

**CITY OF RYE
1051 BOSTON POST ROAD
RYE, NY 10580
AGENDA**

**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS, CITY HALL
Wednesday, October 17, 2018
7:30 p.m.**

Please Note: 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 attorney-client privileged matters, personnel matters and labor negotiations.

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meetings of the City Council held September 12, 2018 and September 26, 2018.
5. Residents may be heard on matters for Council consideration that do not appear on the agenda.
6. Public Hearing to consider a local law to establish a Community Choice Aggregation Program in the City of Rye.
Please note that due to a newspaper public notice delay the official public hearing will take place on November 7, 2018. Nonetheless, individuals who wish to speak are welcome on October 17, 2018
7. Report of the City's financial position by the Deputy Comptroller.
8. Consideration to set a Public Hearing on November 7, 2018 to consider a local law to exercise our option under Real Property Tax Law Section 581 (1)(c).
9. Consideration to set a Public Hearing on November 7, 2018 to consider a local law to allow the City of Rye to "piggyback" on other federal, state, and local contracts.
10. Consider a resolution to transfer \$250,000 from Unassigned Fund balance to Capital Project Fund - general capital.
Roll Call.
11. Resolution to declare certain City of Rye IT equipment as surplus.
Roll Call.
12. Consider a resolution to authorize the City Manager to sign a settlement with Verizon in the amount of \$6,000 to cover the underpayment of utility user's tax ("UUT").
Roll Call.

13. Consider donation of plantings to be placed on City property and authorization to enter City property to plant. Subject to insurance certificates approved by Corporation Counsel.
14. Consider a resolution authorizing the City Manager to retain the services of Brown and Weinraub, PLLC to work with the City of Rye and the Village of Port Chester, SUEZ and the PSC to complete an agreement that would allow the release of water usage data. The cost total cost would not exceed \$15,000 and will be split between the City of Rye and the Village of Port Chester.
Roll Call.
15. Miscellaneous communications and reports.
16. Old Business.
17. New Business.
18. Adjournment.

The next regular meeting of the City Council will be held on Wednesday, November 7, 2018.

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".

The Mayor and City Council have office hours in the Mayor's Conference Room Annex at Rye City Hall, 1051 Boston Post Road. Attendance by the Mayor and Council Members will vary. The Mayor's Conference Room Annex is located on the 1st floor of City Hall adjacent to the Council Chambers. Hours are as follows:

**Mondays 9:30 a.m. to 11:00 a.m.
Wednesdays 9:30 a.m. to 11:00 a.m.**

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on September 12, 2018, at 7:30
P.M.

PRESENT:

JOSH COHN, Mayor
SARA GODDARD
EMILY HURD
RICHARD MECCA
JULIE SOUZA
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

BENJAMIN STACKS, Councilmember

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn immediately into executive session at 6:30 P.M. to discuss personnel and litigation matters. At 7:29 P.M., Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn the executive session and commence the regular meeting of the City Council. The meeting began at 7:33 P.M.

1. Pledge of Allegiance.

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

2. Roll Call.

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

3. Draft unapproved minutes of the regular meeting of the City Council held August 8, 2018.

This item was deferred to the next meeting of the City Council.

4. Recognition of the Rye Golf Club Swim.

Tobey Saracino, Head Swim Coach for the Rye Swim Team, thanked the Council for recognizing the swim team. She said that the team has worked so hard for all of their

accomplishments. She explained that the team is made up of children from four to seventeen years old. She was happy to report that the team had a very strong season and described the team's successful season record.

Mayor Cohn thanked the children and coaching staff for attending the meeting and for all of their hard work this season making Rye proud.

5. Interim report on City Council review of Rye TV.

Councilwoman Hurd, on behalf of the City Council subcommittee to study and review Rye TV, made the following statement:

“I am happy to have the opportunity this evening to present an interim report on the City Council's Rye TV subcommittee. The subcommittee is composed of me, Councilwoman Goddard and Councilman Stacks. Tonight, we would like to give you a summary of our review over the last two plus months and outline what will be our next steps in the process of this review.

But before doing that, I would like to underscore the City Council's appreciation for the role that RyeTV plays in our community. Public access to information is critical for the democratic functioning of our local government and RyeTV is one of our local vehicles for providing that access. In addition, I would like to reassure the community that no decisions with respect to Rye TV have been made at this point or will be made without the input of the community.

Let's start at the beginning. If you have been watching RyeTV's Government Access Channel's broadcast of the City Council meetings you know that a newly appointed Finance Committee has been hard at work reviewing every department and organization that receives funds from the City at the request of the City Council. This has been an incredibly time consuming task and the Finance Committee has undertaken it with vigor and expertise.

RyeTV is no exception; the Finance Committee undertook an extensive review of the organization and their finances and flagged several notable things and made one suggestion: 1) RYE TV was on the verge of a new full-time hire and a \$1M spend on a new studio buildout and massive equipment overhaul, 2) a substantial revenue stream flowed through the City directly into Rye TV - a stream which has increased from \$26K in 1988 when first diverted to RyeTV (and at that time from only one cable operator) to \$400k annually today (representing fee payments from Verizon and Altice for their use of the City's right of way). And the recommendation: The Finance Committee suggested a pause in Rye TV's hiring and spending while the City Council take a closer look.

At the June 20 City Council Meeting, the Mayor appointed the City Council Rye TV subcommittee. While the review was underway, the Mayor asked that RyeTV hold off on any capital expenditures and the hiring of a full-time employee. For the sake of clarity, this request does not prohibit RyeTV from hiring temporary/part time people as needed or making necessary equipment maintenance purchases in order to continue its current operations.

On June 26, the subcommittee sat down with the Finance Committee to discuss in more detail their analysis.

On July 5, the subcommittee met with members of the RyeTV Commission and Nicole Levitsky to hear their perspective and discuss their plans for RyeTV.

Shortly thereafter we tasked the City Council's college intern with researching TV facilities across Westchester County. She completed her report at the beginning of August. It summarized in varying detail the public access programs of 22 plus municipalities in Westchester County. That research shows that Rye appears to be one of a very few communities that allocates 100% of its franchise fee income to its television access facility. I would like to make a distinction at this point and hope not to complicate things. Under the City's franchise agreements with cable providers, the City receives two payments: 1) a cable television franchise fee payment. This is an annual fee charged by the City of Rye to a private cable television company as compensation for using the City's right of way for its cable. 2) A PEG grant. PEG stands for public, educational, and governmental. While the cable companies provide us three channels, they also provide us with a set amount annually that is to be used for equipment purchases only. This cannot be used by the City for anything else.

In August, we, the members of the subcommittee spoke to various industry experts and local and regional professionals, reviewed municipal programs in Westchester County and spoke with local organizations interested in possible partnership with RyeTV. The picture that is emerging is one in which public access is at a critical juncture nationwide as the technology of cable is superseded by the technology of media outlets online. This is underscored by the forecast of decreasing franchise fees as a result of fewer cable viewers in the coming years, as well as the movement nationally to transition public access facilities to internet oriented community media centers.

With more questions than answers, the subcommittee concluded it is time to bring in an industry consultant to help guide the council and community as to the best solution for RYE TV. To date the City has reached out to five consultants and interviewed three. This week, additional consultants have been approached at the request of Nicole Levitsky and Stephen Fairchild. A consultant should be hired soon with the goal of identifying options for Rye TV's future and ultimately selecting the best path forward for RyeTV and the Rye community.

In conclusion, we want to stress that no decisions have been made and that we remain committed to ensuring the best outcome for the citizens of Rye.”

Councilwoman Goddard, also a member of the City Council subcommittee on Rye TV, made the following statement:

“I too want to underscore our gratitude to RTV commission members and staff, who, through meetings, correspondence and now consultant recommendations, have helped keep an open and engaged dialogue as we undertake this review.

I just want to mention some recent correspondence from a few residents, which has carried with it an underlying concern that this review has somehow morphed into a decision - or even an imminent decision - on where Rye TV is headed ... as if there was already a plan in place or one in the works. This is news to us. I don't know how this concern arose but I'm very grateful for the opportunity tonight to clear up this confusion. As Emily said - absolutely no decision has been made and we are still very much in the review stage.

Lastly, as the representatives of the people of Rye, our job is to take a careful look at all aspects of city government and in this case, determine, with the assistance of stakeholders, experts and the public, how Rye TV can achieve its best by touching the greatest number of Rye citizens."

Councilwoman Hurd reminded the community that the City receives a \$400,000 franchise fee and \$50,000 PEG grant each year.

Councilwoman Tagger-Epstein asked if the PEG grant was stagnant each year. Councilwoman Goddard responded that it varied.

Councilwoman Hurd commented that the City is currently undergoing a franchise contract negotiation with the providers.

Councilwoman Tagger-Epstein asked if the consultant to be possibly hired would study the possibility of an online platform. Councilwoman Hurd responded that Rye TV has begun a major shift already of these different media centers.

Councilwoman Hurd said that the City was still in the process of interviewing a cable consultant. One of the questions to be asked is where the best place is for Rye TV to operate. Currently, the main station is located within Rye High School.

Councilwoman Goddard commented that other communities have set up nonprofits, community partnerships and the like for funding; these are all things that the City is considering.

Councilwoman Hurd discussed the \$12 million in capital/ infrastructure needs; 8% of that is Rye TV with \$1 million of possible needs. However, the Council needed to consider major priorities such as sewers, collapsing infrastructure, etc.

Councilwoman Hurd said that earlier in the day, the City hosted a ceremony for a Prisoner of War from WWII; she emphasized the importance of documenting civic events and government meetings. She said that the Council understands and appreciates the value of that.

Councilwoman Goddard said that the Council recognized that Rye TV was critical. She hoped that this conversation has helped clear up any confusion on whether decisions have been made.

Councilwoman Tagger-Epstein recounted a conversation she had with Councilman Stacks, who commented that he wants to make sure that the City was utilizing Rye TV in the best way.

She was hopeful that the consultant hired will be able to do that. She commented that through some of the letters the Council had received, it was not hard to see the love for Rye TV in the community. She was supportive of a consultant who could bring out the best of Rye TV.

Councilwoman Hurd commented on an email that referred to Rye TV as a 'hidden gem.' She said that it was a gem, but that the Council did not want it to be hidden.

Councilwoman Goddard added that reaching out and broadening the audience is critical as we review and engage the consultant.

Steve Fairchild, Rye Cable Committee, said that the Committee understood what was happening, and that they would like to help. He requested that the Committee be consulted as the want is there to participate. He said that the members had given decades to this cause. He responded to Councilwoman Tagger-Epstein's question about an online presence and said that Rye TV is an online channel. He asked to work with the Council Committee and asked that the Committee keep them informed. He said that the last two months have been scary for the Rye Cable Committee, as there is a fear that the studio will be lost. He lastly asked that they be a part of this process.

Peter Jovanovich, Rye Record, asked how much the City would pay for this consultant.

Councilwoman Goddard responded that one of the possible consultants has been a consultant for the City already and there is money left in the retainer agreement. The scope would take approximately 10 hours of work at a cost roughly between \$2000 and \$6000.

Councilwoman Hurd said that she was hopeful to have a decision on the consultant by mid-October. To clarify, the goal for the City would be to have a consultant paint a total picture of neighboring communities and look at a few options of moving forward with Rye TV.

Councilwoman Goddard responded that a consultant would be only one source of information in the City's review. She said that they have had discussions with industry experts, and they will also consult Rye TV, with public input as well.

Mayor Cohn commented that part of the process will be to examine other Westchester communities, other successes/ models, and what technology and staffing might be appropriate moving forward in Rye. He then thanked the City Council subcommittee for their report.

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

There was nothing discussed under this agenda item.

7. Continuation of Public Hearing to establish the 2019 budgeted fees and charges.

Greg Usry, Finance Committee Chair, thanked City staff who were extremely helpful in the budget process. He reported that certain fees, permits, and fines had not been increased in a number of years. He said that staff and the committee tried to look closely at the service the City is providing for the cost of the permit or fee. He said that the committee also had to consider ongoing maintenance and infrastructure costs, the inflation impact over time, and not just CPI. Additionally, personnel costs and benefits needed to be considered. Mr. Usry said that the committee thought that proposals being made by the staff were reasonable and appropriate, with good diligence at looking at other communities. He reported that there were certainly instances with some possible limitations. There were cases where there is room for more increases over time, but not something that in the one foul swoop that can doubled, tripled or quadrupled. Moving forward, Mr. Usry recommended sharpening a policy on fees and charges being considered before the adoption of the budget, considering the categories of fees, inflation, employment cost, and cost of services.

Councilwoman Souza asked about the comparative analysis review with other municipalities. Mr. Usry noted that a great deal of comparative study work had been done this year, and that review each year should be taken into account.

Mr. Usry said that there were two exceptions to the Finance Committee conclusions: 1) Downtown parking, and 2) Rye Recreation. Downtown parking has many variables, such as different types of parking permits, Fines, parking costs, number of merchants, and the cost of enforcement. He said that all of those are inter-related. The Finance Committee could not comment on which of those variables was a priority, and recommended that the City hire a parking consultant to look at the way of maximizing the parking that it has available in the downtown. With Rye Recreation, he said that the Committee spent a great deal of time with the Recreation Superintendent and Recreation Commission to understand the operations. It is difficult to ascertain the fees, services, and costs to provide an objective financial result; the service provided cannot be measured fully in dollars.

Mr. Usry presented a slideshow presentation of Recreation revenues and expenses since 2015. He explained that when the Committee started the review process, there had been a soft policy of Rye Recreation covering 40% of its expenses. Even that concept itself, has never been codified. Secondly, there is even some discussion of what their expense line item would include. Even around the idea that 40%, that is not how it has worked historically given the growth of rising personnel costs, even with Rye Recreation raising costs 15% over the last four years. Mr. Usry said that was not to draw a conclusion but at a minimum, he said he recommended program increases to offset costs.

Councilwoman Souza said that what struck her was that the current Rye Recreation model was not sustainable. She said that if you have an expense growth rate and a decline in revenues, it would not match up. Mr. Usry commented that the challenge is that the cost to the City will continue to grow.

Mayor Cohn commented that this was a rich and important conversation to be had.

Bob Zahm, 7 Ridgewood Drive, thanked the Council for considering these after summer vacation. He thanked City Manager Serrano and the City staff for responding to his questions on fees so quickly. He reiterated an earlier statement to the Council, asking about the motivation for the changes in proposed fees. He commented that despite the recommendations, there were still fees that have not been assessed recently. He asked about the cost of an auctioneer's permit, and the enforcement of a meeting of general assembly. He also asked about rock chipping to be raised more meaningfully. He said that applying fees typically hurts most for people who cannot afford them. He then asked about dog licenses, taxis, and leaf blowers.

John Leonard, 1 Apawamis Drive, made a statement about parking fees and fines. He asked that commuter parking rates not be increased to the extent proposed.

8. Presentation of Capital Improvement Program (CIP) by Department of Planning.

Christian Miller, City Planner, said that he coordinated the Capital Improvement Program; the current one before the City's consideration is five years in duration, ranging from 2019 to 2023. He explained that this exercise was required by the City Charter. It identifies major projects and potential priorities for the City. This process is done in early fall/ late summer, so that the capital program is part of the budget. City Planner Miller said that there were 53 miles of sanitary sewer lines, 15 city buildings, old infrastructure, and new needs. There are 70 projects in total, with a cost of \$58 million. This includes both the enterprise and non-enterprise funds.

City Planner Miller explained that the categories of the projects were: transportation projects, building projects drainage/ flooding, sewer infrastructure, recreation, vehicles and equipment, Golf Club and the Boat Basin. He gave an overview of the Capital Improvement Plan (CIP), with priorities highlighted such as the Fremd/ Purdy/ Purchase Street intersection for pedestrian and traffic safety, the Police Court building, Disbrow Park study, and sewer improvements. Other projects identified were Rye Golf, Rye Boat Basin (dredging), Rye Town Park, and Rye City Schools. Mr. Miller said that funding options were taking from the general revenue (23%), grants and aid (35%), and debt (42%). He explained that taxes alone will not make these items possible.

Various funds that the City has are undesignated fund balance/ designated capital funds, general fund, bundling and vehicle fund, RA-6 district capital fund, Theall/ Osborn Road area fund. Showed a slide on the actual use of fund balance between 2007-17. He discussed debt allowances under the City Charter: 1) Mandatory referendum borrowing up \$520 million; 2) Council vote not to exceed \$11.2 million of debt; 3) \$1.4 million as of right for public safety; 4) disaster rebuilding debt as of right of \$2.5 million.

Mr. Miller also discussed grants and aid, which he said were very competitive, and have strict requirements attached. Often, these grants require a financial match. There can be a high cost of compliance with grants and aid as the source of funding.

Mr. Miller concluded that the CIP continues to grow. There are further opportunities to meeting changing needs, such as parking, flooding, public safety, and pedestrian safety.

9. Presentation on Community Choice Aggregation.

Councilwoman Goddard introduced the topic. She said that Sustainable Westchester is a nonprofit member consortium, including the City of Rye. Westchester County is also a recent member. The board is made up of elected officials and advocates. Councilwoman Goddard introduced Bob Elliot Jasmine Graham of Sustainable Westchester to address the Council.

Mr. Elliot and Ms. Graham explained that Sustainable Westchester administers the Westchester power program. They are tasked with creating programs that help municipalities become more environmentally stable. The Community Choice Aggregation program helps enter the energy market in an easy way and supports increased renewable energy. The consortium structure allows those involved in the program to have a strong buying power, being able to set the criteria. Ms. Graham explained that there are two supply options: basic supply, and green supply. Both were at a low cost fixed rate. The rate generated is lower than the previous 12 month rate for Con Ed. Should the City adopt this program, residents would be educated on this as an option, with a 30-day window to opt out.

Councilwoman Goddard asked about the 30-day window. Ms. Graham explained that the window to opt out would be before an account is created, but even after 30 days, one could opt out with no penalty.

Mayor Cohn asked about the Con Ed rates in 2017 compared to an average year. There was discussion over the rates being set by a 12-month trailing average.

Ms. Graham said that there were 21 municipalities in the program. The City itself would need to go through a renewal process.

Councilwoman Tagger-Epstein asked how one would know that they were receiving green energy.

Ms. Graham responded that you while one cannot see what electricity is coming through the wires, the energy for those who opt for the green source must be “green certified.” For all green kilowatt hours of service, they are matched with wind power.

Ms. Graham explained that to join the Community Choice Aggregation (CCA), the City must hold a public hearing and pass enabling legislation. There would be additional outreach by Westchester Power, the City would submit a package to the Public Service Commission, sign an electric service agreement, the opt out letters would be sent to residents, and residents would then be enrolled. Ms. Graham said that 15 of 21 municipalities in the program have gone “green.” There was general discussion about the different types of energy.

Councilwoman Tagger-Epstein discussed those unhappy with their Energy Service Company (ESCO), and how residents could potentially switch to afford themselves of this

program. Ms. Graham responded that those interested would be encouraged to contact their ESCO about termination, which is a relatively easy process.

Councilwoman Souza asked if the City could get period reports on progress of the program. Ms. Graham said that those periodic reports would be provided. She also said that if Rye had been a part of the program, residents would have saved an average of \$70/ year.

Councilwoman Hurd asked how a community could terminate the agreement if it was unhappy. Ms. Graham said that the program would be two years with an optional 8 month extension. Councilwoman Goddard then asked again for clarification on how the community could opt out. Ms. Graham responded that individual residents could opt out.

Councilwoman Souza asked if the storm issues last year get factored into the rates.

Mayor Cohn asked if other municipalities approached have declined to enter the program. Ms. Graham responded that no one has said no outright, but have delayed the process to move forward.

Dan Chorost, Sustainable Westchester, said this is an impressive program. Mamaroneck, Larchmont and New Rochelle have already signed on. He said this was a good opportunity to reach out to the community and engage in a dialogue.

Mayor Cohn asked when the City would have to act on this. Ms. Graham responded that there would need to be a public hearing in the next few meetings. She said she could also provide a draft local law.

10. Consider a request by Christ's Church for use of City streets on Sunday, September 16 2018 from 8:30 a.m. -12:30 a.m. for their semi-annual picnic.

Councilwoman Souza made a motion, seconded by Councilwoman Hurd and unanimously carried, to approve the request by Christ's Church for use of City streets on Sunday, September 16 2018 from 8:30 a.m. -12:30 a.m. for their semi-annual picnic.

- ~~11. Approval of the elected First Assistant Chief Dan Bochiechio and Second Assistant Chief Anthony Alba.~~
- ~~12. Consider a resolution to extend the timeline required for volunteer fire fighter Michael Billington, who was elected Fire Chief in April, to complete his remaining certification until January 2019.~~
13. Consider a resolution to accept a donation from Daniel and Camilla Lofrese in the amount of \$200.00 to the Rye Fire Department.

Councilwoman Souza made a motion, seconded by Councilman Mecca, to accept a donation from Daniel and Camilla Lofrese in the amount of \$200.00 to the Rye Fire Department.

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Tagger-Epstein, Mayor Cohn
NAYS: None
ABSENT: Councilmember Stacks

14. Consider a resolution for a Declaration of Official Intent to bond for capital projects being discussed by the City Council.

Mayor Cohn explained that this resolution would allow the City to recoup up-front costs from bond proceeds, such as the studies and consultants to start on a project on any funds that the City advances.

Councilman Mecca made a motion, seconded by Councilwoman Tagger-Epstein to adopt the following resolution as described in the attached agenda for the City Council meeting of September 12, 2018:

RESOLUTION

Authorizing Declarations of Official Intent Under U.S. Treasury Regulations with Respect to Reimbursements from Note and Bond Proceeds of Temporary Advances Made for Payments Prior to Issuance, and Related Matters.

WHEREAS, United States Treasury Regulations §1.150-2 (the “Reimbursement Regulations”) prescribe conditions under which proceeds of bonds, notes or other obligations (“Bonds”) used to reimburse advances made for capital and certain other expenditures (“Original Expenditures”) paid before the issuance of such Bonds will be deemed to be expended (or properly allocated to expenditures) for purposes of Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (the “Code”), upon such reimbursement so that the proceeds so used will no longer be subject to requirements or restrictions under those sections of the Code; and

WHEREAS, certain provisions of the Reimbursement Regulations require that there be a Declaration of Official Intent not later than 60 days following payment of the Original Expenditures expected to be reimbursed from proceeds of Bonds, and that the reimbursement occur within certain prescribed time periods after an Original Expenditure is paid or after the property resulting from that Original Expenditure is placed in service; and

WHEREAS, this City Council wishes to take steps to comply with the Reimbursement Regulations;

NOW, THEREFORE, be it resolved by the City Council of the City of Rye, a municipality of the State of New York (the “Borrower”) as follows:

Section 1. Definitions. The following definitions apply to the terms used herein:

“Authorized Officer” means the Director of Finance or any person designated for the purpose by the City Council of the Borrower.

“Declaration of Official Intent” means a declaration of intent, in the form, manner and time contemplated in the Reimbursement Regulations, that the advances for expenditures referred to therein are reasonably expected to be reimbursed from the proceeds of Bonds to be issued after those expenditures are paid.

“Reimbursement” or “reimburse” means the restoration to the Borrower of money temporarily advanced from its own funds and spent for Original Expenditures before the issuance of the Bonds, evidenced in writing by an allocation on the books and records of the Borrower that shows the use of the proceeds of the Bonds to restore the money advanced for the Original Expenditures.

“Reimbursement” or “reimburse” generally does not include the refunding or retiring of Bonds previously issued and sold to, or borrowings from, unrelated entities.

Section 2. Authorization and Requirement of Declarations of Official Intent.

Each Authorized Officer is authorized to prepare and sign Declarations of Official Intent in substantially the form attached with respect to Original Expenditures to which the Reimbursement Regulations apply, to be made from money temporarily advanced and that is reasonably expected to be reimbursed (in accordance with applicable authorizations, policies and practices) from the proceeds of Bonds, to make appropriate reimbursement and timely allocations from the proceeds of the Bonds to reimburse such Original Expenditures, and to take any other actions as may be appropriate, all at the times and in the manner required under the Reimbursement Regulations in order for the reimbursement to be treated as an expenditure of such proceeds for purposes of Sections 103 and 141 to 150 of the Code. No advance from any fund or account or order for payment may be made for Original Expenditures (other than expenditures excepted from such requirement under the Reimbursement Regulations) that are to be reimbursed subsequently from proceeds of Bonds unless a Declaration of Official Intent with respect thereto is made within the time required by the Reimbursement Regulations.

Section 3. Effectiveness.

This resolution shall be effective immediately upon adoption by a majority of the voting strength of the City Council of the Borrower.

**DECLARATION OF OFFICIAL INTENT
For Reimbursement of Expenditures from Bonds/Notes**

This is a Declaration of Official Intent under U.S. Treasury Regulations for purposes of Sections 103 and 141 to 150 of the Internal Revenue Code of 1986, as amended (the “Code”).

1. The undersigned, on behalf of the City of Rye, a municipality of the State of New York (The “Borrower”) declares that the Borrower reasonably expects that the capital expenditures described in paragraph 2 (the “Project”) will be reimbursed with the proceeds of “bonds” (as defined in Section 150 of the Code). The maximum principal amount of bond to be issued is **\$12,360,000.**

2. Expenditures to be reimbursed are those appropriated from the Borrower's general fund for various capital projects to be financed by the Borrower under the Local Finance Law.

3. This Declaration of Official Intent will not be effective unless the bonds providing moneys for the reimbursement are issued and the reimbursement for the Project described above is made by an allocation on the books and records identifying the expenditures within 18 months after the later of the date of the expenditure or the date the Project is placed in service, but in no event later than three years after the date of the expenditure.

The undersigned has been authorized by the Borrower to make and sign this Declaration on behalf of the Borrower.

Date of Declaration: City of Rye, New York
September 12, 2018

By:

(Signature)
Director of Finance

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Tagger-Epstein, Mayor Cohn
NAYS: None
ABSENT: Councilmember Stacks

15. Consider a request by the Sole Ryeders & Friends and the Rye High School Breast Cancer Awareness Club to have a TieTheTownPink breast cancer awareness campaign in the City of Rye during the month of October, 2018.

Councilwoman Hurd made a motion, seconded by Councilwoman Souza and unanimously carried, to approve the request by the Sole Ryeders & Friends and the Rye High School Breast Cancer Awareness Club to have a TieTheTownPink breast cancer awareness campaign in the City of Rye during the month of October, 2018.

16. Consider a request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, November 25, 2018 from 12:00 p.m. to 3:00 p.m. for the Mistletoe Magic event.

Councilwoman Hurd made a motion, seconded by Councilwoman Souza and unanimously carried, to approve the request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, November 25, 2018 from 12:00 p.m. to 3:00 p.m. for the Mistletoe Magic event.

17. Consider a request by Christ's Church Nursery School for use of the City streets on Saturday October 20, 2018 from 8:00 a.m. to 5:00 p.m. for their Touch a Truck/Vehicle Fair event.

Councilman Mecca made a motion, seconded by Councilwoman Souza and unanimously carried, to approve the request by Christ's Church Nursery School for use of the City streets on Saturday October 20, 2018 from 8:00 a.m. to 5:00 p.m. for their Touch a Truck/Vehicle Fair event.

18. Miscellaneous communications and reports

Councilwoman Tagger-Epstein announced that on September 24, 2018 at 7:00 P.M. there will be a film with a panel entitled "Swim Team," about the parents of a boy on the autism spectrum forming a competitive team. The program will be held in the Rye High School Performing Arts Center.

Councilwoman Hurd announced that Rye Town Park will be holding its Fall Festival on October 20, 2018. She encouraged those interested in the New York Rising grant projects to stay tuned, as there will be upcoming discussion about the final list of projects to approve. Lastly, she said that those interested in the Library's Novel Night, to be held November 3, 2018, to purchase tickets as soon as possible.

Councilman Mecca updated the Council and community on the Planning Commission. He said that Rye Presbyterian Church is trying to rework their parking lot. There will likely be changes to the traffic flow pattern in that lot. He also said that the Commission approved the new play structure at Resurrection Church several meetings ago. Councilman Mecca also said that the Landmarks Advisory Committee held a meeting on September 11, 2018 at which time they compiled a list of houses still standing that were built before the Civil War. There were 53 of them. The Committee is working on a concept for this information, to start to discuss the process of land marking certain locations.

Councilwoman Goddard announced that on behalf of the Sustainability Committee, there will be a Healthy Yard, Healthy Pets presentation held Tuesday, October 16, 2018 at 5:30 at the Pet Pantry Warehouse. She also said that the Edith Read Octoberfest will be held Saturday, October 13, 2018. Councilwoman Goddard then announced that Saturday, October 27, 2018 will be designated as National Drug Takeback Day, which will provide a safe location for the drop-off of prescription drugs. The location for drop-off will be the Police Station lobby. There will be more details to come. Lastly, Councilwoman Goddard said that the Rye City Lions Club has nominated Rye Sustainability Committee for the James A. and Marian M. Shea Community Service Award.

Mayor Cohn announced that the Westchester Board of Elections, Westchester Disabled On the Move and the Westchester Disabled Living Center are collaborating to increase the disability vote. Information is available on the City website. There are two parts of this

initiative: to register disabled voters by the October 12th deadline, and to hold a mock election workshop. This is intended to help the disabled vote on their own, and vote privately.

19. Old Business

There was nothing discussed under this agenda item.

20. New Business

There was nothing discussed under this agenda item.

21. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried, to adjourn the meeting at 10:05 pm.

Respectfully submitted,

Carolyn D'Andrea
City Clerk

DRAFT UNAPPROVED MINUTES of the
Special Meeting of the City Council of the City of
Rye held in City Hall on September 26, 2018, at 7:30
P.M.

PRESENT:

JOSH COHN, Mayor
SARA GODDARD
EMILY HURD
RICHARD MECCA
JULIE SOUZA
BENJAMIN STACKS
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

None

The Council convened at 7:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Souza, to commence the special meeting of the City Council. The meeting began at 7:47 P.M.

1. Pledge of Allegiance.

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

2. Roll Call.

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

The Mayor started with an opening comment to address the storm from the previous evening. He was grateful for the first responders and also grateful that the rain subsided sooner than projected. Mayor Cohn went to Bowman Dam with the Police and DPW and was struck with the enormous quantity of water that was rushing with amazing speed. He expressed that the quantity of water was unprecedented with such a short period of time which left a short amount of warning time for the people of Indian Village, in particular. He will look to see how the City will address it in the near future to be more responsive. The Mayor said that those who have shown up this evening and today during office hours, have been asked to come back next week so they can have a unified discussion regarding emergency response with the NY Rising project.

The particular issue with trash pick-up after the flooding water has resulted in the DPW making a special garbage collection pick-up the next day. The DPW will also look into street cleaning.

The Mayor explained this is a special meeting designed to focus on certain items so the regular meetings can stay on course.

4. Consideration to set a Public Hearing on October 17, 2018 to consider a local law to establish a Community Choice Aggregation Program in the City of Rye.

Mayor Cohn invited Councilwoman Goddard to elaborate on the program. Councilwoman Goddard explained that Sustainable Westchester is a non-profit consortium of almost every Westchester municipality. She reiterated that a representative spoke at the last City Council meeting to explain one of the programs called Community Choice Aggregation. This program is a municipal energy bulk supply that replaces the current utility as the default supplier. The CCA puts control within the local municipality in this bulk arrangement for competitive pricing and procure clean energy. There are 20 municipalities who have signed on to the first round of contracts for a 3 year contract. Now the opportunity is open for all municipalities to join with the contract. What is required is the municipality must pass a local law in order to participate which is why the public hearing needs to be set this evening. This Monday evening will be an educational meeting at the Rye Free Reading room for questions, and the recording is also available from a meeting earlier in the year.

The Mayor asked Jasmin Graham, Outreach & Compliance Coordinator at Westchester Power, to answer a few questions. Mayor Cohn asked if a resident has the choice to buy electricity. Ms. Graham reported that every resident has the option to opt in or opt out of this program and any individual has the choice to switch from green energy or opt out. The Mayor asked what the notification will say if the City were to opt in to the program. The notification would say the City decided to participate in the program and they would have a 30 day window to opt out by calling the office or going online. You can opt out before the program begins and you can opt out at any point once you are enrolled in the program. Anyone that does not opt out will seamlessly transition to this program. Con Edison will still handle the billing and supplying so they would still be the contact as it relates to the monthly bill or any outages. If you are enrolled in auto-pay with Con-Ed it will be unaffected and if you have your own ESCO (Energy Savings Company) you would not be enrolled or receive the notification. Ms. Graham added that everyone in the office is a Westchester resident and they are always available to assist should residents have any questions.

Councilwoman Goddard made a motion, seconded by Councilwoman Tagger-Epstein, to set a Public Hearing on October 17, 2018 to consider a local law to establish a Community Choice Aggregation Program in the City of Rye.

3. Update by the Mayor on the Last Mile Project (I95 reconstruction).

Mayor Cohn explained that a conference was held today with the Thruway Authority, Project Manager, the construction firm, Senator Shelly Mayer, a representative from Assemblyman Steve Otis' office, along with City staff to talk about the Last Mile Project. The fundamental problem is they are in a preparatory stage and when they are ready they will only work on a two week staging timeline. They will look at material supply chain, man power, and weather, then decide where they will be working two weeks later. As a result, the City will only know two weeks in advance with great certainty what is to come.

One thing confirmed is that ramp L on the northbound side of I95 by Midland Parkway is a great focus and will be worked on very consistently during the construction period until 2021. They will be closing the ramp, except for emergency vehicles, which will result in detouring people west bound to exit 9 and then back to 287 to get them on I95. The City will have to make sure people are aware of weight limits and such to focus on the possible cut through by Playland Parkway. A blasting notice will go out soon as it is expected to start this fall and if you have not been notified you should contact the Council. Councilwoman Souza asked if foundation checks will be done as people have attributed cracks in foundation to blasting, while Councilman Stacks asked if they will repair roads that will be over used during this period. The Mayor took note of the foundation question and explained the City would be assessing our roads to see if they become compromised from the construction.

The meeting also verified that the area will have a site wall, versus a sounds wall, which is a 12-23 feet tall wall barrier. However, during the construction, there will be a fence with screening. The City has asked for specific details so people who have lost their site shielding from the trees they took down will have sufficient protection during the two year phase. Alternate one way passage on Grace Church will begin in two weeks so passage will be constricted. General work hours are 7am-3:30pm and then 9pm-5:30am is prime working time from the Thruway Authority perspective because of low traffic volume. The contractor was chosen on its ability to set a speedy schedule and will try to limit weekend work. Additionally, the city will take into account of the permitted spots it is losing in 2019 and 20 meter spaces for a four month basis.

The City stressed the importance of the north-south roads, Purchase Street, Boston Post Road, Midland Avenue, and Grace Church Street. They are aware of the desire to have staggering of the routes.

5. Continuation of Public Hearing to establish the 2019 budgeted fees and charges.

Mayor Cohn said he would like to have another discussion this evening, followed by a final discussion so they could make a decision on the fees and charges. The Council would like the budget process to move forward so the Accounting Department can work with firm numbers instead of proposed numbers.

Mayor Cohn asked City Planner, Christian Miller, to answer questions that were asked by the Council regarding Building and Planning fees. The first was regarding the Penalty for work begun without a permit, and how it covered a variety of situations. Mayor Cohn explained that this fee covers those who start a job without a permit they need, while others have a permit for 'x' but not for 'y', and then there are others that obtain a permit, but do not do the work they said they are doing. Mayor Cohn asked Corporation Counsel Wilson if there should it be a penalty instead of a flat fee. Mr. Miller explained this item is a fee and not a penalty and there are additional financial implications a homeowner will incur if they do not follow the proper permit process. For example, a Stop Work Order has no fee associated to it, but is an incredible motivator for compliance, since many contractors have their jobs on a specific timeline and a stop work would throw off the project timeline. Additionally, the City can file a formal violation in court for enforcement actions. Penalties for fines assessed by a judge, the administrative fee, plus stop work, are all monetary expenses by the homeowner that are not visible when looking at a fee schedule. Corporation Counsel Wilson confirmed the fee itself can only legally cover the administrative costs. Further, she explained for penalties, the Council has the legislative authority to make changes in the City Code should they want to add a sliding scale of fines associated to these offenses. Councilwoman Goddard, Ms. Wilson, and Mr. Miller all agreed that the name should be clarified, as the current language is confusing, since it is called Penalty for work begun without a permit, but it is in fact not a penalty, it is a fee. Mayor Cohn confirmed that the Council was comfortable leaving the amount at \$1500.

Next was a question on the generator fee, which was raised from \$300 to \$400. The Council asked why this should be a 33% increase while other fees have not increased so dramatically. Mr. Miller explained there has been a greater administrative burden as they have seen an increase of people installing generators. It requires all of the trades to be involved and multiple inspections. In addition to the general 2-2.5% annual increase, the department considered the additional time it has taken on the department which is how that increase was derived. Councilman Mecca reaffirmed that a generator permit is very complicated due to the fact that one must be compliant with noise ordinances, placement, CO2, Gas, Electric and requires multiple inspections, so in consideration of that, the fee is reasonable. Mayor Cohn confirmed the Council was happy leaving the generator fee at \$400.

The next item the Council discussed was rock removal. The Mayor asked Mr. Miller to differentiate blasting and rock chipping. Mr. Miller explained that blasting is much more involved, requiring much more staff and staff time. There are pre-blasting meetings verifying neighbor notification and there is much more neighbor involvement. The applicant is also responsible for paying for the City's blasting inspector who must be on-site for the duration of the project. The rock chipping permit is only two years old and is a relatively easy permit to administer. However, the fee was raised because they have noted that maintaining the rock registry is more labor intensive than they initially anticipated. Councilwoman Souza asked if the cost associated also considers the time spent fielding phone calls of concerns when these projects occur, which Mr. Miller confirmed. Mr. Miller explained further that these permits are the only two that are on such a short timeframe because applicants only have 38 days, regardless of weather conditions or any other factors. However, the applicant can apply for a 3 day extensions with no additional fee. After hearing those details, the Council agreed the fee may be too low and would consider raising the proposed fee from \$300 to \$500 for rock chipping. Mr. Miller

confirmed that \$500 is certainly justified and is not an arbitrary number but rather a professional judgment.

Mayor Cohn asked Mr. Miller to elaborate on why additional charges per \$1,000 on estimated work has not gone up, since the base fee did increase. He explained that 17 per thousand for residential construction and 30 per thousand for commercial construction is already on the high end of the scale. Councilwoman Hurd asked about reporting figures and Mr. Miller replied that construction cost reporting is different from sales price and that number is scrutinized to ensure the figures are correct.

Mayor Cohn asked if a partial and full demolition permit for commercial and residential structures should be in place instead of one demolition permit. Mr. Miller explained the fee is for a full demolition permit. A partial demolition project would be subject to fees associated with the improvement they are building, but not a demolition permit. Councilwoman Tagger-Epstein asked why the fee is the same for commercial and residential to which Mr. Miller explained it is almost the same process. He added that what is built will generate a lot of cost as it relates to a building permit fee, therefore a small house versus a large commercial property would experience the same demolition fee but the permit fee would vary greatly.

Mayor Cohn asked about sewer and storm drain to which Mr. Miller said he would have to look into those details as he was unfamiliar with what that fee encompasses.

Mayor Cohn asked if he thought the fee schedule should be subject to a year over year inflation increase. Mr. Millers reported that sometimes the inflationary increase will exceed the administrative cost and perhaps would not be applicable to all fees. However, he did verify that the fee schedule is reviewed by all departments on an annual basis and each line is thoughtfully adjusted accordingly. Councilman Mecca stated he does not like the annual increase because it should be reviewed annually by the Council and an annual increase would eliminate that process. Mayor Cohn liked the inflation adjustment but clarified that the right inflation index would need to be sought and the annual review would still need to be conducted. Councilwoman Souza and Councilwoman Hurd both agreed an inflationary increase makes sense, but the decision on how increases will be determined for future fee schedules did not need to be made at this current point in time, and there are other variables that may be involved in addition to across the board inflationary increases.

Mayor Cohn then asked on how Planning Department fees were considered to which Mr. Miller explained the same thought process as the building department fees. Mayor Cohn reported that there was a question if subdivision review should be higher. The concern is that overcrowding is a concern and perhaps the fee would deter those from applying for a subdivision. Mr. Miller explained that in this fee schedule, this is for the fee associated with the planning application and administrative time, and the issue of over-crowding and what is allowed to be subdivided is a policy issue and separate conversation. Mr. Miller also added there have only been one or two subdivisions each year over the past few years. The Mayor suggested the fee be left alone, to which the Council agreed.

Councilwoman Tagger-Epstein stated she thought an impactful area of fee change would apply to tree replacement fees. Mr. Miller explained that fee only currently applied to modification of tree preservation plans, but people rarely modify the plan. Mayor Cohn thanked Mr. Miller for his time and answering all of the questions asked of him.

Mayor Cohn asked the Deputy City Clerk, Euka Pietrosanti, to elaborate on a previous resident statement on why Taxi licenses should be increased, when the industry is currently under great competitive pressure and the City cannot assess the same fees to technology companies such as Uber and Lyft. Ms. Pietrosanti responded by stating the fee has not been increased since 2012, but more so, the increase was derived from the additional burden created on the Clerk and Police departments over the past several years. The application process has taken greater administrative time within the clerk's office as the applications are being reviewed and edited several times by the drivers and the fielding of calls throughout the year for customer mis-treatment or incorrect parking stall activity has required more police intervention. She added that the Clerk's Office did look into the cost of moving the license to the Westchester County Taxi and Limousine Commission, as other municipalities have done, and it would cost a total of \$225 between the background check, fingerprinting and issuance of the taxi driver license, where the City proposed fee is still lower at \$100. Councilwoman Souza asked if the licensing was given to the County then the drivers would be licensed in every municipality versus the City of Rye, which doesn't seem like a comparable. City Manager, Marcus Serrano, explained the driver would then need to go to each municipality to have their cab licensed so there are still additional costs separate from the Taxi Driver license. Councilwoman Souza asked what the total revenue is on this to which Ms. Pietrosanti explained the total revenue increase with the proposed fee equates to \$1,400. Mayor Cohn suggested the driver cab license be lowered to \$175 while the driver's license stay at the proposed fee of \$100 to which the Council agreed.

Mayor Cohn asked to explain what a Cabaret fee is and when is it applicable. Ms. Pietrosanti explained that the City Code defines a cabaret as any room, space, or place in the City of Rye in which any dancing is permitted in connection with the business of selling to the public of food or beverage of any kind. As a result, this permit would not be applicable to a private Country Club or an establishment such as Rosemary and Vine, playing jazz music. The business' primary activity must be dancing, along with selling food or beverage, therefore renting a space for a private party would not apply, unless it was an actual dance hall. Councilman Mecca asked how many were issued last year to which Ms. Pietrosanti replied zero. Further, she explained the budget forecast for 2019 is zero for this particular fee.

Mayor Cohn then asked when we charge for an Auctioneers permit and why. Ms. Pietrosanti explained that the City has had a history of selling an auctioneer permit most recently in 2015. There was one particular auctioneer who would come to Whitby Castle but that company is no longer in business. The fee was not changed since 2010 and the fee did not properly reflect the administrative time it took to process the application and be the liaison between the Auctioneer and Whitby Castle. However, the fee was not removed in anticipation of future auctioneers. Mayor Cohn added this permit is not applicable to non-for-profits to which Ms. Pietrosanti agreed stating there are a several exemptions including religious and educational organizations.

Mayor Cohn asked if the City was obtaining fair cost coverage as it relates to dry cleaning establishments. Ms. Pietrosanti reported that currently enforcement is not being conducted, the previous revenue has been zero and the forecasted revenue is zero, however the department can work with the correct department to reinstate this permit and follow the proper inspection protocol between the fire inspection and building department. Councilman Mecca explained in the City of White Plains, they issue a laundromat permit for \$100, as well as vehicle or car mechanic shop with a spray booth, in which the Electrical Inspector would process the annual inspection. Mayor Cohn asked the City Manager to pursue this further for implementation.

Mayor Cohn started the parking permit conversation by explaining that the Commuter Parking permit has been held to a 15% parking increase by the MTA. Further, Mayor Cohn acknowledged a commuter permit fee is a lot of money however, residents should keep in mind that the initial proposed fee of the permit, if broken down by 10 hours on 250 work days, equated to .40 per hour, which in comparison to neighboring municipalities and alternative parking options is still a good deal. Commuters should be aware that the fees will continue to increase as the years progress.

Councilman Stacks asked if the City staff could elaborate on the merchant parking fees. The City Manager confirmed that the fee was last increased in 2017. Councilwoman Souza asked how many we allocate to the downtown merchants to which Ms. Pietrosanti replied that the City sells a maximum of 500, although we currently have sold about 350 permits for the current year. Further, she explained the fee is considered annually and we take the feedback directly from the employees that are struggling to pay for the permits annually. Councilwoman Hurd confirmed that this is an issue that comes up at the Chambers meeting and we do not want to disincentive people from renting in the downtown if they cannot retain employees who cannot pay for parking. Councilwoman Goddard said if we look at the revenue the City would obtain from increasing this fee by \$50-\$75 per permit, versus the burden it would cause on the permit holder, the impact on the individual's income possibly outweighs the revenue. Ms. Pietrosanti added that more employees pay out of pocket than employers paying on their employees' behalf. Mayor Cohn suggested to leave the fee alone to which the Council agreed.

Mayor Cohn invited City Engineer and Superintendent of DPW, Ryan Coyne, to speak on two questions. The Mayor asked to elaborate on the bulky waste fee in which Mr. Coyne replied that it was a typographical error. The increase was to raise it to \$50, not \$250. The fee is only collected about 2-3 times a year and is used in the collection of large items, such as washing machines, but those are now part of metal so those fees have not been collected in a number of years. Mr. Coyne added that the question is if whether we want to be in the market of bulk pick up services. Councilman Mecca explained it is a service that is offered to residents as a courtesy and it is only used several times a year. Mr. Coyne added that the charge is only added when there is so much refuse that a single garbage truck cannot handle the volume in one pickup.

Mayor Cohn invited the Superintendent of Recreation, Sally Rogol, to clarify questions regarding recreation. Mayor Cohn asked why there was a 56% increase on basketball lights to which Ms. Rogol explained it was a typo. Mayor Cohn asked why a one hour lesson increased but a half hour lesson stayed the same. Ms. Rogol explained that the tennis lesson does not have revenue impact because the tennis instructor has a fee that cannot exceed. If a new instructor

were to come on contract, they most likely would not agree to pay those fees. It is a not to exceed fee versus a flat fee. Mayor Cohn asked Ms. Rogol's thoughts on inflationary fees to which she replied that both she and the Recreation Commission looks at the fees on an annual basis and determines how it relates to other communities and to make sure it is reasonable for the service that is provided. Her hesitation is that the inflationary increase might price out a certain services which would then eliminate the collection of that fee all together.

The Mayor stated that they will have one more conversation regarding fees at the next meeting and then finalize. Councilwoman Hurd asked if the City staff can see if any other municipalities are looking at an inflation-based increase and how their staff derives their fees.

6. Consider a motion to ratify the comment letter submitted by the Mayor to the Federal Communications Commission on September 18, 2018 regarding a proposed order relating to telecommunications equipment in the right of way.

Mayor Cohn explained they succeeded to obtain Congressman Engel put together a letter, as well as support letters from Senators Schumer and Gillibrand, but the FCC recently passed an order that the City and many other municipalities objected to. The order will likely be challenged in court and it will change the standard of review for small cell installations, limit municipalities to the fees they can charge with respect to the right of way, shorten the timeframes for municipal consideration and severely limit the ability to consider aesthetics.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, and unanimously carried, to ratify the comment letter submitted by the Mayor to the Federal Communications Commission on September 18, 2018 regarding a proposed order relating to telecommunications equipment in the right of way.

7. Resolution to test certain traffic changes, including temporary closures of Grandview and Evergreen at High Street, temporary flow restriction of Grandview and Evergreen at their south ends and temporary restriction of turns from Hillside onto Boston Post Road to right turn only.

Mayor Cohn explained the origin of this request stems from the Rye Park neighborhood concern with the traffic pattern from the proposed United Hospital site. The prospective buyer is in the remaining days of the due diligence process. As a result, the community would like a test to see how the fundamental test would work for the community and for the City in general.

Nick Loddo, on behalf of the Traffic & Pedestrian Safety Committee, sat with the people of the Rye Park community and they were all in agreement with a trial period of Oct 1 through Thanksgiving, to see how this test would work. They do not have picket fences but DPW does have ideas such as installing temporary chicanes and where to put it. Councilwoman Souza asked if the entire neighborhood group was behind this trial in which Mr. Loddo replied yes. Further, Mayor Cohn reported the police will have to assist during the trial period. Corporation

Counsel Wilson added that the police would be able to issue warnings but would not be able to issue tickets until it was finalized within the code.

Mr. Coyne explained that barrier could be a hard plastic barrier but those details have not been determined. Signs on High Street, Grand Ave, and Evergreen Ave would need to be added, plus signs on Hillside to Boston Post Road. Councilman Mecca asked how trucks will u-turn on the dead end street and who will be responsible for the damage of when they drive over lawns and such. Councilwoman Goddard asked how success will be measured. Mayor Cohn stated that the community would talk though the success of the test and a public hearing would need to be set before any final determination is confirmed. Councilman Mecca was concerned that relying on the residents instead of the City to gather data will result in other neighborhoods wanting the same thing. He added he hopes this is safety focused and not United Hospital focused. Councilwoman Souza suggested home owners may find that people turning around in their driveway may be more disruptive than the actual traffic pattern change.

Richard Smith, 127 Evergreen Ave, in Rye Park neighborhood, explained there is an ad hoc Steering and Traffic Committee that has been involved since 2015 and submitted a petition in May 2017. The United Hospital property currently does not have an owner however when it was in the works, traffic mitigation was agreed upon. The neighborhood feels this test will start the process of upcoming unwanted traffic patterns. Further, he reported the City has asked for this test pattern to see if the neighborhood would be happy with the result. Councilwoman Tagger-Epstein added that TPS went through a number of traffic mitigation items and this particular one is hopeful on a safety aspect. Additionally, adding a light on Hillside may be necessary in the future.

Jono Peters, Ridge Street, stated he supported the project but wanted to encourage the city to consider future impact of Ridge St. and High St. and 5 points (Wappanocca Ave /Purchase St /Westchester Ave/120/ Ridge St). He asked the City to make sure it is doing proper traffic studies as to the impact of these possible changes. Mayor Cohn did confirm the first step of the Maser study did state the light at Ridge St. and High St. would need to be re-programmed.

Mayor Cohn explained that the test is not cost-invasive and will result in what questions to ask and how it will affect the neighborhood at minimal cost. Mr. Coyne said that the City can put signs and barriers up relatively easy, but a traffic count would need to be conducted. He explained that traffic is not at a high at the moment but it will result in other traffic patterns that will need to be reviewed. Corporation Counsel Wilson asked if there is a hard start date as additional time will be desired to ensure everyone is notified properly, to which Mayor Cohn confirmed there is not a hard start date.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, and unanimously carried, to test certain traffic changes, including temporary closures of Grandview and Evergreen at High Street, temporary flow restriction of Grandview and Evergreen at their south ends and temporary restriction of turns from Hillside onto Boston Post Road to right turn only.

8. Consider a resolution to approve the hiring of John Micewicz as a consultant to the City Council's RyeTV subcommittee.

Councilwoman Hurd explained that sub-committee of the City Council created to review RyeTV has interviewed several consultants. They felt Mr. Micewicz is the best candidate due to his experience, he is local, and he understands the scope of the project. He will be looking to assess the needs to RyeTV and how it operates against other municipalities. He should perform the task in 6-8 weeks, at \$100 an hour (projected 60 hours), with a cap of \$10,000.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, to approve the hiring of John Micewicz as a consultant to the City Council's RyeTV subcommittee, at a cost not to exceed \$10,000.

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn
NAYS: None
ABSENT: None

9. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Souza and unanimously carried, to adjourn the special meeting into executive session to discuss attorney-client privilege matters, personnel matters and litigation at 10:54 P.M. The Council did not plan to reconvene in the special meeting.

Respectfully submitted,

Euka Pietrosanti
Deputy City Clerk



CITY COUNCIL AGENDA

NO. 6

DEPT.: Legal

DATE: October 15, 2018

CONTACT: Kirsten Wilson, Corporation Counsel

AGENDA ITEM: Public Hearing to consider establishing a Community Choice Aggregation Program in the City of Rye.

FOR THE MEETING OF:

October 17, 2018

RYE CITY CODE:

CHAPTER
SECTION

RECOMMENDATION: Open the Public Hearing to consider a local law establishing a Community Choice Aggregation Program in the City of Rye.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

On September 12, 2018 Westchester Power made a presentation to the City Council and the public regarding their Community Choice Aggregation Program. On September 26, 2018 The City Council called for a public hearing to be held on October 17, 2018.

LOCAL LAW NO. ____ 2018

**A LOCAL LAW TO ESTABLISH A COMMUNITY CHOICE AGGREGATION
(ENERGY) PROGRAM IN THE CITY OF RYE.**

Be it enacted by the City of Rye of County of Westchester as follows:

Section 1. The Code of the City of Rye is hereby amended by adding a new Chapter 74 titled “Community Choice Aggregation (Energy) Program, to read as follows:

§74-1. Legislative Findings; Intent and Purpose; Authority.

- A. It is the policy of both the City of Rye and the State of New York to reduce costs and provide cost certainty for the purpose of economic development, to promote deeper penetration of energy efficiency and renewable energy resources such as wind and solar, and wider deployment of distributed energy resources as well as to examine the retail energy markets and increase participation of and benefits for residential and Small Commercial customers in those markets. Among the policies and models that may offer benefits in New York is community choice aggregation (“CCA”), which allows local governments to determine the default supplier of electricity and natural gas on behalf of its residential and Small Commercial customers.
- B. The purpose of this CCA Program is to allow participating local governments including City of Rye to procure energy supply service for their residential and Small Commercial customers, who will have the opportunity to opt out of the procurement, while maintaining transmission and distribution service from the existing Distribution Utility. This Chapter establishes a program that will allow the City of Rye to put out for bid the total amount of natural gas and/or electricity being purchased by local residential and Small Commercial customers. Bundled Customers will have the opportunity to have more control to lower their overall energy costs, to spur clean energy innovation and investment, to improve customer choice and value, and to protect the environment; thereby, fulfilling the purposes of this Chapter and fulfilling an important public purpose.
- C. The City of Rye is authorized to implement this Community Choice Aggregation (Energy) Program pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission Case No. 14-M-0564, Petition of Sustainable Westchester for Expedited Approval for the Implementation of a Pilot Community Choice Aggregation Program within the County of Westchester, Order Granting Petition in Part (issued February 26, 2015) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case NO. 14-M-0564 (collectively, the “Order”). Order shall also mean orders of the Public Service Commission related to State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued December 15, 2014) to the extent that orders related to Case No. 14-M-0224 enable actions by the City of Rye not otherwise permitted pursuant to orders related to Case 14-M-0564: provided, however, that in the event of any conflict between orders from Case NO. 14-M-0564 and orders from Case No. 14-M-0224, orders from Case No. 14-M-0564 shall govern the CCA Program.

- D. This Chapter shall be known and may be cited as the “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM Law of the City of Rye”.

§ 74-2. Definitions.

For purposes of this Chapter, and unless otherwise expressly stated or unless the context otherwise requires, the terms in this Chapter shall have the meanings employed in the State of New York Public Service Commission’s Uniform Business Practices or, if not so defined there, as indicated below:

BUNDLED CUSTOMERS – Residential and Small Commercial customers of electricity or natural gas (“fuels”) who are purchasing the fuels from the Distribution Utility.

SMALL COMMERCIAL – Non-residential customers as permitted by the Order.

COMMUNITY CHOICE AGGREGATION PROGRAM or CCA PROGRAM – A municipal energy procurement program, which replaces the incumbent utility as the default Supplier for all Bundled Customers within the City of Rye.

DISTRIBUTION UTILITY – Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission.

PUBLIC SERVICE COMMISSION – New York State Public Service Commission.

SUPPLIERS – Energy service companies (ESCOs) that procure electric power and natural gas for Bundled Customers in connection with this Chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

SUSTAINABLE WESTCHESTER, INC. – A not-for-profit organization comprised of member municipalities in Westchester County, New York.

§ 74-3. Establishment of a COMMUNITY CHOICE AGGREGATION (ENERGY) Program.

- A. A Community Choice Aggregation (Energy) Program is hereby established by the City of Rye, whereby the City of Rye shall work together with Sustainable Westchester to implement the CCA Program to the full extent permitted by the Order, as set forth more fully herein. The City of Rye role under the CCA Program involves the aggregating of the electric and/or gas supply of its residents and the entering into a contract with one or more Suppliers for supply and services. Under the CCA Program, the operation and ownership of the utility service shall remain with the Distribution Utility.
- B. The City of Rye participation in a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The City of Rye will not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with Suppliers on behalf of participating residential and Small Commercial customers.
- C. In order to implement the CCA Program, the City of Rye will adopt one or more resolutions that outline the process of and conditions for participation in the CCA Program, including but not limited to signing a contract for a compliant bid with one or more Suppliers, all as consistent with the Local Law and the Order.

- D. The Public Service Commission supervises retail markets and participants in these markets through legislative and regulatory authority and the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services and the terms on which customers may be enrolled with ESCOs.

§ 74-4. Procedures for Eligibility; Customer Data Sharing.

- A. As permitted by the Order, the City of Rye may request from the Distribution Utilities aggregated customer information by fuel type and service classification on a rolling basis.
- B. Sustainable Westchester, on behalf of the City of Rye, shall issue one or more requests for proposals to Suppliers to provide energy to participants and may then award a contract in accordance with the CCA Program.
- C. Sustainable Westchester or the City of Rye, if the City of Rye so chooses, will then request individual customer data from the Distribution Utility in accordance with the CCA Program.
- D. Sustainable Westchester or the City of Rye, if the City of Rye so chooses, and the selected Supplier will then notify Bundled Customers of the contract terms and their opportunity to opt out of the CCA Program.
- E. In accordance with and for purposes of the Order, ConEd will provide to Sustainable Westchester aggregate and customer-specific data (including usage data, capacity tag obligations, account numbers, and service addresses) of all Bundled Customers in the City of Rye not currently enrolled with an individually chosen ESCO.
- F. Sustainable Westchester and the City of Rye will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

§ 74-5. Choice of Energy Supplier; Opt-Out Notice and Procedure.

- A. The City of Rye or, in conjunction with the ESCO, will notify its residential and Small Commercial customers, by letter notice, of the City of Rye to establish the CCA Program, of the contract terms with an ESCO, and of the opportunity to Opt-Out of the CCA Program.
- B. The letter notice will be sent to each customer at the address provided by the Distribution Utility and explain the CCA program and the material provisions of the ESCO contract, identify the methods by which the customer can opt out of the CCA Program, and provide information on how the customer can access additional information about the CCA Program.
- C. The opt-out period shall be at least twenty (20) Days.
- D. CCA Program Bundled Customers, upon enrollment, will receive a welcome letter that will explain the customers' options for canceling the enrollment if they believe they were enrolled incorrectly or otherwise decide to withdraw from the CCA Program in favor of another Supplier. The welcome letter also will explain that residential customers are entitled to the added protection of the mandated three (3) day rescission period as detailed in Section 5(B)(3) of the Uniform Business Practices.

§ 74-6. Verification and Reporting.

- A. Sustainable Westchester shall be responsible for filing an annual report with the Public Service Commission, which identifies the number of customers enrolled in the CCA Program by municipality and customer class, the number of customers who returned to utility service or service with another Supplier during the reporting period, and the average cost of commodity supply by month for the reporting period.

Section 2: Severability.

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

Section 3. This local law shall take effect upon filing with the Secretary of State.



CITY COUNCIL AGENDA

NO. 8

DEPT.: Legal

DATE: October 15, 2018

CONTACT: Kristen Wilson, Corporation Counsel

AGENDA ITEM: Consideration to set a Public Hearing on November 7, 2018 to consider a local law to exercise our local option in Real Property Tax Law Section 581 (1)(c).

FOR THE MEETING OF:

October 17, 2018

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the City set a Public Hearing on November 7, 2018 to consider a local law to allow the City of Rye to exercise our local option in Real Property Tax Law Section 581 (1)(c).

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: This is a recommendation by the City Assessor to protect the City's assessment roll. This law would prevent individuals converting 3-family, 2-family homes or single-family homes into condominiums. When these properties are converted into condominiums, they are assessed as income-producing properties and typically pay significantly less property tax than a comparably valued single family home.

CITY OF RYE
LOCAL LAW NO. 2018

A local law to add a new Article XIII “Real Property Assessment of Converted Condominiums” under Chapter 177 “Taxation” of the Code of the City of Rye, as follows:

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

Section 1: Chapter 177. Taxation.

Article XIII. Real Property Assessment of Converted Condominiums.

§ 177-83. Legislative findings.

- A. The City Council hereby finds that residential condominium units incur a significant difference in property taxes compared to comparably priced single family homes under conventional forms of property ownership.**
- B. By reason of the foregoing, the City Council believes it is necessary to adopt a local law to prevent residential property owners from converting to a condominium form of ownership that would result in a lower assessment, which, if permitted, would unfairly lower the property tax burden for the converted property, while increasing the property tax burden to owners of property in a conventional form of ownership**
- C. The City Council does hereby ordain and enact Article X to accomplish the aforesaid purpose.**

§ 177-84. Definitions.

As used in this article, the following term shall have the meaning indicated:

CONVERTED CONDOMINIUM

A dwelling unit held in condominium form of ownership that has previously been on an assessment roll as a dwelling unit in other than condominium form of ownership and has not been previously subject to the provisions of § 581, Subdivision 1(a) of the Real Property Tax Law or § 399-y, Subdivision 1(b) of the Real Property Tax Law.

§ 177-85. Real Property Assessment of Converted Condominiums

In accordance with § 581, Subdivision 1(c) of the Real Property Tax Law and § 399-y, Subdivision 1(f) of the Real Property Tax Law, which otherwise permits condominium units to be valued for purposes of real property assessment by using a capitalization of income approach or a cost approach, neither § 581, Subdivision 1(a) of the Real Property Tax Law nor § 399-y,

Subdivision 1(b) of the Real Property Tax Law shall apply to any converted condominium units in the City of Rye.

Section 2: Severability.

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

Section 3: Effective date.

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



CITY COUNCIL AGENDA

NO. 9

DEPT.: Legal

DATE: October 15, 2018

CONTACT: Kristen Wilson, Corporation Counsel

AGENDA ITEM: Consideration to set a Public Hearing on November 7, 2018 to consider a local law to allow the City of Rye to “piggyback” on other federal, state, and local contracts.

FOR THE MEETING OF:

October 17, 2018

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the set a Public Hearing on October 17, 2018 to consider a local law to allow the City of Rye to “piggyback” on other federal, state, and local contracts.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Taking advantage of certain government contracts that are “piggyback” enabled would allow the City of Rye to take advantage of other governmentally approved rates on existing contracts.

CITY OF RYE
LOCAL LAW NO. 2018

A local law to add a new Chapter 32 “Procurement Policy” of the Code of the City of Rye, as follows:

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

Section 1: Chapter 32. Procurement Policy.

Article I. Award of Contracts on Basis of Best Value

§ 32-1. Title.

This article shall be known as the “City of Rye Local Law Authorizing Best Value Competitive Bidding and Procurement.”

§ 32-2. Legislative intent; purpose.

The intent of this article is to allow the City of Rye the option to award certain purchase contracts (including contracts for services) subject to competitive bidding under § 103 of the General Municipal Law on the basis of low bid or “best value” as defined in § 163 of the New York State Finance Law.

§ 32-3. Legislative authority.

This article is enacted pursuant to New York State General Municipal Law § 103.

§ 32-4. Best Value Competitive Bidding.

- A. Authority and purpose. Section 103 of the New York General Municipal Law allows the City to authorize, by local law, the award of certain purchase contracts (included contracts for services) subject to competitive bidding under General Municipal Law § 103 on the basis of “best value” as defined in § 163 of the New York State Finance Law. The best-value option may be used, for example, if it is more cost-efficient over time to award the goods or service to other than the lowest responsible bidder or offerer if factors such as lower cost of maintenance, durability, high quality and longer product life can be documented.**
- B. Piggybacking of purchases. Notwithstanding the provisions of this article, the City of Rye may, for purposes of public purchases, utilize the provisions of General Municipal Law § 103, the City of Rye may purchase through the bids solicited by the United States government, New York State, other U.S. states and /or any other political**

subdivision provided those contracts clearly state that they are available for use by other governmental entities within the requirements of General Municipal Law § 103(16). Prior to such purchase, the City of Rye will ensure that a piggyback purchase qualifies as follows:

- (1) The contract involved must have been available for use by other governmental entities through the bid solicitation process. In such case, the City of Rye should determine that there is contained within the bidding municipality's bid package a provision that the bid is open to and can be used by either the City of Rye or other municipalities. This determination should be made on a case-by-case basis.**
- (2) The specific contract must have been issued in accordance with the provisions of General Municipal Law § 103.**

C. Procurement Policy superseded where inconsistent. Any inconsistent provision of the City's procurement policy, as adopted prior to the effective date of this article by resolution of the City Council, or as amended thereafter, shall be deemed superseded by the provisions of this article.

Section 2: Severability.

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

Section 3: Effective date.

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



CITY COUNCIL AGENDA

NO. 10

DEPT.: City Manager

DATE: October 15, 2018

CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: Resolution to transfer \$250,000 from the General Unassigned Fund balance to capital project fund - general capital.

FOR THE MEETING OF:
October 17, 2018

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, City staff has determined that there are funds available in the General Fund unassigned Fund Balance to provide additional funds for general capital projects, and;

WHEREAS, these funds will be used to support current and future projects, now, therefore be it;

RESOLVED, that the City Comptroller is authorized to transfer \$250,000 from the General Fund Unassigned Fund balance to the capital project fund - general capital.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: After the release of the 2017 financial report it was determined that the fund balance has surplus funds that can be transferred to supply support for capital projects. Even with the transfer there are sufficient funds to meet the City's fund balance policy and to maintain the City's strong bond rating.



CITY COUNCIL AGENDA

NO. 11

DEPT.: Department of Information Technology

DATE: October 15, 2018

CONTACT: Kerry Donahue

AGENDA ITEM: Resolution to declare certain City of equipment as surplus.

FOR THE MEETING OF:

October 17, 2018

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, the City has been provided with a list of City equipment identified as being obsolete or will become obsolete during 2018, and,

WHEREAS, the IT Department has recommended that said equipment be declared surplus, now, therefore, be it

RESOLVED, that said equipment is declared surplus, and, be it further

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

IMPACT: Environmental Fiscal Neighborhood Other

BACKGROUND: The IT Department Head has provided a list of equipment that is either currently obsolete or will become obsolete during calendar year 2018. The City Council is asked to approve that this equipment be declared as surplus.

See attached.

Kerry Donahue
Coordinator of Computer Services
1051 Boston Post Road
Rye , New York 10580



Telephone: 914-967-2250
FAX: 914-967-7107
Email: kdonahue@ryeny.gov
<http://ryeny.gov>

CITY OF RYE
INFORMATION TECHNOLOGY DEPARTMENT

TO: Marcus Serrano, City Manager
FROM: Kerry Donahue, Coordinator of Computer Services
DATE: October 5, 2018
SUBJECT: Request to declare items surplus

The following equipment is either obsolete, nonfunctional or in disrepair and has been removed from service.
I request that these items be declared surplus.

Item	Model	Brand	Serial Number
Scanner	S510	Fujitsu	053557
Scanner	S500	Fujitsu	039604
Scanner	ix500	Fujitsu	A13B008556
Scanner	S500	Fujitsu	046049
Scanner	S1500	Fujitsu	0360176
Scanner	S500	Fujitsu	033469
Scanner	S510	Fujitsu	051134
Scanner	S500	Fujitsu	042916
Scanner	S510	Fujitsu	0608837
Scanner	S500	Fujitsu	057090
Scanner	S1500	Fujitsu	371276
Monitor	PL766	HP	CNK5370LY3
Monitor	PE1210	Compaq	224BL72UX127
Monitor	LE1901W	HP	3CQ9491929
Monitor	LA2006x	HP	CNC233PFDB
Monitor	L1706	HP	CNK7310RBC
Monitor	LA1905wg	HP	CNC9490147
Monitor	D5064	HP	CN2500C134
Monitor	HPLP2065	HP	CNG81208SK
Monitor	ASLCD93VX-BK	NEC	98314284NA
Printer	LaserJet Pro 400 m401n	HP	VNB3S06698
Printer	Scanjet 7000	HP	CNC09XD701S

Printer	Laserjet P2015dn	HP	CNBJR04132
Printer	Laserjet 2420dn	HP	CNGKB23600
Printer	Laserjet 1200 series	HP	CNCB725578
Printer	Laserjet 2300n	HP	CNBGG82732
Printer	Aficio SP C400DN	Ricoh	Q6879300161
Printer	3040	Xerox	EH1-040500
Computer	Compaq dc7900	HP	2UA93707DQ
Computer	Compaq dc7900	HP	2UA93508TT
Computer	Compaq 600 Small Form Factor	HP	2UA125003M
Computer	Compaq dx2450 Microtower	HP	MXL927184F



CITY COUNCIL AGENDA

NO. 12 DEPT.: City Manager DATE: October 15, 2018
CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: Consider a resolution to authorize the City Manager to sign a settlement with Verizon in the amount of \$6,000 to cover the underpayment of utility user's tax ("UUT").

FOR THE MEETING OF:
October 17, 2018

RYE CITY CODE:
CHAPTER
SECTION

RECOMMENDATION: That the City Council approve a resolution to authorize the City Manager to sign a settlement with Verizon.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:
The City hired a consultant to review the franchise tax collected by the two cable companies. In that review the City-hired consultant determined that Verizon had underpaid the City by \$6,000. Verizon has agreed to pay under the settlement.

See attached.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is entered into between the City of Rye, New York (the “Municipality”) and Verizon New York Inc. (“Verizon”).

RECITALS

- A. Verizon provides telecommunications services to customers in the Municipality. The Municipality conducted a review of the utility user’s tax (“UUT”) paid by Verizon.
- B. The Municipality has retained Computel Consultants to perform an audit concerning the application of the UUT to gross receipts billed by Verizon to customers within the Municipality.
- C. The Municipality and Verizon acknowledge the complexity of the factual and legal issues underlying these disputes, as well as the expense and uncertainty of administrative and judicial proceedings, and agree it is in their mutual interest to compromise and settle all issues relating to the application of the UUT.
- D. The Municipality and Verizon have agreed to a resolution of all disputes concerning the UUT on Verizon’s gross receipts earned within the Municipality in which Verizon will remit \$6,000 additional UUT for all periods up to and including March 31, 2018, in full satisfaction of UUT including any associated penalties or interest.

In consideration of the mutual promises set forth herein, and other good and valuable consideration, the Municipality and Verizon agree as follows:

AGREEMENT

1. This Settlement Agreement fully and finally resolves all alleged UUT liabilities, penalties, and interest of Verizon for all periods prior to and including March 31, 2018 (“Period at Issue”). Neither the Municipality nor Verizon make any admissions or representations regarding the proper measure of taxable gross receipts prospectively and only agree to settle all past disputes for the amount outlined in D above. The Municipality waives any right under any legal theory to pursue additional tax for the Period at Issue.
2. Payment. Within thirty (30) days of Verizon’s receipt of a fully executed Settlement Agreement, Verizon will make payment to the Municipality in accordance with the relevant amount set forth in Recital D above. The payment will be sent to the Municipality address and specific individual as set forth below: Should payment not be received within the allotted time period the Municipality shall advise Verizon immediately so Verizon may address the issue promptly. Failure to receive payment within thirty (30) days will not cause the Settlement Agreement to become void.

3. General Inadmissibility and Confidentiality. The parties agree that this Settlement Agreement shall not be admissible in evidence against Verizon or the Municipality in any future controversy between the parties except to prove the existence and terms of the Settlement Agreement. Neither party will offer or disclose information concerning this Settlement Agreement except where required by law or in Verizon's case to its external auditors for financial reporting purposes.

4. Choice of Law. This Settlement Agreement is being entered into and will be construed and interpreted in accordance with the laws of the State of New York.

5. Entirety. This Settlement Agreement sets forth the entire understanding between the Verizon and the Municipality with respect to the Period at Issue and supersedes any prior negotiations, agreements, understandings or arrangements between them with respect to the Period at Issue. This Settlement Agreement is a final, conclusive and irrevocable determination of the Taxpayer's liability for the UUT, interest and penalties due for the Period at Issue, and may not be amended except upon written agreement of the both Verizon and the Municipality.

6. Construction of Agreement. Each term and provision of this Settlement Agreement is deemed to have been explicitly negotiated at arms' length by the Municipality and Verizon, and in the case of any dispute will be construed and interpreted according to its fair meaning and not strictly for or against either party.

7. Effective Date. This Settlement Agreement shall become operative as of the date of the last signature fixed hereon.

8. Signature Authority. The signatories hereto each represent and warrant that all necessary signatures, resolutions, consents or any other condition precedent to entering into this Settlement Agreement and to assuming and performing the obligations hereunder have been duly and properly obtained.

Verizon New York Inc.:

By: _____
Its: _____

Date: _____

Name of Signatory (print)

City of Rye:

By: _____
Its: _____

Date: _____

Name of Signatory (print)



CITY COUNCIL AGENDA

NO. 13

DEPT.: City Manager

DATE: October 15, 2018

CONTACT: Marcus Serrano, Manager

AGENDA ITEM: Resolution to accept a donation of plants and authorization for individuals to enter and plant onto City property.

FOR THE MEETING OF:

October 17, 2018

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: To accept donation of plants and authorize individuals to enter onto City property to install the plants. The proposed location is the entrance to Disbrow Park. The authorization to enter the park to plant is subject to proper insurance being submitted and approved by the City's Corporation Counsel.

IMPACT: Environmental Fiscal Neighborhood Other

BACKGROUND: Mr. Ryan Prime would like to donate plantings to the City of Rye to be planted at the entrance to Disbrow Park. The City is required to publicly accept any donations. Mr. Prime would also like to have the plantings installed by volunteers. In order to allow for any work to take place on City property by any outside agency or individual, insurance has to be provided to the City. Mr. Prime is working with the insurance company to provide insurance that would be reviewed and approved by the Corporation Counsel.



CITY COUNCIL AGENDA

NO. 14

DEPT.: City Manager

DATE: October 15, 2018

CONTACT: Marcus Serrano, Manager

AGENDA ITEM: Resolution to authorize the City Manager to retain the services of Brown and Weinraub, PLLC.

FOR THE MEETING OF:

October 17, 2018

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: To authorize the City Manager to retain the services of Brown and Weinraub, PLLC. Purpose of the services is to work with the City of Rye and the Village of Port Chester in drafting/working with The City of Rye, Village of Port Chester, SUEZ and the PSC to produce an agreement that is required to release the water usage data as mandated by legislation.

IMPACT: Environmental Fiscal Neighborhood Other

BACKGROUND: Nine Municipalities joined to propose legislation to petition the PSC to order SUEZ to release the water usage data in order to allow the Municipalities to bill for sewer. The law firm of Brown and Weinraub, PLLC was retained by all Municipalities to move the legislation forward. The legislation passed and the Governor signed it into law. Required in the law is that all parties agree on certain aspects of how the information will be released. The City of Rye and the Village of Port Chester wish to move the process forward and both Municipalities wish to continue working with same firm to complete the process.

October 11, 2018

Marcus Serrano
City Manager
City of Rye
1051 Boston Post Road
Rye, NY 10580

Christopher Steers
Village of Port Chester
Village Manager
222 Grace Church Street
Port Chester, NY 10573

Dear Mr. Serrano and Mr. Steers:

Thank you for engaging Brown & Weinraub, PLLC (the “Firm” or “we”) to represent the City of Rye and the Village of Port Chester (the “Clients”) regarding the drafting of a Water Data Agreement and Serving as Public Service Commission Counsel (the “Matter”). The Firm is pleased to undertake this representation.

As a matter of Firm policy, it is necessary that the Firm provide you with this Engagement letter to set out the specific terms applicable to the representation, which consist of the terms set forth in this letter and in the Standard Terms of Engagement for Legal Services (“Standard Terms”) attached hereto (collectively, the “Engagement Letter”). Please be aware that we are not to be your attorney on the Matter until this Engagement Letter has been signed and returned by you. You should not sign this Engagement Letter if you do not understand the terms of the representation or if they are unacceptable.

Specifically, the following terms and provisions apply to this engagement:

1. Alex Betke will be the lawyer primarily responsible for this matter and the billing attorney on this engagement. The fees will be invoiced at the rate of \$400.00 per hour, with a cap of \$15,000 in total fees. Each Client will be responsible for half of the invoice.
2. In addition to the fee described above, you will be responsible for the Firm’s out-of-pocket charges and expenses incurred in connection with the engagement such as federal express charges, online legal research charges and any travel pre-approved by you.
3. The Firm will provide you a monthly invoice for services, expenses and charges on the earlier to occur of the conclusion of this engagement or as soon as possible following the end of each calendar month until such time as this engagement is completed.

4. You have agreed that the scope of this engagement be limited to assisting you in the Matter described herein. However, should you desire to enlarge the scope of this engagement in the future, the Firm would be pleased to discuss such additional undertakings with you.

Thank you for allowing Brown & Weinraub, PLLC to be of service to you in connection with this engagement. If the terms of this Engagement Letter meet with your approval, so indicate by signing and returning the original to me. A counterpart of this Engagement Letter is enclosed for your files.

Very truly yours,

David N. Weinraub

AGREED TO AND ACCEPTED:

City of Rye

By: _____
Marcus Serrano

Dated: _____, 2018

AGREED TO AND ACCEPTED:

Village of Port Chester

By: _____
Christopher Steers

Dated: _____, 2018



Standard Terms of Engagement for Legal Services
("Standard Terms")

Introduction

This standard Terms of Engagement contains the standard terms of our engagement as your lawyers. Unless modified in writing by mutual agreement, these terms will be an integral part of the letter (the "Letter") to which this Standard Terms of Engagement is attached (collectively, "Engagement Letter"). Therefore, we ask that you review this Standard Terms of Engagement carefully and contact us promptly if you have any questions.

1. Parties. This Standard Terms state the terms under which Brown & Weinraub, PLLC ("B&W") shall provide and the Clients identified in the Letter ("Clients") shall pay for legal services

2. Scope of Services ("Matter"). B&W shall provide legal services to Clients in connection with the Matter described in the Letter. Legal services not required for the Matter as described therein will not be provided unless Clients request such services and B&W agrees to provide them. During this engagement, Clients may request B&W to provide such additional legal services and, if B&W agrees, such additional services shall become part of the Matter.

3. Primary Attorney. The attorney at B&W who has primary responsibility for work on the Matter is identified in the Letter ("Primary Attorney"). The Primary Attorney may be reached at the following contact information: telephone 518-427-7350, facsimile 518-427-7792, email ABetke@brownweinraub.com. The executive administrator for the Primary Attorney is Sarah Hirsch who may be reached at the following contact information: telephone 518-427-7350, facsimile 518-427-7792, email shirsch@brownweinraub.com. The Primary Attorney may use other B&W attorneys and non-attorney staff (such as paralegals) to do work on the Matter.

4. Clients Confidentiality. B&W will protect Clients confidences and secrets as required by law. Please use special care when communicating with B&W via electronic mail or by cellular telephone because such methods of communication are not always secure and could lead to the inadvertent waiver of attorney-client privilege.

5. Conflicts of Interest.

(a) Clients' "Affiliates". In this engagement, B&W represents only the person or entities identified as the "Clients" in the Letter. "Clients" does not include any "affiliates" of Clients (*i.e.*, if Clients is a corporation, limited liability company, or partnership, "affiliate" means any parent, subsidiary, employee, officer, director, shareholder, member or partner of the corporation, limited liability company, or partnership; or, if you are a trade association, "affiliate" includes any member of the trade association). Accordingly, for conflict of interest purposes, Clients agrees that B&W may represent another client with interests adverse to any such affiliate, without obtaining Clients' consent. Clients further agrees that Clients will not seek to disqualify B&W from representing another client in a matter where such client is adverse to Clients' affiliate. Upon B&W's request, Clients will use best efforts to arrange it so that none of Clients' affiliates will seek to disqualify B&W from representing another client in any such matter.

(b) Other Clients Adverse to “Clients”. B&W represents many Clients in a variety of matters. It is possible that in the future B&W may be asked by one of those Clients to represent it in a matter where Clients is an adverse party or has an adverse interest. If such a future matter is substantially unrelated to the Matter in this engagement and if Clients have not given B&W any confidential information that is materially relevant to such a future matter, the Clients agree prospectively: (1) to waive any conflict of interest in connection with B&W representing another client in such a future matter even though it may be against Clients or an interest of Clients, and (2) not to seek to disqualify B&W from representing another client in any such future matter.

6. Fees. The fees B&W will charge for services will be based on an hourly fee set forth in the Engagement Letter.

7. Expenses. B&W will charge for expenses it incurs that are directly and solely related to the Matter. Examples of such charges are filing fees, expert witness fees, travel expenses, mileage, transcripts, and the like. B&W will charge the Clients only the actual amount it incurs for such expenses. Such expenses may either be paid/incurred by B&W and billed to the Clients or the bill for the expenses may be submitted to Clients for payment directly to the billing party. B&W does not charge for normal office overhead expenses such as telephone, facsimile and routine postage.

8. Billing and Payment. B&W’s normal practice is to send the Clients a monthly bill for fees and expenses for the prior month, although that practice may vary. Payment is due within thirty (30) days of receipt of the bill. In the event of a fee dispute, you may have the right to seek arbitration; we will provide you with the necessary information regarding arbitration in the event of a fee dispute, or upon your request.

9. Termination.

(a) By Clients. Clients may terminate this engagement within five (5) days for any reason by notifying B&W in writing. Clients shall be responsible for outstanding invoices, for unbilled fees and expenses incurred before termination, and for fees and expenses in connection with an orderly transition of the Matter.

(b) By B&W. B&W may terminate this engagement within five (5) days written notice, including Clients’ failure to pay B&W’s fees and expenses, provided, however, that B&W’s right to terminate is subject to the applicable rules of professional conduct and the rules of any court having jurisdiction of the Matter.

(c) On Completion of the Matter. B&W’s representation of Clients on this Matter shall terminate automatically when the Matter is complete. The relationship of attorney-client between B&W and Clients thereafter shall continue only if Clients have engaged B&W on other matters or once again engages B&W on this Matter.

10. Entire Agreement. This agreement constitutes the entire agreement between B&W and Clients as to the Matter and may be changed only by a written document, signed by both parties.

11. Governing Law. Any dispute arising under this Agreement shall be governed by the laws of the State of New York. Clients consent to the personal and subject matter jurisdiction of the Supreme Court of the State of New York in and for the County of New York to resolve any such disputes.