

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

**REGULAR MEETING OF THE CITY  
COUNCIL  
Wednesday, April 24, 2019  
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 Meeting of the City Council held March 27, 2019 and April 10, 2019 as well as the Joint Meeting of the School Board and City Council held April, 6, 2019.
5. Residents may be heard on matters for Council consideration that do not appear on the Agenda.
6. Acknowledgement of the City of Rye as recipient of the Westchester County Eco Award for its outstanding contribution to the County's environment by having one of the top three highest municipal curbside recycling rates in 2018.
7. No Idling Proclamation.
8. Announcement of the Rye Sustainability Leadership Awards.
9. Consideration of a Road Paving Plan for 2019.
10. Consideration of a Local Law amending our City Code to allow certain well-qualified debt of enterprise funds outside the charter debt limit.
11. Consideration of a petition from 1037 Boston Post Road, LLC to amend the text of the City of Rye Zoning Code to permit physical fitness facilities in the B-1 (Neighborhood Business) and B-2 (Central Business) Zoning Districts within the "A" and "B" Parking Districts.
12. Discussion on Leaf Blower laws and restrictions.

13. Consideration to waive parking restriction on the snow field lot for a private event on Saturday, May 11, 2019 for a fee of \$500 (with a \$1,000 security deposit) contingent upon insurance and indemnification being provided.
14. Appointments to Boards and Commissions, by the Mayor with Council approval.
15. Miscellaneous communications and reports.
16. Old Business/New Business.
17. Adjournment

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The next regular meeting of the City Council will be held on Wednesday, May 8, 2019 at 7:30 p.m. *in the Square House*.

\*\* 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](http://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 1<sup>st</sup> 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 March 27, 2019, at 7:30  
P.M.

PRESENT:

JOSH COHN, Mayor  
SARA GODDARD  
EMILY HURD  
RICHARD MECCA  
JULIE SOUZA  
BENJAMIN STACKS  
Councilmembers

ABSENT: DANIELLE TAGGER-EPSTEIN, Councilmember

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Hurd, enter into executive session to discuss litigation and personnel matters. At 7:38 P.M., Councilman Mecca made a motion, seconded by Councilwoman Hurd, to exit executive session and commence the regular meeting of the City Council. The meeting began at 7:43 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. General Announcements.

Councilwoman Souza announced that the Rye Recreation 6<sup>th</sup> grade basketball team won the Westchester County tournament. She announced that the team will be honored at the upcoming April 10, 2019 City Council meeting.

Mayor Cohn reported that Rye resident, Darcy Gibson, has passed away. Mr. Gibson served the City in many capacities, as he was on the Board of Architectural Review from 1970 to 1973, and then the Board of Appeals from 1974 to 1983. The memorial service and viewing will be held Saturday, March 30, 2019 at Graham Funeral Home from 2pm-6pm and a reception to follow at Ruby's Oyster Bar from 6pm-9pm.

Additionally, Mayor Cohn provided an update on the Fireman's circle. He stated that there were two main goals for this capital improvement: safety and structural. Regarding safety, prior to 2011, there were safety and vehicular concerns. The circle was cited as a needed improvement in a 2011 Rye Shared Roadways report as well as in a Safe Routes to School survey in 2012. Since then, the design work has been in review with the Traffic and Pedestrian Safety Committee. The design that is being implemented is design that the TPS has deemed as the safest.

From a structural perspective, Mayor Cohn said that the circle has needed to be repaired due to water infiltration and frequent re-paving which resulted the curbs' inability to contain storm runoff and reach its drains. Further, when the pavers were stripped down to the earth, it was discovered that there was a main pipe leak, which added to the deterioration. As a result, the circle has been re-built from the ground up. Work will continue through the week of April 15, 2019. The design is intended to make safe pedestrian crossings for school children, with a new crosswalk at the Grace Church entrance. Unfortunately, the City has lost some on-street parking spaces by Milton Road at the expense of making the roadway safer and crosswalk more visible. The pattern is intended to slow cars and create site lines. There will also be a new sidewalk around the circle to help children walking from the Loudon Woods area to Midland School. Some have remarked on the cobblestones which is there to help vehicle traversing. The other options were less expensive, but this option allowed for extended life of the project in the long term. Mayor Cohn invited Rye residents with further questions to approach the City.

Councilwoman Hurd added that some residents questioned the granite curbs. She commented that besides the aesthetic, they are more durable than cement for a long-term improvement.

4. Draft unapproved minutes of the Regular Meeting of the City Council held March 13, 2019.

Councilwoman Hurd made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the minutes of the Regular Meeting of the City Council held March 13, 2019.

5. Residents may be heard on matters for Council consideration that do not appear on the Agenda.

Nothing was discussed under this agenda item.

6. Discussion of the new switchgear building at Rye Playland with Hugh Greechan, the County Public Works and Transportation Commissioner.

Hugh Greechan, Westchester County Public Works and Transportation Commissioner, addressed the Council. He commented that he was in favor of the design for the Fireman's Circle, previously discussed by the Mayor. Mr. Greechan discussed the proposed switchgear upgrade behind Playland Park. He made a short presentation with some illustrations of the existing switchgear, which distributes power. He explained that the present switchgear had failed several times. He stated that the current switchgear would be kept in service, and the new

switchgear building would be built around the current structure and then the transfer would be made to the new switchgear.

Peter Tartaglia, Westchester County Deputy Park Superintendent, addressed the Council. There was discussion with Mr. Tartaglia and Mr. Greechan regarding the structures and residences within the park.

Councilwoman Goddard asked about resident impact with regard to the new equipment. Mr. Greechan explained that the hum of the transformer cannot be heard from Roosevelt Avenue.

Mayor Cohn asked if the building would be insulated to handle a transformer explosion. Mr. Greechan explained it would be built to the electrical code and safety setbacks.

There was then discussion about storage and the mechanics of a switchgear.

Councilman Stacks asked about the timing of this project. Mr. Greechan reported that the County was looking to complete the design in 2-3 months, go to bid by the end of summer, and do off-season construction with the optimal goal to complete by opening day 2020. He said that the work would be done from the Playland side.

Mayor Cohn asked what the back of the structure would look like. Discussion about the back of the building, earth tones for aesthetics, and that the location was set to be in same location as it currently sits.

Bertrand de Frondeville, 19 Hook Rd, asked about raising of the utility to avoid flooding. Mr. Greechan explained that it would be 2.5 feet above the water level.

7. Open a Public Hearing to adopt a local law which amends Chapter 100, *Floodplain Management*, of the Rye City Code adopting a Letter of Map Revision (LOMR) to the National Flood Insurance Rate Maps for the City.

Councilman Mecca made a motion, seconded by Councilwoman Hurd, to open the public hearing on Chapter 100, Floodplain Management.

There were no comments.

Councilman Mecca made a motion, seconded by Councilwoman Hurd, to close the public hearing on Chapter 100, Floodplain Management.

Councilman Mecca explained this was brought to the City's attention by FEMA. He reported that by making this change, it can provide some flood insurance relief to those impacted due to the erroneous designation. Mayor Cohn said he hopes that people subject to the inconsistency would be helped.

Councilman Mecca made a motion, seconded by Councilwoman Hurd, to adopt a resolution finding that there is no significant adverse environmental impact and that a negative resolution is warranted under SEQRA.

**ROLL CALL**

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

Councilman Mecca made a motion, seconded by Councilwoman Goddard, to amend Chapter 100 of the Rye City Code as follows:

**WHEREAS**, the City of Rye was advised in a March 6, 2019 letter from the New York Department of Environmental Conservation (NYSDEC) that the Federal Emergency Management Agency (FEMA) has revised Flood Insurance Rate Map (FIRM) panel number 36119C0354F to correct a typographical error noted on the current FIRM adopted in September 28, 2007; and

**WHEREAS**, the map revision, known formally as a Letter of Map Revision (LOMR), requires that Chapter 100, Floodplain Management, of the Rye City Code be amended to reflect the new revised FIRM panel; and

**WHEREAS**, the LOMR involves a small flood zone designation west of Stuyvesant Avenue generally between 720 Milton Road (A.K.A. Milton Harbor House) and a location approximately 500 feet north of Van Wagenen Avenue; and

**WHEREAS**, the flood zone area in question on the current FIRM includes two labels – one indicating “AE13” and the other inaccurately and improperly indicating “VE13”; and

**WHEREAS**, the LOMR changes this typographical label for this flood zone from “VE13” to “AE13”; and

**WHEREAS**, the City Council conducted a noticed public hearing on March 27, 2019 and all those wishing to be heard were given the opportunity to be heard; and

**WHEREAS**, there was no public comment; and

**WHEREAS**, the City Council has reviewed the Environmental Assessment Form (EAF) and determines that the proposed action is consider an Unlisted Action; and

**WHEREAS**, the City Council is the only Involved Agency in connection with the proposed action;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council designates itself as Lead Agency and based on its review of the Environmental Assessment Form (EAF), the criteria

listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact; and

**BE IT FURTHER RESOLVED**, that the City Council adopts Local Law #3-2019 A Local Law to Amend Chapter 100, Floodplain Management, of the Rye City Code to Reflect a Letter of Map Revision Amending Flood Insurance Rate Map Panel 36119C0354F.

**LOCAL LAW NO.  
3-2019**

**A LOCAL LAW TO AMEND CHAPTER 100. FLOODPLAIN MANAGEMENT,  
OF THE RYE CITY CODE TO REFLECT A LETTER OF MAP  
REVISION AMENDING FLOOD INSURANCE RATE MAP PANEL  
36119C0354F.**

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

**Section 1.** §100-3.B(1), “General provisions” of the City of Rye Code is hereby amended to add the following new subsection (c):

- (c) Letter of Map Revision, Case Number 18-02-1994P, effective May 2, 2019, amending Flood Insurance Rate Map Panel 36119C0354F.

**Section 2. Effective Date**

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

**ROLL CALL**

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

Councilwoman Hurd explained that this error seems to affect a number of houses and asked who would reach out to the residents. Corporation Counsel Wilson explained that it was FEMA’s error, and the City would do its best to reach out to FEMA or inform the residents directly.

8. Consideration of a request by the Rye Chamber of Commerce for the use of City streets for the Annual Sidewalk Sale to be held on Thursday, July 25, 2019 through Saturday, July 27, 2019 from 9:00 a.m. to 5:00 p.m.

Councilwoman Souza made a motion, seconded by Councilwoman Hurd and unanimously carried, to approve the request by the Rye Chamber of Commerce for the use of City streets for the Annual Sidewalk Sale to be held on Thursday, July 25, 2019 through Saturday, July 27, 2019 from 9:00 a.m. to 5:00 p.m.

ROLL CALL

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

9. Consideration of a request from Sally Rogol, the superintendent of Rye Recreation, to have a food truck for Summer Camp 2019 at Rye Recreation. The City Council will have to waive § 144-8D and G of the City Code.

Councilwoman Souza made a motion, seconded by Councilman Stacks and unanimously carried, to waive § 144-8D and G of the City Code and approve a request from Sally Rogol, the superintendent of Rye Recreation, to have a food truck for Summer Camp 2019 at Rye Recreation.

ROLL CALL

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

10. Consideration of a request from the Milton School PTO to have a food truck for the Parent Social at Rye Town Park on the evening of June 22, 2019. The City Council will have to waive § 144-8D and G of the City Code.

Councilwoman Souza made a motion, seconded by Councilwoman Hurd and unanimously carried, to waive § 144-8D and G of the City Code and approve a request from the Milton School PTO to have a food truck for the Parent Social at Rye Town Park on the evening of June 22, 2019.

ROLL CALL

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

11. Consideration of a request by the Midland School to have two food trucks at the Midland Fair on Saturday, April 27, 2019 from 10:00a.m. to 3:00p.m. The City Council will have to waive § 144-8D and G of the City Code.

Councilwoman Souza made a motion, seconded by Councilman Stacks and unanimously carried, to waive § 144-8D and G of the City Code and approve a request from the Milton School to have two food trucks on Saturday, April 27, 2019 from 10:00a.m. to 3:00p.m.

ROLL CALL

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

12. Consideration of a request by Dr. Eric Byrne to waive parking restrictions at the snow field lot to accommodate the Middle School Expo on April 5, 2019.

Councilwoman Souza made a motion, seconded by Councilman Hurd and unanimously carried, to waive parking restrictions at the snow field lot to accommodate the Middle School Expo on April 5, 2019.

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

There was nothing discussed under this agenda item.

14. Miscellaneous communications and reports.

Councilwoman Goddard announced that on April 12, 2019, there will be a “Planting a Pollinator Paradise” program at the Rye Nature center. This will be a free event. She also announced that the 2019 Green Screen will be held on April 25, 2019 with Rye Sustainability and Rye Country Day School at 6:00pm. The feature will be “The Clean Bin Project.”

Councilman Mecca announced that the Planning Commission met again recently, hearing the issue of the proposed tennis bubble at Apawamis Country Club, and the zoning amendment proposal by the Osborn Home. There will be an upcoming site walk. The final item of consideration was the YMCA request to allow group fitness in the central business district.

Councilwoman Hurd announced that the YMCA March Madness fundraiser on March 30, 2019 at Coveleigh Country Club. She also announced that the Rye Youth Council spring benefit luncheon will take place Thursday, April 25, 2019 at Shenorock. The luncheon will feature Arnaud Collery of Stand Up For Passion. Lisa Hogan Luthringer will be honored. Councilwoman Hurd also announced that the Rye Town Park Commission has hired Russ Gold as Park Director for the upcoming season. The Commission also hired Victor Federico to be the groundskeeper.

Councilwoman Souza announced that Rye Recreation camp registration was open.

Councilwoman Hurd inquired on Rye Recreation possibly opening a nursery school. Councilwoman Souza responded that she would report back to the Council.

Councilman Stacks announced that the greens at the Rye Golf Club will be open on March 28, 2019, a true sign of spring.

15. Old Business/New Business.

There was nothing discussed under this agenda item.

16. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilman Stacks, to adjourn the meeting.

Respectfully submitted,

Carolyn D'Andrea  
City Clerk

***UNAPPROVED MINUTES*** of the Joint  
Meeting of the City Council of the City of Rye and  
the Rye City School Board held in City Hall on April  
6, 2019 at 9:00 A.M.

PRESENT:

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

KAREN BELANGER, President  
JENNIFER BOYLE  
CHRIS REPETTO  
KELLY SMITH-POWERS  
School Board Members

MARCUS SERRANO, City Manager  
ERIC BYRNE, Superintendent of Schools  
NOGA RUTTENBERG, Confidential Secretary of the City Manager  
BRIAN DEMPSEY, Chair of Traffic & Transportation Committee

ABSENT: CALLIE ERICKSON  
KATY KEOHANE GLASSBERG  
BLAKE JINES-STOREY  
School Board Members

The City Council and the School Board convened at 9:05 a.m.

1. Pledge of Allegiance

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

2. Roll Call

Mayor Cohn asked the Secretary to the City Manager to call the roll; a quorum of both boards were present to conduct official business.

3. State of the City of Rye Report

Mayor Cohn explained the State of the City Address was given in January at the City Council Meeting. He added a few main points from that address. Mayor Cohn said that the City was facing major infrastructure needs while operating with a lean staff to run the City. From a tax perspective, the City has stayed below the tax cap even though the cost to run the City is rising. The City is looking to borrow in late 2019 or Early 2020 for courthouse renovations, Disbrow Park repairs, and plans to move forward with necessary sewer maintenance.

4. State of the School's Report

Dr. Byrne reported the school budget is well under the tax cap and is maintained through fiscal responsibility and sustainability, building capacity, and instructional improvement through high capacity development. He explained that the major contribution for fiscal responsibility was through collective bargaining; specifically through the teacher's association contract and the restructuring of a tax cap compliant salary scale. Dr. Byrne also explained by hiring a maintenance mechanic, it allowed the school to get ahead of maintenance issues while saving money on outside contractors. The staff and administration have all committed to reviewing the curriculum and teaching practices which has resulted in the adoption of a new mathematics program for September 2019. Additionally, the school focused on Special Education needs which has resulted in additional inclusionary classes for the upcoming school year. Lastly, safety was also discussed as a main point of concern for the school district. Many changes regarding safety were included in the upcoming bond and a new coordinator was hired to analyze security and safety protocols, as well as looking to improve the preparedness and training drills with Rye Police Department.

5. Safe Routes to School

Brian Dempsey, Chairman of the Traffic & Safety Committee, spoke about the successful program that has been embraced over the past few years. Sidewalk safety and inventory is consistently reviewed for improvement. Mayor Cohn added that the recent Fireman's Circle improvements has safety and structural goals and is in line with the Safe Routes to School, as crosswalks and sidewalks have been added.

Councilwoman Souza added that communication is key and should be a key component to bring awareness to the residents. Ms. Powers reported that during the last meeting it was brought up that the community needs to embrace safety as a whole and added different ideas to change the culture of the community. She said she would add this topic at the next Traffic and Pedestrian Safety Committee meeting to make sure the topic of distracted driving and distractive walking has awareness with teenagers and adults and brainstorm on new ideas to get the message across.

6. Crossing Guards

There was nothing to report under this agenda item.

7. Idling at Schools

Mayor Cohn spoke about the importance of re-visiting the “no-idling at school” campaign. There was general discussion on how to stop idling cars at schools. Some ideas discussed to tackle this ongoing problem were spot enforcement from police officers throughout the year, and parent education.

8. Public Safety

Board President Belanger explained that the “Adopt a School” program that partners police with the school district has been cut back. Mayor Cohn clarified that due to retirements, officers are currently in the Academy and should be fully active by the end of this August. Ms. Belanger was very thankful for the program hopes the program will be reinvigorated by the new school year. Mayor Cohn added that once staffing is back to capacity, a single dedicated Youth Officer, rather than the current situation of several officers rotating in that capacity, will be established.

Ms. Belanger also asked for an update on the position of Public Safety Commissioner or re-visiting the role of Fire and Police Commissioner. Mayor Cohn explained that the position is still being reviewed and will be re-visited after the current study of the Fire Department/Fire Command is concluded. Action will most likely be taken after the summer.

9. City Permits

Mayor Cohn explained that at the school bond referendum there were food trucks present. He wanted to remind the group that currently a waiver must be obtained under our current code which does not allow food trucks, until any changes to the Peddler and Solicitor’s law is changed.

10. Intermunicipal Agreement

Board President Belanger explained to the public that an Intermunicipal Agreement is customary between two entities and the former agreement was never renewed, for no specific reason. There is currently a draft agreement being reviewed and should be formalized in the near future.

There being no further business for the two boards to discuss, Mayor Cohn adjourned the joint meeting at 10:21 a.m.

Respectfully submitted,

Euka Pietrosanti  
Deputy City Clerk

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on April 10, 2019, 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, enter into executive session to discuss litigation and personnel matters. At 7:32 P.M., Councilman Mecca made a motion, seconded by Councilwoman Souza, to exit executive session and commence the regular meeting of the City Council. The meeting began at 7:40 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.

4. Proclamation honoring the Rye Rec All Stars on a great basketball season.

This item was taking out of order.

Mayor Cohn announced that the City was honored at the meeting to welcome the 2019 Rye All Stars Recreation Basketball Champions. He congratulated the team on a wonderful season. Mayor Cohn read and presented the following proclamation:

***PROCLAMATION***

***WHEREAS***, *the City of Rye has always placed great value on sports; and*

***WHEREAS***, *the philosophy of Rye Recreation's Youth Sports League is that children should be provided the opportunity to learn discipline, responsibility, commitment, teamwork*

*and good sportsmanship while improving their skills and enhancing their knowledge of sport; and*

***WHEREAS**, the members of the Rye Recreation “All Star Team” picked from the 5<sup>th</sup> and 6<sup>th</sup> Grade Boys Basketball Program are chosen not only for their skill on the court, but good character, heart and sportsmanship from the bench; and*

***WHEREAS**, the 2019 “All Star Team” included the roster of Andrew Wilmarth, Luke Latkany, Aidan Gallos, Zack Uberuaga, Joe Wolf, Henry O’Rorke, Henry Shoemaker, Carson Miller, Chris Calacci, Vincent Maresca, and Kaden Zion, coached by Eric Dallas, Jr., Corey Reneau, Marquis Standard, Craig Wilson, and their Recreation Department Supervisor Greg Bean; and*

***WHEREAS**, the Rye Recreation 2019 “All Star Team” was victorious in their final game played March 25<sup>th</sup> against the team from Pelham by a score of 31-30; and*

***WHEREAS**, this is the seventh time that the Rye Recreation “All Stars” have won the 5<sup>th</sup> and 6<sup>th</sup> grade Division in the Annual Westchester County Boys Recreation Basketball Tournament;*

***NOW, THEREFORE, BE IT RESOLVED**, that I, Josh Cohn, Mayor of the City of Rye, on behalf of the City Council and the City of Rye, do hereby congratulate the players and coaches of the 2019 Rye Recreation 5<sup>th</sup> and 6<sup>th</sup> Grade “All Star Basketball Team” and their Recreation Department Supervisor Greg Bean, not only for their tournament victory but also for epitomizing the philosophy of the Rye Recreation Youth Sports League.*

*Signed and sealed this 10th day of April, 2019.*

3. General Announcements.

Councilwoman Tagger-Epstein said that last week, she was honored to be invited to Rye Neck High School to sit on a panel on the future of race relations, an event organized by their Human Rights Today Committee. She thanked the students for their thoughtful questions, and for those who elected to attend the event after school. Councilwoman Tagger-Epstein thanked Superintendent Barbara Ferraro and School Board President Pietro Fassolino for attending and showing support on this topic as well as Dr. Valerie Feit who really inspired the students. She congratulated the organizers, Rye residents Rebecca Tenner and Noah Thurer. Councilwoman Tagger-Epstein also said that she looks forward to speaking to the Rye Women’s Interfaith Group on April 12, 2019. Councilwoman Tagger-Epstein also brought attention to the recent anti-Semitic events that occurred last weekend in New York City, as protesters gathered against a bill aimed at the recovery of property for Holocaust victims. Councilwoman Tagger-Epstein described the unfortunate events, and urged the community to open dialogue acknowledging the devastating events of the Holocaust, so that this tragic part of history is never repeated.

Councilwoman Tagger-Epstein also announced that a speaker series was created in honor of Sel Hubert, a past president of Community Synagogue and Holocaust survivor. The series is entitled, “Mapping out the Hidden Histories and Memories of the Jewish Dutch Holocaust Survivors,” and will take place in part on Friday May 10, 2019 at 7:45 pm. Dienke Hondius, PhD, will join the discussion for her incredibly important work in the documentation of Dutch Jewish hidden life and hiding places during the Holocaust. She will be joined by Jan Erik Dubbelman, her husband and the Director of International Education for the Anne Frank House. Councilwoman Tagger-Epstein said that should would post a link on the Human Rights Committee website and Facebook page.

Councilwoman Souza announced that the Carol D. Kirby Annual Easter Egg Hunt will take place on April 13, 2019 at Rye Recreation. She also announced that summer camp registered was still open at Rye Recreation.

5. Approve the April 4, 2019 elections of two new Fire Chiefs (Dan Bochicchio, Fire Department Chief, and Anthony Alba, First Assistant Fire Chief) as previously approved by the Commissioner of Public Safety.

Mayor Cohn announced that at the April 2019 Rye Fire Department Annual Meeting, the following Chiefs were elected: Dan Bochicchio as Fire Department Chief and Anthony Alba as First Assistant Fire Chief. The Council then approved and acknowledged these elected chiefs, as required by Article 13, Section 2 of the Rye City Charter.

Councilman Mecca acknowledged outgoing Chief Billington for his years of hard work and responses to emergency calls. He reminded everyone that the upcoming Carol D. Kirby Easter Egg Hunt to be held Saturday, April 13, 2019, is hosted by the Ladies Auxiliary of the Fire Department.

Mayor Cohn then made an announcement about the Fireman’s Circle improvements, formally named the Daniel Ball circle. He said that the City has heard great praise and some criticism. The bulk of the praise has been thanks for slowing people down and for safety. Mayor Cohn said that the City has also heard complaints about change. The improvements to the Circle are meant to be beneficial to the entire community. This project, long awaited and contemplated for the last decade, was originally a proposal shaped by the Traffic and Pedestrian safety Committee. It was the result of parent groups advocating for safety, leading to the Safe Routes to School project. The Fireman’s Circle improvements did not remain in that project because the City was due to take care of it.

Mayor Cohn explained that this Council’s primary task with respect to the circle was the opportunity to repair a traffic circle that has been in great disrepair. The priorities in this capital project are safety, structural needs, aesthetics, and to honor the history of firemen in Rye. He talked about safety and speed at the merger of three major streets. The new circle design provides a new crosswalk for those needing to traverse this busy juncture. This area has heavy use by school children and parents. It features pedestrian improvements to that regard. He explained that the intent of the circle is to have a place where everyone is careful. Mayor Cohn

talked about the balance there of cars, trucks and pedestrians. The circle design now forces a slower speed, helping to prevent unnecessary accidents. From a structural perspective, the old circle was irreparable. New drainage has been installed under it, and the whole circle is being pitched for proper drainage. With regard to the method and materials of construction, the Council did not opt for a quick fix, but rather a long-term structural solution, as this new circle was built with a 75 year view. The fundamental concrete and block and curb structure should last much longer than slight repairs. Mayor Cohn reminded that this is an essential part of the end of the City's business district, and this circle is intended to compliment that. He explained that the Belgian block is quite functional. While the Council could have opted for a less desirable aesthetic, he felt that Rye residents deserved more. The circle will be paved and fully landscaped in the coming days. Mayor Cohn reminded that the circle honors generations of Rye firemen. He said that it is fitting that it be a well-designed circle from a traffic perspective and aesthetic perspective. The project was estimated originally at \$500,000 including all paving and improvements, calculated at prevailing wage. Mayor Cohn said while that is a large sum, it helps to look at the cost against the price of our home renovations. For those reasons, this was what the City feels is a worthwhile project. Mayor Cohn said that the Council hopes it will be worthwhile for all of the residents.

Councilwoman Hurd asked when the circle would be repaved. Mayor Cohn responded that it will be paved the week of April 15, 2019.

5. Residents may be heard on matters for Council consideration that do not appear on the Agenda.

There was nothing discussed under this agenda item.

6. Consideration of a resolution authorizing the refunding of 2010 A Serial Bonds.  
Roll Call.

City Manager Serrano introduced Janet Morley, Financial Advisor and Vice President of Capital Markets Advisors. Ms. Morley said that there was an opportunity to refinance the 2010 A Serial Bonds taken out by the City. She explained that she would quickly summarize the refunding of the bonds before the Council. She said there was a remaining principal balance of \$2,245,000 on the bond. There was an originally projected \$115,000 of savings over the remaining life of the bond. With interest rates subsequently improving, the current estimate is an additional \$50,000 of savings over the life of the bond, for an estimated total of \$170,000 in savings. There will be no increase in the maturity date of the original bond.

Mayor Cohn said that Greg Usry and the Finance Committee agree with this recommendation.

Councilwoman Hurd made a motion, seconded by Councilman Mecca, to authorize the refunding of 2010 A Serial Bonds and adopt the following resolution:

REFUNDING BOND RESOLUTION, DATED APRIL 10, 2019 AUTHORIZING  
THE ISSUANCE OF REFUNDING SERIAL BONDS OF THE CITY OF RYE, IN

THE COUNTY OF WESTCHESTER, STATE OF NEW YORK, PURSUANT TO SECTION 90.10 OF THE LOCAL FINANCE LAW OF THE STATE OF NEW YORK, PROVIDING FOR OTHER MATTERS AND MAKING CERTAIN DETERMINATIONS IN RELATION THERETO AND PROVIDING FOR THE PAYMENT OF THE BONDS TO BE REFUNDED THEREBY.

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**WHEREAS**, the City of Rye, located in the county of Westchester, State of New York (the “City”) previously issued \$3,534,000 principal amount of Public Improvement Serial Bonds, Series 2010A (the “Series 2010A Bonds”) pursuant to a certificate of determination of the City Comptroller (sometimes referred to herein as the “Chief Fiscal Officer”), which Series 2010A Bonds are dated May 1, 2010 and matured or mature in annual installments on September 15 in each of the years 2011-2030, inclusive, as follows:

| Year | Principal Amount | Year | Principal Amount |
|------|------------------|------|------------------|
| 2011 | \$94,000         | 2021 | \$175,000        |
| 2012 | \$135,000        | 2022 | \$185,000        |
| 2013 | \$140,000        | 2023 | \$190,000        |
| 2014 | \$145,000        | 2024 | \$195,000        |
| 2015 | \$145,000        | 2025 | \$200,000        |
| 2016 | \$150,000        | 2026 | \$210,000        |
| 2017 | \$155,000        | 2027 | \$215,000        |
| 2018 | \$160,000        | 2028 | \$225,000        |
| 2019 | \$165,000        | 2029 | \$235,000        |
| 2020 | \$170,000        | 2030 | \$245,000        |

**WHEREAS**, the Series 2010A Bonds were authorized pursuant to one or more serial bond resolutions duly adopted by the City Council of the City for the objects or purposes described therein

and delegated to the Chief Fiscal Officer the power to prescribe the terms, form and contents of and to sell and deliver such serial bonds of the City; and

**WHEREAS**, \$2,410,000 aggregate principal amount of the Series 2010A Bonds currently remain outstanding and unredeemed as of the date hereof; and

**WHEREAS**, it is hereby determined to be in the public interest of the City to refund all or a portion of the outstanding Series 2010A Bonds, by the issuance of the refunding bonds authorized herein pursuant to Section 90.10 of the Local Finance Law (the “Refunding Bonds”); and

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RYE, IN THE COUNTY OF WESTCHESTER, STATE OF NEW YORK (BY THE AFFIRMATIVE VOTE OF NOT LESS THAN TWO-THIRDS OF THE VOTING STRENGTH OF CITY COUNCIL OF THE CITY), AS FOLLOWS:**

Section 1. For the purpose of refunding all or a portion of the \$2,410,000 outstanding principal amount of the Series 2010A Bonds, providing moneys which, together with the interest earned from the investment of certain of the proceeds of the Refunding Bonds herein authorized shall be sufficient to pay: (i) the refunded principal amount of the Series 2010A Bonds (the “Refunded Bonds”); (ii) the aggregate amount of the unmatured interest payable on the Refunded Bonds to and including the date on which any series of the Refunded Bonds which are callable are to be redeemed prior to their respective maturities in accordance with the Refunding Financial Plan (as hereinafter defined) and attached hereto as Exhibit B; (iii) the costs and expenses incidental to the issuance of the Refunding Bonds as hereinafter authorized and as described in Exhibit A, including without limitation, the development of the Refunding Financial Plan, costs and expenses of executing and performing the terms and conditions of the Escrow Contract (as hereinafter defined), and any securities supply contract, the premium with respect to any bond insurance policy or policies acquired with respect to the Refunding Bonds (as defined below), discount or compensation of underwriters, fees of bond counsel and financial advisors, rating agency fees,

printing and service agency fees and expenses, and fees and charges of the Escrow Holder (as hereafter described); and (iv) the redemption premium, if any, to be paid on any series of the Refunded Bonds which are to be called prior to their respective maturities; there are hereby authorized to be issued in one or more series not exceeding \$2,500,000 aggregate principal amount of refunding serial bonds of the City pursuant to the provisions of Section 90.10 of the Local Finance Law, it being anticipated that the par amount of Refunding Bonds actually to be issued will be approximately \$2,155,000 as provided in Section 4 hereof. The proposed principal amounts and dates of maturity of such Refunding Bonds are set forth in the Refunding Financial Plan attached hereto. Section 2. It is hereby determined pursuant to Section 90.10 that:

(a) the maximum amount of the Refunding Bonds authorized to be issued pursuant to this resolution does not exceed the limitation imposed by subdivision 1 of paragraph (b) of Section

90.10 of the Local Finance Law with respect to each series of the Refunded Bonds;

(b) the aggregate amount of estimated present value savings computed in accordance with subparagraph (a) of subdivision 2 of paragraph b of Section 90.10 of the Local Finance Law is not expected to be less than three percent (3.0%) of debt service on the Refunded Bonds paid to stated maturity.

(c) The City Council is hereby authorized and directed to enter into an escrow contract (the “Escrow Contract”) with a bank or trust company located and authorized to do business in this State as the City Council shall designate (the “Escrow Holder”) for the purpose of having the Escrow Holder act, in connection with the Refunding Bonds, as the escrow holder to

perform the services described in Section 90.10 of the Local Finance Law. In addition, the Escrow Contract may include a

forward supply or purchase contract or agreement as part thereof or as a separate agreement for the provision of acquiring obligations of the United States of America or unconditionally guaranteed by the United States of America or other obligations or instruments qualified under Section 90.10 of the Local Finance Law or may be necessary for the completion of the Refunding Financial Plan. The Escrow Contract shall contain such terms and conditions as shall be necessary or required, including terms and conditions required for the completion of the Refunding Financial Plan, including provisions for the Escrow Holder, without further authorization or direction from the City Council of the City, except as otherwise provided therein, including, without limitation, (i) to make all required payments of principal, interest and any redemption premiums to appropriate paying agents with respect to the Refunded Bonds, (ii) to pay costs and expenses incidental to the issuance of the Refunding Bonds, including the development of the Refunding Financial Plan, and of executing and performing the terms and conditions of the Escrow Contract by the Escrow Holder, (iii) at the appropriate time or times, to cause to be given on behalf of the City in the manner provided by law the notice of redemption authorized to be given pursuant to Section 8 hereof, and (iv) to invest the moneys held by the Escrow Holder pursuant to the terms of the Escrow Contract and consistent with the provisions of the Refunding Financial Plan. The Escrow Contract shall be irrevocable and shall constitute a covenant with the owners of the Refunding Bonds.

(d) The proceeds, inclusive of any premium, from the sale of the Refunding Bonds, immediately upon receipt, shall be placed in escrow by the City with the Escrow Holder pursuant to the terms of the Escrow Contract. All moneys held by the Escrow Holder shall be invested only in direct obligations of the United States of America, in obligations the principal of and interest on

which are unconditionally guaranteed by the United States of America or in obligations or instruments qualified under Section 90.10 of the Local Finance Law, which obligations or instruments shall mature or be subject to redemption at the option of the Escrow Holder not later than the respective dates when such moneys will be required to make payments in accordance with the Escrow Contract and the Refunding Financial Plan. Any such moneys remaining in the custody of the Escrow Holder after the performance in full of the Escrow Contract by the Escrow Holder shall be returned to the City and shall be applied by the City Comptroller to the payment of the principal of or interest on the Refunding Bonds then outstanding, to the payment of any amounts required to be paid to the United States of America in connection of with the refunding of the Refunding Bonds or to the payment of or reimbursement for the costs of issuance or other administrative costs incurred in connection with the issuance of the Refunding Bonds. In connection with the investment of moneys held by the Escrow Holder under the Escrow Contract, the City Comptroller is authorized to execute on behalf of the City any forward purchase or supply contract for the purchase or supply of the securities described in this subsection (d) at a date subsequent to the delivery of the Refunding Bonds, as is needed to accomplish the purposes of the Refunding Financial Plan.

Section 3. It is hereby determined that the maximum period or periods of probable usefulness permitted by law at the time of the issuance of the Refunded Bonds for each of the objects or purposes for which the Refunded Bonds were issued is no less than as shown in the Certificates of Determination of the City Comptroller incorporated by reference herein and made a part of this resolution taking into account the earlier of the original date of issuance of any such series of serial bonds or bond anticipation notes funded by such series of Refunded Bonds; and

Section 4. The financial plan for the refunding authorized by this resolution (the “Refunding Financial Plan”), showing the sources and amounts of all moneys required to accomplish such refunding, the estimated present value of the total debt service savings and the basis for the computation of the aforesaid estimated present value of total debt service savings, are set forth in

Exhibit B attached hereto and made a part hereof. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in the aggregate principal amount of \$2,155,000 if fully issued and will mature, be of such terms, and bear such interest as set forth in the Refunding Financial Plan. The City Council of the City recognizes that the principal amount of the Refunding Bonds, the series, maturities, terms, interest rate or rates borne by the Refunding Bonds, the provisions for redemption thereof prior to maturity and whether or not all of the Refunding Bonds will be insured, and the resulting present value savings are likely to vary from such assumptions and that the Refunding Financial Plan will likely vary from that attached hereto as Exhibit B. The City Comptroller is hereby authorized and directed to determine the principal amount of the Refunding Bonds to be issued, the series and designation or designations thereof, including the authority to issue such obligations on the basis of substantially level or declining annual debt service, the time or times of the sale thereof, the maturities and terms thereof, the provisions relating to the redemption of the Refunding Bonds prior to maturity, if any, the rate or rates of interest to be borne thereby, whether or not the Refunding Bonds will be insured in whole or in part or uninsured, and to prepare, or cause to be provided, a final Refunding Financial Plan, all in accordance herewith, and all powers in connection therewith may be exercised by the City Comptroller; provided, that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of Section 90.10 of the

Local Finance Law. The City Council shall file a copy of a certificate determining the details of the Refunding Bonds and the final Refunding Financial Plan with the City Clerk within ten (10) days after the delivery of the Refunding Bonds, as herein provided.

Section 5. The faith and credit of the City are hereby irrevocably pledged to the payment of the principal of and interest on the Refunding Bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on the

Refunding Bonds becoming due and payable in such year. To the extent that the same are not paid from other sources, there shall be annually levied on all the taxable real property in the City a tax sufficient to pay the principal of and interest on the Refunding Bonds as the same become due and payable.

Section 6. Proceeds from the sale of the Refunding Bonds, including any accrued interest and, together with interest earned thereon, which shall be required for the payment of the principal of and interest on the Refunded Bonds, including any redemption or call premiums, in accordance with the Refunding Financial Plan, shall be irrevocably committed and pledged to such purpose and the owners of the Refunded Bonds shall have a lien upon such moneys and the investments thereof held by the Escrow Holder. The pledge and lien provided by this resolution shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding against all parties having claims of any kind in tort, contract, equity, at law or otherwise against the City irrespective of whether such parties have notice thereof. Neither this resolution, the Escrow Contract, nor any other instrument relating to such pledge and lien, need be filed or recorded.

Section 7. In accordance with the terms of the Refunded Bonds and the provisions of Section

53.00 and of paragraph (h) of Section 90.10 of the Local Finance Law, and subject only to the issuance of the Refunding Bonds, as herein authorized, the City hereby elects to call in and redeem (i) all or a portion of the Series 2010A Bonds maturing on and after September 15, 2020 on September 15, 2019. The sum to be paid therefor on such redemption dates shall be the par value thereof plus the redemption premium, if any, as provided in the issuance proceedings for the Series 2010A Bonds and the accrued interest to such redemption date. The Escrow Holder is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the City in the manner and within

the times provided in the issuance proceedings for the Series 2010A Bonds. Such notice of redemption shall be in substantially the form attached to the Escrow Contract. Upon the issuance of the Refunding Bonds, the election to call in and redeem the applicable portion of the Series 2010A Bonds and direction to the Escrow Holder to cause notice thereof to be given as provided in this paragraph shall become irrevocable, provided that this paragraph may be amended from time to time as may be necessary in order to comply with the notice, requirements of paragraph (a) of Section 53.00 of the Local Finance Law, or any successor law thereto. It is hereby determined that with respect to the series of Refunded Bonds to be called in and redeemed as provided in this Section 7, it is to the financial advantage of the City not to charge, impose and collect or receive from registered owners of the Refunded Bonds mailing, shipping, insurance or other similar charges in connection with such redemption or calls. Accordingly, pursuant to paragraph (c) of Section 70.00 of the Local Finance Law, no such charges shall be so charged, collected or received by the Chief Fiscal Officer, as fiscal agent.

Section 8. The Refunding Bonds may be sold at either a private or competitive sale and if sold at a private sale, the City Comptroller is hereby authorized to execute a purchase contract on behalf of the City Comptroller for the sale of the Refunding Bonds, provided that the terms and conditions of such sale shall be approved by the State Comptroller and further provided that, prior to the issuance of the Refunding Bonds the City Council shall have filed with the City Clerk a certificate approved by the State Comptroller pursuant to subdivision 2 of paragraph (g) of Section 90.10 of the Local Finance Law setting forth the present value savings to the City resulting from the issuance of the Refunding Bonds. In connection with such sale, the City Council of the City hereby authorizes the preparation of an Official Statement and approves its use in connection with such sale, and further consents to the distribution of a Preliminary Official Statement prior to the date said Official Statement is executed and available for distribution, all in accordance with applicable State and Federal securities laws, rules and regulations.

Section 9 The City Council of the City hereby appoints the law firm of Squire Patton Boggs (US) LLP of New York, New York, as bond counsel in connection with the issuance and sale of the Refunding Bonds. The City Council of the City hereby appoints the firm of Capital Markets Advisors, LLC, Great Neck, New York, as financial advisor in connection with the issuance and sale of the Bonds. The power to appoint the Escrow Holder, as that term is referred to herein, and a senior managing underwriter for the sale of the Refunding Bonds if sold at private sale, is hereby delegated to the City Comptroller of the City, as chief fiscal officer of the City.

Section 10. Each of the Refunding Bonds authorized by this resolution shall contain the recital of validity prescribed by Section 52.00 of the Local Finance Law and the Refunding Bonds shall be general obligations of the City, payable as to both principal and interest by a general tax

upon all the taxable real property within the City, without limitation as to rate or amount, subject to the applicable provisions of Chapter 97 of the Laws of 2011.

Section 11. The City Comptroller, pursuant to Sections 50.00, 90.00, 90.10 and 168.00 of the Local Finance Law, and all other officers, employees and agents of the City are hereby authorized and directed for and on behalf of the City to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including to correct or amend the documents and certificates authorized to complete the transactions contemplated by this resolution.

Section 12. All other matters pertaining to the terms, issuance and sale of the Refunding Bonds consistent with the provisions of Section 90.10 of the Local Finance Law shall be determined by the City Comptroller and the powers in connection therewith not otherwise heretofore delegated thereto are hereby delegated to the City Comptroller.

Section 13. The City intends to issue the obligations authorized by this resolution to finance the costs of the purposes described herein for the completion of the Refunding Financial Plan. The City covenants for the benefit of the holders of the Refunding Bonds that it will not make any use of (a) the proceeds of the Refunding Bonds, any funds reasonably expected to be used to pay the principal of or interest on the Refunding Bonds or any other funds of the City, and (b) the purposes financed with the proceeds of the Refunding Bonds, which would cause the interest on which to become subject to Federal income taxation under the Internal Revenue Code of 1986, as amended (the “Code”) (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to the Refunding Bonds or the

proceeds thereof, if such action or omission would cause the interest on the Refunding Bonds to become subject to Federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Refunding Bonds or any other provision hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of the Refunding Bonds may be applied to reimburse expenditures or commitments made for the purposes on or after a date which is not more than sixty (60) days prior to the adoption date of this resolution by the City.

Section 14. For the benefit of the holders and beneficial owners from time to time of the Refunding Bonds, the City agrees, in accordance with and as an obligated person with respect to the Refunding Bonds under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of the Rule. In order to describe and specify certain terms of the City’s continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller is authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”) to be placed on file with the City Clerk, which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the Refunding Bonds in accordance with the Rule, with any changes or amendments that are not inconsistent with this resolution and not substantially adverse to the City and that

are approved by the City Comptroller on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed, collectively by this paragraph and the Commitment, shall be the City's continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The City Comptroller is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Comptroller shall consult with, as appropriate, the City Corporation Council and bond counsel or other qualified independent special counsel to the City and shall be entitled to rely upon any legal advice provided by the City Corporation Council or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 15. The validity of the Refunding Bonds may be contested only if such obligations are authorized for objects or purposes for which the City is not authorized to expend money, or the provisions of law which should be complied with at the date of the publication of this resolution, are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty (20) days after the date of publication, or if said obligations are authorized in violation of the provisions of the Constitution of New York.

Section 16. When this bond resolution takes effect, it shall be published in full by the City Clerk, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, and such publication shall be in the Journal News, a newspaper having a general

circulation in the City and which is hereby designated as the official newspaper of the City for such purpose.

Section 17. This bond resolution shall take effect immediately upon its adoption by the City Comptroller of the City.

City of Rye,  
New York

Exhibit A to the Refunding Bond

Resolution, Dated April 10, 2019

of the City  
of Rye

in the County of Westchester, State of  
New York

\$2,155,000 Public Improvement Refunding Serial Bonds -  
Estimated Debt Service

| <u>Maturity Date</u> | <u>Principal Amount</u> |
|----------------------|-------------------------|
| 9/15/2019            | \$ 10,000               |
| 9/15/2020            | 150,000                 |
| 9/15/2021            | 155,000                 |
| 9/15/2022            | 170,000                 |
| 9/15/2023            | 175,000                 |
| 9/15/2024            | 185,000                 |
| 9/15/2025            | 195,000                 |
| 9/15/2026            | 205,000                 |
| 9/15/2027            | 215,000                 |
| 9/15/2028            | 225,000                 |
| 9/15/2029            | 230,000                 |
| 9/15/2030            | 240,000                 |

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Hurd, Mecca, Souza, Tagger-  
Epstein

NAYS: None

ABSENT: Councilmember Stacks

7. Follow-up and presentation by consultant on street paving program and consideration of increasing the 2019 allocation to road repairs with additional money from the capital reserve fund.

Mayor Cohn introduced this item and started the discussion on street resurfacing as a priority for the City. He said that paving is an important item for priority for most residents and can be easily seen and realized when improvements occur. He discussed the annual budget for paving and said that he would like to increase the paving budget for 2019 from \$1 million to \$1.7 million. Currently, the City of Rye has approximately \$16 million of need for road resurfacing.

Mayor Cohn introduced Gordon Daring, P.E. of VHB, Consultant for the City, and asked Mr. Daring to discuss the needs and priorities for street resurfacing, keeping a budget of \$1.7 million in mind with regard to possible paving improvements.

Mr. Daring presented a series of maps with road repaving and ratings of the quality and need for each road. From Mr. Daring's presentation, there was general discussion of major roads, priorities and constraints. He explained that PCI stands for Pavement Condition Index, in which roads are graded on a scale of 0 to 100. The lesser the number, the worse the condition.

Mayor Cohn stated that some streets are in higher need of repair. He asked if those could be addressed first. Mr. Daring responded that the City could do that, and in fact it would be a cost-effective option. There was discussion regarding level of maintenance, such as sealing cracks in roads that were not in dire need of attention.

Councilwoman Tagger-Epstein commented that there seemed to be correlation between the roads in poor condition and the level of building.

Mr. Daring explained that upon bidding out for the work, it was possible that different types of work could be done by different contractors. There was general discussion about piggybacking off of state contracts.

Mayor Cohn asked Mr. Daring to return with specific recommendations for the summer.

Mayor Cohn asked if the Council could now consider adding \$400,000 to the paving budget for the year. To clarify, there is currently \$1 million designated for street resurfacing in the 2019 budget, with another \$300,000 being pulled from other accounts. This proposed resolution would add an additional \$400,000 from the capital reserve fund to hit a total of \$1.7 million for this year.

Councilwoman Hurd made a motion, seconded by Councilwoman Souza, to adopt the following resolution:

**RESOLVED**, that the City Comptroller is authorized to transfer \$400,000 from Capital Reserve Fund to the annual street resurfacing account for 2019.

ROLL CALL

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

8. Discussion with Sally Rogol, the Superintendent of Recreation, regarding providing a waiver of section 144-8D and G of the City Code to enable Sally, without further Council action to, during the 2019 season, have food trucks at:
- private events held from time to time at the park;
  - lower camp, but not more than 1 truck on 2 occasions;
  - upper camp, but not more than 1 truck once per week; and
  - "lunch-or-dinner-in-the-park," but not more than 2 trucks together on one occasion per week.

Superintendent of Recreation, Sally Rogol, has submitted a request to have the authority to grant permission for Food Truck requests for the 2019 season.

Superintendent Rogol addressed the Council and explained that the permission for food trucks has been every recent agenda for consideration. She said that not originally contemplated when the City Code was written, food trucks are the new caterer. In the park, it lends itself both indoor and outdoors for a good alternative for people having parties. She said the request in no way is trying to take away from local businesses.

Councilwoman Souza made a motion, seconded by Councilman Stacks, to provide a waiver of section 144-8D and G of the City Code to enable Sally, without further Council action to, during the 2019 season, have food trucks at:

- private events held from time to time at the park;
- lower camp, but not more than 1 truck on 2 occasions;
- upper camp, but not more than 1 truck once per week; and
- "lunch-or-dinner-in-the-park," but not more than 2 trucks together on four occasions per season.

ROLL CALL

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

9. Consideration of a resolution to appoint the public members of the Board of Ethics to act collectively as the FOIL Appellate Body with respect to a single pending appeal of a FOIL decision regarding records of the City Manager.

Councilwoman Hurd made a motion, seconded by Councilwoman Souza, to appoint the public members of the Board of Ethics to act collectively as the FOIL Appellate Body with respect to a single pending appeal of a FOIL decision regarding records of the City Manager

11. Consideration of a resolution to enter into a Licensing Agreement with the Disbrow Park Conservancy, owner of the Little Free Library, to offer a free children’s book exchange to residents at Disbrow Park.

Per the request of the Disbrow Park Conservancy, this item was put over to the next meeting.

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

Mayor Cohn announced that Rodney Brown was appointed to fill a vacancy on the Board of Assessment Review. The Council approved this appointment.

13. Miscellaneous communications and reports.

Corporation Counsel Wilson said she was pleased to announce that she was able to propose settlement in the Lyons v. Rye matter for \$2,500. Councilman Mecca made a motion, seconded by Councilwoman Goddard, to approve the following resolution:

**RESOLVED**, that the Corporation Counsel is authorized to enter into settlement on behalf of the City of Rye in the matter of Lyons v. Rye for a total not to exceed \$2,500.

ROLL CALL

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

Councilwoman Goddard reminded the community that Friday April 12, 2019 will feature a program called “Pollinator of Paradise” at Rye Nature Center. The event is filling up quickly.

14. Old Business/New Business.

There was nothing discussed under this agenda item.

15. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Souza and unanimously carried, to adjourn the meeting at 9:12 P.M.

Respectfully submitted,

Carolyn D’Andrea  
City Clerk



# CITY COUNCIL AGENDA

NO. 8

DEPT.: City Manager's Office

DATE: April 10, 2019

CONTACT: Marcus Serrano, City Manager

**AGENDA ITEM:** Announcement of the Rye Sustainability Leadership Award.

**FOR THE MEETING OF:**

April 24, 2018

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** The Third Annual Rye Sustainability Committee Leadership Award.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

In recognition of Earth Week and as part of its mission to implement the Rye Sustainability Plan, The Rye Sustainability Committee has created a Rye Sustainability Committee Leadership Award.

This award honors individuals, organizations or members of the business community that have made significant environmental achievements and demonstrated excellence in leadership for the health of our community and planet.

Recipients:

Business Category:

Rosemary and Vine

Individual Category:

Carolyn Cunningham

Municipal Category:

- 1) Ryan Coyne (City Engineer)
- 2) City of Rye Department of Public Works
- 3) Michelle Sterling, Scarsdale Conservation Advisory Council
- 4) Ronald Schulhof, Scarsdale Conservation Advisory Council

Non-Profit Category:

Suzanne Clary, President, Board of Trustees, Jay Heritage Center

Youth Category:

Rye Girl Scouts Troop 2196



# CITY COUNCIL AGENDA

NO. 11      DEPT.:      Planning      DATE: April 19, 2019  
CONTACT: Christian K. Miller, City Planner

**AGENDA ITEM:** Consideration of a petition from 1037 Boston Post Road, LLC to amend the text of the City of Rye Zoning Code to permit physical fitness facilities in the B-1 (Neighborhood Business) and B-2 (Central Business) Zoning Districts within the "A" and "B" Parking Districts.

**FOR THE MEETING OF:**  
April 24, 2019  
**RYE CITY CODE,**  
CHAPTER      197  
SECTION      3

**RECOMMENDATION:** That the City Council consider the advisory recommendation of the City Planning Commission and reach consensus on its desired local law for the setting of a public hearing.

**IMPACT:**     Environmental     Fiscal     Neighborhood     Other:

**BACKGROUND:**  
The Rye City Zoning Code does not include physical fitness facilities as a permitted use. This is a notable omission given, in the petitioner's observation, "the increased attention in the modern era to physical fitness being a key component of personal health and well-being." The Petitioner is the owner of an approximately 30,000 s.f. retail building at 1037 Boston Post Road, which has remained vacant for approximately two years since the closure of Mrs. Green's grocery. The Petitioner's prospective tenant for its property is the YMCA. The Petitioner requests a text amendment of the City Zoning Code to include physical fitness facilities as a permitted use within the B-1 and B-2 Zoning Districts within the "A" or "B" parking districts. The Petitioner's request would allow physical fitness facilities as a permitted use not just at the Petitioner's property, but also for other potential properties in the downtown business district. This change would accommodate a growing community need not currently reflected in the City's Zoning Code. Commonly, zoning is not changed for the benefit of one relatively small parcel, particularly when the growing demand for a use exceeds the capacity of one parcel in the City. This matter was referred to the Planning Commission at the City Council's January 9, 2019 meeting. The Commission has provided its advisory recommendation, which is attached hereto.

JONATHAN D. KRAUT

DIRECT TEL.: 914-701-0800  
MAIN FAX: 914-701-0808  
[JKRAUT@HKPLAW.COM](mailto:JKRAUT@HKPLAW.COM)

November 20, 2018  
**VIA HAND DELIVERY**

Mayor Josh Cohn & City Council  
City of Rye  
1051 Boston Post Road  
Rye, New York 10580

Re: ***Proposed Zoning Text Amendment  
Physical Fitness Facility***

Dear Mayor Cohn and Members of the City Council:

We represent 1037 Boston Post Road, LLC (the "Petitioner"), in connection with the property commonly known as 1037 Boston Post Road (the "Subject Property"). The Petitioner actively searched for a tenant to occupy the Subject Property since the closure of Mrs. Greens approximately two years ago. The Rye YMCA expressed keen interest in occupying the Subject Property as part of their Rye operations. Unfortunately, the existing Zoning Ordinance of the City of Rye does not currently include physical fitness facilities as a permitted use in any zoning district. Accordingly, we respectfully submit herewith a petition to amend the Zoning Ordinance of the City of Rye to include physical fitness facilities as permitted uses within the B-1 and B-2 zoning districts located within the "A" and "B" parking districts (essentially the downtown business district).

Submitted herewith please find ten (10) copies of a Verified Petition for an amendment to the Zoning Ordinance. The original petition is simultaneously being filed with the city clerk. We respectfully request this matter be placed on the Rye City Council agenda for November 28, 2018.

As noted in the Petition, with the increased attention on physical fitness as being a key component of personal health and well-being there has been a corresponding increase in the demand for physical fitness facilities and various programs. Currently, the Zoning Ordinance does not permit this type of use anywhere within the City of Rye, although personal training

# HKP

facilities (1-on-1) have been interpreted to be a permitted personal service business within the B-1 and B-2 zoning districts. In filing the instant Petition, the Petitioner is seeking to address this seemingly unintended void in the existing Zoning Ordinance.

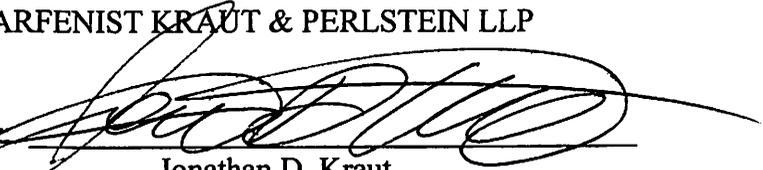
While the Petitioner and the YMCA are interested solely in the proposed use of the Subject Property, in granting the proposed zoning text amendment the City Council would be modernizing the Zoning Ordinance to permit what has become a commonplace use in many other municipalities and is typically grouped in with other standard commercial uses in business districts such as retail, personal services, restaurants, banks and professional offices.

Although this action requires review under the State Environmental Quality Review Act (SEQRA) and is an unlisted action, there will be no environmental impact whatsoever in permitting a physical fitness facility as a permitted use in the greater downtown business district. As noted above, the use is a standard commercial use in business districts elsewhere and would allow commercial property owners in the downtown business district greater flexibility in prospective occupants of underutilized space. The environmental impacts for a proposed change in use of a specific site to a physical fitness facility would be addressed on a case-by-case basis by the Planning Commission during the site plan approval / modification process.

We look forward to presenting this Petition to the Rye City Council on November 28, 2018, and can provide any additional information at that time.

Very Truly Yours,

HARFENIST KRAUT & PERLSTEIN LLP

By 

Jonathan D. Kraut

Cc: Marcus Serrano, City Manager  
Christian Miller, City Planner  
Kristen Wilson, Corporation Counsel

CITY OF RYE: RYE CITY COUNCIL  
COUNTY OF WESTCHESTER: STATE OF NEW YORK  
-----X

In the Matter of the Application of  
1037 Boston Post Road, LLC

**PETITION FOR  
FOR AMENDMENT TO  
CITY OF RYE ZONING  
ORDINANCE**

PROPERTY LOCATION:  
1037 Boston Post Road, Rye, New York  
Sheet 146.11, Block 1, Lot 4  
-----X

Petitioner, 1037 Boston Post Road, LLC, by its attorneys, Harfenist Kraut & Perlstein, LLP, hereby petitions the City Council of the City of Rye for an amendment to the City of Rye Zoning Ordinance as follows:

1. 1037 Boston Post Road, LLC, (hereinafter "Petitioner"), with an address c/o Bill Wolf Petroleum Corp., 100 Jericho Quadrangle, Suite 209, Jericho, New York 11753, is Limited Liability Company duly formed and existing under the laws of the State of New York.
2. The Petitioner is the owner of the real property commonly known as 1037 Boston Post Road, as further set forth in the caption of this Petition (hereinafter the "Property").
3. The Property lies wholly within the B-1 (Neighborhood Business) Zoning District and the "A" Parking District.
4. The Petitioner has entered into a lease agreement with the Rye YMCA (the "YMCA") for use of the Property as a physical fitness facility.

5. The current Zoning Ordinance of the City of Rye does not include physical fitness facilities as permitted uses in any zoning district within the City of Rye.
6. With the increased attention in the modern era to physical fitness being a key component of personal health and well-being, the Petitioner and the YMCA wish to rectify this apparent overlooked issue within the Zoning Ordinance.

#### AMENDMENT TO ZONING ORDINANCE

7. The Petitioner requests a text amendment of the Zoning Ordinance of the City of Rye to include physical fitness facilities as a permitted use within the B-1 and B-2 Zoning Districts within the "A" or "B" parking districts. This would allow physical fitness facilities as a permitted use within the downtown business district as generally depicted on the map attached hereto as Exhibit 1.
8. The Petitioner specifically requests that the Zoning Code of the City of Rye, Chapter 197: Zoning, Section 197-86: Table of Regulations: Table B, Business Districts-Use Regulations, Column 1, Permitted Main Uses be amended to include as a permitted main use in the B-1 district, and thus also within the B-2 district which already incorporates by reference all permitted main uses in the B-1 district, the following:

*(10) Physical Fitness Facility: an establishment or use where physical exercise or training is conducted on an individual or group basis, using exercise equipment or open floor space with or without instruction with a personal trainer and/or in a group class, to include, but not be limited to, the following: weight training, yoga, gymnastics, spin, aerobics, martial arts, wrestling, boxing, etc. Support functions accessory to the principal use include a child care area, spas, lockers, showers, health food bar, game or party room, counter and sales desk for sports health or fitness items associated with the facility. This use shall be limited to properties located within the "A" or "B" Parking Districts.*

9. The Petitioner also specifically requests that the Zoning Code of the City of Rye, Chapter 197: Zoning, Section 197-28: Schedule of Off-Street Parking Requirements,

Subsection A: Schedule of Parking Requirements, last amended 7-15-1987 by Local Law No. 7-1987, be amended to include the following:

| Use                       | A | B | C   | Unit of Measurement                 |
|---------------------------|---|---|-----|-------------------------------------|
| Physical Fitness Facility | 1 | 1 | N/A | 200 square feet of gross floor area |

5. The requested amendments to the Zoning Ordinance would not have any adverse impacts on the City of Rye, rather it would modify the Zoning Ordinance to the reality of modern demands for the repurposing of underutilized commercial space in and around the downtown business district.

SEORA REVIEW

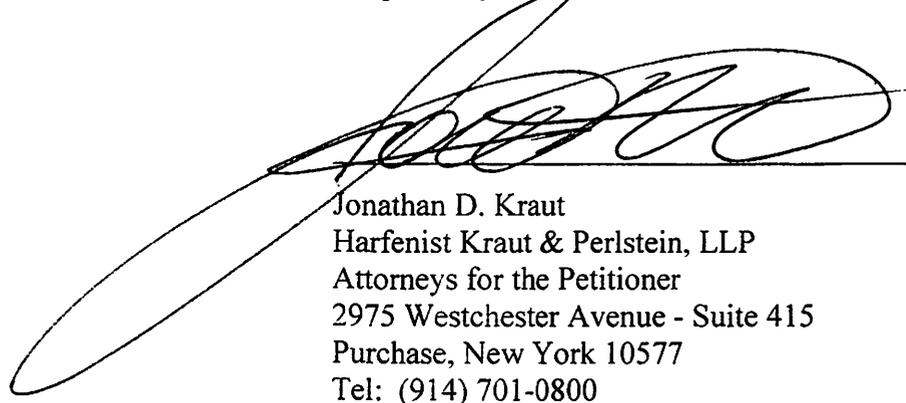
6. With respect to the environmental procedure and review of this Petition pursuant to Article 8 of the Environmental Conservation Law of the State of New York and Part 617 of the New York Codes, Rules and Regulations promulgated pursuant to the New York State Environmental Quality Review Act, the requested zoning amendments are a Type I action as the subject area of the zoning amendment is in excess of 25 acres; however, we respectfully submit the zoning amendment will have no environmental impact whatsoever.
7. The zoning amendments simply permit an additional standard commercial use that carries with it the same impacts as the existing permitted uses in the downtown business district. It is not anticipated that the inclusion of a physical fitness facility use will result in a noticeable increase of construction activities, impervious surfaces, traffic, noise or any other potential environmental impacts over other already permitted uses (i.e. retail, restaurants and personal services). Rather, as most of the downtown business district is already fully developed we expect physical fitness facilities would occupy vacant existing space within the downtown business district such as the Subject Property.

8. Petitioner has reviewed all pertinent environmental issues relating to the proposed zone change and has prepared a short form Environmental Assessment Form (EAF) in connection with this application, submitted herewith as Exhibit 2, so as to enable the City Council to take steps necessary to consider, and to issue, a negative declaration pursuant to the New York State Environmental Quality Review Act.

WHEREFORE, it is respectfully requested that this matter be placed on the calendar of the City Council for November 28, 2018 for a hearing and that the relief sought herein be in all respects granted.

Dated: Purchase, New York  
November 20, 2018

Respectfully submitted,



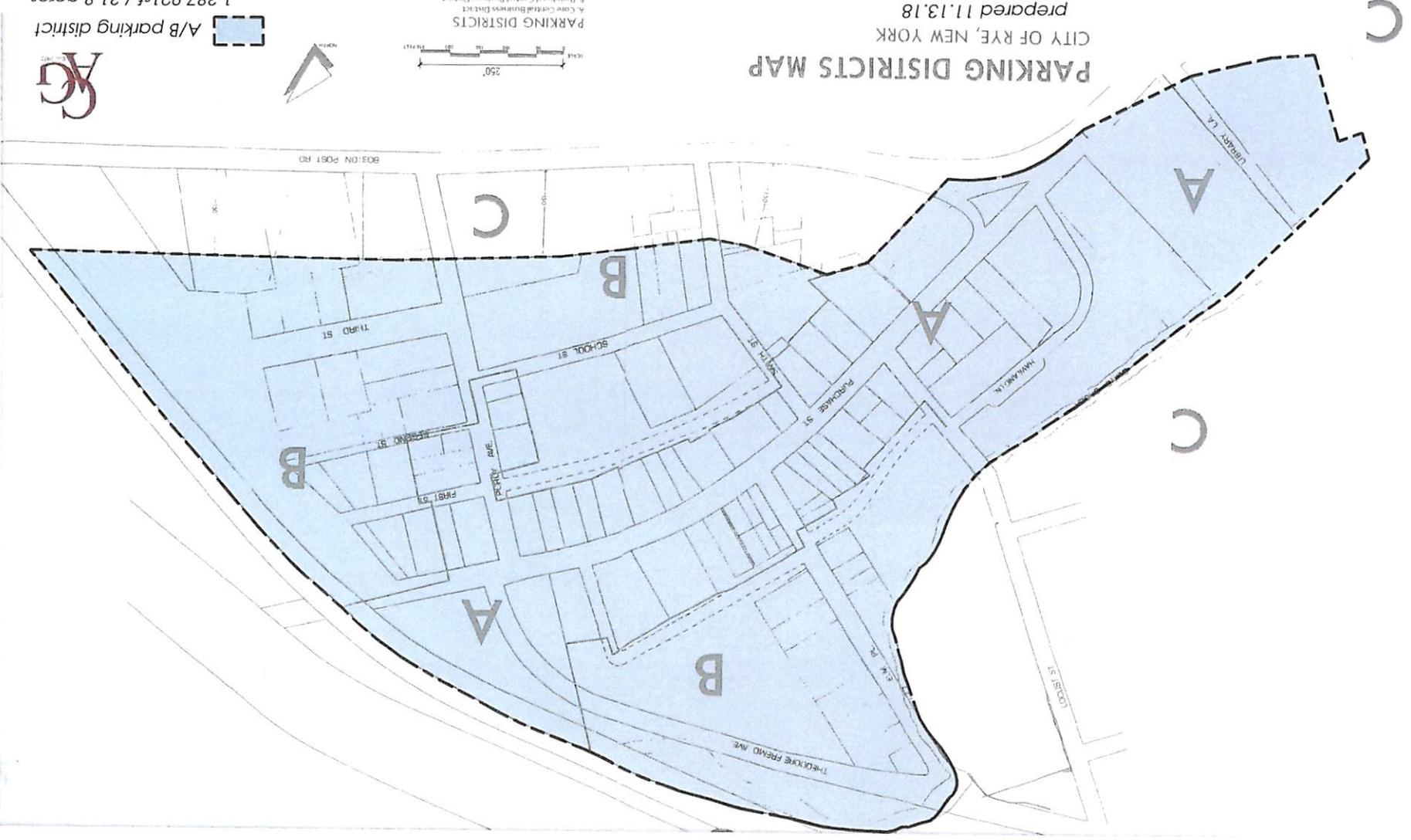
Jonathan D. Kraut  
Harfenist Kraut & Perlstein, LLP  
Attorneys for the Petitioner  
2975 Westchester Avenue - Suite 415  
Purchase, New York 10577  
Tel: (914) 701-0800

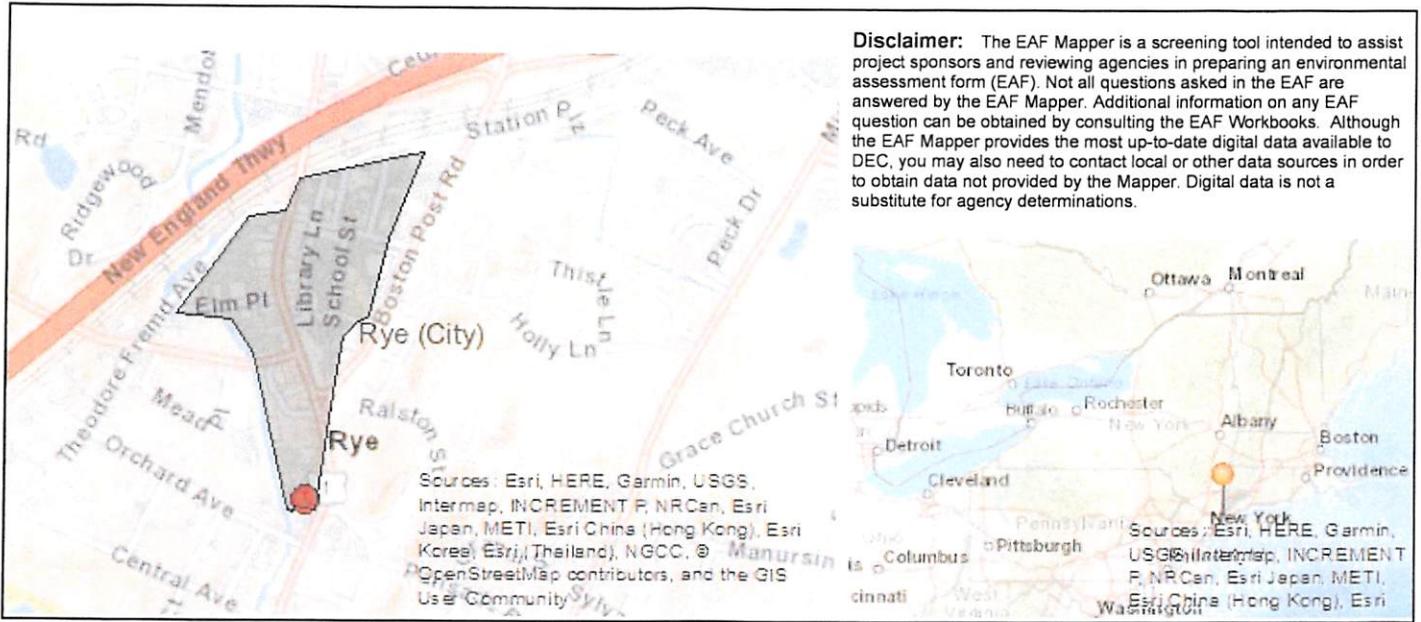
**PARKING DISTRICTS MAP**  
CITY OF RYE, NEW YORK  
prepared 11.13.18

**PARKING DISTRICTS**  
A. Core Central Business District  
B. Peripheral Central Business District  
C. Remainder of City of Rye



A/B parking district  
1,387,921sf / 31.8 acres





|   |   |
|---|---|
| Part 1 / Question 7 [Critical Environmental Area]               | No  |
| Part 1 / Question 12a [National Register of Historic Places]    | Yes   |
| Part 1 / Question 12b [Archeological Sites]                     | Yes   |
| Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies] | Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook. |
| Part 1 / Question 15 [Threatened or Endangered Animal]          | No  |
| Part 1 / Question 16 [100 Year Flood Plain]                     | Yes   |
| Part 1 / Question 20 [Remediation Site]                         | Yes   |

# Short Environmental Assessment Form

## Part 1 - Project Information

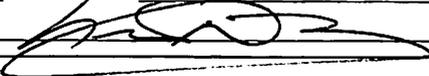
### Instructions for Completing

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| Part 1 - Project and Sponsor Information   |              |   |                                |  |
|--|--------------|---|--------------------------------|--|
| Name of Action or Project:<br>City of Rye Zoning Text Amendment re: Physical Fitness Facility  |              |   |                                |  |
| Project Location (describe, and attach a location map):<br>City of Rye Downtown Business District  |              |   |                                |  |
| Brief Description of Proposed Action:<br>Zoning text amendment to permit physical fitness facilities in the greater downtown business district area in the City of Rye   |              |   |                                |  |
| Name of Applicant or Sponsor:<br>1037 Boston Post Road, LLC c/o Harfenist Kraut & Perlstein  |              | Telephone: 914-701-0800<br>E-Mail: tnapior@hkplaw.com |                                |  |
| Address:<br>2975 Westchester Avenue, Suite 415   |              |   |                                |  |
| City/PO:<br>Purchase   | State:<br>NY | Zip Code:<br>10577                                    |                                |  |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?<br>If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.   |              |   | NO<br><input type="checkbox"/> | YES<br><input checked="" type="checkbox"/> |
| 2. Does the proposed action require a permit, approval or funding from any other governmental Agency?<br>If Yes, list agency(s) name and permit or approval:   |              |   | NO<br><input type="checkbox"/> | YES<br><input type="checkbox"/>            |
| 3.a. Total acreage of the site of the proposed action? _____ acres<br>b. Total acreage to be physically disturbed? _____ acres<br>c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres   |              |   |                                |  |
| 4. Check all land uses that occur on, adjoining and near the proposed action.<br><input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)<br><input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____<br><input type="checkbox"/> Parkland |              |   |                                |  |



|   |  |  |
|---|--|--|
| <p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?<br/>         If Yes, explain purpose and size: _____<br/>         _____<br/>         _____</p>  | <p><b>NO</b></p> <p><input type="checkbox"/></p> | <p><b>YES</b></p> <p><input type="checkbox"/></p>            |
| <p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?<br/>         If Yes, describe: _____<br/>         _____<br/>         _____</p>  | <p><b>NO</b></p> <p><input type="checkbox"/></p> | <p><b>YES</b></p> <p><input type="checkbox"/></p>            |
| <p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?<br/>         If Yes, describe: _____<br/>         _____<br/>         _____</p>  | <p><b>NO</b></p> <p><input type="checkbox"/></p> | <p><b>YES</b></p> <p><input checked="" type="checkbox"/></p> |
| <p><b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p> <p>Applicant/sponsor name: <u>1037 Boston Post Road, LLC c/o Harfenist Kraut &amp; Perstein</u>      Date: <u>11/20/18</u></p> <p>Signature: <u></u></p> |  |  |

Nick Everett, Chairman  
Martha Monserrate, Vice Chair  
Andy Ball  
Laura Brett  
Richard Mecca  
Steven Secon  
Brigit Townley



Planning Department  
1051 Boston Post Road  
Rye, New York 10580  
Tel: (914) 967-7167  
Fax: (914) 967-7185  
www.ryeny.gov

## **CITY OF RYE Planning Commission**

### **Memorandum**

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To: Rye City Council

From: Rye City Planning Commission

cc: Marcus Serrano, City Manager

Date: March 26, 2019

Subject: **Consideration of Zoning Amendment to Allow Physical Fitness Use**

Per the City Council's request, this memorandum provides the Planning Commission's advisory recommendation regarding a petition by 1037 Boston Post Road, LLC to amend the Rye City Zoning Code to allow physical fitness use in the City's B-1 and B-2 Business District in the "A" and "B" Parking Districts. The intent of the zoning amendment is to accommodate the YMCA as a new tenant for the 1037 property.

### **Background**

There are instances where the Rye City Zoning Code can be considered antiquated in terms of not properly identifying or describing uses that reflect current or future community needs. One such use that is not explicitly identified in the Zoning Code is physical fitness facility. Demand for the growing array of physical fitness uses appears high. The City Building and Planning Departments are routinely approached by landlords and prospective tenants seeking to establish fitness businesses with group or class-based programming. Currently, the Zoning Code classifies these uses as personal services where only individualized instruction or use is permitted.

The petition by the owner of 1037 Boston Post Road is intended to accommodate the YMCA as a future tenant. Consistent with good planning and zoning practice, the petitioner's request is not limited to just its property, but also includes other properties in the City's Central Business District. More specifically, the proposed text amendment would allow physical fitness use in the B-1 and B-2 Business District in the "A" and "B" Parking Districts.

## Consideration of Zoning Amendment to Allow Physical Fitness Use

March 26, 2019

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The Planning Commission agrees that with some modification the petitioner's request is reasonable. It addresses a community need and appears to add to a fairly limited list of economically viable uses for under-used or vacant tenant spaces in the Central Business District (CBD). Physical fitness use can present concerns in terms of parking demand, traffic generation and potentially compromise a pedestrian-oriented streetscape aesthetic if not designed properly or considered as part of a site plan review; however, physical fitness uses can complement existing uses in the CBD and allow for the opportunity to expand the diversity and economic health of the CBD.

The Planning Commission conducted a review of other areas in the City and recommends that the City Council consider amending the petitioner's request to allow or restrict physical fitness use as follows:

### *B-1, Neighborhood Business, District*

The 1037 Boston Post Road property is located in the B-1, Neighborhood Business, District. There are 11 neighborhood business districts in the City, many of which are in close proximity to residential neighborhoods. These districts serve the commercial and business needs of the local community, but can create potential quality of life conflicts with residential neighbors. It is reasonable to allow physical fitness uses to be permitted in all B-1 Districts. In fact, physical fitness is arguably more compatible with residential neighbors than the uses that currently exists or are permitted by the B-1 District zoning. ***Expanding that list to include physical fitness in all B-1 Districts is recommended.*** It is noted that many of the properties in the B-1 District are small so they will not be able to support large commercial gyms or athletic facilities, which some may find more problematic. In some cases similar uses have existed in B-1 neighborhoods without significant consequence on area neighbors including the physical therapy/fitness use that operated at the office building located on Clinton Avenue near the Central Avenue intersection.

### *B-2, Central Business, District*

The proposed text amendment would allow physical fitness in the "A" and "B" Parking Districts, which is conterminous with the B-2, Central Business, District. All members agreed that physical fitness use should be allowed in the B-2 District, but there was not consensus as to whether the use should be allowed on the first floor of the "A" Parking District (which is essentially the Purchase Street corridor). Some members did not want to allow physical fitness use on the first floor since they considered it disruptive to the streetscape environment because these uses lack a pedestrian orientation. Allowing them on the second floor was acceptable. It was reasoned that these uses are similar to offices, real estate agencies and banks, which are currently prohibited on the first floor in the B-2 District because they can create dead or inactive storefronts that distract from maintaining healthy and engaging facades. Other members stated that such uses are not disruptive

## Consideration of Zoning Amendment to Allow Physical Fitness Use

March 26, 2019

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to the streetscape and can offer landlords additional economically viable options to fill vacant storefronts. They did not find them objectionable. The Commission agreed that these uses are acceptable on any floor of the side streets of Elm Place, Smith Street, Purdy Avenue or School Street.

### B-3, Beach Business, District and B-7, Waterfront Business, District

**The B-3 and B-7 Business Districts would not be appropriate for physical fitness use.** The B-3 District is currently improved with the Water's Edge condominium community.

The B-7 District is a small area located near the City Boat Basin. This business district is restricted to uses that are water-dependent, such as the Row America facility at 668 Milton Road. Allowing non-water-dependent use such as physical fitness facilities is not recommended since it would generally not be considered consistent with the policies of the City's Local Waterfront Revitalization Program (LWRP).

### B-4, Office Building, District.

The B-4 District includes the office buildings along Theodore Fremd Avenue and Theall Road. They are currently improved with office buildings that have relatively low vacancy rates. Some nearby communities, such as the Town of Harrison, have re-purposed under-performing office parks to include physical fitness use. If the zoning text amendment were to apply to these areas it could result in the conversion of all or portions of office buildings for physical fitness use.

The B-4 District also includes an area on the east side of Midland Avenue in the vicinity of the recently renovated FBI building at 600 Midland and an area along Boston Post Road including a portion of the Rye Country Day School campus and the Thruway property. Interestingly, these areas are currently improved with essentially fitness uses including existing or planned recreation fields and facilities at the School. Under current zoning these areas permit office development, educational and recreational uses.

Given the size of the properties in the B-4 District it is possible that allowing physical fitness use could result in the creation of larger full service gyms rather than the smaller specialized fitness uses anticipated for smaller properties and buildings. These larger uses would have a significantly larger scale and traffic demand that would require careful consideration; however this may advance a community need. **The Planning Commission recommends that the City Council consider allowing physical fitness use in the B-4 District.**

## Consideration of Zoning Amendment to Allow Physical Fitness Use

March 26, 2019

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### B-5, Interchange Business, District

The B-5 District is located on Midland and Peck Avenues and includes the Rye Marriott Courtyard and the recently vacated Avon office building. Allowing physical fitness use in this district would create a strong possibility for the conversion of some or all of the Avon building to a larger scale gym given that a future office tenant appears unlikely. The building has a large one-story floor plate with an 18-foot ceiling height. This will improve the marketability of this property, but the parking and traffic demands that could be generated would require careful consideration. ***The Planning Commission recommends that the City Council consider allowing physical fitness use in the B-5 District.***

### B-6, General Business, District

The B-6 District includes the ConEdison property on Theodore Fremd Avenue and the properties along Nursery Lane. Nursery Lane currently has two veterinary establishments, a bus depot, contractor's office, auto repair/auto body and other similar uses. It also has some under-used or vacant buildings with relatively large floor spaces that could support physical fitness use. The Planning and Building Department have been approached by prospective tenants seeking class-based fitness programming but they have been advised that such uses are not permitted by zoning in this location.

This area could be challenging to support high-traffic generating uses such as a physical fitness facility since it lacks a formalized road through the area. ***Allowing physical fitness facilities is not recommended in the B-6 District.***

### RA, Apartment, Districts

There are many RA, Apartment Districts in the City. They are generally located on major roadways including Purchase Street north of I-95, Boston Post Road and Theodore Fremd, but also on some smaller side streets such as Orchard Avenue (between Theodore Fremd and Boston Post Road) and Cedar Place. These districts allow business uses such as ground floor retail and service business that support the needs of the apartment building and medical office such as those located along Purchase Street. It is not objectionable to allow physical fitness use in these locations if the community is seeking to expand the commercial viability of these locations for non-residential use. Given, however the general size, configuration, existing use and surrounding neighborhood context of many of the multi-family buildings in this district is ***not recommended that physical fitness use be allowed in the RA Districts.***

## **Consideration of Zoning Amendment to Allow Physical Fitness Use**

March 26, 2019

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### **Parking**

The Commission received comments from the Rye Free Reading Room (RFRR) noting concern with the potential parking impact a physical fitness use may have on potentially constrained parking conditions at City Hall. The Commission agreed that these concerns could be addressed at the time of site plan review as it considers potential restrictions on the types and timing of programmed activities for the new tenant of 1037 Boston Post Road. The Commission also notes that the RFRR received a considerable parking variance in connection with the construction of its addition in 2001. Improved program coordination between RFRR and the new 1037 BPR tenant may be required. Many uses such as office, restaurant and some retail uses already permitted in the B-1 and B-2 District could have parking demands as great or greater than the proposed physical fitness use.

### **SEQR**

The Planning Commission agrees that the addition of physical fitness use to existing business districts in the City would not result in significant adverse impacts.