

## **CITY OF RYE**

### **NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, March 10, 2010, at 8:00 p.m. in the Council Room of City Hall. *The Council will convene at 7:00 p.m. and it is expected they will adjourn into Executive Session at 7:01 p.m. to discuss personnel matters.*

### **AGENDA**

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meeting of the City Council held February 24, 2010.
5. View of the State Report by New York State Assemblyman George Latimer.
6. Residents may be heard who have matters to discuss that do not appear on the agenda.
7. Mayor's Management Report
  - Report on Recommendations for the City of Rye Law Department.
  - Update on the New York State Thruway Authority Lease for athletic fields.
  - Rye Town Park Parking Committee update.
  - Park Lane Parking update.
8. Consultant's Report on Rye Meeting House.
9. Public Hearing to amend Chapter 53, "Architectural Review" of the Code of the City of Rye by amending §53-3 "Meetings and Procedures of Board" regarding noticing requirements for applications and to rescind Chapter 68-8(G) "Building and Demolition Permits".
10. Public Hearing to amend the Code of the City of Rye Chapters and Sections: §170-6(F) "Subdivision of Land, Procedures for Tentative Approval of Preliminary Layout"; §170-7(C) "Procedures for Approval of Subdivision Plat"; §197-7 "Zoning, Site Development Plan"; §197-10 "Zoning, Uses Permitted Subject to additional Standards"; §197-81(F) "Zoning Appellate Jurisdiction of Board"; §195-5(C) "Wetlands and Watercourses, Public Hearings and Public Notification by Applicant"; §196-15 "Wireless Communications Facilities, Public Hearings Required", regarding noticing requirements.
11. Two appointments to the Finance Committee for a three-year term, by the Mayor with Council approval.
12. Designation of the Chairman of the Rye Playland Advisory Committee by the Mayor.
13. Miscellaneous communications and reports.

14. Old Business.
15. New Business.
16. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, March 24, 2010.  
The City Council will hold a special meeting on Monday, March 15, 2010.



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: March 2, 2010

CONTACT: Dawn F. Nodarse

**AGENDA ITEM:** Draft of the unapproved minutes of the regular Meeting of the City Council held on February 24, 2010, as attached.

**FOR THE MEETING OF:**

March 10, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve the draft minutes.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

Approve the Unapproved Minutes of the regular Meeting of the City Council held on February 24, 2010.

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on February 24, 2010 at 8:00  
P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI  
PAULA J. GAMACHE  
PETER JOVANOVIĆH (left the meeting at 11:35 p.m.)  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT: None

The meeting convened at 7:05 p.m. Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to immediately adjourn into Executive Session to discuss labor relations. Mayor French made a motion, seconded by Councilwoman Keith and unanimously carried to adjourn the Executive Session at 8:04 p.m. No decisions were made. The regular meeting convened at 8:08 p.m.

1. Pledge of Allegiance

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

2. Roll Call

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

3. General Announcements

Mayor French had the following announcements:

- He recently met with State and County officials and the financial outlook is not looking good. A special meeting of the Council will be scheduled for March 15<sup>th</sup> to review financial matters facing the City looking towards 2011.
- The City has notified the Court that it will not perfect the appeal in the Bowman Avenue litigation (*Collalucci v. Village of Rye Brook, et al.*) Mayor Feinstein has been notified of the decision and both mayors feel that collaboration between the municipalities relative to upstream flood mitigation alternatives is the way to go.

- He wishes to begin a pilot program of off-week work sessions that will allow for open discussions with the public on matters of importance to the City, with no Council action being taken.
- He attended the New York Conference of Mayors (NYCOM) meeting. There were discussions about legislation that municipalities wish to see enacted. One is in the area of AIM funding to ensure that the program continues and another is the STAR rebate program that the State is considering cutting back by exempting houses of \$1million in value or greater. Information will be put on the website.
- The first Town Hall meeting will be held with members of the City's Boards and Commissions.
- Former Mayor John Carey and Councilman Sack have looked at the structure of the Law Department and how litigation is conducted, and have prepared a report. Mayor Carey presented the background that he and Councilman Sack brought to the study, which provided their recommendations on the way the Law Department might be run in the future. He urged that the report be put on the website in order to receive public feedback. Councilman Sack said that they had approached the project with a focus on the structure of the Law Department, not the people. They tried to flag the key issues and ask questions relating to them in order to lay out a blueprint for future discussion. Mayor French said the document would remain confidential temporarily due to personnel matters involved that the Council needs to review. A formal presentation on the recommendations can be made at a future Council meeting.

Councilman Filippi had the following announcements:

- A Conservation Café on deer management will be held by the County on March 12<sup>th</sup> from 8:00 to 10:30 a.m. at the County Center in White Plains. Discussion topics will include culling and the effects of deer on the environment.

Councilwoman Keith had the following announcements:

- The Heard in Rye speaker series lecture "Families, Money & Habits – Navigating The New Normal and How Not To Be Your Child's ATM", originally scheduled for February 11, has been rescheduled to March 17 at 7:30 p.m. at the Rye Middle School
- The Fire Department is having a benefit this coming weekend at Locust Avenue headquarters from 1:00 to 5:00 p.m. to benefit Haiti. The Cub Scouts are also involved.
- On March 1 the County Board of Legislators is celebrating Women's History Month at 6:30 p.m. in their Chambers.
- A meeting of the Safe Routes Committee was held on Tuesday. Some great ideas came up as a result of the joint City Council/Board of Education meeting and will be introduced to the community to educate both adults and children.

4. Draft unapproved minutes of the regular meeting of the City Council held February 10, 2010

Councilwoman Keith made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the regular meeting of the City Council held on February 10, 2010, as amended.

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

*Arnold Lewis, 11 Loewen Court*, asked for an update on what was happening on the Central Avenue Bridge. There have been reports that it will be replaced with a foot bridge. Assistant City Manager Pickup said that the money for the repair comes from the State Department of Transportation (DOT) Emergency Relief Fund. The City must follow their check list in order to receive the funding. The design report has been fully submitted and its approval is awaited. At that time the City can draw up contracts and go out to bid and have the job under construction within 90 to 120 days. The DOT is under pressure to finish the stimulus projects and those projects are getting priority over traditional projects such as the bridge. If the City spends any money on the project prior to State authorization, it will not be reimbursed for that money. There will be no change in the design or function of the bridge.

*Jim Amico, 350 Midland Avenue*, spoke about two matters. He said that there is a great deal of talk about enforcement and moving forward the Police Department should be included in the public discussion. Mayor French said that a discussion of enforcement related issues is on the Council's radar for a public discussion possibly in May. City Manager Culross said the Police Department has redeployed resources and enforcement is up dramatically. In connection with Midland Avenue, he said the fence at the Recreation Department should be finished and said he believed the Council has the ability to override decisions made by the Recreation Commission. He also said that the issue of day camp pickup should be addressed prior to the Summer and suggested that the bump-out that is scheduled to be constructed would magnify the problem. Mayor French asked the City Manager for an update from Recreation Superintendent Rogal on the issue. Mr. Amico also passed out copies of the City Stop Sign policy and said he had highlighted areas that show reasons why stop signs should be erected.

*Bill Lawyer, 15 Hillside Place*, spoke for the Environmental Advocacy Group and asked for Council support on environmental issues such as vehicle idling, which is dangerous to health. The law prohibits vehicles from idling for more than three minutes and people should be encouraged to turn off their engines if they are parked for more than 30 seconds.

*Bob Zahm, 7 Ridgewood Drive*, asked when 2009 enforcement statistics by category and type of citation would be on the City website. City Manager Culross said the information is in the Annual Report that was distributed to the Council this evening and will be put on the website.

6. Mayor's Manager Report.

- Consultant's Report on Hydrology and Flood Related Items.

Assistant City Manager Pickup introduced David Weiss and Daniel Ionescu of WSP Sells who did the initial hydrology studies after the 2007 floods, and proposals and updates for the sluice gate design, as well as work on the proposals for resizing of the Upper Pond. They can also speak about Army Corps proposals relating to additional up stream detention projects. David Weiss said Sells was tasked with looking at flood improvement alternatives at the Bowman Avenue site, which culminated with a Project Report Flood Mitigation Study for the Bowman Avenue Dam Site that was dated October 2007. The option determined most feasible from that report was the sluice gate project. They have worked with the City to obtain the necessary funding for the project and are currently going through the permitting process with Westchester County, the Army Corps of Engineers and the NYS Department of Environmental Conservation (DEC) Dam Safety Unit. Once the approvals are received the project can go forward and the

project could possibly be operational by Fall. In connection with resizing of the Upper Pond, the scope of work will require a subsurface investigation to find a cost effective way of increasing the capacity and how much it can be increased. They must determine the feasible storage capacity and recalculate how much reduced flows and water surface elevations can be gained and identify any environmental issues. Additional storage provided upstream could delay the dam from going over. Daniel Ionescu said they are not looking to dredge the reservoir up stream in order to avoid contamination at the bottom of the pond. The idea would be to increase the size of the pond, not the depth to avoid the contamination at the bottom. This could involve removing rock and would increase the cost. They have to look at the cost/benefit impacts on flow reduction by removing rock.

Council comments and questions:

- Could anything impede the project being operational by Fall? (Nothing provided that the funding and the permits are in place. The IMA with the County to provide funding has been signed by the City but has not been received back from the County yet.)
- Is the NYS DEC experiencing the same delays as the DOT in processing approvals? (No. The DEC only issues permits, not funding.)
- What is the timeline for the Upper Pond resizing? (It is a federal program with money coming from FEMA. Once the specs are ready it will be resubmitted back to FEMA to get grant money of \$125,000 for a study. The total project could be from \$5 to \$7 million. The goal is to run the project through a FEMA program which would be a 75/25% federal/local split.)
- What happens if contamination is found in the subsurface testing? (The recommendation for treatment would depend on the level of contamination.)
- The project would involve excavating soft material and not blasting; but the study could determine that the project is not cost effective because there is not enough soft material to warrant doing it.
- When could the testing be completed? (Once the scope is authorized, staff will give the Council an estimated timeframe for results.)
- What about the lower pond? (Sells studied the lower pond and concluded that it did not offer any substantial flood reduction.)
- If the lower pond could be drained couldn't it save two hours in a 50-year flood? (The cost of pre-draining the lower pond was not considered cost effective and could range from \$12 to \$25 million for a reduction of three to seven inches.)
- How many more additional acres of water could the lower pond hold if it was drained? (If it was drained by gravity, an additional 67 acre feet. If mechanically drained by a pump, an additional 134 acre feet.)
- Why did they not recommend draining the lower pond? (The cost, difficulty to get approvals, ongoing pump maintenance, and isolation of storage area.)
- What else can be done upstream? (From a feasibility standpoint, the Army Corps has shown preliminary plans that detention basins could be utilized in the area of the SUNY Purchase campus and Anderson Hill Road. In order to be funded through the federal process it would have to be completed through the State. The study would cost approximately \$1.2 million and the State does not have the money. The project would then be in line for funding with flooding projects throughout the country.)

- What about the General Foods/Kraft channel – could something be done there? (That pond does not connect to the systems the City is working with. It is basically a stormwater detentions system for that development.)
  - If it is not feasible to enlarge the upper pond because of rock would the lower pond project become more attractive? (Sells did not find the lower pond project to provide much benefit when they did their study.)
  - The City does not control upstream areas, so the lower pond area should not be taken off the table.
  - Councilman Filippi, as liaison to the CC/AC, should create a common narrative for the public and provide time lines so everyone is on the same level in ongoing dialogues.
- City Planner's Report on Central Business District Streetscape Plan.

City Planner Christian Miller said the City is trying to coordinate downtown capital projects and retrofit a 19<sup>th</sup> Century Main Street to meet 21<sup>st</sup> Century needs. Many of the projects focused on accommodating the pedestrian in a heavily automobile environment. Some recommendations have been funded in the 2010 budget. He focused on three intersections:

- Locust Avenue and Purchase Street has been funded for design and construction in 2010. It will replace the existing traffic signal and provide pedestrian signals. It will provide a pedestrian bump-out that will widen the sidewalk in the area of Purchase Street opposite the Locust Avenue intersection. The City will try to value-engineer some enhancements to the existing crosswalks. The Fire Department will have the ability to override the signals.
- Theodore Fremd Avenue/Purchase Street/Purdy Avenue has been funded for design but not construction in 2010. The signal needs to be replaced to meet DOT requirements and will have pedestrian phases. A more formal dedicated left turn lane will be designed, which will require widening Theodore Fremd Avenue slightly. Staff will probably recommend funding construction in the 2011 budget at a cost of \$175,000 to \$200,000.
- Smith Street and Elm Place is not funded for design or construction at this time, but staff may be trying out different options for traffic control on a temporary basis that will enhance pedestrian safety. It may be better not to have a traffic signal at this location but to do something different with the treatment of the street such as signage or raising the intersection.

(Councilwoman Parker noted that she felt uncomfortable that the work would begin in the area where her store is located, but the project is driven by the location of the traffic lights and not the location of her store.)

Council questions and comments included:

- What is the difference in the Locust Avenue traffic light? (It will bring the signal up to New York State requirements. It will have pedestrian signals, and staff is looking at options for the visually impaired.)
- Is there any sequencing of lights in town currently? (No. Congestion is actually good for pedestrian safety.)



- Is County funding available for the Theodore Fremd/Purchase/Purdy intersection? (Staff will look to coordinate with the County plan to connect Playland with the Harrison and Rye train stations. They are always looking for funding opportunities.)

7. Consultant's Report on Pedestrian Safety at Sonn Drive

City Planner Miller said preliminary options would be presented that the City's staff and consultant have developed relative to pedestrian safety improvements on Boston Post Road at Osborn School between Osborn Road/Oakland Beach Avenue and Old Post Road, including Sonn Drive. The study and possible improvements were funded in the 2010 budget. Staff obtained a topographic and property line survey and retained traffic engineers in order to ensure that any changes are implemented in a safe manner. Peter Russillo of John Collins Engineers, P.C. said his firm prepared the working drawings for the Boston Post Road Lane reduction ("diet") that had been completed and they were asked to look at the section of the Post Road near Osborn School. They collected data regarding speed and traffic counts for peak student times and compared it with historical data and New York State data that was collected last June. They also performed a signal warrant analysis for the Sonn Drive intersection and determined that it does not meet the criteria for a signal at that location. He outlined alternatives for the area that could be utilized incrementally or in combination:

Alternative 1: Match the diet that is currently in existence south from Eldredge Place to Osborn Road and create separate left turn pockets at Osborn Road. Utilize the diet on the northbound side of Boston Post Road to increase the buffer area to nine feet from the sidewalk. Create a left turn pocket for traffic turning onto Old Post Road. Create a separate right turn lane into the school in order to keep queuing cars separate from cars traveling in the southbound lane. It would create one through lane of traffic on either side of the road.

Alternative 1A: Institute a raised crosswalk that is 22 feet long with a 10 foot wide platform. It is recognized to be one of the better traffic calming methods.

Alternative 1B: Add a traffic signal at Sonn Drive. Either a traffic signal or raised crosswalk would require a crossing guard.

Alternative 2: Develop a flush or raised median, similar to the one near the High School, and widen the Post Road on the southbound side by seven feet to develop a true right-turn pocket.

Alternative 2A: A raised crosswalk, additional signage, the additional buffer along the Sonn Drive side and raised medians to facilitate crossing one lane at a time.

Estimated costs for design and construction:

- Alternative 1 - \$60,000
- Alternative 1A - \$75,000
- Alternative 1B - \$165,000
- Alternate 2 after doing 1A or 1B would be \$20,000 to remove paint and \$55,000 for the right-turn lane

Council comments and questions:

- When the diet is implemented will the width from traffic be increased from two and one-half feet to nine feet? (Yes. The possibility of widening the sidewalk was explored, but because of limited right-of-way it made this impractical. The diet achieves that greatest level of separation of the pedestrian from the traveled way.)
- What about the “landing pad” to provide pedestrian queuing? (It is a relatively minor improvement and will be added to all the scenarios.)
- Would the sidewalk be removed in Alternative 2 in order to make the right turn into Osborn School? (The sidewalk would remain but some of the landscaped area near the curb would be lost.)
- Are there any current statistics on the average speed on the sections of the Boston Post Road where the diet has already been implemented? (Six months after the diet was in place studies showed speed was reduced by approximately four miles per hour.)
- How do speed tables work? (Some are rubber platforms that are drilled into the concrete. They can reduce speed by up to 25 %.)
- What is meant by not meeting the warrants? (In order to install a signal, it must meet a series of warrants or criteria that are based on pedestrian or vehicular volume.) Are there warrants for a crosswalk? (Yes. There must a certain number of demand that has to be coordinated with gaps through traffic at Post Road. Sonn Drive does not meet the warrants for a crosswalk.)
- Why is the Council being presented with options for a traffic light or crosswalk at Sonn Drive, when they have not been recommended as being safe in the past and do not meet warrants? (A crosswalk is not necessary at Sonn Drive because it will encourage pedestrians to cross at that location, which is 450 feet from a crossing guard and established crosswalk. The diet is the recommended solution.)
- The Council has received emails from neighbors in the Sonn Drive area who are still asking for a crosswalk and crossing guard at that intersection. The Traffic and Pedestrian Safety Committee and Police Department should be given time to review the issue.

*Bob Zahm, 7 Ridgewood Drive*, commented that he was in favor of implementing the diet first and then assessing if additional steps should be taken. He added that people cross at Sonn Drive because of convenience. He stated it would be helpful if the School District put up a ramp going into the playing field at the Osborn Road corner.

8. Public Hearing to de-map Edgar Place

Mayor French said that there is a project to expand the affordable housing located at Cottage Street off Midland Avenue, which would go toward the County Fair and Affordable Housing Settlement as well as provide an increase in property taxes to the City. City Planner Miller said the application for affordable housing was submitted to the Planning Commission a year ago and has also been granted variances by the Zoning Board of Appeals. It is a 22 unit development, with 18 units meeting the definition of affordable housing. In January the Planning Commission amended its approval to lift an age restriction on the development to people over 55, at the request of Westchester County. The last piece of the approval process is

that the applicant is requesting that Edgar Place, which is a technically mapped but not improved road, be officially de-mapped. The Planning Commission supports that request.

Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried, to open the public hearing.

No one from the public wished to comment.

Council comment and questions:

- What is the difference between right-of-way and owning the property? (A right-of-way is an area delineated as a future area for possible municipal improvements. In some cases they are owned by a municipality and in some cases they are privately owned. In this case it is privately owned.)
- Is there legislation in the Affordable Housing Settlement that says how long it must be maintained as affordable housing? (Affordability is based on family size and income data provided by the Department of Housing and Urban Development. It is adjusted every year. These units must maintain affordability for a 40-year period.)

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

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

WHEREAS, the Rye City Council received a request to remove Edgar Place from the City's Official Map to allow for the construction of an affordable housing community; and

WHEREAS, pursuant to Section 29 of General City Law of the State of New York, the proposed amendment was reviewed by the Rye City Planning Commission; and

WHEREAS, after due consideration, the Rye City Planning Commission in Resolution Number 3-2010 approved on February 2, 2010 recommended that the City Council approve the Official Map amendment; and

WHEREAS, pursuant to Section 29 of General City Law of the State of New York, a public hearing on the proposed Official Map amendment was held and closed on February 24, 2010 at which time all interested persons were given the opportunity to be heard;

NOW, THEREFORE BE IT RESOLVED, that the Rye City Council has determined that the proposed action will not have a significant adverse impact on the environment and hereby makes a negative declaration of environmental significance pursuant to the requirements of the State Environmental Quality Review Act (SEQRA); and

BE IT FURTHER RESOLVED, that the Rye City Council amends the Official Map of the City of Rye to remove the designation of Edgar Place as a future right-of-way.

ROLL CALL:

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

The Resolution was adopted unanimously.

9. Public Hearing to amend Chapter 10, "Committees" of the Code of the City of Rye by rescinding Article III to dissolve the Youth Advisory Committee

Mayor French said that this was a public hearing on dissolving the Youth Advisory Committee, but there was no action required to be taken other than having the public hearing.

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

*Former Councilman Robert Cypher, 75 Orchard Lane*, provided background on the Youth Advisory Committee. The purpose of the Youth Advisory Council was to solicit input from the youth of Rye in order to make them stakeholders in issues relating to them; identify issues that they felt were appropriate for City government; and provide the Council a valuable insight into what was going on with them. He said that if the Council is trying to determine what is on the minds of the community's youth, this Committee is a ready made resource. He said during his time on the Council the Youth Council commented on a proposed loitering law, which he felt was a poorly drafted law, and held their own before the Council. He added that he was disappointed that the Youth Advisory Council has gone dormant since he left the Council. The Council constantly needs replenishing and should include the cooperation of the School Board. He implored the Council to not let a valuable resource fall by the wayside.

Council comments and questions:

- How many adults were involved in the Youth Advisory Committee meetings? (Two. The Council liaison and a City staff member.)
- This could be discussed at the joint City Council/School Board meeting in April.
- More should be done to empower youth, but it is necessary to make sure there are real projects for them to focus on.

Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried to close the public hearing. There was no vote taken on the proposed local law.

10. Public Hearing to amend Article 20A, "Traffic and Transportation Committee" of the Charter of the City of Rye, Section C20A-2 to expand the number of members on the committee

Councilwoman Keith made a motion, seconded by Councilwoman Parker and unanimously carried to open the public hearing.

There was no one from the public wishing to comment.

Council comments and questions included:

- In the past the issue of increasing the number of spots on a committee has been politically charged, but is not in this case. The more the merrier if people want to participate.
- More people are needed on this committee because it has many projects to deal with.

Councilwoman Keith made a motion, seconded by Councilwoman Parker and unanimously carried to close the public hearing.

Councilman Sack made a motion, seconded by Councilwoman Keith, to adopt the following local law:

**LOCAL LAW  
CITY OF RYE NO. 2-2010**

**A Local law to amend Article 20A, “Traffic and Transportation Committee”  
by amending the name of the committee to the “Traffic and Pedestrian Safety Committee”  
and §C20A-2, “Appointment” of the City Charter of City Code  
of the City of Rye.**

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

**Section 1.**

**ARTICLE 20A      Traffic and Pedestrian Safety Committee (§ C20A-1 - § C20A3)**

**Section 2.**

**§ C20A-1      Committee; intent.**

There shall be a Traffic and Pedestrian Safety Committee to advise the City Council and other entities on traffic and pedestrian safety issues in the City of Rye.

**Section 3.**

**C20A-2      Appointment.**

The Traffic and Pedestrian Safety Committee shall consist of not less than seven nor more than eleven members to be appointed by the Mayor with the approval of the Council. The members shall continue in office until the expiration of their terms, and thereafter their successors shall be appointed for terms of three years from and after the expiration of the term of their predecessors in office. The Mayor shall designate from amongst any of the members, the Chair of the

Committee. Vacancies occurring otherwise than by expiration of term shall be filled by the Mayor with Council approval. The members of the Committee shall choose from their number a Vice Chairperson and Secretary. In their work the Committee may utilize the assistance of additional volunteers interested in traffic and transportation issues. The City Manager, President of the Board of Education, and the Superintendent of Schools or their representatives shall serve as ex officio members of the Committee.

**Section 4. Severability**

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

**Section 5.**

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

ROLL CALL:

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

The local law was unanimously adopted.

Upon adoption of Local Law No. 2 the following resolutions were adopted to appoint two additional members to the newly renamed Traffic and Pedestrian Safety Committee.

Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried to appoint Steven Secon to a three-year term expiring on January 1, 2013.

Councilwoman Keith made a motion, seconded by Councilman Filippi and unanimously carried to appoint Maureen Gomez to a three-year term expiring on January 1, 2013.

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Additionally, Mayor French said he would like to make an appointment for an opening on the Rye Cable Television Committee.

Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried to appoint Sandhya Subbarao to the Rye Cable Television Committee to a term expiring on January 1, 2011.

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11. Discussion of SEQR Notice for Port Chester to serve as Lead Agency for the Redevelopment of the former United Hospital Site by Starwood Capital Management

City Manager Culross said the Village of Port Chester has served notice of its intent to serve as Lead Agency on a project to redevelop the former United Hospital property. He suggested that Port Chester is the appropriate lead agency, but the City should request that they conduct an Environmental Impact Statement (EIS) including a public scoping session for the project. There are potential impacts to the City including traffic, aesthetics, visuals, community services and infrastructure capacity. Port Chester has acknowledged the City as an interested party and they have agreed to provide a presentation to the City.

Council comment and questions:

- What does it mean to be a Lead Agency? (Any state or local agency that has any approval authority over a project has the ability to be the Lead Agency. It is the agency that conducts the environmental review, conducts the hearings and establishes the process. The City does not have any approval authority and is considered an Interested Agency.)
- Is there any way for the City to be formally involved in the process? (By responding to the notice and requesting the EIS and scoping session.)
- Are there different levels of Environmental Statements that can be requested? (The City will request that a full EIS be prepared. An EIS is an extensive process that affords multiple opportunities for comment.)

The Council requested that the City Manager send a letter to the Village of Port Chester requesting that a full EIS, including a public scoping session, be conducted in connection with the Redevelopment of the former United Hospital Site by Starwood Capital Management.

12. Consideration to set a public hearing to amend Chapter 53, “Architectural Review” of the Code of the City of Rye by amending §53-3 “Meetings and Procedures of Board” regarding noticing requirements for applications and to rescind Chapter 68-8(G) “Building and Demolition Permits”

Agenda Items 12 and 13 were discussed simultaneously.

Interim Corporation Counsel Wilson said that Agenda Item #12 refers to noticing procedures for the Board of Architectural Review and Agenda Item #13 refers to the noticing requirements for other Boards. The two issues in each law deal with the type of mailing and the distance or radius of notification requirements. Comments on the proposed laws have been received from the Board of Architectural Review (BAR), the Planning Commission and the Zoning Board of Appeals. There was a consensus from the Boards that a Certificate of Mailing, without the return receipt, was adequate but clarification may be needed requiring notification of “immediate” or “abutting” properties.

*Irwin Lefkowitz, 38 Oakwood Avenue*, stated that he believed a person should be able to develop their property within the requirements of the building and zoning laws without notifying their neighbors and asking permission of a Board or Commission. Only special approvals that fall outside the building and zoning laws should require notification.

Council comment and questions:

- City Planner Miller should be asked for a recommendation on how things would work best for City departments if the Council wishes to enhance notification requirements.
- There seems to be agreement about method of mailing but not about distance requirements. (The Planning Commission deals with larger scale projects and may need a larger noticing area than the Board of Architectural Review, which is a reason for separate local laws.)
- Can mail be certified without a return receipt? (Yes. The certification is the Post Office saying that the mailings were received for mail on a specific date. A return receipt requires the recipient to go to the Post Office if they are not home to receive the letter.)
- Could form of notice be amended to require more information about the scale of a project?

*Bruce Stevens, 10 Seneca Street*, said the Council must determine how any changes in the law would be enforced and that there should be an appeals process if the rules are violated. He added that there should be an emphasis on things being done properly. City Planner Miller said that currently there is not an appeals process to a City board for appealing a notice defect. Currently the only recourse is an Article 78 legal proceeding. He said the proposed certified mailing notice requirement is better for anyone trying to challenge a decision because it provides proof not only that a mailing was made but that it was done in the required time period.

The City Planner was asked to structure a local law based on the recommendations of the Planning Commission calling for certified mail without return receipt; eliminating personal delivery; changing the notification distances for the Planning Commission; 250 feet noticing distance for BAR applications; making the notification periods consistent; only requiring newspaper notification where required by State Law; and eliminating the requirement that every unit in an apartment be notified.

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

**WHEREAS**, the Council wishes to amend Chapter 53, Architectural Review, of the Code of the City of Rye by amending Section 53-3, Meetings and Procedures of Board and Section 53-10 Appeals; and

**WHEREAS**, the Council wishes to repeal Chapter 68, Building Construction, Section 68-8(G), Notice, of the Code of the City of Rye; and

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

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

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the



Council of said City on March 10, 2010 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

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

**PUBLIC NOTICE  
CITY OF RYE**

**Notice of Public Hearing on a proposed local law to amend Chapter 53, “Architectural Review” by amending §53-3 “Meetings and Procedures of Board”, §53-10 “Appeals” and to repeal Chapter 68, Building Construction, §68-8(G) “Notice” of the Code of the City of Rye.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 10th day of March, 2010 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend Chapter 53, “Architectural Review” by amending §53-3 “Meetings and Procedures of Board”, §53-10 “Appeals” and to repeal Chapter 68, Building Construction, §68-8(G) “Notice” of the Code of the City of Rye.

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

Dawn F. Nodarse  
City Clerk  
Dated: March 3, 2010

Councilman Jovanovich had left the meeting prior to the vote being taken. The motion was passed unanimously by the remaining Councilmembers.

13. Consideration to set a public hearing to amend the Code of the City of Rye Chapters and Sections: §170-6(F) “Subdivision of Land, Procedures for Tentative Approval of Preliminary Layout”; §170-7(C) “Procedures for Approval of Subdivision Plat”; §197-7 “Zoning, Site Development Plan”; §197-10 “Zoning, Uses Permitted Subject to additional Standards”; §197-81(F) “Zoning Appellate Jurisdiction of Board”; §195-5(C) “Wetlands and Watercourses, Public Hearings and Public Notification by Applicant”; §196-15 “Wireless Communications Facilities, Public Hearings Required”, regarding noticing requirements

See Discussion above.

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

**WHEREAS**, the Council wishes to amend the Code of the City of Rye Chapters and Sections: §170-6(F), Subdivision of Land, Procedures for Tentative approval of Preliminary Layout; §170-7(C), Procedures for Approval of Subdivision Plat; §197-7, Zoning, Site Development Plan; §197-10, Zoning, Uses Permitted Subject to additional Standards; §197-81(F), Zoning Appellate Jurisdiction of Board; §195-5(C), Wetlands and Watercourses, Public Hearings and Public Notification by Applicant; §196-15, Wireless Communications Facilities, Public Hearings Required, regarding noticing requirements; and

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

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

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on March 10, 2010 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

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

**PUBLIC NOTICE  
CITY OF RYE**

**Notice of Public Hearing on a proposed local law to amend the Code of the City of Rye Chapters and Sections: §170-6(F) “Subdivision of Land, Procedures for Tentative approval of Preliminary Layout”; §170-7(C) “Procedures for Approval of Subdivision Plat”; §197-7 “Zoning, Site Development Plan”; §197-10 “Zoning, Uses Permitted Subject to additional Standards”; §197-81(F) “Zoning Appellate Jurisdiction of Board”; §195-5(C) “Wetlands and Watercourses, Public Hearings and Public Notification by Applicant”; §196-15 “Wireless Communications Facilities, Public Hearings Required”, regarding noticing requirements.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 10th day of March, 2010 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend the Code of the City of Rye Chapters and Sections: §170-6(F) “Subdivision of Land, Procedures for Tentative Approval of Preliminary Layout”; §170-7(C) “Procedures for Approval

of Subdivision Plat”; §197-7 “Zoning, Site Development Plan”; §197-10 “Zoning, Uses Permitted Subject to additional Standards”; §197-81(F) “Zoning Appellate Jurisdiction of Board”; §195-5(C) “Wetlands and Watercourses, Public Hearings and Public Notification by Applicant”; §196-15 “Wireless Communications Facilities, Public Hearings Required”, regarding noticing requirements.

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

Dawn F. Nodarse  
City Clerk  
Dated: March 3, 2010

14. Schedule a special meeting of the City Council on Monday, March 15, at 7:00 p.m. for an update on the City’s financial position

Mayor French made a motion, unanimously carried, to schedule a special meeting of the City Council on Monday, March 15, 2010 at 7:00 p.m. for an update on the City’s financial position.

15. Miscellaneous communications and reports

Councilman Filippi announced that on Saturday, February 27<sup>th</sup> from 10:00 a.m. to 12:00 p.m. volunteers would be working on the Bird Homestead at 600 Milton Road, if anyone was interested in helping.

16. Old Business

Councilman Filippi said that a dog had recently been attacked by a coyote. He advised releasing a dog from their leash in order for the dog to defend itself better.

Councilwoman Parker remarked that implementing changes in the area of Sonn Drive prior to the beginning of the school year would be dependent upon the information in the financial update at the March 15<sup>th</sup> meeting.

Mayor French said the Council might look at the policy issue relative to prohibiting or permitting sledding at the Rye Golf Club. Councilman Sack asked Interim Corporation Wilson for a report on the legal alternatives regarding liability and other alternatives to the sign that is currently posted reading “sledding prohibited” such as “sledding at your own risk”.

17. New Business

Councilwoman Keith asked if the Council wanted to list information about registering for the City’s listserv in the Rye City School’s Community News. City Manager Culross said it was

his understanding that the Council wanted to ask the Cable Television Commission to look at this as a possibility. Mayor French said this might be a topic for a work session.

Councilwoman Parker referred to an email sent by Ray Tartaglione about the law regarding the Planning Commission hiring experts and asked for background. City Manager Culross said that the City law in question had a sunset provision and was never renewed. He said he believed City Planner Miller was in favor of a law similar to the expired law, if not exactly the same.

*Ray Tartaglione* inquired about Councilman Sack's request for an update on Hen Island. City Manager Culross said a report on Hen Island was sent to the City Council on February 4<sup>th</sup>. He read from the report indicating that he had asked the Building and Planning Departments on the status. The Kuder Island Wetland permit application was denied and is now pending before the Building Department as a violation. The Building Department is working in cooperation with the Corporation Counsel on the issue. Building Inspector Tamburro has reported that there are many outstanding items as a consequence of the violations sent out last April. The shareholders have submitted 11 electrical permits to legalize electrical work and nine have received certificates of completion. The storage of propane tanks has been eliminated. The accumulation of brush and trash has been resolved. The Building Inspector has met with Kuder Island Board Members and Shareholders to review proposed solutions to structural issues and corrective measures that require approval. There are still issues relative to cottage 18 that he is working on. *Mr. Tartaglione* also requested that the City Manager be directed to ask the County of Westchester to reopen their investigation on Hen Island. Councilman Sack said that the City could ask the County to take a look at the issue without taking a position.

18. Adjournment

There being no further business to discuss, Councilwoman Keith made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the meeting at 11:59 a.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk



# CITY COUNCIL AGENDA

NO. 7

DEPT.: City Council

DATE: March 2, 2010

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Mayor's Management Report

**FOR THE MEETING OF:**

March 10, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Manager provide a report on requested topics.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The Mayor has requested an update from the City Manager on the following:

- Report on Recommendations for the City of Rye Law Department.
- Update on the New York State Thruway Authority Lease for athletic fields.
- Rye Town Park Parking Committee update.
- Park Lane Parking update.



# CITY COUNCIL AGENDA

NO. 8

DEPT.: City Manager's Office

DATE: March 2, 2010

CONTACT: Frank J. Culross, City Manager

**AGENDA ITEM:** Consultant's Report on the Rye Meeting House.

**FOR THE MEETING OF:**

March 10, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** Presentation on the Rye Meeting House.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

A presentation will be made by Ms. Lisa A. Easton, AIA of Easton Architects, LLP on the Rye Meeting House.



# CITY COUNCIL AGENDA

NO. 9

DEPT.: City Mayor

DATE: March 2, 2010

CONTACT: Mayor Doug French

**ACTION:** Public hearing to amend Chapter 53, "Architectural Review" of the Code of the City of Rye by amending §53-3 "Meetings and Procedures of Board" regarding noticing requirements for applications and to rescind Chapter 68-8(G) "Building and Demolition Permits".

**FOR THE MEETING OF:**

March 10, 2010

**RYE CITY CODE,**

CHAPTER  
SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** Based upon concerns from a resident who indicated he and his neighbors did not receive notice of a BAR application, the City Council discussed revising Code provisions relating to notice for BAR applications.

See attached draft Local Law(s) to amend Chapter 53 "Architectural Review"

See attached comments from the Board of Architectural Review, the Board of Zoning Appeals, and the Rye Planning Commission regarding the revisions.

**LOCAL LAW  
CITY OF RYE NO. \_\_\_ OF 2010**

**A Local law to amend Chapter 53 “Architectural Review” by amending §§ 53-3 and 53-10 of the City Code of the City of Rye and rescinding § 68-8 “Building and Demolition Permits” (G) “Notice”.**

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

**Section 1.** Chapter 53 “Architectural Review” is hereby amended by amending Section 53-3 “Meetings and procedures of Board” as follows:

§ 53-3. Meetings and procedures of Board.

C.

Notice. An applicant for a building permit needing Board of Architectural Review approval for any project, except small projects as defined in Chapter 53, shall notify abutting property owners and property owners across the street of the application upon its filing and at least 14 days before the date of any Board of Architectural Review meeting. To facilitate notification of the public, a public notification list shall be prepared by the applicant, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owner's name and owner's mailing address for each property as described by the rules and schedule B of the Building Department. If a property within the notification area is a multi-family dwelling, apartment building, cooperative or similar type residential structure, the applicant shall send the notice to the property owner of record. Such notices shall be mailed by first-class mail and the notice shall substantially conform to the model notice in Schedule A. The applicant must obtain a certificate of mailing for every notice mailed. All notices mailed must be sent via certified mail (no return receipt required). All certificates of mailing must be provided to the Building Department at least five (5) days prior to the public hearing.

**Section 2.** Repeal.

Repeal Section 68-8 “Building and Demolition Permits” (G) Notice.

**Section 3.** Severability

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

**Section 4.**

This local law shall take effect as of May 1, 2010.



DRAFT

To: Rye City Council

From: Rye City Board of Architectural Review

Date: February 11, 2010

Re: Proposed amendments to the notice provisions of Section 53-3 of the City Code

The members of the Rye City Board of Architectural Review ("BAR") have reviewed the proposed amendments to Section 53-3 of the Rye City Code and have the following comments and suggestions.

Extent of Property Owners to be Notified

The members of BAR believe that the interests of neighbors beyond the abutting neighbors are affected by the structures on close by properties. Therefore, the members of BAR recommend that both the terms "immediate neighbors" and "abutting property owners" be replaced by the term "owners of property located within 250 feet of the perimeter (as determined by the Rye City Tax Assessor's office) of the property which is the subject of the application."

If a decision is made to retain the current requirement that only the abutting property owners be notified, the members of BAR believe that ambiguity is created by using the term "immediate neighbors" in the first sentence of the notice paragraph and the term "abutting property owners" in the third from last sentence of the paragraph. To remove this ambiguity and to remove any ambiguity as to whether the preceding terms include neighbors across the street from the applicant, the members of BAR recommend that both of the foregoing terms be replaced by the term "abutting and opposite property owners."

Confirmation of Mailing

The members of BAR recommend that only a certificate of mailing be required to be obtained from the Post Office and that certified mail not be required if it is not necessary to obtain a certificate of mailing. The members of BAR believe that the most economical method of obtaining proof of mailing from the Post Office should be required.

The members of BAR also recommend that a certificate of mailing be required for each property owner required to be notified, not just the abutting property owners if the standard is increased to 250 feet of the property line.

List of Property Owners Notified

The members of BAR recommend that the applicant be required to attach the list of property owners to be notified supplied to the applicant by the City Tax Assessor's office both to eliminate the need for the applicant to copy that list in a different form and to clarify that the City Tax Assessor's office computer program provides the Tax Map

sheets, blocks and lot numbers, names, and mailing addresses to be notified. To accomplish this, the members of BAR recommend that “a public notification list shall be prepared by the applicant, using the most current City of Rye Tax Assessment Roll, showing” be deleted and replaced by “a public notification list shall be obtained from the City of Rye Tax Assessor’s office, showing”.

Board of Architectural Review

**To: Rye City Council**

**From: Rye City Zoning Board of Appeals**

**Date: February 17, 2010**

**Re: Proposed local laws regarding noticing provisions**

The members of the Rye City Zoning Board of Appeals have reviewed the proposed amendments to the Rye City Code regarding noticing provisions. The general consensus among the Board members is that the proposed law is fine as written. Yet some are opposed to anything that increases the burden on the applicant with respect to Board of Architectural Review (BAR) applications.

**Alan S. Weil  
Chairman  
Board of Appeals**

Christian K. Miller, AICP  
City Planner  
1051 Boston Post Road  
Rye, New York 10580



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<http://www.ryeny.gov>

**CITY OF RYE**  
**Department of Planning**

**Memorandum**

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To: Rye City Council

From: Christian K. Miller, AICP, City Planner  
Barbara Cummings, Chair, Rye City Planning Commission

cc: Rye City Planning Commission  
Frank J. Culross, City Manager  
Kristen K. Wilson, Corporation Counsel

Date: February 11, 2010

Subject: **Proposed Local Law Amending Notification Requirement for Land Use Applications**

At its February 2, 2010 meeting, the Planning Commission discussed the proposed amendments to the City's notification requirements for land use applications. Overall the Commission supports changes in the existing requirements. The Commission encourages the City Council to consider the following recommendations:

- *Simplicity and Consistency.* Changes in the notification requirements should be as consistent and as simple as practical. Currently, there is considerable variation in the notice requirements depending on the land use board and approval type. In addition, the requirements are somewhat complex making it difficult for the public and applicants to understand and comply. Greater consistency and simplicity in the requirements will help avoid potential confusion, resulting in greater compliance and ultimately more effective notice to the public.
- *Delivery.* As previously noted in a December 16, 2009 memorandum to the City Council, the Commission agreed a certification of mailing by the Postal Service would be more appropriate than requiring a return receipt. A return receipt requires property owners to be present and sign for the mailing in order to receive the notice. If they are not present they will not receive the notice in a timely manner. In many cases, property owners will have to go to the Post Office to pick up the notice, which would be difficult or impossible for property owners

who work or have obligations during post office hours. The result could be that recipients might receive the notice after the meeting or not at all.

Certification of mailings will result in a third party (the U.S. Postal Service) certifying the mailing that the mailing occurred and on what date. The Commission agreed that personal delivery should be eliminated. Personal delivery of notices by applicants or their representatives cannot be verified. Applicants provide an affidavit of mailing compliance, which is required to be notarized. City Staff and many area businesses such as banks no longer provide notary services, which makes completion of the affidavit more challenging. Allowing personal delivery for some notices and requiring postal delivery for other notices also creates confusion resulting in potential delivery errors and notice defects that can compromise a board decision.

- *Notification Distances.* The Commission agreed that there should be a reduction in the notification distances for some types of applications. Existing notification distances (i.e. abutters and those opposite a property) for wetland permit and Board of Architectural Review (BAR) applications is acceptable. The Commission agreed that notification distances for other land use applications (except telecommunication applications) should be reduced to 300 feet. This distance is currently provided on the City's online mapping, which produces automated mailing lists. Current distances of either 750 or 500 feet (depending on zoning district) are excessive for a relatively dense community like Rye with relatively small lots. Consider the following notification requirements for a sample of properties in Rye based on different notification distances.

**Number of Notices Required for Sample Properties  
 Based on Varying Notification Distances**

<b>Property Location And Zoning District</b>	<b>100 Feet</b>	<b>300 Feet</b>	<b>500 Feet</b>
73 Hewlett Ave (R-4)	12	33	63
40 Kirby Lane (R-1)	11	20	34
5 Central Ave. (R-5)	13	195*	224*
21 Chester Dr. (R-2)	9	27	51

\* Includes Blind Brook Lodge and other area multi-family buildings.

- *Notice to "Apartment List".* The Commission agreed that requiring mailings to every unit listed on the City's "Apartment List" is excessive and should not be required. The Commission agreed that notice should be limited to the property owners and noted that renters of single-family, two-family and other multi-family units are not noticed under current law.

- *Newspaper Notification.* The Commission supports eliminating the existing legal requirement that notices for wetland permits be published in the Official Newspaper. Few read newspaper notices and therefore these notices provide little value and are an expense to the City. Newspaper notification should be limited to only where it is required by applicable state laws.
- *Notification Period.* Notices for BAR should be delivered 10 days before a meeting, which is consistent with all Planning Commission and Board of Appeals applications.
- *Notification Signs.* The Commission agreed that existing requirements for notification signs should remain unchanged.
- *Abutters Clarification.* The term "abutters" is a misnomer and should be clarified in the law to indicate that it also includes properties located across the street.



# CITY COUNCIL AGENDA

NO. 10

DEPT.: City Mayor

DATE: March 2, 2010

CONTACT: Mayor Doug French

**ACTION:** Public hearing to amend the Code of the City of Rye Chapters and Sections: §170-6(F) “Subdivision of Land, Procedures for Tentative Approval of Preliminary Layout”; §170-7(C) “Procedures for Approval of Subdivision Plat”; §197-7 “Zoning, Site Development Plan”; §197-10 “Zoning, Uses Permitted Subject to additional Standards”; §197-81(F) “Zoning Appellate Jurisdiction of Board”; §195-5(C) “Wetlands and Watercourses, Public Hearings and Public Notification by Applicant”; §196-15 “Wireless Communications Facilities, Public Hearings Required”, regarding noticing requirements.

**FOR THE MEETING OF:**

March 10, 2010

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** Based upon concerns from a resident who indicated he and his neighbors did not receive notice of a BAR application, the City Council discussed revising Code provisions relating to notice for the various board applications.

See attached draft Local Law.



**LOCAL LAW  
CITY OF RYE NO. \_\_\_ OF 2010**

**A Local law to amend the Code of the City of Rye Chapters and Sections: §170-6(F) “Subdivision of Land, Procedures for Tentative approval of Preliminary Layout”; §170-7(C) “Procedures for Approval of Subdivision Plat”; §197-7 “Zoning, Site Development Plan”; §197-10 “Zoning, Uses Permitted Subject to additional Standards”; §197-81(F) “Zoning Appellate Jurisdiction of Board”; §195-5(C) “Wetlands and Watercourses, Public Hearings and Public Notification by Applicant”; §196-15 “Wireless Communications Facilities, Public Hearings Required”, regarding noticing requirements.**

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

**Section 1. Chapter 170 “Subdivision of Land” is hereby amended by amending Section 170-6 “Procedures for Tentative approval of Preliminary Layout” as follows:**

§ 170-6 (F). Procedures for Tentative approval of Preliminary Layout.

F. Informal public hearing and public notification by subdivider. The Planning Commission, at its discretion, may hold an informal public hearing on the preliminary layout, particularly where the layout of the subdivision will affect adjacent properties. In the event that more than one informal public hearing is held, a fee, to be set by the City Council annually by resolution before adoption of the budget, shall be paid for each additional informal public hearing. To facilitate notification of the public, a public notification list shall be prepared by the subdivider, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owner’s name and owner’s mailing address for each property located wholly or partially within 300 feet of the perimeter of the property that is the subject of the application. If a property on the public notification list is also listed as a cooperative or an apartment on a list entitled “Apartment List City of Rye,” maintained by the City Assessor’s office, the notice shall only be mailed to the property owner of record. When an informal public hearing is required by the Planning Commission, the subdivider shall deliver a copy of the public notice provided by the City Planner to all of the property owners contained on the public notification list and shall post a sign on the property in accordance with the following requirements:

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

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

- (5) In accordance with General City Law, at least five days prior to the public hearing, the City will publish a notice regarding the public hearing in the official newspaper of the City. The applicant shall be responsible for payment of all fees associated with such publication and any subsequent publication necessary.

**Section 2. Chapter 170 “Subdivision of Land” is hereby amended by amending Section 170-7(C) “Procedure for Approval of Subdivision Plat” as follows:**

Public hearing and public notification by subdivider. Before the Planning Commission acts on any subdivision plat, it shall hold a public hearing thereon in accordance with the General City Law. To facilitate notification of the public, a public notification list shall be prepared by the subdivider, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owner’s name and owner’s mailing address for each property located wholly or partially within 300 feet of the perimeter of the property that is the subject of the application. If a property on the public notification list is also listed as a cooperative or an apartment on a list entitled “Apartment List City of Rye,” maintained by the City Assessor’s office, the notice shall only be mailed to the property owner of record. When an informal public hearing is required by the Planning Commission, the subdivider shall deliver a copy of the public notice provided by the City Planner to all of the property owners contained on the public notification list and shall post a sign on the property in accordance with the following requirements:

- (1) The mailing shall be limited solely to the public notice provided to the applicant by the City Planner.
- (2) The public notice shall be mailed to all property owners by certified mail with certificate of mailing (no return receipt necessary) at a post office or official depository of the Postal Service, at least 10 days prior to the date of the public hearing.
- (3) At least five business days prior to the public hearing, the subdivider shall provide to the City Planner all certificates of mailing.
- (4) At least one week preceding the date of the public hearing at least one sign, a minimum of two feet by three feet in size and carrying a legend prescribed by the Planning Commission announcing the public hearing, shall be posted on the property. The height of the lettering on the sign shall be no less than two inches, except that the words PUBLIC NOTICE appearing at the top of the sign shall have no less than five-inch-high lettering. The sign shall be in full public view from the street and not more than 30 feet therefrom. The sign shall be removed from the property within two days after the public hearing.

- (5) In accordance with General City Law, at least five days prior to the public hearing, the City will publish a notice regarding the public hearing in the official newspaper of the City. The applicant shall be responsible for payment of all fees associated with such publication and any subsequent publication necessary.

**Section 3. Chapter 196-15 “Telecommunications – Public hearing required” is hereby amended by amending Section 196-15(A) “Public hearing and public notification by applicant” as follows:**

§ 196-15 Public hearing required.

A.

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

(1)

The delivery of mailing shall be limited solely to the public notice provided by the City Planner.

(2)

The public notice shall be mailed to all property owners by certified mail with certificate of mailing (no return receipt necessary) at a post office or official depository of the Postal Service, at least 10 days prior to the date of the public hearing.

(3)

At least five business days prior to the public hearing, the applicant shall provide to the City Planner all certificates of mailing.

(4)

At least on week preceding the date of the public hearing, at least one sign, a minimum of two feet by three feet in size and carrying a legend prescribed by the City Council announcing the public hearing, shall be posted on the property. The height of the lettering on the sign shall be no less than two inches, except that the words “PUBLIC

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

**Section 4. Chapter 195-5(C) “Permit standards and procedures” is hereby amended by amending Section 195-5(C) “Public hearing and public notification by applicant” as follows:**

**§ 195-5(C) Public hearings and public notification by applicant.**

(1)

When an activity subject to regulation under this chapter also requires Planning Commission approval pursuant to another chapter of the Code of the City of Rye, the requirements for public hearings and public notification by the applicant shall be the same as required for the other approval. When the only other approval involves Chapter 73, Coastal Zone Management Waterfront Consistency Review, the requirements below shall apply. When an activity subject to regulation under this chapter does not also require Planning Commission approval pursuant to another chapter of the Code of the City of Rye and, in the case of Chapter 73, Coastal Zone Management Waterfront Consistency Review, before the Planning Commission acts on the application, it shall hold a public hearing. The applicant shall provide additional public notification in accordance with the public notification requirements set forth in the Planning Commission’s rules and regulations adopted pursuant to this chapter. All public notifications must be mailed via certified mail with a certificate of mailing. At least five (5) days prior to the public hearing, all certificates of mailing must be turned into the Planning Commission.

(2)

Insofar as possible, any public hearing on the application shall be integrated with any public hearing required or otherwise held pursuant to any other law, including the State Environmental Quality Review Act, and only one public notice need be prepared, provided that the notice contains all of the information required for each hearing.

(3)

Any party may present evidence and testimony at the hearing. At the hearing, the applicant shall have the burden of demonstrating that the proposed activity will be in accord with the goals and policies of this chapter and the standards set forth in § 195-5D.

**Section 5. Chapter 197-81 “Appellate Jurisdiction of Board” is hereby amended by amending Section 197-81(F) “Public Notification by applicant” as follows:**

To facilitate public notification, the applicant shall prepare a public notification list using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block

and lot number, the owner's name and the owner's mailing address for each property located wholly or partially within 300 feet of the perimeter of the property that is the subject of the application. The applicant shall deliver a copy of the public notice provided by the City Clerk to all of the property owners contained on the public notification list by mail in accordance with the following requirements:

- (1) The mailing shall be limited solely to the public notice provided to the applicant by the City Planner.
- (2) The public notice shall be mailed to all property owners by certified mail with certificate of mailing (no return receipt necessary) at a post office or official depository of the Postal Service, at least 10 days prior to the date of the public hearing.
- (3) At least five business days prior to the public hearing, the subdivider shall provide to the City Clerk all certificates of mailing.
- (4) In accordance with General City Law, at least five days prior to the public hearing, the City will publish a notice regarding the public hearing in the official newspaper of the City. The applicant shall be responsible for payment of all fees associated with such publication and any subsequent publication necessary.

**Section 6.** Severability

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

**Section 7.**

This local law shall take effect as of May 1, 2010.



# CITY COUNCIL AGENDA

NO. 11

DEPT.: City Mayor

DATE: March 2, 2010

CONTACT: Mayor Doug French

**ACTION:** Two appointments to the Finance Committee for a three-year term, by the Mayor with Council approval.

**FOR THE MEETING OF:**

March 10, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve the appointments.

**IMPACT:**  Environmental  Fiscal  Neighborhood X Other:

**BACKGROUND:**



# CITY COUNCIL AGENDA

NO. 12

DEPT.: City Council

DATE: March 5, 2010

CONTACT: Mayor French

**ACTION:** Designation of the Chairman of the Rye Playland Advisory Committee by the Mayor.

**FOR THE MEETING OF:**

March 10, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**