under what terms and conditions, and whether those terms and conditions were complied with and abided by.
6. Any requests for waivers or relief of any kind whatsoever from the requirements of this chapter and any requirements for a special use permit.
7. That the wireless telecommunications facility is in compliance with the special use permit and compliance with all applicable codes, laws, rules and regulations.
- ~~8.~~ Whether the facility is still being used; and whether it can be reduced in sized, combined with or replaced by other facilities or otherwise altered to make it less visible.
- ~~9.~~ Whether it complies with then applicable requirements of the City Code for placement of wireless facilities.
- ~~8-10.~~ Whether there have been any changes in the legal status of the applicant or any entity whose facilities are part of the wireless facility; and whether all required authorizations and consents are still in full force and effect.

B. If, after such review, the Council determines that the permitted wireless telecommunications facility is in compliance with the special use permit and all applicable codes, laws and rules; that it continues to be used in the provision of wireless services; that all relevant entities continue to have all necessary authorizations; and that the facility cannot be modified or replaced so that it is less visible, then the Council shall issue a recertification special use permit for the wireless telecommunications facility, which may include any new provisions or conditions that are mutually agreed upon, or required by codes, law or regulation. .

C. If the Council does not complete its review, as noted in Subsection B of this section, prior to the five-year anniversary date of the special use permit, or subsequent fifth anniversaries, then the applicant for the permitted wireless telecommunications facility shall receive an extension of the special use permit for up to six months, in order for the Council to complete its review.

D. If the holder of a special use permit for a wireless telecommunications facility does not submit a request for recertification of such special use permit within the time frame noted in Subsection A of this section, or if the Council finds that the wireless telecommunications facility has been moved, relocated, rebuilt, or otherwise modified without approval of such having been granted by the Council under this chapter, or that the conditions for recertification have not been met, then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent fifth anniversaries, unless the holder of the special use permit adequately demonstrates to the Council that extenuating circumstances prevented a timely recertification request. If the Council agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request. Council may also recertify subject to conditions that it establishes, and contingent on satisfaction of those conditions.

§ 196-18. Extent and parameters of special use permit. [ALL REMAINING PROVISIONS SHOULD APPLY TO SPECIAL USE PERMITS AND CONDITIONAL SPECIAL USE PERMITS]

The extent and parameters of a special use permit for a wireless telecommunications facility shall be as follows:

- A. Such special use permit shall be nonexclusive.
- B. Such special use permit shall not be assignable or transferable without the express written consent of the Council.
- C. Such special use permit may be revoked, canceled or terminated for a violation of the conditions and provisions of the special use permit for a wireless telecommunications facility, or for a material violation of this chapter or applicable law.

§ 196-19. Application fee.

- A. At the time that a person submits an application for a special use permit for a new wireless telecommunications facility, such person shall pay an application fee to the City of Rye of \$5,000. If the application is for a special use permit for collocating on an existing wireless telecommunications facility, the fee shall be \$3,000.
- B. No application fee is required in order to recertify a special use permit for a wireless telecommunications facility, unless there has been a modification of the wireless telecommunications facility since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of any modification, the fees provided in Subsection A shall apply.

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§ 196-20. Performance security.

The applicant and the owner of record of any proposed wireless telecommunications facility property site shall be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount and with such sureties as are deemed sufficient by the Council to assure the faithful performance of the terms and conditions of this chapter and conditions of any special use permit issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until the removal of the wireless telecommunications facility and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the special use permit and shall entitle the Council to revoke the special use permit after prior written notice to the applicant and holder of the permit.

§ 196-21. Reservation of authority to inspect wireless telecommunications facilities.

A. In order to verify that the holder of a special use permit for a wireless telecommunications facility and any and all lessees, renters and/or licensees of a wireless telecommunications facility place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including but not limited to towers, antennas and buildings or other structures constructed or located on the permitted site.

B. The City shall pay for costs associated with such an inspection, except for those circumstances occasioned by said holder's, lessee's or licensee's refusal to provide necessary information, or necessary access to such facilities, including towers, antennas and appurtenant or associated facilities, or refusal to otherwise cooperate with the City with respect to an inspection, or if violations of this chapter are found to exist, in which case the holder, lessee or licensee shall reimburse the City for the cost of the inspection.

C. Payment of such costs shall be made to the City within 30 days from the date of the invoice or other demand for reimbursement. In the event that the finding(s) of violation is (are) appealed in accordance with the procedures set forth in this chapter, said reimbursement payment must still be paid to the City, and the reimbursement shall be placed in an escrow account established by the City specifically for this purpose, pending the final decision on appeal.

§ 196-22. ~~Annual~~ NIER certification.

Every wireless facility must meet FCC RF emission standards as the same may be amended from time to time.

A. In addition to the certifications and information required as part of an application, the City shall require any person installing wireless facilities to provide: field test measurements sufficient to show compliance with FCC RF standards at full operational power. Measurements should be cumulative, and not just based on facilities that a particular person may own or install at a location.
~~The holder of the special use permit shall, annually, certify to the City that NIER levels at the site~~

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~~are within the threshold levels adopted by the FCC. The certifying engineer need not be approved by the City.~~

§ 196-23. Liability insurance.

A. A holder of a special use permit for a wireless telecommunications facility shall secure and at all times maintain public liability insurance, property damage insurance and umbrella insurance coverage for the duration of the special use permit in amounts as set forth below:

- (1) Commercial general liability: \$1,000,000 per occurrence, \$2,000,000 aggregate.
- (2) Automobile coverage: \$1,000,000 per occurrence, \$2,000,000 aggregate.

B. The commercial general liability insurance policy shall specifically include the City and its officials, employees and agents as additional insureds.

C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state.

D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days' written notice in advance of the cancellation of the insurance.

E. Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance which such policies are to renew or replace.

F. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than 15 days after the grant of the special use permit, the holder of the special use permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

§ 196-24. Indemnification.

Any special use permit issued pursuant to this chapter shall contain a provision with respect to indemnification. Such provision shall require the holder of the special use permit, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless and exempt the City, officials of the City, its officers, agents, servants, and employees from any and all penalties, damage or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the construction, erection, modification, location, products performance, operation, maintenance, repair, installation, replacement, removal or restoration of a wireless telecommunications facility within the City. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

§ 196-25. Penalties for offenses.

A. Civil sanctions. Any person who violates any of the provisions of this chapter shall be liable for a civil penalty of not more than \$3,000 for every such violation. Each consecutive day

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of violation will be considered a separate offense. Such civil penalty may be released or compromised by the City Council. In addition, the City Council shall have power, following a hearing, to direct the violator to comply with the provisions of this chapter.

B. Criminal sanctions. Any person, firm or corporation who or which willfully violates any of the provisions of this chapter or permits promulgated thereunder, excluding provisions set forth in the rules and regulations promulgated thereunder, upon conviction thereof of the first offense, shall be guilty of a violation punishable by a fine of not less than \$500 and not more than \$1,000 and, for a second offense and each subsequent offense, shall be guilty of a violation punishable by a fine of not less than \$1,000 nor more than \$2,000 or a term of imprisonment of not more than 15 days, or both. Each consecutive day of violation will be considered a separate offense.

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C. Notwithstanding anything in this chapter, the holder of the special use permit for a wireless telecommunications facility may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this chapter or any section of this chapter. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The City may also seek injunctive relief to prevent the continued violation of this chapter.

§ 196-26. Default and/or revocation.

A. If a wireless telecommunications facility is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this chapter or of the special use permit, then the Council shall notify the holder of the special use permit, in writing, of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violations must be corrected within seven days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Council may, at its sole discretion, order the violation remedied within 24 hours.

B. If within the period set forth in Subsection A above the wireless telecommunications facility is not brought into compliance with the provisions of this chapter, or of the special use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facility into compliance, then the Council may revoke such special use permit for a wireless telecommunications facility and shall notify the holder of the special use permit within 48 hours of such action.

§ 196-27. Removal of wireless telecommunications facilities.

A. Under the following circumstances, the Council may determine that the health, safety and welfare interests of the City warrant and require the removal of a wireless telecommunications facility:

1. A wireless telecommunications facility with a permit has been abandoned (i.e., not used as a wireless telecommunications facility) for a period exceeding 90 days or a total of 180 days in any three-hundred-sixty-five-day period, except for periods caused by force majeure or acts of God.
2. A permitted wireless telecommunications facility falls into such a state of disrepair that it creates a health or safety hazard.
3. A wireless telecommunications facility has been located, constructed or modified without first obtaining the required special use permit, or any other necessary authorization.

B. If the Council makes such a determination as noted in Subsection A of this section, then the Council shall notify the holder of the special use permit for the wireless telecommunications facility within 48 hours that said wireless telecommunications facility is to be removed. The Council may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facility.

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C. The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facility, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Council. However, if the owner of the property upon which the wireless telecommunications facility is located wishes to retain any access roadway to the wireless telecommunications facility, the owner may do so with the approval of the Council.

D. If a wireless telecommunications facility is not removed or substantial progress has not been made to remove the wireless telecommunications facility within 90 days after the permit holder has received notice, then the Council may order officials or representatives of the City to remove the wireless telecommunications facility at the sole expense of the owner or permit holder.

E. If the City removes, or causes to be removed, a wireless telecommunications facility, and the owner of the wireless telecommunications facility does not claim the property and remove the facility from the site to a lawful location within 10 days, then the City may take steps to declare the facility abandoned and sell it and its components.

F. Notwithstanding anything in this section to the contrary, the Council may approve a temporary use agreement/permit for the wireless telecommunications facility, for no more 90 days, during which time a suitable plan for removal, conversion or relocation of the affected wireless telecommunications facility shall be developed by the holder of the permit, subject to the approval of the Council, and an agreement to such plan shall be executed by the holder of the permit and the City. If such a plan is not developed, approved and executed within the ninety-day time period, then the City may take possession of and dispose of the affected wireless telecommunications facility in the manner provided in this section.

§ 196-28. Applicability of application requirements and permit conditions.

A. Any applicant can request the waiver of application requirements that are inapplicable to their permit application. Such request shall be in writing. Requests should be discussed at the preapplication meeting. The applicant shall have the burden of supporting such requests. Determinations as to applicability of application requirements shall be made by the City.

B. In determining permit conditions, the City Council can waive inapplicable permit requirements, consistent with the policy goals and priorities of this chapter. The applicant shall have the burden of supporting such requests. Determinations as to applicability of permit condition requirements shall be made by the City Council.

§ 196-29. Adherence to state and/or federal rules and regulations.

A. To the extent that the holder of a special use permit for a wireless telecommunications facility has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a special use permit shall adhere to and comply with all applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

B. To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security, are changed and/or are modified during the duration of a special use permit for a wireless telecommunications facility, then the holder of such a special use permit shall conform the permitted wireless telecommunications facility to the applicable changed and/or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision, or sooner as may be required by the issuing entity.

§ 196-30. Conflict with other laws.

Where this chapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the county, state or federal government, the more restrictive or protective of the City and the public shall apply.

§ 196-31. Severability.

If any phrase, sentence, part, section, subsection or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

§ 196-32. Enforcement.

This chapter shall be enforced by the Building Inspector in the same manner as provided in Chapter 197, Zoning, and subject to the same penalties as set forth therein.

§ 196-33. Authority.

This chapter is enacted pursuant to the Municipal Home Rule Law. This chapter shall supersede the provisions of City law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other applicable statute.

167.72. In addition to complying with generally applicable safety codes 4. RF [this may be part of Chapter 196 or a separate section of the Code]

4.1. Every wireless facility must meet FCC RF emission standards as the same may be amended from time to time.

4.2. City shall require any person installing wireless facilities to provide:

4.2.1. At the time of an application for installation, information sufficient to show that the facility will comply with FCC RF standards and;

4.2.2. After installation, field test measurements sufficient to show compliance with FCC RF standards at full operational power; and

4.2.3. Measurements should be cumulative, and not just based on facilities that a particular person may own or install at a location.



CITY COUNCIL AGENDA

NO. 9

DEPT.: Public Works

DATE: January 25, 2017

CONTACT: Ryan X. Coyne, City Engineer

ACTION: Bid Award for the Theodore Fremd Infrastructure Project contract (Contract #2016-18).

FOR THE MEETING OF:

January 25, 2017

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That Contract #2016-18 be awarded to the low bidder, Bradhurst Site Construction Corp., in the amount of One Million, Thirty Nine Thousand, Nine Hundred and Thirty dollars (\$1,039,930) as recommended by the City Engineer and Anthony Zaino, Director of Design, Westchester County Department of Planning.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Theodore Fremd Infrastructure Project includes all site development work for the Theodore Fremd Senior Housing project, which consists of, but is not limited to, installation of sanitary sewer infrastructure, storm drain infrastructure, irrigation system, landscaping; construction of sidewalks, curbs, pavements; and miscellaneous construction. The Theodore Fremd Senior Housing Project, is located on property owned by Westchester County; 27 of the units count towards Rye's contribution to the 750 units of fair and affordable housing Westchester County is obligated to provide as part of a stipulation of settlement with the U.S. Department of Housing and Urban Development (HUD). All costs up to \$1,040,000 are to be reimbursed by Westchester County.

See attached recommendation and bid results.

Robert P. Astorino
County Executive

Department of Planning

January 19, 2017

Mr. Ryan Coyne
City of Rye Engineering Department
1051 Boston Post Road
Rye, New York 10580

SUBJECT: Theodore Fremd Infrastructure Improvements Project

Dear Mr. Coyne:

Enclosed for your review is an analysis of the bids submitted on January 18th, 2017, for the Theodore Fremd Infrastructure Improvements Project. All of the bid proposals received has been checked for mathematical accuracy and the totals shown on the spreadsheet represent correct amounts.

The lowest responsible bidder is Bradhurst Site Construction Corporation. with a base bid of \$940,730. The total County construction funds available for this project cannot exceed \$1,040,000. We recommend the City reduce the item for miscellaneous addition work (MAW) from \$20,000 to \$13,000 allowing for the award of the adjusted base bid (\$933,730) plus alternates #1 (\$71,460) and #2 (\$34,740) for a total award of \$1,039,930. We recommend the City award the bid to Bradhurst Site Construction Corp. at the next City Council meeting.

Please note that the City attorney must check the contractor's references and perform the appropriate due diligence to verify the bid. The County Department of Planning is aware that Bradhurst Site Construction Corp. has completed several site improvement projects for several municipalities all to their satisfaction and in a timely fashion.

Please notify me once the bid has been awarded so that we can schedule a pre-construction conference. I look forward to working with you in completing this project.

Sincerely,



Anthony Zaino
Director of Design

Cc: Norma Drummond, Deputy Commissioner

Item #	Item description	est quantity	unit	Engineers estimate		Pawlings Holdings LLC		Bradhurst		Laura li Industries		Con Tech	
				unit cost	Total	Unit cost	total						
1	Maintenanace & Protection of Traffic	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 5,000.00	\$ 5,000.00	\$4,220.00	\$4,220.00	\$6,000.00	\$6,000.00	\$5,000.00	\$5,000.00
2-A	Excavation & Removal of soil / fill	5000	CY	\$ 35.00	\$ 175,000.00	\$ 100,000.00	\$ 500,000,000.00	\$16.50	\$82,500.00	\$25.00	\$125,000.00	\$25.00	\$125,000.00
2-B	Excavation & Removal of asphalt & concrete debris	500	CY	\$ 50.00	\$ 25,000.00	\$ 10,000.00	\$ 5,000,000.00	\$20.00	\$10,000.00	\$32.00	\$16,000.00	\$45.00	\$22,500.00
3	Tree claeing & stump removal	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 2,500.00	\$ 2,500.00	\$5,550.00	\$5,550.00	\$6,000.00	\$6,000.00	\$2,500.00	\$2,500.00
4	Erosion & Sediment Control	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$5,740.00	\$5,740.00	\$5,000.00	\$5,000.00	\$6,500.00	\$6,500.00
5	Earthwork (Fine grading)	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 5,000.00	\$ 5,000.00	\$34,450.00	\$34,450.00	\$4,200.00	\$4,200.00	\$105,000.00	\$105,000.00
6	Vynyl Fencing 6' ht	1200	LF	\$ 30.00	\$ 36,000.00	\$ 36,000.00	\$ 43,200,000.00	\$61.00	\$73,200.00	\$32.00	\$38,400.00	\$58.00	\$69,600.00
8	Furnish & install Topsoil	450	CY	\$ 45.00	\$ 20,250.00	\$ 20,000.00	\$ 9,000,000.00	\$30.00	\$13,500.00	\$68.00	\$30,600.00	\$55.00	\$24,750.00
9	Furnish & install sod	25000	SF	\$ 0.85	\$ 21,250.00	\$ 17,000.00	\$ 425,000,000.00	\$1.00	\$25,000.00	\$0.85	\$21,250.00	\$0.75	\$18,750.00
10	Concrete curbs	1565	LF	\$ 28.00	\$ 43,820.00	\$ 33,000.00	\$ 51,645,000.00	\$26.20	\$41,003.00	\$25.00	\$39,125.00	\$24.00	\$37,560.00
11	Concrete Sidewalk	4300	SF	\$ 11.00	\$ 47,300.00	\$ 34,400.00	\$ 147,920,000.00	\$8.60	\$36,980.00	\$14.00	\$60,200.00	\$10.00	\$43,000.00
12	Furnish & install item 304.02 (8" depth)	2435	SY	\$ 16.75	\$ 40,786.25	\$ 40,000.00	\$ 97,400,000.00	\$9.10	\$22,158.50	\$17.00	\$41,395.00	\$18.00	\$43,830.00
13	Furnish & install item 304.11 (4" depth)	2435	SY	\$ 34.00	\$ 82,790.00	\$ 65,000.00	\$ 158,275,000.00	\$24.10	\$58,683.50	\$25.00	\$60,875.00	\$30.00	\$73,050.00
14	Furnish & install asphaltic top course (type 6) 2" depth	2435	SY	\$ 17.00	\$ 41,395.00	\$ 32,000.00	\$ 77,920,000.00	\$14.00	\$34,090.00	\$15.00	\$36,525.00	\$18.00	\$43,830.00
15	Decorative Stone wall	2200	SF	\$ 36.00	\$ 79,200.00	\$ 64,000.00	\$ 140,800,000.00	\$34.00	\$74,800.00	\$52.00	\$114,400.00	\$50.00	\$110,000.00
16	Painted Lines & symbols	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 1,500.00	\$ 1,500.00	\$900.00	\$900.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
17	Street Signage	1	LS	\$ 2,500.00	\$ 2,500.00	\$ 1,000.00	\$ 1,000.00	\$1,350.00	\$1,350.00	\$1,200.00	\$1,200.00	\$1,600.00	\$1,600.00
18	Site lighting (poles, footings, couduit,wiring, & luminaire complete system)	1	LS	\$ 75,000.00	\$ 75,000.00	\$ 80,000.00	\$ 80,000.00	\$69,200.00	\$69,200.00	\$68,000.00	\$68,000.00	\$65,000.00	\$65,000.00
19	Furnish & install Concrete Drain Manhole and frame & grate	3	Each	\$ 5,000.00	\$ 15,000.00	\$ 9,000.00	\$ 27,000.00	\$1,950.00	\$5,850.00	\$4,000.00	\$12,000.00	\$4,200.00	\$12,600.00
20	Furnish & install Concrete Draine inlet and frame & grate	1	Each	\$ 2,500.00	\$ 2,500.00	\$ 9,000.00	\$ 9,000.00	\$2,400.00	\$2,400.00	\$4,000.00	\$4,000.00	\$4,500.00	\$4,500.00
21	Furnish & install Catch Basins and frame & grates	2	Each	\$ 5,000.00	\$ 10,000.00	\$ 6,000.00	\$ 12,000.00	\$1,800.00	\$3,600.00	\$4,000.00	\$8,000.00	\$4,200.00	\$8,400.00
22	Furnish & install Water Quality system "1-A"	1	Each	\$ 50,000.00	\$ 50,000.00	\$ 65,000.00	\$ 65,000.00	\$99,940.00	\$99,940.00	\$75,000.00	\$75,000.00	\$55,000.00	\$55,000.00
23	Furnish & install Water Quality system "2-A"	1	Each	\$ 50,000.00	\$ 50,000.00	\$ 65,000.00	\$ 65,000.00	\$77,100.00	\$77,100.00	\$40,000.00	\$40,000.00	\$40,000.00	\$40,000.00
24	Furnish & install Water Quality system "2-B"	1	Each	\$ 50,000.00	\$ 50,000.00	\$ 15,000.00	\$ 15,000.00	\$33,100.00	\$33,100.00	\$34,000.00	\$34,000.00	\$22,500.00	\$22,500.00
25	Furnish & install 6" HDPE Storm drain pipe	200	LF	\$ 20.00	\$ 4,000.00	\$ 7,000.00	\$ 1,400,000.00	\$32.00	\$6,400.00	\$44.75	\$8,950.00	\$26.00	\$5,200.00
26	Furnish & install 8" HDPE Storm drain pipe	180	LF	\$ 30.00	\$ 5,400.00	\$ 6,000.00	\$ 1,080,000.00	\$50.50	\$9,090.00	\$53.00	\$9,540.00	\$28.00	\$5,040.00
27	Furnish & install 15" HDPE Storm drain pipe	175	LF	\$ 38.00	\$ 6,650.00	\$ 6,500.00	\$ 1,137,500.00	\$33.00	\$5,775.00	\$59.00	\$10,325.00	\$48.00	\$8,400.00
28	Furnish & install 24" HDPE Storm drain pipe	325	LF	\$ 55.00	\$ 17,875.00	\$ 14,000.00	\$ 4,550,000.00	\$56.00	\$18,200.00	\$70.00	\$22,750.00	\$50.00	\$16,250.00
31	Trench rock excavation	10	CY	\$ 150.00	\$ 1,500.00	\$ -	\$ -	\$135.00	\$1,350.00	\$250.00	\$2,500.00	\$100.00	\$1,000.00
32	Furnish & install 8" PVC SDR-35 Sanitary Sewer pipe (W/ cleanouts)	200	LF	\$ 50.00	\$ 10,000.00	\$ 10,000.00	\$ 2,000,000.00	\$90.00	\$18,000.00	\$107.00	\$21,400.00	\$35.00	\$7,000.00
34	Roadway reatoration	1000	SF	\$ 10.00	\$ 10,000.00	\$ 4,000.00	\$ 4,000,000.00	\$14.00	\$14,000.00	\$11.50	\$11,500.00	\$15.00	\$15,000.00
						\$ 767,900.00	\$ 1,670,620,500.00	\$888,130.00		\$935,135.00		\$999,360.00	
	Construcion cost			\$ 958,216.25	\$ -								
	mobilization (max 2% ot total)			\$ 19,164.33	\$ 23,000.00			\$15,800.00		\$13,000.00		\$18,500.00	
	bonds & Ins. (max 3% of total)			\$ 28,746.49	\$ -			\$16,800.00		\$14,000.00		\$28,500.00	
	MAW			\$ 20,000.00	\$ 0			\$13,000.00		\$13,000.00		\$13,000.00	
				\$ 1,026,127.06	\$ 790,900.00			\$933,730.00		\$975,135.00		\$1,059,360.00	
alt #1													
30	Landscaping (furnish & install all plant material)	1	LS	\$ 75,000.00	\$ 75,000.00	55000		\$71,460.00		\$66,500.00		\$75,000.00	
alt #2													
33	Complete irrigation system drip irrigation all trees, evergreens and shrubs, and rotary heads all lawn areas)	1	LS	\$ 20,000.00	\$ 20,000.00	20000		\$34,740.00		\$31,500.00		\$48,000.00	
alt. #3													
7	Vynyl Fence & enclosure	1	LS	\$ 5,000.00	\$ 5,000.00	1000		\$6,200.00		\$2,000.00		\$18,000.00	
						\$ 866,900.00		Base + alt 1, 2 & 3 \$1,046,130.00		\$1,075,135.00		\$1,200,360.00	
								Total funds available \$1,040,000.00					
								base + alt #1 & 2 \$1,039,930.00		\$1,073,135.00		\$1,182,360.00	



CITY COUNCIL AGENDA

NO. 10

DEPT.: Finance

DATE: January 25, 2017

CONTACT: Joseph S. Fazzino, Deputy City Comptroller

AGENDA ITEM: Resolution to transfer \$40,000 from the Contingent Account to the Dearborn Avenue Seawall Project for repair of the seawall.

FOR THE MEETING OF:
January 25, 2017

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, City staff has determined that the amounts required for repair of the Dearborn Avenue Seawall were not anticipated and were not provided for in the adopted 2017 budget, and;

WHEREAS, the General Fund Contingent Account has a balance of \$350,000, now therefore be it;

RESOLVED, that the Deputy City Comptroller is authorized to transfer \$40,000 from the General Fund Contingent Account to the Capital Projects Fund, Dearborn Avenue Seawall Project.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Use and status of the Contingent Account:

01/01/2017 Beginning balance	\$523,559
01/25/2017 Transfer to Capital Projects Fund, Dearborn Avenue Seawall Project	<u>(40,000)</u>
01/25/2017 Balance	<u>\$483,559</u>



CITY COUNCIL AGENDA

NO. 11 DEPT.: City Manager DATE: January 25, 2017
CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: Consideration of a request by the Rye Little League to approve a parade to kickoff Opening Day of the 60th Little League Season on Saturday, April 22, 2017 beginning at 12:00 p.m.

FOR THE MEETING OF:

January 25, 2017

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider granting the request.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The Rye Little League is requesting the Council approve a parade to kickoff Opening Day of the 60th Little League Season on Saturday, April 22, 2017 beginning at 12:00 p.m. with a rain date of Sunday, April 23, 2017.

See attached request from Mark Howard, Parade Coordinator.



Dear Mr. Serrano,

The Rye Little League has designated Saturday, April 22th, 2017 as Opening Day of the 60th Little League Season.

We are planning to do what we have done for the past 59 years; a parade beginning at noon that originates at the Rye Train Station and ends at Grainger Field at Disbrow Park.

The parade will likely have upwards of 500 participants, including the Rye Little League, Rye Girls Sports League, marching bands, several vehicles and a variety of emergency vehicles (ambulance and fire trucks).

We respectfully request that you issue the League a permit to hold the parade on Saturday the 22nd of April at noon and in addition, permission to reschedule for Sunday the 23rd of April at noon in the event of rain on Saturday. We understand that the City's permission is conditioned upon the League furnishing a certificate evidencing \$1,000,000 liability insurance with the City of Rye named as additional insured and a hold harmless clause indemnifying the City against claims and judgments resulting from the use of City property. The certificate is forthcoming.

Upon the City's approval, the assistance and cooperation of the City of Rye Police will be requested directly through the Police Commissioner.

Sincerely,

Mark H. Howard
Parade Coordinator



CITY COUNCIL AGENDA

NO. 12

DEPT.: City Manager

DATE: January 25, 2017

CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: Consideration of a request by the Rye YMCA for the use of City streets for the 29th Annual Rye Derby on Sunday, April 30, 2017 from 9:00 a.m. to 2:00 p.m.

FOR THE MEETING OF:

January 25, 2017

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider granting the request.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The Rye YMCA is requesting the Council approve their use of City streets for the 29th Annual Rye Derby on Sunday, April 23, 2017 from 9:00 a.m. to 2:00 p.m.

See attached letter from Gregg Howells, YMCA Executive Director



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January 3, 2017

Ms. Carolyn E. D'Andrea, City Clerk
City of Rye
1051 Boston Post Road
Rye, New York 10580

Dear Ms. D'Andrea:

We are writing to request permission from the City of Rye for use of city streets on Sunday, April 30, 2017 for the 29th Anniversary of the Rye Derby sponsored by the Rye YMCA.

The five-mile run and 5K will start at 10:15 am and the one-mile "Family Fun Run" will begin at 12:15 pm, using the same course used last year. As always, the Rye Y will be the focal point of festivities before and after the race. This is a community event that attracts as many as 800 participants and several hundred spectators. The racecourse map from last year is enclosed.

Prior to race day, the Rye Y will provide a certificate of insurance naming the City of Rye as additionally insured for that day. We also have instructed our race advisors not to use paint or chalk on city streets and we will follow the course that has been agreed upon with the Rye City Police department for this race. Margaret Mead, our Race Director, will be coordinating her efforts with Lt. Scott Craig.

Thank you in advance for your cooperation.

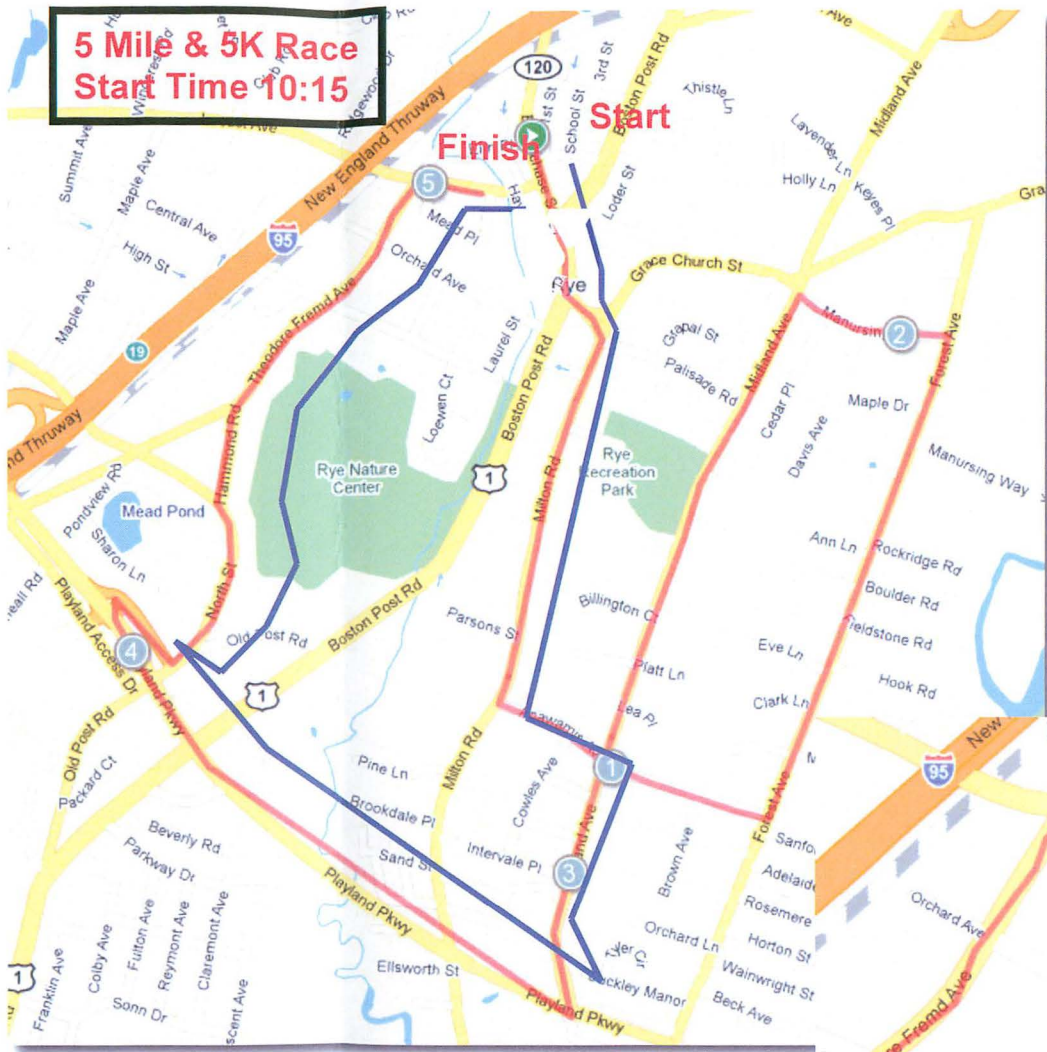
Sincerely,

Gregg Howells
Executive Director

cc: Lt. Scott Craig, Eleanor Militana

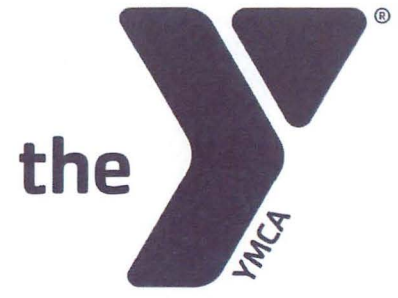
GRH:mm

The Rye YMCA is a 501 c3 non-profit organization dedicated to strengthening the foundation of families and community.



The Rye Derby

- 5 Mile Race
- 5K Race



RYE YMCA
 21 Locust Avenue
 Rye, NY
 914-967-6363
www.ryeymca.org



Family Fun Race
 Start Time 12:15



CITY COUNCIL AGENDA

NO. 13 DEPT.: City Manager DATE: January 25, 2017
CONTACT: Marcus Serrano

AGENDA ITEM: Consideration of a request by the American Legion Post 128 and the Ladies Auxiliary of Post 128 to approve a parade to commemorate Memorial Day to be held on Monday, May 29, 2017 from 9:45 a.m. to 10:15 a.m.

FOR THE MEETING OF:

January 25, 2017

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider granting the request.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The American Legion Post 128 and the Ladies Auxiliary of Post 128 is requesting the Council approve a parade to commemorate Memorial Day to be held on Monday, May 29, 2017 from 9:45 a.m. to 10:15 a.m.

See attached request from Robin Phelps Latimer, Parade Coordinator.



Honorable Mayor and City Council
City of Rye
1051 Boston Post Road
Rye, NY 10580

Dear Honorable Mayor and Council Members:

I am writing on behalf of American Legion Post 128 and the Ladies Auxiliary of Post 128 Rye, to request approval to hold a parade on Monday morning, May 29, 2017 in honor of Memorial Day.

The plan is the same as used in 2014 and 2015; utilize the Metro North parking lot along Station Plaza between First and Second Streets as a staging area for participants and have the marchers proceed down Purchase Street to the Village Green for the annual Memorial Day Services, planned for immediately following the parade. The Station Plaza parade staging area would be blocked for participants to arrive beginning at 8:30am., with the parade itself starting at 9:30am.

Please advise what our organization needs to do to complete our proposal for your consideration; we stand ready to meet with the City Manager and City staff, as well as the Council itself, to answer questions, and obtain your formal approval and authorization to proceed. Under separate cover you will be receiving a request for the Memorial Day Ceremony on the Village Green from American Legion Post 128.

Sincerely,

Robin Phelps Latimer
American Legion Auxiliary President
Parade Coordinator for
American Legion Post 128 Rye