

## **CITY OF RYE**

### **NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, August 11, 2010, at 8:00 p.m. in the Council Room of City Hall.

### **AMENDED AGENDA**

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meeting of the City Council held July 21, 2010 and the special meeting of the City Council held July 26, 2010.
5. Residents may be heard who have matters to discuss that do not appear on the agenda.
6. Mayor's Management Report
  - Legal update
  - Status of Labor Contracts update
  - United Water Rate case update
- 6A. Presentation by the Finance Committee on City debt limitations.
7. Public Hearing to amend local law, Chapter 144, Peddling and Soliciting, of the Rye City Code, to revise the law on solicitation.
8. Public Hearing to repeal Chapter 87, Environmental Quality Review, and add new Chapter 87, Escrow Provisions, of the Rye City Code to assign the costs of any experts utilized by a City Board or Commission to the applicant.
9. Resolution authorizing the City Comptroller to seek Revenue Anticipation Notes (RAN) for specific capital projects.  
Roll Call.
10. Resolution authorizing the City Comptroller to reallocate the Recreation Bond to be used for debt service.  
Roll Call.
11. Resolution authorizing the City Manager to sign the settlement agreement, Memorandum of Understanding, between 151 Purchase Street Associates, LLC and the City of Rye.  
Roll Call.
12. Authorization for City Manager to seek an RFP for the City of Rye Corporation Counsel position.
13. Resolution establishing a standard workday for elected and appointed officials as per new reporting requirements of the New York State and Local Employees' Retirement System.

14. Appointments to the Rye Town Park Advisory Committee by the Mayor with Council approval.
15. Discussion of and appointments to the Rye Playland Strategic Planning Working Group.
16. Adoption of the 2010/2011 tax levy and tax rate for the Rye Neck Union Free School District. Roll Call.
17. Resolution to declare certain equipment and vehicles as surplus. Roll Call.
18. Consideration of request for permission to close a section of Purchase Street for the 58<sup>th</sup> annual celebration of the Halloween Window Painting Contest.
19. Miscellaneous communications and reports.
20. Old Business.
21. New Business.
22. Adjournment.

\*\*\*\*\*

The next regular meeting of the City Council will be held on Wednesday, September 15, 2010.

\*\* City Council meetings are available live and re-cablecast by RTV on Cablevision Channel 75 and Verizon Channel 39; they are also available for replay, video on demand, at <http://rye.peg.tv>.



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: August 11, 2010

CONTACT: Dawn F. Nodarse

**AGENDA ITEM:** Draft of the unapproved minutes of the regular City Council meeting held July 21, 2010 and the special meeting of the City Council held July 26, 2010, as attached.

**FOR THE MEETING OF:**

August 11, 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 City Council meeting held July 21, 2010 and the special meeting of the City Council held July 26, 2010.

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on July 21, 2010 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI  
PAULA J. GAMACHE  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT: PETER JOVANOVIICH

The Council convened at 7:40 p.m. Councilman Filippi made a motion, seconded by Councilwoman Gamache to adjourn into executive session to discuss attorney/client matters. Councilwoman Parker made a motion, seconded by Councilwoman Gamache and unanimously carried, to adjourn the executive session at 8:23 p.m. The regular meeting convened at 8:30 p.m.

Mayor French began by noting that this was the first regular City Council meeting since Scott Pickup has been appointed City Manager. He presented Mr. Pickup with a copy of the book "*Shackleton's Way – Leadership Lessons from the Great Antarctic Explorer*" on behalf of the Council.

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

Announcements were made about the following items:

- New optical scanning voting machines will be used beginning this year replacing the lever machines. The City Clerk provided a brief description of the new process.
- There is an opening on the Recreation Commission. Anyone wishing to serve should contact the Mayor or Recreation Commission Chair Bart DiNardo.
- The Mayor will begin holding office hours for the public in the Mayor's Conference Room at 7:00 p.m. on regular City Council meeting nights.

- A list of pedestrian safety improvement projects that are in progress is on the City website.

Additional announcements were made regarding other topics and information provided relating to other groups and organizations in the City.

4. Draft unapproved minutes of the regular meeting of the City Council held June 9, 2010, the special meeting of the City Council held June 14, 2010 and the special meeting of the City Council held June 28, 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 June 9, 2010, as amended.

Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the special meeting of the City Council held on June 14, 2010, as submitted.

Councilwoman Gamache made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the special workshop meeting of the City Council held on June 28, 2010, as submitted.

5. Approval of the election of four new members to the Rye Fire Department

Mayor French noted the recent loss of career fireman Bruce Kerr and volunteer fireman Scott Seaver, and offered the condolences of the City Council to their families.

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

**RESOLVED**, that the City Council of the City of Rye hereby approves the election of Robert Rodriguez to the Poningoe Engine and Hose Company, Peter Kennedy to the Milton Point Engine and Hose Company and Robert Iabani and Michael Marchand to the Fire Police Patrol Company, as approved at the last meeting of the Fire Wardens.

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

There were no residents wishing to speak under this topic.

7. Mayor's Management Report

- Coyote update

City Manager Pickup reported that since the special meeting that the Council held on the coyote issue another meeting was held with representatives of neighboring communities as well as a Federal representative from Wildlife Services, who work with the State Department of Environmental Conservation (DEC). The agencies are supportive of the City's trapping program. The City is now using the collarum traps, not only in public spaces but on private property as well. The trapper moves the traps based on sightings and animal activity. There may be 10 to 20 traps set at any given time. They are also trying a system of calls to attract the animals. The ideal time for trapping coyotes is when they are in the den with their young, not when they move out of the dens, which is the current situation. The Federal representatives believe that "harassment and hazing" is still the best plan to follow. The most important way that the public can assist the City is to call in the sightings of the animals.

Council comments and questions included:

- It is good that the City is trying new things but the object is to catch the coyotes. The City should provide an incentive to the trapper to catch the animals rather than just setting traps and being paid on a weekly basis. (The City is coordinating with other communities and information is being shared.)
- The DEC recommends using pepper spray against coyotes. Wasp spray is also good.
- Aggressive behavior against coyotes must be maintained in order to change their behavior.
- What purpose do the helicopters serve and who is paying for them? (There is no direct cost to the taxpayers. They are used because they have an infrared capacity that can be used in areas where sightings have been reported.)
- How is the City working with neighborhoods? (Individuals are calling in sightings and working with the City on placing traps on private property.)
- Is the City looking at the deer population in relation to the coyote issue? (The DEC is not linking culling the deer population to a reduction of the coyote population. The wildlife biology people say that the favorite food of coyotes is voles, animals similar to a mouse, and the City has a large population of these animals.)
- Should the trapping efforts be curtailed because this is not the ideal trapping season? (The program should continue as long as coyote sightings continue. When activity declines, it may be scaled back.)

*Henry King, 76 Coolidge Avenue*, said that he believed there was no incentive to catch coyotes. He believes the trappers should be paid for what they trap. They should be easy to catch if they are not afraid of humans. He said there is someone from Cornell working in Greenburgh, who has no trouble catching the animals. City Manager Pickup said that sometimes private contractors exaggerate their capabilities and results, similar to "fish stories".

- Construction Update

City Manager Pickup provided updates on the following projects:

Central Business District: additional mark outs have been done in and around pedestrian crossing areas in order to improve sight distances.

Annual Paving Program: the program is dependent on the weather and asphalt supply, but will hopefully be completed by the beginning of August.

Central Avenue Bridge: the State Department of Transportation (DOT) has notified the City that the Federal Highway money has been rereleased. They will be processing the reimbursement to the City for money already spent. Once the account is activated, the money cannot be taken back. When that money is received, staff may be able to give the Council a schedule of when the project can go out to bid and construction can proceed.

Stimulus Projects: the majority of the work has been completed at every location. There have been some problems, mostly due to utilities that were not recorded and must be relocated. Most of the infrastructure work has been done. The electrical contractor is ready to begin the next phases of the signal work. The stimulus piece of Oakland Beach Avenue is almost done. The second phase, which involves realigning the road, has been marked out; some of the work has begun and it is hoped it will be completed in the next few weeks.

Boston Post Road Diet: when the stimulus projects are done, some of the same contractors will be working on this project. It should be a short term project.

*Jim Amico, 350 Midland Avenue,* said he believed the turning radius that resulted from the Palisade Avenue/Midland Avenue stimulus project will cause accidents because a car or truck must cross the double yellow line in order to make the turn. City Manager Pickup said that when the project is completed the turning radius will match County requirements for the intersection. Mr. Amico also said that the City should hold the contractors to strict standards of operation. Councilmembers suggested the City adopt a Resolution setting standards for contractors and suggested that escrow funds be required in contracts that could be deducted for violations. City Manager Pickup said that when there have been issues in the field, City staff have discussed them with the head of the construction company and the Assistant City Engineer speaks to the crew in the field and they have been responsive. Mr. Pickup added that most of the construction that occurs in City right-of-ways is done by companies that have been contracted by utilities, not the City.

- Legal update

Interim Corporation Counsel Wilson reported on the following cases:

- The City has moved for summary judgment in the RB Conway matter, which is a breach of contract action stemming from the contract to dredge the Municipal Boat Basin. RB Conway has moved for partial summary judgment.
- A decision is still pending from the Appellate Division, Second Department in the Osborn case.
- The City was served with an Article 78 in the form of a mandamus by HealtheHarbor.com and Ray Tartaglione. Motion papers have been served by the City. A large part of the argument is who has jurisdiction over the issues raised in the case, the City or the County.

- The Planning Commission, Building Department and the City Engineer have been served with an Article 78 by Robert and Rita Schubert. It relates to the requests made by Chuck Pateman to those City departments.
- The Schubert v. City of Rye federal case is pending before Judge Caras. A decision is awaited on the City's motion to dismiss.
- An appeal has been filed in connection with a traffic conviction in Rye City Court. The City has moved to dismiss the action.

Councilman Sack said that it was his understanding that the City was going to retain FPM to provide consulting in connection with the Beaver Swamp Brook Administrative Proceeding. He said he believed the City Counsel should have voted on the decision to retain them and if that had happened he would have voted against hiring them. Ms. Wilson said that generally when consultants are hired it is done by the City Manager with the consensus of the Council. Mayor French said that in this case it was the consensus of the Council that FPM was the most cost effective consultant to use in order to meet a court deadline. City Manager Pickup said that staff generally consults with the Council about professional services in large scale matters but it is not the norm to have a vote by the Council.

- Summary of Council Workshop to be held on July 26, 2010

City Manager Pickup said that the items that will be discussed at the City Council workshop on Monday, July 26<sup>th</sup> include: (1) doing a test in the downtown of stop signs at certain intersections to determine how traffic would be impacted; (2) updates on the deferred capital projects that were discussed at a special meeting in March such as the Friends Meeting House; and (3) a presentation on cash management items and issues that may impact the budget.

8. Authorization for City Manager to enter into a settlement agreement regarding the United Water rate case

City Manager Pickup said that the City has an ongoing relationship with an attorney who has represented the City's interests with respect to water service issues. There is a rate request before the Public Service Commission (PSC) and the City has joined with Rye Brook to hire a professional to look at the rate and see if there is a way to modify it. There is a proposal from the current counsel that they recommend be brought to the PSC to settle the case. The request is that the Council grant the authority to go forward with the proposal but also to grant authority to withdraw if the Village of Rye Brook votes not to go forward with the agreement.

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

**RESOLVED**, that the City Manager is authorized to enter into negotiations for settlement of the United Water rate case before the Public Service Commission assuming that other municipal parties involved in the case are part of any negotiated settlement.

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Keith and Parker  
NAYS: Councilman Sack  
ABSENT: Councilman Jovanovich

The Resolution was adopted by a vote of 5-1

9. Authorization for City Manager to seek an RFP for the City of Rye Corporation Counsel position

Mayor French said the City would be posting for the position of Corporation Counsel and the draft Request for Proposal (RFP) was before the Council for consideration. Former Mayor John Carey, who worked with Councilman Sack on a recommendation for the Law Department offered the following comments on the draft RFP:

- The City Charter does not allow for the Corporation Counsel to be a firm.
- The qualifications for law firms is useful, but should be used for firms the City might use in special circumstances.
- When the City needs to hire an outside firm, the terms should be negotiated.
- Candidates should supply curriculum vitae, writing samples, written recommendations and other references.
- Applicants should show their ability to perform the skills required of trial lawyers.
- The only exception should be litigation where representation is provided by an insurance carrier.
- The applicant should state the price they would be willing to accept for the job.

Council comments and questions included:

- Why were civil rights cases excluded? (City Manager Pickup said that historically, the City has assigned civil rights cases to outside counsel. They are usually covered by insurance.)
- Lawyers are always asked to state their salary requirements today.
- Applicants should be directed to review the Carey/Sack report on the City website.
- The RFP outlines the hiring criteria and expectations. The Carey/Sack Report is just a recommendation.
- Applicants should be required to disclose if they have had conversations with sitting Counsel members.
- Should there be a periodic review by the Council of the operation of the Law Department? (The contract provision refers to an annual review of performance.)

City Manager Pickup said that the RFP would be revised into another draft and circulated to the Council for review before a vote is taken.

10. Authorization for City Manager to enter into a license agreement with Eduardo and Monica Vergara, residing at 45 Dearborn Avenue, Rye, New York, to install drainage

City Manager Pickup said that Eduardo and Monica Vergara have made improvements to their property, which create additional stormwater requirements. As part of their surface water control and stormwater management plan they need to execute this proposed agreement to complete the drainage on their property. The agreement has been fully reviewed and is in full compliance of the City's Code and meets all regulatory requirements.

Councilman Sack made a motion, seconded by Councilwoman Gamach, to adopt the following Resolution:

**RESOLVED**, that the City Manager is hereby authorized to enter into a license agreement with Eduardo and Monica Vergara, residing at 45 Dearborn Avenue, Rye, New York, (said property shown on the tax assessment map of the City of Rye as 153.7-3-5) to permit them to connect to the catch basin located on the northeast corner of Dearborn Avenue and Newberry Place.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote

11. Resolution establishing a standard workday for elected and appointed officials as per new reporting requirements of the New York State and Local Employees' Retirement System

City Manager Pickup said this agenda item is reflective of updates to the New York State Retirement System reporting requirements. The only two people who meet the requirements are the City Manager and Corporation Counsel. They are required to maintain a written record, which shows their work hours. The Resolution sets a minimum of what constitutes a work day. If they do not meet the standard, the Retirement System can go back and recover from those who do not comply.

The Council asked for more information from the Retirement System regarding the new requirement prior to voting on the Resolution.

12. Designation of Nominating Committee for the Boat Basin elections and appointment of the Chairman of the Nominating Committee

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

**RESOLVED**, that the City Council of the City of Rye hereby designates Ford Winters (Permit Holder elected to the Nominating Committee in August 2009); Andrew Bodner (Commission Member not running for re-election); and Frank Mangiamele (Permit Holder appointed by the Commission) as the Rye Boat Basin Nominating Committee for the 2010 Rye Boat Basin Commission elections and designates Ford Winters as the Chair of the Nominating Committee.

13. Discussion of the revised law on solicitation

Mayor French said that Interim Corporation Counsel Wilson was asked to review the City's solicitation law and look into what other communities were doing. Ms. Wilson said that the draft before the Council includes several changes from the current law, including a change in the hours, tightening of definitions, updating of the list of exemptions, clarification of licensing requirements and who is required to pay for a license, a criminal background check for commercial licenses and the creation of a "Do Not Knock Registry", which would require those going door-to-door to have an up-to-date list of addresses where they may not solicit.

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

**WHEREAS**, the Council wishes to amend Chapter 114 "Peddling and Soliciting" 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 August 11, 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 114  
“Peddling and Soliciting” 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 11th day of August, 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 114 Peddling and.

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

Dawn F. Nodarse  
City Clerk  
Dated: July 30, 2010

14. Consideration to set a Public Hearing to add a proposed Escrow local law to assign the costs of any experts utilized by a City Board or Commission to the applicant

Interim Corporation Counsel Wilson said that a prior escrow provision in the Code “sun-setted” and the new version tweaks it to allow the Planning Commission or City Engineer to hire consultants that are outside of their expertise, with the cost borne by the applicant and not the City. The new law provides a mechanism for collecting the money, putting it in an escrow account and paying the consultants.

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

**WHEREAS**, the Council wishes to amend the Code of the City of Rye by repealing Chapter 87 “Environmental Quality Review” and replacing it with a new Chapter 87, “Escrow Provisions”; 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 August 11, 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 by repealing Chapter 87 “Environmental Quality Review: and replacing it with a new Chapter 87, “Escrow Provisions”.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 11th day of August, 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 by repealing Chapter 87 “Environmental Quality Review” and replacing it with a new Chapter 87, “Escrow Provisions”.

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

Dawn F. Nodarse  
City Clerk  
Dated: July, 30, 2010

15. Consideration to set a Public Hearing to amend Local Law Chapter 53, Section 53-2, “Membership of Architectural Review Board”, stipulating residency requirements for architects serving on the Board of Architectural Review

Mayor French said that because an architect who is also a Rye resident has agreed to serve on the Board of Architectural Review, the Council would not proceed with setting a public hearing at this time.

Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to appoint Carmen Aguilar to the Board of Architectural Review to fill out a term expiring on January 1, 2011.

16. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department

City Manager Pickup said that the General Orders of the Police Department are periodically updated. The Department receives grant money to conduct sobriety checkpoints and this change tightens up some of the procedures and brings them more in line with the requirements of the authorities who provide the money. A copy of the proposed changes were sent to the union membership for their review and comment.

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

**RESOLVED**, that the proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order #109.10 Sobriety Checkpoint Procedures, is hereby approved.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

17. Discussion of Resolution to establish a Rye Town Park Advisory Committee

Mayor French said that neighbors of Rye Town Park have indicated that this has been one of the best summers in memory regarding impacts to the neighborhoods surrounding Rye Town Park. He said that he believed many of the changes resulted from work done by the Parking Committee that reviewed the policies and practices of the Park. The proposed Resolution would formalize that Committee and give the Council a group of citizens representing the neighbors of the park, the dog groups and the Friends of Rye Town Park and provide an out reach to the community, similar to the Rye Playland Advisory Committee.

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

WHEREAS, the volunteer committees in the City of Rye (“City”) perform a critical function in the City by advising the City Council on important issues that are relevant to the daily operations of the assets within and near the City of Rye; and

WHEREAS, the City of Rye and Town of Rye share ownership and operating responsibility of Rye Town Park; and

WHEREAS, residents of the City of Rye and Rye Town visit Rye Town Park regularly and enjoy its location and participate in the events and activities that take place; and

WHEREAS, the Rye Town Park Commission is a representative body of the City of Rye and Rye Town which includes the Village of Port Chester, Village of Rye Brook and the Rye Neck section of the Village of Mamaroneck; and

WHEREAS, activities, policies, events and practices at Rye Town Park have financial and neighborhood impacts on the City and Town of Rye Residents; and

WHEREAS, the City would like to establish the Rye Town Park Citizens Advisory Committee to, among other duties, assist the City and Rye Town Park Commission in identifying areas that can be improved, advise on important issues, and inform on upcoming events;

NOW, THEREFORE, BE IT RESOLVED, that the Rye Town Park Advisory Committee is hereby established; and be it further

RESOLVED, that the Committee shall consist of no more than seven (7) members, representative of the user groups and surrounding neighborhoods. The initial appointments shall be staggered two (2) one-year terms, two (2) two-year terms, and three (3) three-year terms; and be it further

RESOLVED, that members of the Rye Town Park Advisory Committee shall be appointed by the Mayor, with the approval of the Rye City Council. The Mayor shall designate the Chairperson; and be it further

RESOLVED, that the Rye Town Park Advisory Committee shall have the following duties and powers:

1. To establish Committee rules and procedures for meetings;
2. To advise the City Council and Rye Town Park Commission on issues relating to the operation and management of Rye Town Park;
3. To identify and review neighborhood issues that arise relating to Rye Town Park; and
4. To recommend to the City Council bi-annually in March and September, on possible changes to the practices, policies and daily operations of Rye Town Park to better meet the needs of the residents of the City and Rye Town.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

Councilman Sack suggested that the Planning Commission meet with the new Rye Town Park Advisory Committee in order to provide suggestions for the Rye Town Park Commission for what might be done going forward at the Park.

18. Resolution to grant permission to the Rye Free Reading Room to hold a free public concert on the Village Green on Sunday, September 19, 2010 at 2 p.m.

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

**RESOLVED**, that the City Council of the City of Rye hereby grants permission to the Rye Free Reading Room to use the Village Green from 12:00 to 5:00 p.m. on Sunday, September 19, 2010, for a free public concert.

19. Bid Award for Automotive Parts and Machine Shop Services (Bid # 2010-03).  
Roll Call.

City Manager Pickup said he recommends that the Council approve the bids as listed. He said the companies give the City a listing based on their catalogue price, which is a percentage off the list.

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

**RESOLVED**, that Bid #2010-03 for Automotive Parts and Machine Shop Services is hereby awarded to Tri-City Automotive Parts and Mendel's Truck & Auto Parts as follows:

Tri-City Automotive Parts	<u>Category 1</u>	
	Group 1	Brake Shoes & Linings
	Group 1A	Brake Parts
	Group 2	Bearings
	Group 4	Carburetors
	Group 7	Electric Switches & Wiring
	Group 10	Headlights
	Group 11	Hose Clamps
	Group 12	Hoses & Belts
	Group 13	Ignition Equipment
	Group 15	Shock Absorbers
	Group 16	Seals
	Group 17	Water Pumps

Group 18 Filters  
Group 19 Windshield Wiper Products  
Group 21 Batteries  
Group 22 Starter & Alternators

Mendel's Truck/Auto Parts

Category 1

Group 3 Brass Fittings  
Group 5 All Clutch Assemblies  
Group 6 Exhaust Parts  
Group 8 New Fuel Pumps  
Group 9 Gaskets & Gasket Sets  
Group 14 Mirrors & Lamps  
Group 20 Chassis Front End Parts  
Group 23 Bolts, Nuts, Washers, Etc.

Category 2

Group 1 Brake Parts  
Group 2 Starter & Alternators  
Group 3 Exhaust Parts  
Group 4 PTO Clutch Assemblies

Category 3

Flywheels Cut to 12"  
Flywheels Cut to 12" or Over  
Driveshafts Rebuilt  
King Pins Fitted  
King Pins w/I Beams  
Brake Bands Relined  
Brake Shoes Relines  
V-8 Heads Rebuilt  
6 Cylinder Heads Rebuilt  
4 Cylinder Heads Rebuilt  
4 OHC Head Rebuilt  
Pistons Changed Over & Cleaned  
Axles Bearing and Related  
Press Work (per bearing)  
Heavy Duty Break Drums 16" & Up (price cut  
per inch)  
Passenger Car & Light Duty Truck up to 14" Drums  
Rotors  
Unltd. Shop Work (per hour)

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Keith, Parker  
and Sack

NAYS: None

ABSENT: Councilman Jovanovich

The Resolution was adopted by a 6-0 vote.

20. Bid Award for Hewlett Avenue Sanitary Sewer Forcemain Replacement (Bid # 2010-04)  
Roll Call.

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

**RESOLVED**, that Contract # 2010-04 for Hewlett Avenue Sanitary Sewer Forcemain Replacement is hereby awarded in the amount of \$172,587.50 to Bilotta Construction Corporation, the lowest bidder whose bid meets specifications.

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Keith and Sack  
NAYS: Councilwoman Parker  
ABSENT: Councilman Jovanovich

The Resolution was adopted by a 5-1 vote.

**CONTRACT #2010-04**

**HEWLETT AVENUE FORCEMAIN INSTALLATION**

<b>Position</b>	<b>Contractor</b>	<b>Amount Bid</b>
1	Bilotta Construction Corporation	\$172,587.50
2	ELQ Industries	\$238,305.00
3	Joken Develoment	\$242,195.00
4	Contech Construction Tech.	\$292,475.00
5	NDL Associates	\$555,000.00

21. Bid Award for Solid Waste Container Service at the Department of Public Works (Bid # 2010-05)  
Roll Call.

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

**RESOLVED**, that Contract #2010-05 for Solid Waste Container Service is hereby awarded in the amount of \$45,900.00

to City Carting, the lower bidder whose bid meets specifications.

**ROLL CALL:**

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

The Resolution was adopted by a 6-0 vote.

**CONTRACT #2010-05**

**Solid Waste Container Service Contract**

					City Carting		Rogan Bros.	
#	Item No.	Items	Quantity		Unit	Total	Unit	Total
1	1	20 Cubic Yard Container For Street Sweepings	40	PULLS	\$110.00	\$4,400.00	\$120.00	\$4,800.00
2	2	Price per Ton for Disposal of Material From ITEM 1	500	TON	\$68.00	\$34,000.00	\$75.00	\$37,500.00
3	3	30 CY Container for Garbage	50	PULLS	\$150.00	\$7,500.00	\$175.00	\$8,750.00
Contractor's Total					\$51,050.00		\$43,097.00	
<b>Engineer's Total</b>					<b>\$45,900.00</b>		<b>\$51,050.00</b>	
Position					1		2	
% Above Low Bidder					0.00%		11.22%	

**22. Miscellaneous communications and reports**

Councilwoman Keith announced that the Government Policy and Research Committee had held their first meeting. She also said that the Pedestrian Safety team has been working on Eye on Rye programs on the stimulus projects and safe routes projects to educate the public on traffic safety.

Councilwoman Parker said that a meeting had been held on June 30<sup>th</sup> of the “Playland Strategic Plan Working Group” that is made up of Mayor French, herself, Legislator Judy Myers, Charles Dorn and former Councilman Doug McKean. The group discussed possible options for Playland going forward with a goal of assisting Westchester County in identifying

strategies that would be compatible with the interests of the City and supplement and enhance the economic sustainability of Playland. She said she would like to make this group a formal committee known as the Playland Strategic Planning Group and asked anyone interested in serving on the group to contact her. She added that people with backgrounds in finance, entertainment and marketing would be helpful. Ms. Parker said that the Playland Advisory Committee met in June with Dan McBride, the Deputy Commissioner of Westchester County Parks, and Joanne Marchesani, the Director of Operations for Playland, who are very receptive to issues brought forward by Rye residents.

23. Old Business

There was no old business to be discussed.

24. New Business

There was no new business to be discussed.

25. Adjournment

There being no further business to discuss, Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried to adjourn the meeting at 10:50 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk

***DRAFT UNAPPROVED MINUTES*** of the  
Workshop of the City Council of the City of Rye held  
in City Hall on July 26, 2010 at 7:30 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
PAULA J. GAMACHE  
PETER JOVANOVIK  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK (Arrived at 7:39 p.m.)  
Councilmembers

ABSENT: RICHARD FILIPPI

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. Presentation by City Planner, Christian Miller, on the Locust/Purchase Traffic Signal Project and Test of Alternative Traffic Control for Purchase Street in August

Prior to the presentation, City Manager Scott Pickup provided an update on recent work in the Central Business District (CBD). The Department of Public Works has repainted many intersections and also extended some no parking areas an additional four or five feet to improve sight distances for pedestrians. Some merchants expressed concerns about the loss of on-street parking, but the overall response seems to be positive. He said City staff has been looking at the signalization of the downtown for an extended period and City Planner Christian Miller has been coordinating signal studies to get a better picture of how the City could improve the pedestrian experience in the downtown, make sure that traffic flows effectively, and make sure that pedestrians, businesses and cars mix well.

City Planner Miller said that some challenges to replacing traffic signals in the CBD were identified in the 2009 CBD Capital Planning and Streetscape Plan, and the CBD Task Force recommended that alternative traffic controls be considered. He outlined a proposal to temporarily put stop signs at intersections in the CBD that are currently controlled by traffic signals. He said the original proposal had only included the intersections of Smith and Elm and Purchase Street, but as the design of the signal replacement for the Locust Avenue/Purchase

Street intersection has begun, it has been determined that it should be included in the test. He said that before replacing traffic signals, communities should evaluate if replacement is the best solution, especially in older communities. Installation of new traffic signals presents a challenge because they require more space and equipment, which could encroach on sidewalk space. Bump-outs were suggested for the Locust intersection in order to increase sight distance and accommodate the additional equipment. Stop signs instead of traffic signals is easier to implement and is less costly and more sustainable because there is no operating expense. There could also be a traffic benefit due to reduced queuing of cars waiting to turn, which reduces traffic delays. Eliminating signals and using stop signs as traffic control devices is a growing idea throughout the Country. The proposed test would be implemented the week of August 8<sup>th</sup> and would last for two to three weeks in a slow traffic period prior to the beginning of the school year. The existing signals at the three intersections would be set to flash, if possible and turned off if not. The existing traffic restrictions, such as no left turn restrictions, would be preserved. The reason to test is to assess the impact in order to determine the positives and negatives; look at how vehicles yield to pedestrians and determine any changes in crossing patterns.

Council comments and questions included:

- Pedestrian safety and traffic flow are the most important aspects – the financial benefit is the least important.
- How would a stop sign work for making turns? (Yielding to whoever is first into the intersection. Both drivers and pedestrians will have to be engaged.)
- What are the concerns of the merchants? (Whenever something new is introduced there is a fear that it will make things worse.)
- Will a decision be made based on one test? (It would depend on the results, but a decision could be reached on whether to go with a full signal at Locust Avenue.)
- How many spaces would be lost if bump-outs were implemented? (Since there are no marked spots on Purchase Street it is hard to determine but maybe three spots, but losing spaces in certain areas would enhance pedestrian safety.)
- Would we be doing this test if there were no issues with installing the signals? (Possibly not, but it is an example of a challenge creating an opportunity.)
- Has the Fire Department had input in the discussions about the Locust Avenue intersection? (There have been discussions held with them and there will be more after the test.)
- If the use of stop signs rather than traffic signals was implemented when would it be done? (Ideally, in slower times of the year.)
- The use of bump-outs would be a great opportunity to enhance pedestrian safety. Since everyone uses the downtown, there must be a balance between pedestrians and drivers.
- Using pavers in the crosswalks makes sense and could enhance the downtown. The Council should be given numbers on what that would cost. (A better time to look at using pavers might be when the street is repaved, which should be done in the next five years.)
- Will the test period be long enough for people to get used to the stop signs? (If the change was from an uncontrolled intersection to stop signs it would need to be longer, but people are already used to having to stop at these intersections.)

- Should the test also include the intersection at West Purdy? (People would be less inclined to stop at that location. It might be a better location for bump-outs.)
- Would mountable curbs at Locust Avenue help the Fire Department? (It would not be safe for pedestrians.)
- How much would be saved by not replacing traffic signals? (Signals are usually about \$125,000 to \$135,000.)
- How quickly could this system be implemented? (After the test, staff will come back to the Council for a decision. The job would then go out to bid. It could possibly be done by the end of the year or after the holiday season.)

Public Comment:

*Jim Amico and Bob Zahm* offered comments on the presentation that included:

- The test calls for putting seven stop signs at crosswalks in the downtown but the Council has previously said that stop signs at intersections provide a false sense of security to pedestrians.
- Will proper provisions be taken for pedestrians during any construction periods? (Traffic control is part of bid specs.)
- Will the test period be long enough to see the effect on traffic during peak volume times? (The reality of congested traffic is that it is safer for pedestrians because cars are moving slower.)
- Additional stop signs should be added to the test area. (Stop sign placement is being done to maintain existing conditions, not to introduce new traffic control where it does not already exist.)
- How will it be determined if the stop signs are successful? (By visual observations based on travel behavior of vehicles and pedestrians in compliance with the traffic control measures.)
- The bump-outs on Midland are grass -- will they be concrete on Purchase Street? (There is no benefit to concrete over grass.)

Prior to Agenda Item #4, Laura Brett and Pam McGuire of the Rye Historical Society made a presentation on a proposal to create a Historic Walking Tour through Rye of the City's historic sites. They believe it would be a good way for people who live in Rye to learn about its history and to promote visitorship to Rye. The plan is to put up approximately 15-20 outdoor signs that would include photos and text and would focus on the social history of Rye and how it relates to the rest of the world. They are looking for the support of the City Council and believe they will have to go before the Board of Architectural Review and Landmarks Committee for approvals. The hope is to have the project in place by October 2011 to coincide with the Historical Society's walking tour of the downtown.

4. Presentation by Lisa Easton of Easton Architects on the Rye Meeting House and Rye Town Park Capital projects

Lisa Easton said the roof project at the Administration Building in Rye Town Park was substantially completed on June 8<sup>th</sup>. Reimbursements have been applied for from the State and Federal Grants. The original budget was \$1.31 million, with a labor and material bond of \$22,000. There was a contingency of 7.5% in the original budget, which was not entirely spent. The project stayed on budget. Additionally, lightning protection was also installed in the entire building, which has been hit by lightning numerous times. The State and Federal Government looks favorably on projects that are completed on time when considering future grant applications. Additional capital improvements that are contemplated for the Park include: the sea wall; the tunnels to the bathrooms from the beach; the 1925 bath house; a small shelter building; and the walkways and staircases around the park. Additionally, the Rye Town Park Commission is looking at issues that affect the beach such as handicapped accessibility issues and infrastructure issues. A strategic five to ten year capital plan for improving the park will need to be drawn up. City Manager Pickup said that to date the City has spent \$320,000 on the roof project, with approximately \$86,000 still due, for a total of \$414,000.

In connection with the Friends Meeting House project, Ms. Easton reported that she had submitted drawings to City Manager Pickup that finish Phase I of the project, which dealt with stabilizing areas of the building that were structurally unsound and improving the building from a life/safety prospective. Phase II would involve the roof, which also affects the foundation, because the roof is under-structured for what it needs to bring the building up to Code. Phase II is tied to Phase I. The estimate for Phase I is approximately \$350,000, without prevailing wage. The overall project total should range from \$600,000 to \$650,000 including everything but mechanical, electrical and plumbing. There is an issue with the size of the rear door, which would only allow for occupancy of 50 people, but if the original door was replicated it could increase the occupancy to over 100 people. She asked if the Council would consider reallocating money that was allocated to bidding and construction administration in the original proposal, in order to allow the design to be finished. If the entire project was designed, there would be a cost estimate that could be bid at one time.

*David Hood*, who had been a member of the Quaker Meeting when it was located at the site, suggested that Home Depot's community outreach program "Team Depot" could be a source of funding for the renovations.

*Jack Zahringer, Richard Hourahan and Laura Brett* of the Landmarks Advisory Committee made a presentation on a possible use for the Meeting House as well as a possible way to fund the renovations. They said they had spoken with Jim Killoran of Habitat for Humanity, who has indicated that they would be interested in working on the project, along with students from the Rye School of Leadership, and might also be able to provide some supplies for the project. Mr. Killoran said that they have qualified preservation people who will be called in to work on the project and also understands that anyone selected to work on the project would have to be approved by the National Parks Service as part of the grant requirements. The Landmarks Committee has had discussions with the Rye School of Leadership about the idea of moving the school to the Meeting House, but it would require that the current plans for renovating the building be modified to meet standards for operating a school. They believe there could be many advantages to working with the School District.

City Manager Pickup said that there are certain constraints in connection with this project. A certain amount of cash was allocated toward the project and there was additional money that could have potentially been borrowed from the Rec Bond, which has now been spent on recreation projects and the Rye Town Park Roof project and staff is proposing that the balance be used for debt reduction in 2011 and 2012, leaving no money for this project. He added that there would be additional challenges created by working with the School District and their requirements.

5. Discussion on Deferred Capital Projects and cash flow options

City Comptroller Jean Gribbins provided an update on Capital Projects:

- In 2009, \$350,000 was budgeted for the purchase of a new Sewer and Vacuum truck. It was deferred in 2009 and 2010 but must be purchased in 2011 in order to meet Federal mandates and respond to emergencies. This is a piece of equipment that is used on a regular basis by the Department of Public Works.
- In 2009, \$130,000 was budgeted for the Police Lavatory and Locker Rooms. This project will be combined with a boiler repair and clean up project.
- In 2010 funds were budgeted for the purchase of two new police cars, which came in last week.
- The lawn mower for the Recreation Department included in the 2010 budget was purchased for approximately \$20,000.
- Several smaller projects are in progress at the Damiano Center.
- An oil tank was replaced at 51 Milton Road.
- The Fire Department will replace an alarm for \$30,000.
- The annual street resurfacing, sidewalk and sewer and drainage programs are well underway.
- The City was awarded a Federal reimbursement grant of \$600,000 for the Locust Avenue Bridge. An award letter is awaited. The current estimate for the project is \$1.8 million. The City's share would be \$1.2 million, but no actual funding source for that amount has been identified yet.
- \$210,000 has been borrowed for the Old Milton Road Drainage project. This amount may not cover the full cost of the project. Because the design is not yet complete, staff is deferring this project to 2011 in order to determine if the City is eligible for a Federal matching grant through the Environmental Protection Agency (EPA).

Next, Ms. Gribbins provided an update on the list of projects that were deferred by the Council in March:

- The Boston Post Road Retaining Wall Design, which was budgeted at \$35,000, is still deferred.
- The design of the traffic light at the intersection of Purchase Street, Purdy Avenue and Theodore Fremd Avenue, which was budgeted at \$15,000, is still deferred.
- The replacement of the Milton Cemetery Bridge, which was budgeted at \$40,000, is still deferred.

- The Stoneycrest Road drain, which was budgeted at \$35,000, is still deferred.
- The Police/Court Building renovation study, which was budgeted at \$50,000, is still deferred.
- The Gagliardo Park Restroom project, which was budgeted to use \$100,000 of Rec Bond money, is still deferred.
- The Friends Meeting House project, has been budgeted to use funds from the Building & Vehicle Fund (B&V) over the years. As of December 31, 2009 there was \$144,000 approved B&V funds remaining for the project. \$31,000 was used in 2010, bringing the remaining budgeted amount down to \$113,000. In the 2010 budget \$125,000 of Rec Bond money was budgeted for this project.

Ms. Gribbins also provided a summary of the 2010 borrowings from the Rec Center Bond. At the end of 2009 there was a cash balance of \$865,000. The City has used \$328,000 towards the Rye Town Park Roof project and there is an additional payment due on that project of about \$86,000 for a total of \$414,000. \$126,000 has or will be used for improvements made to the Damiano Center in 2010, which brings the cash balance down to \$324,000. It is proposed that the remaining funds be spent on debt service payments of \$150,000 in 2011 and \$174,000 in 2010 and suggested that they be removed as a funding source for the Gagliardo Park Restrooms and Friends Meeting House projects.

The City has made two \$1 million installments to Aero Hardware to pay for the 1037 Boston Post Road building. Additionally, the City has received \$1 million of the amount due from the Elm Place Wall project, which will be used to pay the third \$1 million installment in September.

Ms. Gribbins then discussed upcoming projects with reimbursement grants that will involve the City laying out the money before being reimbursed.

- The Bowman Avenue Sluice Gate is a \$4.2 million project, \$1.6 million of which will be reimbursed by grants and aid.
- The Central Avenue Bridge is a \$1.8 million project, \$1.4 million of which will be reimbursed through grants and aid.
- The Theodore Fremd Avenue/Blind Brook Retaining Wall reconstruction is a \$1.4 million project, \$1.1 million of which will be reimbursed by grants and aid.

Ms. Gribbins said that the Council will be asked at the August 11<sup>th</sup> meeting to approve a resolution allowing the City to issue \$4.5 million in Revenue Anticipation Notes (RANs) to borrow on a short-term basis the amounts the City will have to pay out before reimbursement for the upcoming projects, as well as for the grants that are awaited for the Bird Homestead. RANs fall outside of the Charter bonding limits because they are short-term borrowings. The money will not be borrowed until the projects are started because it must be repaid within 12 months, but she would like to immediately borrow \$550,000 of the \$1 million still owed to the City for the acquisition of the Bird Homestead.

Council comments and questions included:

- What level of anticipation must be shown to apply for RANs? (A cash flow time line must be filled out as well as evidence of grant awards.)
- How confident are we that the grant money for the projects will come in? (We have an IMA with the County for \$1.1 million and the State has obligated \$2.2 million for the other projects. The reason for one authorizing Resolution is that it makes it easier to go forward with the projects as necessary.)
- Could using Rec Bond funds for debt service held reduce the rate of tax increase? (It will help with cash flow but it is not known what impact it will have on the tax rate.)
- Is the cost of paying for 1037 Boston Post Road the primary reason for issuing RANs? (The City has spent down fund balance on capital projects and to buy down the tax rate for an extended period of time and has reached the point where it can no longer be done without changing the Charter.)
- How would the money that was transferred from the Forest Avenue study to the continuation of the Boston Post Road Diet near Osborn school be moved back to that project? (The Council would have to fund it in the 2011 budget.)
- Should the Council consider changing the Charter regarding debt limitations this November? (This idea has not received much support from the Finance Committee. It is more difficult to engage the public on the issue of Charter change than a bond issue for a specific project.)

City Manager Pickup summed up by saying that staff wanted to update the Council on the issue of deferred projects. Some of the projects have extended over multiple budget years. He said that cash must be preserved and, therefore, the recommendation is that the list of projects that were deferred in March should continue to be deferred and that the Gagliardo Park Restroom project and Rye Meeting House projects should not go forward.

6. Adjournment

There being no further business to discuss Councilman Sack made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the meeting at 10:40 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk



# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Council

DATE: August 11, 2010

CONTACT: Mayor Douglas French

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

**FOR THE MEETING OF:**

August 11, 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:

- Legal Update
- Status of Labor Contracts Update
- United Water Rate case Update

**NOTE: A Public Hearing Statement on the Water Rate Case will be held on Thursday, August 26th at 4 p.m. in the Rye City Council Chambers.**



# CITY COUNCIL AGENDA

NO. 6A      DEPT.: Finance Committee      DATE: August 11, 2010  
CONTACT: David Mullane, Finance Committee Chair

**AGENDA ITEM:** Presentation by the Finance Committee on City debt limitations.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**    Environmental    Fiscal    Neighborhood    Other:

**BACKGROUND:** The Finance Committee will make a presentation on debt limitations for the City.



# CITY COUNCIL AGENDA

NO. 7

DEPT.: Corporation Counsel

DATE: August 11, 2010

CONTACT: Kristen Wilson, Interim Corporation Counsel

**ACTION:** Public Hearing to amend local law, Chapter 144, Peddling and Soliciting, of the Rye City Code, to revise the law on solicitation.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

Residents have raised concerns regarding solicitors going door-to-door. While the City cannot prohibit solicitors from going door-to-door to deliver their message, the proposed changes to Chapter 144 seek to regulate the process.

See attached draft Local Law.

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

**A local law to amend Chapter 144, Peddling and Soliciting  
of City Code of the City of Rye as follows:**

**Chapter 144 Peddling and Soliciting**

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

**Section 1.**

**§144-1 Definitions**

**CHARITABLE** means the purpose of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501(c) (3) or the purpose of a school club, recognized and affiliated with a public or private school, having a program with annual campaigns to support the public or private school club.

**COMMERCIAL** means the purpose of solicitation which is not noncommercial, as defined in this Section.

**CORPORATION** shall take on the meaning consistent with the New York State Business Corporations Law and the New York State Not for Profit Business Law.

**ESTABLISHED PLACE OF BUSINESS** means a building or store in which or where the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

**HAWKER AND PEDDLER** means any person, either principal or agent, who, from any boat or in any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except milk, newspapers, periodicals, books and pamphlets.

**NONCOMMERCIAL** means the purpose of solicitation which is charitable, as defined in this Section, religious or political.

**PERSON** means any individual, firm, partnership, joint venture, association, social club, league, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group acting as a unit. The word "person" shall include the definition of corporation.

**SOLICITOR** means any person whether a resident of the City or not, engaged in solicitation.

**SOLICITATION** includes the act of any person, whether a resident of the City or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, business to business, from place to place or in or along any highway, street or sidewalk within the City either;

1. requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value;
2. taking or attempting to take orders for the sale of any goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets; and
3. selling and making immediate delivery of any goods, wares, merchandise or services of any kind or description, commonly referred to as “peddling.”

Solicitation shall not include the following so long as the person is not requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value:

- a. A person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature;
- b. A person seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter;
- c. A person seeking to obtain, from an occupant of any residence or business, an indication of the occupant’s belief in regard to any political or religious matter,
- d. A person conducting a poll, survey or petition drive in regard to any political matter; and
- e. A person carrying, conveying, delivering or transporting dairy products, newspapers, or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products, goods or services and is entitled to receive the same.

#### **§144-2 Exemptions**

Nothing contained in this chapter shall be deemed to apply to any of the following:

- A. A sale conducted pursuant to an order of any court.
- B. A wholesaler selling articles to dealers or merchants who have an established place of business in the City of Rye.

- C. A child 18 years of age or under who resides within the City or Rye and who solicits or peddles on behalf of a charitable, religious, athletic, social, educational or civic organization, including but not limited to the Boy Scouts, Girl Scouts, Cub Scouts, Brownie Scouts, clubs, classes or organizations sponsored by any school located within the City of Rye of which such child is a member.
- D. The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities on their own land, provided that they have otherwise complied with all applicable licensing and health and safety requirements of any other competent governmental body or agency, as well as the Zoning Code of the City, and the sale takes place from a stationery location upon property owned or leased by the seller of such goods.
- E. A not-for-profit organization's sale of food ancillary to a fundraising event, such as a picnic or carnival, that lasts no longer than five consecutive days. This exemption shall not apply to any door-to-door peddling or soliciting.
- F. Any person holding a license pursuant to Section 32 of the General Business Law "Licenses to veterans of the Armed Forces of the United States."

### **§144-3 License Required**

It shall be unlawful for any person to act as a hawker, peddler or solicitor, as herein defined, without first having obtained a license from the Clerk. The license shall be carried on the person of the licensee at all times while engaging in peddling or soliciting and shall be exhibited by the licensee to any person on demand. A picture of the licensee shall appear on the valid license.

### **§144-3.1 License Fees**

The annual license fees shall be set annually by resolution of the City Council before adoption of the budget for the following year for each license(s) issued pursuant to this chapter.

### **§144-4 Certificate as to equipment**

The application for a license shall be accompanied by a certificate from the Sealer of Weights and Measures of the County of Westchester, certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

### **§144-5 License Application**

To obtain a license to solicit, peddle or hawk within the City of Rye, a person shall make a written application to the Clerk in a form prescribed by the Clerk and provide the following information:

- A. The full name of the applicant, including any nicknames commonly used, home address, telephone number, any mobile telephone number or email address used on a regular basis, date of birth and social security number.

- B. A valid driver's license with a clearly delineated license number and state of issuance or other acceptable proof of identification;
- C. If the applicant works for another person or entity of any nature, the name, address, telephone number, email address, and website address, of the person or entity to the extent such exists;
- D. A brief description of the solicitation business to be conducted, and the intended area where the business is to be conducted if less than the entire residential area of the City;
- E. Two photographs, two inches by two inches in size, full face on a white background, taken of the applicant within the prior sixty (60) day period of time which accurately reflect the appearance of the applicant on the date of the application;
- F. An affidavit that the applicant is not disqualified because of prior criminal history and whether the applicant has ever been convicted of a crime and, if so, under what name, with a listing of such conviction, including crime jurisdiction, date and sentence imposed.
- G. If the applicant is a minor, a notarized authorization by the applicant's parent or legal guardian.
- H. A description of the vehicle which the applicant wishes to use in carrying out his business or occupation as well as the name of the vehicle owner and registration details.
- I. County Health Department permit number, if a food vendor.
- J. If peddling or soliciting for a corporation, the state in which it is incorporated and the names of its officers along with a copy of its certificate of incorporation.

#### **§144-5.1 Criminal Background Check**

This section shall only apply to commercial solicitation.

1. The City of Rye shall initiate a criminal history background check of prospective solicitors, including those persons acting on behalf of an employer or other person.
2. The criminal background check shall not be initiated without the written consent of the person.
3. A license shall not be issued to any person who refuses to consent to or cooperate in the securing of a criminal history record background check.
4. Each applicant shall submit two sets of fingerprints to the appropriate person and/or vendor through the New York State Division of Criminal Justice Services (DCJS) to have them processed. Once the fingerprints have been processed, the applicant shall submit the results to the Commissioner of Police or his designated representative. In addition, a certified check or money order, in the amount specified by and made payable to the New York State Division of Criminal Justice Services to cover the cost of processing fingerprints, shall accompany the application.

5. The City Clerk, with the assistance of the City of Rye Police Commissioner and/or his designee shall be responsible for reviewing the criminal history record information (CHRI) disseminated by DCJS.
6. If a prospective applicant has been convicted of a specified criminal activity, any decision regarding such prospective applicant's fitness for a license must be made upon consideration of New York State Correction Law §§701-703-b and §§751-753.

#### **§144-5.2 Expiration – Renewal – Revocation – Denial - Appeal**

The following provisions shall apply to licenses for commercial solicitation:

1. All licenses granted under the provisions of this Chapter shall be reviewed annually and may be renewed thereafter, unless sooner revoked.
2. Prior to the expiration of a license and upon application for renewal of the license, the Clerk shall determine if the applicant, peddler or solicitor has acted in compliance with the applicable provisions of this Chapter and conditions of the license.
3. The license may be renewed upon a determination that the solicitor or peddler has substantially complied with the terms and conditions of the permit and the requirements of this Chapter.
4. Renewal fees shall be established by a resolution of the City Council and may be amended from time to time.
5. If it is determined that the solicitor or peddler has not been in compliance with any of the provisions of this Chapter the license shall not be renewed.
6. The Clerk may revoke any license granted under the provisions of this Chapter for any of the following reasons:
  - a. The applicant provided false, misleading or misrepresented information in procuring the license;
  - b. The applicant or any person who worked on behalf of or with the applicant failed to comply with the requirements of this Chapter;
  - c. The applicant or any person working on behalf of or worked on behalf of or with the applicant is convicted of violating any federal, state or local law while in the course of operating under the license;
  - d. The activities for which the license was granted were or are being conducted in a manner that is detrimental to the public health, safety, peace or welfare.
7. When a license has been revoked, no other license shall be issued under the provisions of this Chapter to the same applicant within one (1) year of the date of revocation.
8. An application for a license under this Chapter may be denied for the following reasons:
  - a. The applicant fails to cooperate or consent to the criminal background check as stated in this Chapter.

- b. An applicant's background check reveals a conviction for any criminal offense including but not limited to, violent crimes, sexual assault, and possession of a controlled substance, theft, fraud or burglary.
- c. Fraud, misrepresentation or false statement in the application for the license.
- d. Fraud, misrepresentation or false statement made in the course of carrying out the applicant's trade, business or occupation.
- e. Any violation of this chapter.
- f. Carrying out of the licensed business, trade or occupation in an unlawful manner or in such a way as to breach the peace or to constitute a menace to the health, welfare or safety of the public.
- g. The license shall not be transferable or assignable. In the event that a licensee shall permit any other person to possess or use such license, such license shall automatically be revoked, and the licensee shall thereby be guilty of violating this Chapter, and no application for a further license may be made for a period of one year from the date of revocation.
- h. Any applicant who has had a license denied or revoked by the Clerk may appeal to the City Manager, in writing, within 30 days of the receipt of the denial or revocation. The City Manager will thereafter hold a hearing within 45 days of receipt of the demand for such hearing to review the determination of the Clerk.

**§ 144-6 License Fee**

The annual license fees shall be set annually by resolution of the City Council before adoption of the budget for the following year for each license issued pursuant to this Chapter.

**§144-7 Name and address on vehicle**

Every vehicle used by a licensed hawker, peddler or solicitor in or about his or her business shall have the name of the licensee and his or her address plainly, distinctly and legibly painted in letters and figures at least two inches in height in a conspicuous place on the outside of the sides of every such vehicle, and such name and address shall be kept so painted plainly and distinctly at all times while such vehicle is in use during the continuance of the license.

**§144-8 Restrictions**

A licensed hawker, peddler or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

- B. Keep the vehicle and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his or her wares, or shout or cry out his or her wares.
- D. Not stand nor permit the vehicle used by him or her to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or lessee of the ground floor thereof objects.
- E. Not sell any confectionery or ice cream within 250 feet of any school property between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Not permit any vehicle used by him or her to stop or remain on any crosswalk.
- G. Not create or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions, upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise

#### **§144–8.1 Hours Restricted**

No person while conducting the activities of peddler or solicitor shall enter upon any private residence, knock on doors, or otherwise disturb persons in their residence between the hours of 8:00 p.m. and 9:00 a.m.

#### **§144–9 When written orders required; duplicates**

All orders taken by licensed solicitors, who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

#### **§144–10 “Do Not Knock” Registry**

- A. Any owner or occupant of property located in the City who wishes to prohibit soliciting on the premises shall complete a form available in the City Clerk’s office and on the City’s website. The completion of the form will allow the owner/occupant’s premises to be included on a list of properties that do not permit solicitation (herein referred to as the “Do Not Knock Registry” or “Registry”).
- B. In order to be removed from the Registry, the owner and/or occupant must complete a form indicating that he/she does not want he/her property to be included on the Registry.
- C. Any owner and/or occupant who has requested enlistment on the Do Not Knock Registry, pursuant to this chapter shall be able to purchase from the City Clerk, for a nominal fee, a sticker or sign for display indicating enlistment on the Do Not Knock Registry.

- D. All solicitors shall obtain the current Do Not Knock Registry at the time of issuance of a permit or at the time of registration to solicit pursuant to the provisions of this Chapter.
- E. Solicitors shall not solicit at any premises identified on the then current Do Not Knock Registry.
- F. It shall be the responsibility of the solicitor to check each residence for the presence of such signage and to obtain updated copies of the Registry.

**§141-11 Unwanted Solicitations Prohibited**

- A. It is unlawful for any person to go upon, ring the bell, knock on the door of or attempt to gain admission to the premises of any residence, dwelling or apartment in the City of Rye where the owner, adult occupant or other person in control thereof has expressed his objecting to such activity either by explicit instructions, oral or written, or by posting a sticker or sign indicating the location is listed on the City's Do Not Knock Registry pursuant to Section 144-10, or by posting a sign or decal bearing the words "No Solicitation" or words of similar import such as: "No Solicitors", "No Solicitation", "No Soliciting", "No Peddlers", or "No Trespassing", provided the signage has letters at least one (1) inch in height, and is posted conspicuously so that it can be seen by persons approaching the front entry of the residence or at the front doorway, or by persons assisting a solicitor who has such a visual impairment as to be unable to see the sign.
- B. Activities related to a service requested by the owner or occupant of the property and undertaken in the ordinary course of business, including but not limited to deliveries of utility notices, telephone directory deliveries, regular newspaper deliveries, work order notices and service inquiries, are presumed to be requested or invited for the purpose of this Section.
- C. Nothing in this Section shall be construed to prohibit the distribution of leaflets, pamphlets or other literature such as commercial, political or religious material distributed in a lawful manner.

**§144-11.1 Penalty**

Any violation of the provisions of this Chapter shall be punishable as provided in Section 1-15 of the Code of the City of Rye and as otherwise provided herein.

**Section 2. 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 3.**

This local law shall take effect on January 1, 2011.

DRAFT



# CITY COUNCIL AGENDA

NO. 8

DEPT.: Corporation Counsel

DATE: August 11, 2010

CONTACT: Kristen Wilson, Interim Corporation Counsel

**ACTION:** Public Hearing to repeal Chapter 87, Environmental Quality Review, and add new Chapter 87, Escrow Provisions, of the Rye City Code to assign the costs of any experts utilized by a City Board or Commission to the applicant.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

A proposal has been put forth to adopt a new law which would set up an escrow fund to cover the costs of outside consultants that might be necessary to review a project before one of the City's Boards and Commissions. The costs would be borne by the applicant and would be used to pay for consultants retained by the City.

See attached draft Local Law.

**LOCAL LAW NO.     of 2010**

**A Local Law to add**  
**Chapter 87 Escrow Provisions,**  
**Of the Code of the City of Rye, New York**

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

**Section 1.** A local law deleting the existing Chapter 87 “Environmental Quality Review” and replacing it with a new Chapter 87 “Escrow Provisions” of the Code of the City of Rye as follows:

§ 87-1.       Fees and consultants.

A.       Upon any application to the City, the Planning Commission, the Planning Commissioner, the Board of Appeals, the Architectural Review Board, the Building Inspector, the City Engineer, or other employee or official (“boards, commissions and employees”), subject to the provisions of this Section, may require the applicant to deposit with the City, pursuant to an escrow agreement in a form that shall be approved by the Corporation Counsel, funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation in connection with the review of any application.

B.       Any City boards, commissions or employees involved in the review of any application may refer such application to such engineering, planning, legal, technical or environmental consultant or other professionals, hereinafter referred to as "consultant or consultants," as they deem reasonably necessary to enable it to review such application as required by law, provided that the required expertise is not available from city staff, and subject to the following:

(1) The consultant(s) shall send to the City a detailed statement of the consulting services (“statement”) to be provided by the consultant(s) and it shall include the consultant's fees for said services with an acknowledgement by the consultant(s) that the applicant, not the City, shall be ultimately responsible to the consultant(s) for the services provided. A copy of the statement shall be sent to the applicant by the City.

(2) Upon approval by the applicant of the fees and services proposed, the applicant shall deposit a sufficient sum to cover said fees, subject to the

conditions set forth in the signed escrow agreement with the City Comptroller. When said amount is diminished to 50% of the original amount, the applicant will be asked to replenish the escrow with funds sufficient to bring the account back to the level of the original amount. Excess funds are to be returned to the applicant as soon as is practicable following the application and approval/denial process.

(3) If the applicant wishes to review the services and the costs with the City boards, commissions or employees, the request for a review shall be in writing and mailed to the City Clerk by certified mail, return receipt requested, or delivered in person, within seven days of the applicant's receipt of the service and cost statement.

(4) The boards, commissions or employees shall authorize the consultant to proceed within 7 days of receipt of the funds by the City Comptroller. All details related to the kind and manner of payment shall be in the discretion of the City Comptroller.

(5) Nothing contained herein or in the escrow agreement shall be deemed as an indication or obligation by the City to approve the application or grant its approval. The escrow arrangement shall be for the benefit of the applicant to facilitate the review process and provide the City with the necessary expertise where the City does not have such expertise. The applicant, in the escrow agreement shall hold the City of Rye and all of the relevant boards, commissions and/or employees harmless.

(6) Payment of the consultant(s)' fees shall be required in addition to any and all other fees required by this or any other section of this chapter or any other City law or regulation.

(7) No final action on an application or permit shall be taken and/or issued until all consultant's fees charged in connection with the review of the applicant's project have been paid.

## **Section 2. 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 3.**

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



# CITY COUNCIL AGENDA

NO. 9

DEPT.: City Comptroller's Office

DATE: August 11, 2010

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution authorizing the City Comptroller to seek Revenue Anticipation Notes (RAN) for specific capital projects.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve the resolution authorizing City Comptroller Jean Gribbins to issue a revenue anticipation notes in the amount of \$4,550,000.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** To improve the City's current cash flow, the Comptroller recommends issuing revenue anticipation notes in the amount of \$4,500,000 which will be repaid with anticipated revenues from the following four projects.

1) Bird Homestead Grants	\$ 550,000
2) Bowman Avenue Sluice Gate	\$1,500,000
3) Central Avenue Bridge	\$1,400,000
4) Theodore Fremd Retaining Wall	<u>\$1,100,000</u>
	\$4,550,000

See attached Resolution.



LEGAL  
COUNSEL  
WORLDWIDE

SQUIRE, SANDERS & DEMPSEY L.L.P.

30 Rockefeller Plaza  
New York, New York 10112  
Office: +1.212.872.9800  
Fax: +1.212.872.9815  
Direct Dial: +1.212.872.9862  
ltrialonas@ssd.com

August 2, 2010

**VIA E-MAIL**

Ms. Jean Gribbins  
City Comptroller  
City of Rye  
1051 Boston Post Road  
Rye, New York 10580

**Re: City of Rye, New York (the "City")  
\$4,550,000 aggregate amount Revenue Anticipation Note Resolutions (FY 2010-2011)**

Dear Jean:

Pursuant to your request, attached please find extracts from minutes of a meeting of the City Council of the City containing revenue anticipation note ("RAN") resolutions that authorize the issuance of up to (i) \$550,000 aggregate principal amount revenue anticipation note of the City in its 2010-2011 fiscal year for the receipt of revenues due with respect to the acquisition of the Bird Homestead, (ii) \$1,500,000 aggregate principal amount revenue anticipation note of the City in its 2010-2011 fiscal year for the receipt of revenues due with respect to the acquisition, construction and reconstruction of the Bowman Avenue Sluice Gate, (iii) \$1,400,000 aggregate principal amount revenue anticipation note of the City in its 2010-2011 fiscal year for the receipt of grant and aid revenues expected to be received by the City with respect to the acquisition, construction and reconstruction of the Central Avenue Bridge, and (iv) \$1,100,000 aggregate principal amount revenue anticipation note of the City in its 2010-2011 fiscal year for the receipt of grant and aid revenues expected to be received by the City with respect to the acquisition, construction and reconstruction of the Theodore Fremd / Blind Brook Retaining Wall.

Upon adoption by a majority of the voting strength of the City Council of the City, the extract pages, the RAN resolutions and the City Clerk's certificates should be completed, executed and sealed in appropriate form and one such copy thereof returned to our office for our transcript file. It is not necessary to publish the attached RAN resolutions with an estoppel notice.

Please review each RAN resolution to make sure we have correctly described the total amount and source of third party funding to be received by the City in anticipation of which the notes authorized in each RAN resolution are to be issued. Once the RANs are authorized by the City Council we can discuss how best the City may issue them. We should also discuss the

BEIJING • BRATISLAVA • BRUSSELS • BUDAPEST • CARACAS • CINCINNATI • CLEVELAND • COLUMBUS • FRANKFURT • HONG KONG • HOUSTON • KYIV  
LONDON • LOS ANGELES • MIAMI • MOSCOW • NEW YORK • PALO ALTO • PHOENIX • PRAGUE • RIO DE JANEIRO • SAN FRANCISCO • SANTO DOMINGO  
SÃO PAULO • SHANGHAI • TALLAHASSEE • TAMPA • TOKYO • TYSONS CORNER • WARSAW • WASHINGTON DC • WEST PALM BEACH  
INDEPENDENT NETWORK FIRMS: BEIRUT • BOGOTÁ • BUCHAREST • BUENOS AIRES • LA PAZ • LIMA • PANAMÁ • RIYADH • SANTIAGO

Ms. Jean Gribbins  
August 2, 2010  
Page 2

proposed inter-municipal agreement with Rye Brook on the Bowman Avenue project.

Please do not hesitate to call me with any questions you may have.

Very truly yours,

Lauren Trialonas

Attachment  
Cc: Kenneth W. Bond

**EXTRACTS FROM MINUTES OF MEETING OF THE CITY COUNCIL OF THE CITY  
OF RYE**

*(\$550,000 - Revenue Anticipation Note – Bird Homestead Acquisition)*

A meeting of the City Council of the City of Rye (the “City”), located in the County of Westchester, State of New York, was held at \_\_\_\_\_, in Rye, New York on August \_\_\_\_, 2010, at \_\_\_\_ o’clock, \_\_\_\_M., Prevailing Time, at which meeting a quorum was at all times present and acting. There were:

PRESENT:

ABSENT:

ALSO PRESENT:

\* \* \* \* \*

Council member \_\_\_\_\_ submitted the following resolution and moved for its adoption. The motion was seconded by Council member \_\_\_\_\_. The City Council of the City was polled. The motion was adopted by a vote of \_\_\_\_ affirmative votes (being at least a majority of the voting strength of the City Council of the City) with \_\_\_\_ negative votes and \_\_\_\_ votes absent.

**REVENUE ANTICIPATION NOTE RESOLUTION, DATED AUGUST \_\_\_, 2010, AUTHORIZING THE ISSUANCE OF A \$550,000 AGGREGATE PRINCIPAL AMOUNT REVENUE ANTICIPATION NOTE OF THE CITY OF RYE, LOCATED IN THE COUNTY OF WESTCHESTER, STATE OF NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, IN ANTICIPATION OF THE RECEIPT OF MONEYS TO BE RECEIVED IN AND FOR THE CITY IN ITS FISCAL YEAR ENDING DECEMBER 31, 2011.**

**WHEREAS**, the City of Rye (the “City ”), a municipal corporation of the State of New York (the “State”), located in the County of Westchester, pursuant to the Local Finance Law, desires to issue a revenue anticipation note in anticipation of the receipt of revenues from the NYS Office of Parks & Historic Preservation (\$350,000) and the Westchester County Legacy Program (\$200,000) expected to be received by the City for their respective share of the costs of the acquisition of the bird Homestead to be received in and for the City in its fiscal year ending December 31, 2011; and

**WHEREAS**, the receipt of such moneys is expected to be received prior to the close of the City’s fiscal year ending December 31, 2011; and

**WHEREAS**, none of such moneys to be received in such fiscal year has been received by the City as of the date hereof, leaving \$550,000 of such moneys not yet received in such fiscal year; and

**WHEREAS**, during the fiscal year ending December 31, 2011, the actual amount of such moneys received by the City is expected to be \$550,000; and

**WHEREAS**, no revenue anticipation notes have been authorized or issued in anticipation of the receipt of such moneys in such fiscal year; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rye, located in the County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued a revenue anticipation note of the City in the aggregate principal amount of up to \$550,000, pursuant to the Local Finance Law, in anticipation of the receipt of moneys from the NYS Office of Parks & Historic Preservation and from the Westchester County Legacy Program expected to be received by the City for their respective share of costs of the acquisition of the Bird Homestead to be received in and for the City in its fiscal year ending December 31, 2011; provided, however, that no such note as authorized herein shall be issued under this Resolution at any time in an amount which exceeds the “cumulative cash-flow deficit” within the meaning of the applicable Internal Revenue Code regulations with respect to such note. Such note shall be designated the “City of Rye, New York Revenue Anticipation Note, Series 2010” (the “Note”).

Section 2. The Note shall be dated, shall mature, shall be in a denomination and series and shall bear interest at the rate of interest per annum, as determined at the time of the sale of the Note by the City Comptroller at a private sale in accordance with the provisions of the Local Finance Law of the State and Chapter 2 of the New York Code of Rules and Regulations.

Section 3. The City Council of the City has ascertained and hereby states that (a) \$550,00 of such anticipated moneys referred to herein remain unreceived as of the date hereof for the fiscal year of the City ending December 31, 2011; (b) no revenue anticipation notes have heretofore been authorized or issued in anticipation of the receipt of such moneys for such fiscal year, except the Note; (c) no amount has been included in the annual budget of the City for such fiscal year to offset, in whole or in part, any anticipated deficiency in the receipt during such fiscal year of such moneys to be received for such fiscal year; (d) the Note is to be issued in anticipation of the receipt of revenues other than real estate taxes and assessments; (e) the date of maturity of the Note and any renewals thereof, shall not be extended beyond December 31, 2013, which is the close of the applicable period provided in Section 25.00 of the Local Finance Law

for the maturity of the Note; and (f) all earnings from the proceeds of the Note, if any, shall be applied to the payment of interest on the Note when due and payable, or for the payment of other governmental purposes of the City within the meaning of the United States Treasury Regulations or other such regulations in effect or proposed on the date of the Note.

Section 4. Pursuant to the provisions of the Local Finance Law, including Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to sell, issue and deliver the Note and the power to prescribe the terms, form and contents of the Note, including any renewals thereof, are hereby delegated to the City Comptroller, as the chief fiscal officer of the City. The City Comptroller is hereby authorized to execute the Note on behalf of the City and the City Clerk is hereby authorized to impress the seal of the City on the Note (or to have imprinted a facsimile thereof) and to attest such seal. The City Comptroller is hereby authorized to deliver the Note to the purchaser thereof upon payment and receipt in full of the purchase price thereof.

Section 5. The Note shall be a full faith and credit obligation of the City pursuant to Article VIII, Section 2 of the New York Constitution and the Local Finance Law payable first from moneys for which the Note is issued in anticipation of the receipt thereof.

Section 6. The City Comptroller is hereby directed to file with the City Council of the City, a certificate or certificates reporting the date of the Note, the date the Note matures, the rate of interest payable on the Note, the purchaser of the Note, and a statement to the effect that the power of the City Comptroller to sell, issue and deliver the Note is in full force and effect and has not been modified, amended or revoked prior to the delivery of and payment for the Note, and such other certificates as may be delivered to the purchaser of the Note.

Section 7. In the absence of the City Comptroller, the Deputy Comptroller is hereby authorized to exercise the powers referred to in Sections 4 and 6 of this Resolution.

Section 8. The City covenants for the benefit of the holders and beneficial owners of the Note that it will not make any use of the proceeds of the Note, any funds reasonably expected to be used to pay the principal of or interest on the Note, or any other funds of the City, which would cause the interest on the Note 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 Note or the proceeds thereof, if such action or omission would cause the interest on the Note 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 Note or any other provisions hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of the Note may be applied to reimburse expenditures or commitments made prior to the issuance of the Note on or after a date which is not more than sixty (60) days prior to the date of adoption of this Resolution by the City Council of the City.

Section 9. For the benefit of the holders and beneficial owners from time to time of the Note, the City agrees, in accordance with and as an obligated person with respect to such obligations under, Rule 15c2-12 (the “Rule”) promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934, 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 implement that agreement,

including provisions for enforcement, amendment and termination, the City Comptroller of the City 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 Note 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 the costs the City would be required to incur to perform thereunder. The City Comptroller, acting on behalf of the City, 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 attorney 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 attorney or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This Resolution shall take effect immediately upon its adoption by a majority vote of the voting strength of the City Council of the City.

I, **DAWN NODARSE**, City Clerk of the City of Rye (the “City ”), located in the County of Westchester, State of New York, **HEREBY CERTIFY** as follows:

1. A meeting of the City Council of the City was duly held on August\_\_\_\_, 2010 and minutes of such meeting have been duly recorded in the Minute Book kept by me in accordance with the law for the purpose of recording the minutes of meetings of the City Council of the City.

2. I have compared the attached extract with such minutes so recorded and such extract is a true and correct copy of such minutes and of the whole thereof insofar as such minutes relate to matters referred to in such extract.

3. Such minutes correctly state the time when such meeting was convened and the place where such meeting was held and the members of the City Council of the City who attended such meeting.

4. Notice of such meeting was given as prescribed by law and such meeting was open to all persons who were entitled by law to attend such meeting.

**IN WITNESS WHEREOF**, I have hereunto set my hand and impressed the seal of the City this \_\_\_ day of August, 2010.

**(SEAL)**

---

**DAWN NODARSE**  
City Clerk  
City of Rye, New York

**EXTRACTS FROM MINUTES OF MEETING OF THE CITY COUNCIL OF THE CITY  
OF RYE**

*(\$1,500,000 - Revenue Anticipation Note – Bowman Avenue Sluice Gate)*

A meeting of the City Council of the City of Rye (the “City”), located in the County of Westchester, State of New York, was held at \_\_\_\_\_, in Rye, New York on August \_\_\_\_, 2010, at \_\_\_\_ o’clock, \_\_\_\_M., Prevailing Time, at which meeting a quorum was at all times present and acting. There were:

PRESENT:

ABSENT:

ALSO PRESENT:

\* \* \* \* \*

Council member \_\_\_\_\_ submitted the following resolution and moved for its adoption. The motion was seconded by Council member \_\_\_\_\_. The City Council of the City was polled. The motion was adopted by a vote of \_\_\_\_ affirmative votes (being at least a majority of the voting strength of the City Council of the City) with \_\_\_\_ negative votes and \_\_\_\_ votes absent.

**REVENUE ANTICIPATION NOTE RESOLUTION, DATED AUGUST \_\_\_, 2010, AUTHORIZING THE ISSUANCE OF A \$1,500,000 AGGREGATE PRINCIPAL AMOUNT REVENUE ANTICIPATION NOTE OF THE CITY OF RYE, LOCATED IN THE COUNTY OF WESTCHESTER, STATE OF NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, IN ANTICIPATION OF THE RECEIPT OF MONEYS TO BE RECEIVED IN AND FOR THE CITY IN ITS FISCAL YEAR ENDING DECEMBER 31, 2011.**

**WHEREAS**, the City of Rye(the “City ”), a municipal corporation of the State of New York (the “State”), located in the County of Westchester, pursuant to the Local Finance Law, desires to issue a revenue anticipation note in anticipation of the receipt of revenues from New York State (\$400,000) and Westchester County (\$1,100,000) expected to be received by the City for their respective share of the costs of the acquisition, construction and reconstruction of the Bowman Avenue Sluice Gate to be received, in and for the City, to be received in its fiscal year ending December 31, 2011; and

**WHEREAS**, the receipt of such moneys is expected to be received prior to the close of the City’s ending December 31, 2011; and

**WHEREAS**, none of such moneys to be received in such fiscal year has been received by the City as of the date hereof, leaving \$1,500,000 of such moneys not yet received in such fiscal year; and

**WHEREAS**, during the fiscal year ending December 31, 2011, the actual amount of such moneys received by the City is expected to be \$1,500,000; and

**WHEREAS**, no revenue anticipation notes have been authorized or issued in anticipation of the receipt of such moneys in such fiscal year; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rye, located in the County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued a revenue anticipation note of the City in the aggregate principal amount of up to \$1,500,000, pursuant to the Local Finance Law, in anticipation of the receipt of moneys from New York State and Westchester County expected to be received by the City for their respective share of the costs of the acquisition, construction and reconstruction of the Bowman Avenue Sluice Gate in its fiscal year ending December 31, 2011; provided, however, that no such note as authorized herein shall be issued under this Resolution at any time in an amount which exceeds the “cumulative cash-flow deficit” within the meaning of the applicable Internal Revenue Code regulations with respect to such note. Such note shall be designated the “City of Rye, New York Revenue Anticipation Note, Series 2010” (the “Note”).

Section 2. The Note shall be dated, shall mature, shall be in a denomination and series and shall bear interest at the rate of interest per annum, as determined at the time of the sale of the Note by the City Comptroller at a private sale in accordance with the provisions of the Local Finance Law of the State and Chapter 2 of the New York Code of Rules and Regulations.

Section 3. The City Council of the City has ascertained and hereby states that (a) \$1,500,000 of such anticipated moneys referred to herein remain unreceived as of the date hereof for the fiscal year of the City ending December 31, 2011; (b) no revenue anticipation notes have heretofore been authorized or issued in anticipation of the receipt of such moneys for such fiscal year, except the Note; (c) no amount has been included in the annual budget of the City for such fiscal year to offset, in whole or in part, any anticipated deficiency in the receipt during such fiscal year of such moneys to be received for such fiscal year; (d) the Note is to be issued in anticipation of the receipt of revenues other than real estate taxes and assessments; (e) the date of maturity of the Note and any renewals thereof, shall not be extended beyond December 31, 2013, which is the close of the applicable period provided in Section 25.00 of the Local Finance Law

for the maturity of the Note; and (f) all earnings from the proceeds of the Note, if any, shall be applied to the payment of interest on the Note when due and payable, or for the payment of other governmental purposes of the City within the meaning of the United States Treasury Regulations or other such regulations in effect or proposed on the date of the Note.

Section 4. Pursuant to the provisions of the Local Finance Law, including Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to sell, issue and deliver the Note and the power to prescribe the terms, form and contents of the Note, including any renewals thereof, are hereby delegated to the City Comptroller, as the chief fiscal officer of the City. The City Comptroller is hereby authorized to execute the Note on behalf of the City and the City Clerk is hereby authorized to impress the seal of the City on the Note (or to have imprinted a facsimile thereof) and to attest such seal. The City Comptroller is hereby authorized to deliver the Note to the purchaser thereof upon payment and receipt in full of the purchase price thereof.

Section 5. The Note shall be a full faith and credit obligation of the City pursuant to Article VIII, Section 2 of the New York Constitution and the Local Finance Law payable first from moneys for which the Note is issued in anticipation of the receipt thereof.

Section 6. The City Comptroller is hereby directed to file with the City Council of the City, a certificate or certificates reporting the date of the Note, the date the Note matures, the rate of interest payable on the Note, the purchaser of the Note, and a statement to the effect that the power of the City Comptroller to sell, issue and deliver the Note is in full force and effect and has not been modified, amended or revoked prior to the delivery of and payment for the Note, and such other certificates as May be delivered to the purchaser of the Note.

Section 7. In the absence of the City Comptroller, the Deputy Comptroller is hereby authorized to exercise the powers referred to in Sections 4 and 6 of this Resolution.

Section 8. The City covenants for the benefit of the holders and beneficial owners of the Note that it will not make any use of the proceeds of the Note, any funds reasonably expected to be used to pay the principal of or interest on the Note, or any other funds of the City, which would cause the interest on the Note 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 Note or the proceeds thereof, if such action or omission would cause the interest on the Note 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 Note or any other provisions hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of the Note may be applied to reimburse expenditures or commitments made prior to the issuance of the Note on or after a date which is not more than sixty (60) days prior to the date of adoption of this Resolution by the City Council of the City.

Section 9. For the benefit of the holders and beneficial owners from time to time of the Note, the City agrees, in accordance with and as an obligated person with respect to such obligations under, Rule 15c2-12 (the “Rule”) promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934, 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 implement that agreement,

including provisions for enforcement, amendment and termination, the City Comptroller of the City 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 Note 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 the costs the City would be required to incur to perform thereunder. The City Comptroller, acting on behalf of the City, 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 attorney 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 attorney or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This Resolution shall take effect immediately upon its adoption by a majority vote of the voting strength of the City Council of the City.

I, **DAWN NODARSE**, City Clerk of the City of Rye (the “City ”), located in the County of Westchester, State of New York, **HEREBY CERTIFY** as follows:

1. A meeting of the City Council of the City was duly held on August\_\_\_\_, 2010 and minutes of such meeting have been duly recorded in the Minute Book kept by me in accordance with the law for the purpose of recording the minutes of meetings of the City Council of the City.

2. I have compared the attached extract with such minutes so recorded and such extract is a true and correct copy of such minutes and of the whole thereof insofar as such minutes relate to matters referred to in such extract.

3. Such minutes correctly state the time when such meeting was convened and the place where such meeting was held and the members of the City Council of the City who attended such meeting.

4. Notice of such meeting was given as prescribed by law and such meeting was open to all persons who were entitled by law to attend such meeting.

**IN WITNESS WHEREOF**, I have hereunto set my hand and impressed the seal of the City this \_\_\_ day of August, 2010.

**(SEAL)**

---

**DAWN NODARSE**  
City Clerk  
City of Rye, New York

**EXTRACTS FROM MINUTES OF MEETING OF THE CITY COUNCIL OF THE CITY  
OF RYE**

*(\$1,400,000 - Revenue Anticipation Note – Central Avenue Bridge)*

A meeting of the City Council of the City of Rye (the “City”), located in the County of Westchester, State of New York, was held at \_\_\_\_\_, in Rye, New York on August \_\_\_\_, 2010, at \_\_\_\_ o’clock, \_\_\_\_M., Prevailing Time, at which meeting a quorum was at all times present and acting. There were:

PRESENT:

ABSENT:

ALSO PRESENT:

\* \* \* \* \*

Council member \_\_\_\_\_ submitted the following resolution and moved for its adoption. The motion was seconded by Council member \_\_\_\_\_. The City Council of the City was polled. The motion was adopted by a vote of \_\_\_\_ affirmative votes (being at least a majority of the voting strength of the City Council of the City) with \_\_\_\_ negative votes and \_\_\_\_ votes absent.

**REVENUE ANTICIPATION NOTE RESOLUTION, DATED AUGUST \_\_\_, 2010, AUTHORIZING THE ISSUANCE OF A \$1,400,000 AGGREGATE PRINCIPAL AMOUNT REVENUE ANTICIPATION NOTE OF THE CITY OF RYE, LOCATED IN THE COUNTY OF WESTCHESTER, STATE OF NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, IN ANTICIPATION OF THE RECEIPT OF MONEYS TO BE RECEIVED IN AND FOR THE CITY IN ITS FISCAL YEAR ENDING DECEMBER 31, 2011.**

**WHEREAS**, the City of Rye(the “City ”), a municipal corporation of the State of New York (the “State”), located in the County of Westchester, pursuant to the Local Finance Law, desires to issue a revenue anticipation note in anticipation of the receipt of revenues from the Federal Highway Administration of \$1,400,000 expected to be received by the City for their respective share of the costs of acquisition, construction and reconstruction of the Central Avenue Bridge, in and for the City, to be received in its fiscal year ending December 31, 2011; and

**WHEREAS**, the receipt of such moneys is expected to be received prior to the close of the City’s year ending December 31, 2011; and

**WHEREAS**, none of such moneys to be received in such fiscal year has been received by the City as of the date hereof, leaving \$1,400,000 of such moneys not yet received in such fiscal year; and

**WHEREAS**, during the fiscal year ending December 31, 2011, the actual amount of such moneys received by the City is expected to be \$1,400,000; and

**WHEREAS**, no revenue anticipation notes have been authorized or issued in anticipation of the receipt of such moneys in such fiscal year; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rye, located in the County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued a revenue anticipation note of the City in the aggregate principal amount of up to \$1,400,000, pursuant to the Local Finance Law, in anticipation of the receipt of moneys from the Federal Highway Administration expected to be received by the City for their respective share of the costs of the acquisition, construction and reconstruction of the Central Avenue Bridge in its fiscal year ending December 31, 2011; provided, however, that no such note as authorized herein shall be issued under this Resolution at any time in an amount which exceeds the “cumulative cash-flow deficit” within the meaning of the applicable Internal Revenue Code regulations with respect to such note. Such note shall be designated the “City of Rye, New York Revenue Anticipation Note, Series 2010” (the “Note”).

Section 2. The Note shall be dated, shall mature, shall be in a denomination and series and shall bear interest at the rate of interest per annum, as determined at the time of the sale of the Note by the City Comptroller at a private sale in accordance with the provisions of the Local Finance Law of the State and Chapter 2 of the New York Code of Rules and Regulations.

Section 3. The City Council of the City has ascertained and hereby states that (a) \$1,400,000 of such anticipated moneys referred to herein remain unreceived as of the date hereof for the fiscal year of the City ending December 31, 2011; (b) no revenue anticipation notes have heretofore been authorized or issued in anticipation of the receipt of such moneys for such fiscal year, except the Note; (c) no amount has been included in the annual budget of the City for such fiscal year to offset, in whole or in part, any anticipated deficiency in the receipt during such fiscal year of such moneys to be received for such fiscal year; (d) the Note is to be issued in anticipation of the receipt of revenues other than real estate taxes and assessments; (e) the date of maturity of the Note and any renewals thereof, shall not be extended beyond December 31, 2013, which is the close of the applicable period provided in Section 25.00 of the Local Finance Law

for the maturity of the Note; and (f) all earnings from the proceeds of the Note, if any, shall be applied to the payment of interest on the Note when due and payable, or for the payment of other governmental purposes of the City within the meaning of the United States Treasury Regulations or other such regulations in effect or proposed on the date of the Note.

Section 4. Pursuant to the provisions of the Local Finance Law, including Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to sell, issue and deliver the Note and the power to prescribe the terms, form and contents of the Note, including any renewals thereof, are hereby delegated to the City Comptroller, as the chief fiscal officer of the City. The City Comptroller is hereby authorized to execute the Note on behalf of the City and the City Clerk is hereby authorized to impress the seal of the City on the Note (or to have imprinted a facsimile thereof) and to attest such seal. The City Comptroller is hereby authorized to deliver the Note to the purchaser thereof upon payment and receipt in full of the purchase price thereof.

Section 5. The Note shall be a full faith and credit obligation of the City pursuant to Article VIII, Section 2 of the New York Constitution and the Local Finance Law payable from moneys for which the Note is issued in anticipation of the receipt thereof.

Section 6. The City Comptroller is hereby directed to file with the City Council of the City, a certificate or certificates reporting the date of the Note, the date the Note matures, the rate of interest payable on the Note, the purchaser of the Note, and a statement to the effect that the power of the City Comptroller to sell, issue and deliver the Note is in full force and effect and has not been modified, amended or revoked prior to the delivery of and payment for the Note, and such other certificates as May be delivered to the purchaser of the Note.

Section 7. In the absence of the City Comptroller, the Deputy Comptroller is hereby authorized to exercise the powers referred to in Sections 4 and 6 of this Resolution.

Section 8. The City covenants for the benefit of the holders and beneficial owners of the Note that it will not make any use of the proceeds of the Note, any funds reasonably expected to be used to pay the principal of or interest on the Note, or any other funds of the City, which would cause the interest on the Note 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 Note or the proceeds thereof, if such action or omission would cause the interest on the Note 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 Note or any other provisions hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of the Note may be applied to reimburse expenditures or commitments made prior to the issuance of the Note on or after a date which is not more than sixty (60) days prior to the date of adoption of this Resolution by the City Council of the City.

Section 9. For the benefit of the holders and beneficial owners from time to time of the Note, the City agrees, in accordance with and as an obligated person with respect to such obligations under, Rule 15c2-12 (the “Rule”) promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934, 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 implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller of the City 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 Note 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 the costs the City would be required to incur to perform thereunder. The City Comptroller, acting on behalf of the City, 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 attorney 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 attorney or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This Resolution shall take effect immediately upon its adoption by a majority vote of the voting strength of the City Council of the City.

I, **DAWN NODARSE**, City Clerk of the City of Rye (the “City ”), located in the County of Westchester, State of New York, **HEREBY CERTIFY** as follows:

1. A meeting of the City Council of the City was duly held on August\_\_\_\_, 2010 and minutes of such meeting have been duly recorded in the Minute Book kept by me in accordance with the law for the purpose of recording the minutes of meetings of the City Council of the City.

2. I have compared the attached extract with such minutes so recorded and such extract is a true and correct copy of such minutes and of the whole thereof insofar as such minutes relate to matters referred to in such extract.

3. Such minutes correctly state the time when such meeting was convened and the place where such meeting was held and the members of the City Council of the City who attended such meeting.

4. Notice of such meeting was given as prescribed by law and such meeting was open to all persons who were entitled by law to attend such meeting.

**IN WITNESS WHEREOF**, I have hereunto set my hand and impressed the seal of the City this \_\_\_ day of August, 2010.

**(SEAL)**

---

**DAWN NODARSE**  
City Clerk  
City of Rye, New York

**EXTRACTS FROM MINUTES OF MEETING OF THE CITY COUNCIL OF THE CITY  
OF RYE**

*(\$1,100,000 - Revenue Anticipation Note – Theodore Fremd / Blind Brook Retaining Wall )*

A meeting of the City Council of the City of Rye (the “City”), located in the County of Westchester, State of New York, was held at \_\_\_\_\_, in Rye, New York on August \_\_\_\_, 2010, at \_\_\_\_ o’clock, \_\_\_\_M., Prevailing Time, at which meeting a quorum was at all times present and acting. There were:

PRESENT:

ABSENT:

ALSO PRESENT:

\* \* \* \* \*

Council member \_\_\_\_\_ submitted the following resolution and moved for its adoption. The motion was seconded by Council member \_\_\_\_\_. The City Council of the City was polled. The motion was adopted by a vote of \_\_\_\_ affirmative votes (being at least a majority of the voting strength of the City Council of the City) with \_\_\_\_ negative votes and \_\_\_\_ votes absent.

**REVENUE ANTICIPATION NOTE RESOLUTION, DATED AUGUST \_\_\_, 2010, AUTHORIZING THE ISSUANCE OF A \$1,100,000 AGGREGATE PRINCIPAL AMOUNT REVENUE ANTICIPATION NOTE OF THE CITY OF RYE, LOCATED IN THE COUNTY OF WESTCHESTER, STATE OF NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, IN ANTICIPATION OF THE RECEIPT OF MONEYS TO BE RECEIVED IN AND FOR THE CITY IN ITS FISCAL YEAR ENDING DECEMBER 31, 2011.**

**WHEREAS**, the City of Rye(the “City ”), a municipal corporation of the State of New York (the “State”), located in the County of Westchester, pursuant to the Local Finance Law, desires to issue a revenue anticipation note in anticipation of the receipt of revenues from the Federal Highway Administration of \$1,100,000 expected to be received by the City for their respective share of the costs of the acquisition, construction and reconstruction of the Theodore Fremd / Blind Brook Retaining Wall, in and for the City, to be received in its fiscal year ending December 31, 2011; and

**WHEREAS**, the receipt of such moneys is expected to be received prior to the close of the City’s year ending December 31, 2011; and

**WHEREAS**, none of such moneys to be received in such fiscal year has been received by the City as of the date hereof, leaving \$1,100,000 of such moneys not yet received in such fiscal year; and

**WHEREAS**, during the fiscal year ending December 31, 2011, the actual amount of such moneys received by the City is expected to be \$1,100,000; and

**WHEREAS**, no revenue anticipation notes have been authorized or issued in anticipation of the receipt of such moneys in such fiscal year; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rye, located in the County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued a revenue anticipation note of the City in the aggregate principal amount of up to \$1,100,000, pursuant to the Local Finance Law, in anticipation of the receipt of moneys from the Federal Highway Administration expected to be received by the City for their respective share of the costs of the acquisition, construction and reconstruction of the Theodore Fremd / Blind Brook Retaining Wall in its fiscal year ending December 31, 2011; provided, however, that no such note as authorized herein shall be issued under this Resolution at any time in an amount which exceeds the “cumulative cash-flow deficit” within the meaning of the applicable Internal Revenue Code regulations with respect to such note. Such note shall be designated the “City of Rye, New York Revenue Anticipation Note, Series 2010” (the “Note”).

Section 2. The Note shall be dated, shall mature, shall be in a denomination and series and shall bear interest at the rate of interest per annum, as determined at the time of the sale of the Note by the City Comptroller at a private sale in accordance with the provisions of the Local Finance Law of the State and Chapter 2 of the New York Code of Rules and Regulations.

Section 3. The City Council of the City has ascertained and hereby states that (a) \$1,100,000 of such anticipated moneys referred to herein remain unreceived as of the date hereof for the fiscal year of the City ending December 31, 2011; (b) no revenue anticipation notes have heretofore been authorized or issued in anticipation of the receipt of such moneys for such fiscal year, except the Note; (c) no amount has been included in the annual budget of the City for such fiscal year to offset, in whole or in part, any anticipated deficiency in the receipt during such fiscal year of such moneys to be received for such fiscal year; (d) the Note is to be issued in anticipation of the receipt of revenues other than real estate taxes and assessments; (e) the date of maturity of the Note and any renewals thereof, shall not be extended beyond December 31, 2013, which is the close of the applicable period provided in Section 25.00 of the Local Finance Law

for the maturity of the Note; and (f) all earnings from the proceeds of the Note, if any, shall be applied to the payment of interest on the Note when due and payable, or for the payment of other governmental purposes of the City within the meaning of the United States Treasury Regulations or other such regulations in effect or proposed on the date of the Note.

Section 4. Pursuant to the provisions of the Local Finance Law, including Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to sell, issue and deliver the Note and the power to prescribe the terms, form and contents of the Note, including any renewals thereof, are hereby delegated to the City Comptroller, as the chief fiscal officer of the City. The City Comptroller is hereby authorized to execute the Note on behalf of the City and the City Clerk is hereby authorized to impress the seal of the City on the Note (or to have imprinted a facsimile thereof) and to attest such seal. The City Comptroller is hereby authorized to deliver the Note to the purchaser thereof upon payment and receipt in full of the purchase price thereof.

Section 5. The Note shall be a full faith and credit obligation of the City pursuant to Article VIII, Section 2 of the New York Constitution and the Local Finance Law payable from moneys for which the Note is issued in anticipation of the receipt thereof.

Section 6. The City Comptroller is hereby directed to file with the City Council of the City, a certificate or certificates reporting the date of the Note, the date the Note matures, the rate of interest payable on the Note, the purchaser of the Note, and a statement to the effect that the power of the City Comptroller to sell, issue and deliver the Note is in full force and effect and has not been modified, amended or revoked prior to the delivery of and payment for the Note, and such other certificates as May be delivered to the purchaser of the Note.

Section 7. In the absence of the City Comptroller, the Deputy Comptroller is hereby authorized to exercise the powers referred to in Sections 4 and 6 of this Resolution.

Section 8. The City covenants for the benefit of the holders and beneficial owners of the Note that it will not make any use of the proceeds of the Note, any funds reasonably expected to be used to pay the principal of or interest on the Note, or any other funds of the City, which would cause the interest on the Note 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 Note or the proceeds thereof, if such action or omission would cause the interest on the Note 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 Note or any other provisions hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of the Note may be applied to reimburse expenditures or commitments made prior to the issuance of the Note on or after a date which is not more than sixty (60) days prior to the date of adoption of this Resolution by the City Council of the City.

Section 9. For the benefit of the holders and beneficial owners from time to time of the Note, the City agrees, in accordance with and as an obligated person with respect to such obligations under, Rule 15c2-12 (the “Rule”) promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934, 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 implement that agreement,

including provisions for enforcement, amendment and termination, the City Comptroller of the City 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 Note 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 the costs the City would be required to incur to perform thereunder. The City Comptroller, acting on behalf of the City, 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 attorney 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 attorney or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This Resolution shall take effect immediately upon its adoption by a majority vote of the voting strength of the City Council of the City.

I, **DAWN NODARSE**, City Clerk of the City of Rye (the “City ”), located in the County of Westchester, State of New York, **HEREBY CERTIFY** as follows:

1. A meeting of the City Council of the City was duly held on August\_\_\_\_, 2010 and minutes of such meeting have been duly recorded in the Minute Book kept by me in accordance with the law for the purpose of recording the minutes of meetings of the City Council of the City.

2. I have compared the attached extract with such minutes so recorded and such extract is a true and correct copy of such minutes and of the whole thereof insofar as such minutes relate to matters referred to in such extract.

3. Such minutes correctly state the time when such meeting was convened and the place where such meeting was held and the members of the City Council of the City who attended such meeting.

4. Notice of such meeting was given as prescribed by law and such meeting was open to all persons who were entitled by law to attend such meeting.

**IN WITNESS WHEREOF**, I have hereunto set my hand and impressed the seal of the City this \_\_\_ day of August, 2010.

**(SEAL)**

---

**DAWN NODARSE**  
City Clerk  
City of Rye, New York



# CITY COUNCIL AGENDA

NO. 10

DEPT.: City Comptroller's Office

DATE: August 11, 2010

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution authorizing the City Comptroller to reallocate 2002 Recreation Bond proceeds to be used for debt service.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve the resolution authorizing City Comptroller Jean Gribbins to reallocate the remaining proceeds of the 2002 Recreation Bond.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** On April 10, 2002 the City issued a bond in the amount of \$2,900,000 to finance the cost of additions and reconstruction of various City-owned buildings used for park and recreational purposes. \$324,000 remains unspent from the original 2002 bond. The City Council has directed that a portion of this unspent proceed be applied to projects included in the adopted Building and Vehicle Budget for 2010 and a portion of this unspent proceed be applied to the payment of debt service on bonds of the City maturing in 2011 and 2012.

See additional Background attached.

See attached Resolution.

City of Rye

2002 Recreation Bond Proceeds - Recap

<b>Unspent Balance before adoption of 12/16/09 Resolution:</b>	<b>\$476,000</b>
Less : 12/19/09 Resolution to Reallocate Funds for	
Damiano Bldg Improvements	(126,500)
Gagliardo Park Restrooms	(100,000)
Friends Meeting House	(125,000)
<b>Unspent Balance after adoption of 12/16/09 Resolution:</b>	<b>124,500</b>
Less:	
Attorney and Actuary Fees for Arbitrage Calculation and 12/09 Repurpose Resolution	(14,223)
Arbitrage Penalty	(10,814)
<b>Unspent Balance before adoption of 8/11/10 Resolution:</b>	<b>99,463</b>
Add: 8/11/10 Resolution to Cancel the following Capital Projects	
Gagliardo Park Restrooms	100,000
Friends Meeting House	125,000
<b>Unspent Balance after adoption of 8/11/10 Resolution to cancel projects</b>	<b>324,463</b>
Less:	
Unspent Proceeds Applied to Debt Service - 2011	(150,000)
Unspent Proceeds Applied to Debt Service - 2012	(174,463)
<b>Unspent Balance after adoption of 8/11/10 Repurpose Resolution:</b>	<b>0</b>

**WHEREAS**, the City issued \$2,900,000 principal amount general obligations to finance the cost of additions to and the reconstruction of various City-owned buildings for park and recreational purposes pursuant to a \$4,400,000 aggregate principal amount serial bond resolution adopted by the City Council on April 10, 2002; and

**WHEREAS**, after completion of such park and recreational building addition and reconstruction project, \$476,000 of the \$2,900,000 proceeds of obligations issued by the City for such object or purpose remain unspent; and

**WHEREAS**, the City Council has adopted the Building and Vehicle Budget for 2010, which included 3 projects to be funded with unspent proceeds of the above 2002 Borrowings as follows:

Damiano Building Improvements \$126,500  
Gagliardo Park Restroom & Storage 100,000  
Friends Meeting House 125,000  
Total use of unspent Proceeds \$351,500

**WHEREAS**, the unspent proceeds of the 2002 Borrowings is now \$124,500.

**NOW, THEREFORE**, be it resolved by the City Council of the City of Rye, New York, anything in the Charter of the City to the contrary notwithstanding, as follows:

1. **RESOLVED**, that pursuant to section 165.00(a) of the Local Finance Law and section 11 of the General Municipal Law, a portion of the proceeds originally in the amount of \$2,900,000 constituting a part of obligations of the City issued pursuant to a \$4,400,000 aggregate principal amount serial bond resolution adopted by the City Council on April 10, 2002, now unspent and not needed for the object or purpose (the construction and reconstruction of City-owned buildings for park and recreational purposes), hereby shall be (i) deposited in a single special account of the City in a bank or trust company located and authorized to do business in New York, (ii) not at any time commingled with other funds of the City, and (iii) expended and applied only to the cost of an object or purpose similar to and of the same period of probable usefulness as the object or purpose for which the such part of said obligations were issued, all in lieu of applying said unspent proceeds to annual debt service on said obligations. In connection with the issuance of said obligations, the City Council hereby ratifies, approves and confirms the powers delegated to the City Comptroller, as chief fiscal officer of the City, contained in said bond resolution.

2. **FURTHER RESOLVED**, that prior to the expenditure of said unspent proceeds, the City Council shall conduct applicable environmental compliance proceedings under the NYS Environmental Quality Review Act with respect to the environmental and climate change impact of said similar object or purpose.

ROLL CALL:

AYES: Mayor Otis, Councilmembers Ball, Cunningham,  
Gamache, Parker and Pratt

NAYS: Councilman Sack

ABSENT: None



# CITY COUNCIL AGENDA

NO. 11

DEPT.: City Mayor

DATE: August 11, 2010

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Resolution pursuant to the Stipulation of Settlement removing the ETPA from the building located at 151 Purchase Street.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Council pass a resolution removing the ETPA from the building at 151 Purchase Street *nunc pro tunc* to February 24, 2006.

**IMPACT:**  Environmental  Fiscal  Neighborhood x Other:

**BACKGROUND:** 151 Purchase Street Associates filed an amended complaint against the City of Rye. The matter has been settled and the City Council now needs to act in accordance with the terms of the settlement.



# CITY COUNCIL AGENDA

NO. 12

DEPT.: City Manager's Office

DATE: August 11, 2010

CONTACT: Scott Pickup, City Manager

**ACTION:** Authorization for City Manager to seek an RFP for the City of Rye Corporation Counsel position.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Mayor and Council authorize the City Manager to seek the Request for Proposal.

**IMPACT:**  Environmental  Fiscal  Neighborhood Other:

**BACKGROUND:**

See attached Draft RFP.



# Request for Proposals

**DRAFT**

## City Corporation Counsel

City of Rye, New York

1051 Boston Post Road, Rye, New York 10580

[www.ryeny.gov](http://www.ryeny.gov)

---

### **SECTION 1: PURPOSE**

The City of Rye hereby requests proposals from qualified attorneys to provide legal counsel and representation to the City of Rye in the capacity of Corporation Counsel. Proposers must have a demonstrated expertise and experience in municipal law, environmental law, land use issues, and other related areas.

### **SECTION 2: BACKGROUND**

The City of Rye is located in the southeastern portion of the State on the Long Island Sound in Westchester County, approximately 25 miles northeast of New York City, at the intersection of Interstates 287 (east-west) and 95 (north-south). The City of Rye operates under a Charter providing for a City Council/City Manager form of government.

The City Council is the legislative and policy making body of the City, and is composed of the Mayor and six Council members, all of whom are elected on a partisan basis at-large, to serve four year overlapping terms. The next election will be in the Fall of 2011 at which three council members are up for election. The City Council adopts local laws and ordinances, authorizes the raising and appropriation of funds, and awards all contracts for public works and purchase contracts requiring competitive bidding under State Law.

The Corporation Counsel position is appointed by resolution by the City Council.

Additional information about the City of Rye is available at [www.ryeny.gov](http://www.ryeny.gov)

### **SECTION 3: RECEIPT OF PROPOSALS**

Address questions concerning the requirements of this RFP to the name provided below. Eight (8) copies of the proposal must be submitted by 5:00 PM on September 30, 2010 to:

Scott D. Pickup  
City Manager  
City of Rye  
1051 Boston Post Road  
Rye, New York 10580  
Phone: (914) 967-7404  
Fax: (814) 967-4604  
Email: manager@ryeny.gov

#### **SECTION 4: QUALIFICATIONS OF PROPOSER**

- 1) Each proposer shall provide a statement of qualifications including:
  - a) A curriculum vitae of the individual proposed for Corporation Counsel which details qualifications, years and types of experience, education, accomplishments, etc.
  - b) Describe prior municipal experience and list of current represented municipalities and capacity in which attorney serves those municipalities.
  - c) A summary of the attorneys general experience in municipal law, environmental law, land use issues, and other related areas including but not limited to applications and permits related thereto, and specific experience in litigation, hearings or other formal proceedings in those areas.
  - d) Provide three (3) professional references, including telephone numbers and email addresses if available. Municipal references are preferred.
  - e) Proposed salary requirements including retainer fee and hourly rate for additional services.
  - f) Any additional information which would serve to distinguish the candidate from other candidates submitting proposals.
- 2) The City or Rye may make such inquiries it deems necessary to determine the ability of each proposer to perform the services contemplated by this RFP. Proposers shall promptly furnish all information and data for this purpose as may be subsequently requested by the City of Rye including without limitation proof of ability in direct and cross-examination, opening and closing statements, deposition taking and defending, jury selection and writing of memoranda, pleadings and briefs.

## **SECTION 5: SCOPE OF SERVICES**

- 1) The selected proposer(s) will be required to act as Corporation Counsel for the City in connection with municipal, litigation, environmental, land use and/or other municipal matters as needed.
- 2) Duties to be performed by the selected proposer(s) include, but are not limited to the following: Render legal opinions and advice to the City in its on-going municipal management operations including preparation of statements, forms, documents, applications and permits related thereto; assist the City in strategies and negotiations necessary to facilitate the City's current and future management plans; represent the City in existing and future litigation related to environmental, land use, personnel, or other areas deemed necessary by the City in its overall best interest and as authorized and assigned by the City Council.
- 3) Corporation Counsel is expected to handle most litigation, excluding civil rights, insurance related, and labor- related litigation. Counsel must provide detailed analysis of the litigation at the outset, including advice on the likelihood of success. Regular detailed updates on the progress of the case must also be provided.
- 4) The Corporation Counsel shall act as the functional head of the Law Department yet must seek approval from the City Council before retaining outside counsel.
- 5) Corporation Counsel must require that outside counsel execute approved retainer agreements with the City and provide a detailed budget at the commencement of all work. Outside counsel will be held to the same level of engagement with reporting of litigation as outlined in (3) above.
- 6) Corporation Counsel must disclose any prior or existing relationship with outside counsel before said is retained. Corporation Counsel should not receive any benefit as a result of sending work to outside Counsel.
- 7) Corporation Counsel attends City Council meetings and provides advice as needed.
- 8) Maintain regular contact with all City Departments, and assist as needed.
- 9) The selected proposer(s) will be required to brief the City Council and the appropriate City departments and provide status reports on all matters assigned. In addition, the selected proposer(s) will be required to provide the City with copies of all pleadings, documents, etc. produced or used in the engagement.

**SECTION 6: CONTRACT**

The selected proposer(s) will be required to execute a contract with the City of Rye. This agreement will provide for annual review of compensation and evaluation of performance. The City reserves the right to terminate the contract at any time, with or without cause, by thirty (30) days written notice.

**SECTION 7: TERMS AND CONDITIONS**

- 1) Each proposal submitted will be the document upon which the City of Rye will make its initial judgment regarding each proposer's qualifications, methodology, and ability to provide the requested services.
- 2) Proposers shall thoroughly examine and be familiar with the City's specifications. The failure or omission of any proposer to receive or examine this document shall in no way relieve any proposer of obligations with respect to this proposal or the subsequent contract. The submission of a proposal shall be taken as prima facie evidence of compliance with this paragraph.
- 3) Those submitting proposals do so entirely at their own expense. There is no expressed or implied obligation by the City to reimburse any firm or individual for any costs incurred in preparing or submitting proposals, preparing or submitting additional information requested by the City, or participating in any selection interviews.
- 4) Submission of a proposal indicates an acceptance of the conditions contained in this Request for Proposals unless the submitted proposal clearly and specifically states otherwise.
- 5) The City of Rye reserves the right to accept or reject any and all proposals in whole or in part, to waive any and all informalities, and to disregard all non-conforming, non-responsive, or conditional proposals.
- 6) All materials submitted in response to this RFP will become the property of the City of Rye.

- 7) The City agrees, to the extent permitted by law, to hold all material and information belonging to the proposer, which it deems to be confidential, in strictest confidence. The proposer agrees to hold all material and information belonging to the City or the City's agents in strictest confidence and not to make use thereof other than for the performance of contractual obligations, to release it only to employees requiring such information.
- 8) Any award of the legal services work shall be conditioned on the execution of a formal written contract. The City of Rye reserves the right to revoke or rescind any award at any time prior to the full execution of a formal written contract.



# CITY COUNCIL AGENDA

NO. 13

DEPT.: City Manager's Office

DATE: August 11, 2010

CONTACT: Scott Pickup, City Manager

**ACTION:** Resolution establishing a standard workday for elected and appointed officials as per new reporting requirements of the New York State and Local Employees' Retirement System.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:** That the Mayor and Council consider the attached resolution.

**IMPACT:**  Environmental  Fiscal  Neighborhood Other:

**BACKGROUND:**

The New York State and Local Employees' Retirement System has established a new requirement which requires all elected and appointed officials to track and report a standard work day. This new requirement will require the City Manager and the Corporation Counsel to track and report their hours to the City Clerk.

See attached resolution.

## Standard Work Day and Reporting Resolution

BE IT RESOLVED, that the City of Rye hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to the clerk of this body:

Title	Name	Standard Work Day (Hrs/Day)	Term Begins/Ends	Participates in Employer's Time Keeping System (Y/N)	Days/Month (based on Record of Activities)
<b>Appointed Employees</b>					
City Manager	Scott D. Pickup	7	7/1/10 -	Y	20
Corporation Counsel	Kristen Wilson	4.375	1/1/10 -	N	10

On this XX day of XXXXX, 2010

Signature: \_\_\_\_\_ Date enacted: XXXX, 2010

I, Dawn Nodarse, clerk of the governing council of the City of Rye, of the State of New York, do hereby certify that I have compared the foregoing with the original resolution passed by such board, at a legally convened meeting held on the XXX day of XXX, 2010 on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original.

I further certify that the full council, consisting of 7 members, and that XXX of such members were present at such meeting and that XXX of such members voted in favor of the above resolution.

IN WITNESS WHEREOF, I have hereunto Set my hand and the seal of the City of Rye.

New York State Office of the State Comptroller  
Thomas P. DiNapoli



**New York State and Local Retirement System**  
Employees' Retirement System  
Police and Fire Retirement System  
110 State Street, Albany, New York 12244-0001

Fax: 518-474-2142  
Email: [REmpSer@osc.state.ny.us](mailto:REmpSer@osc.state.ny.us)  
Web: [www.osc.state.ny.us/retire](http://www.osc.state.ny.us/retire)

Melanie MacPherson, Director, Member & Employer Services Bureau

December 2009

Dear Employer:

I am writing regarding a new regulation that went into effect on August 12, 2009. The regulation more clearly defines the process of reporting retirement service credit for elected and appointed officials, and adds additional requirements for both officials and employers.

Regulation 315.4 requires that each official who is a member of the Retirement System and does not use your time and attendance system must maintain a record of his or her work-related activities. The official must keep the record for three consecutive months within 150 days of the start of a new term or appointment, and then submit it to the secretary or legislative clerk of the governing body within 180 days of taking office.

Your governing board must also establish standard work days for elected and appointed officials by adopting a resolution that lists each employee title and the number of hours in the standard work day for each title. This resolution must be adopted at the first regular meeting held after the first 180 days of the start of a new term, or whenever a new elected or appointed office is established.

To ensure your employees who are elected or appointed officials understand their responsibilities under the new regulation, we have enclosed a CD containing detailed information about the regulation's requirements, as well as a step-by-step instruction sheet they can use as a handy resource. You may find these reference tools useful as well.

Please direct your officials to our website at [www.osc.state.ny.us/retire/members/elected\\_appointed.htm](http://www.osc.state.ny.us/retire/members/elected_appointed.htm) for further information regarding this regulation. If you or your employees have any questions, please don't hesitate to email us via our website at [www.osc.state.ny.us/retire/contact\\_us](http://www.osc.state.ny.us/retire/contact_us), or contact our Call Center toll-free at 1-866-805-0990, or 518-474-7736 if you live in the Albany, New York area.

Sincerely,

Melanie MacPherson  
Director, Member & Employer Services

Encl.

## A Step-by-Step Guide for Appointed/Elected Officials

New Regulation 315.4 outlines additional reporting requirements for elected or appointed officials and more clearly defines the process for reporting time worked by those officials. The regulation became effective August 12, 2009.

Whether you are an elected or appointed official, member of a governing board or secretary or clerk, we think you'll find this step-by-step guide a helpful resource.

Responsible Party	Responsibility	Deadlines & Details
Elected or Appointed Official*	Keeps three-month record of work activities.	Starts record when term or appointment begins. Record must be complete within 150 days of taking office.
Elected or Appointed Official*	Submits record to secretary or clerk of the governing board.	Record must be submitted within 180 days of taking office.
Governing Board	Adopts the Standard Work Day and Reporting Resolution.**	At first regular meeting held after 180 days of term's beginning.
Governing Board	Posts resolution on the employer's website or, if no website is available to the public, on the official sign-board or at the main entrance to the clerk's office or similar office.	Resolution must be posted for a minimum of 30 days.
Secretary or Clerk	Files a certified copy of the resolution and affidavit of posting with the Office of the State Comptroller.	Certified copy and affidavit of posting must be filed within 45 days of resolution's adoption.
Secretary or Clerk	Retains records of work activities for 10 years.	
Secretary or Clerk	Provides complete copies to the Comptroller upon his or her request.	

\* Elected and appointed officials are required to keep a record of work activities if:

- They are members of the Retirement System and
- They do not participate in an employer's time keeping system that shows hours worked. (This includes systems that keep track of accruals used and attest that, other than time charged to accruals, full hours were worked.)

Officials who are not Retirement System members do not need to prepare a record.

\*\* The Standard Work Day and Reporting Resolution ensures days worked reported to the Retirement System are correct. It establishes the number of hours in a standard work day for each elected or appointed office and must also state:

- The term expiration;
- That the employer maintains daily records of time worked or the official has submitted a record of work activities to the clerk or secretary;
- The total number of days per month to be reported for each official.

If the governing board does not adopt a resolution, the official's service credit and membership benefits are suspended until the resolution is adopted, posted and filed.



# CITY COUNCIL AGENDA

NO. 14

DEPT.: City Mayor

DATE: August 11, 2010

CONTACT: Mayor Douglas French

**ACTION:** Appointments to the Rye Town Park Advisory Committee by the Mayor with Council approval.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

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

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

**BACKGROUND:**



# CITY COUNCIL AGENDA

NO. 15

DEPT.: City Council

DATE: August 11, 2010

CONTACT: Councilmember Catherine Parker

**AGENDA ITEM:** Discussion of and appointments to the Rye Playland Strategic Planning Working Group.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council discuss the Rye Playland Strategic Planning Group and approve the appointments to same.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

An initial meeting of the Rye Playland Strategic Planning Working Group was held on June 30<sup>th</sup>. Attendees included Mayor French, Councilmember Catherine Parker, Legislator Judy Myers, Charles Dorn, and former Councilman Doug McKean. The group discussed possible options for Playland going forward with a goal of working as a partner to Westchester County in finding sustainable solutions for Playland while representing the desires of Rye citizens.



# CITY COUNCIL AGENDA

NO. 16

DEPT.: FINANCE

DATE: August 11, 2010

CONTACT: JOSEPH S. FAZZINO, Deputy Comptroller

**ACTION:** To adopt 2010/2011 tax levy and tax rate for the Rye Neck Union Free School District.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE:**

§C22-9(A)

**RECOMMENDATION:** That the City Council adopt the following resolution:

WHEREAS, the Rye Neck Union Free School District (District) has certified to the City of Rye Comptroller taxes in the amount of \$9,717,222 to be raised on property within the District located in the City of Rye, with established tax rates of \$672.755231 per \$1,000 of taxable assessed value on homestead property and \$871.849078 per \$1,000 taxable assessed value on non-homestead property, for the fiscal year beginning July 1, 2010 and ending June 30, 2011, now, therefore, be it

RESOLVED, that in accordance with the provisions of the City Charter, the City Comptroller is commanded to levy and collect said taxes, subject to any further amendments or approvals required by the Rye Neck Union Free School District.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

The Rye Neck Union Free School District has provided the City with the allocation of the tax levy and tax rates for the Town of Rye and City of Rye. A portion of the City's share of the tax levy is attributable to STAR exemptions, which will be paid by the State to the district. The above amounts and rates are subject to minor adjustments and adoption by the District at their next Board of Education meeting.



# CITY COUNCIL AGENDA

NO. 17

DEPT.: City Manager

DATE: August 11, 2010

CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Resolution declaring certain City of Rye equipment and vehicles as surplus.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Council adopt the following resolution:

Whereas, the City has been provided with a list of City equipment and vehicles identified as being obsolete or will become obsolete during 2010, and,

Whereas, these Departments have recommended that said equipment and vehicles be declared surplus, now, therefore, be it

Resolved that said equipment and vehicles are declared surplus, and, be it further

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

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other

**BACKGROUND:** The following Departments have provided a list of equipment and vehicles that are either currently obsolete or will become obsolete during calendar year 2010.

Police Department: vehicle

Fire Department: equipment

Rye Golf Club: vehicles

See attached.



William R. Connors  
*Police Commissioner*

## POLICE DEPARTMENT

City of Rye, New York  
21 McCullough Place  
Rye, N. Y. 10580  
Phone: (914) 967-1234  
FAX: (914) 967-8341



August 3, 2010

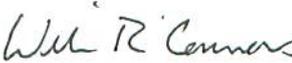
Memorandum for: Scott D. Pickup, City Manager

Subject: **RECOMMENDATION TO DECLARE VEHICLE SURPLUS: GEM  
CAR**

In recent years the Department's GEM (Global Electric Motors) Car, an all-electric vehicle purchased in 2002 primarily for use by the Parking Enforcement Officers, has proven itself to be less than cost effective. Its usefulness is limited, particularly during the winter months, and it is currently in need of replacement batteries, a considerable expense in light of its age and performance. Therefore, based on conferral with the Department of Public Works Garage Foreman, I recommend that this vehicle be declared surplus and disposed of.

Submitted for your consideration.

WRC/wrc  
Att.

  
William R. Connors  
Police Commissioner

cc: William A. Micalizzi, DPW Garage Foreman

## FIRE DEPARTMENT SURPLUS

Motorola MT 1000  
6 CHANNEL PORTABLE RADIO  
42.0 - 50.0 Mhz Freq.

546AQG0659  
546AQG0660  
546AQW0528  
546AQW0529  
546ATC0166  
546ATC0167  
546ATJ0709  
546AVU0082 X  
546AVU0084 X  
546AWW0152 X  
546AWW0154 X  
546AWW0155 X  
546AWW0156 X  
546TZE0364  
546TZE0487  
546TZE0743  
546TZE0750

Motorola Radius P200  
6 CHANNEL PORTABLE RADIO  
42.0 - 50.0 Mhz Freq.

No Serial Number  
126TUN0056  
126TXS0943

Motorola Minitor II  
33.0 - 50.0 Mhz Freq.

No Serial Number  
646BZL2446  
MD5BQJ2888  
MD5XTQ29GB  
MD5XTQ29GJ  
MD5XTQ29GR  
MD5XVS2B8H  
MD5XXX27QC  
MD5XXX27QD  
MD5XXX28NS  
MD5XXX28NX  
MD5XYL22LW

# Memo

Received

JUL 22 2010

To: Scott Pickup, City Manager  
From: Scott Yandrasevich, GM  
CC:  
Date: July 21, 2010  
Re: Vehicle request

City Manager's Office  
Rye, New York

---

As previously discussed we are in need of turning over some existing vehicles and adding one additional vehicle to meet our business needs at this time. After much research I propose the following:

Surplus and sell our 1996 Ford Pickup Truck (69,705 miles) and our 2003 left over Ford Police Car (38,525 miles), both of which are need repair.

Purchase a new Chevy Tahoe (state contract \$29,679) and lease a van and cube truck.

We are in the process of obtaining proposals for the leased vehicles and will forward for your approval upon completion.

Attached is the purchase order for the Tahoe (approx. 12 week delivery time) for your signature. The funds for this purchase will come out of our operating budget.

Please contact me if you have any questions.



RYE GOLF CLUB  
330 BOSTON POST ROAD  
RYE, NEW YORK 10580

T 914-835-3200

F 914-835-3229

A handwritten signature in black ink, appearing to be "C. Yandrasevich", is written over the bottom portion of the memo's text.

OK  
SDP  
8/2/10



# CITY COUNCIL AGENDA

NO. 18

DEPT.: City Manager's Office

DATE: August 11, 2010

CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Consideration of request to close a section of Purchase Street on Sunday, October 17, 2010 (rain date October 24), for events to be held in conjunction with the 58th Annual Halloween Window Painting Contest.

**FOR THE MEETING OF:**

August 11, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the City Council approve the request.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

Closing a section of Purchase Street for activities related to the Halloween Window Painting Contest will have minimal effect on the area.

**BACKGROUND:** The City Manager's Office received a request from the Recreation Department asking that Purchase Street, from Locust to Chase Manhattan Bank, be closed from 8:00 am to 3:00 pm for the Annual Halloween Window Painting Contest. Special activities, including street entertainment from 10:00 am to 2:30 pm have been planned on Purchase Street during the day.

---

---

INTEROFFICE MEMORANDUM

---

---

**TO:** SCOTT PICKUP, CITY MANAGER  
**FROM:** ERIN RIEDEL, SR. RECREATION LEADER  
**SUBJECT:** HALLOWEEN WINDOW PAINTING 2010  
**DATE:** AUGUST 9, 2010  
**CC:** SALLY ROGOL, SUPERINTENDENT

---

Rye Recreation would like to request closing of Purchase Street for the 58<sup>th</sup> Annual Celebration of the Halloween Window Painting Event. This year's event will take place on Sunday, October 17, 2010 with a rain date of Sunday, October 24, 2010.

- Closing of Purchase Street from Locust Street to Chase Manhattan Bank from 8:00 – 3:00 p.m. This will provide a safe place for the more than 1,000 youngsters and their families who participate in this event throughout the day.
- The closing of the street will be coordinated with the Rye Police Department so that all safety issues are taken into account. Rye/Port Chester EMS will be on stand-by during the day as well.
- On street entertainment will be performed between 10:00 – 2:30 p.m.

If you have any questions or concerns, please let me know.

Erin Riedel  
Sr. Recreation Leader  
967-2482  
eriedel@ryeny.gov