

## **CITY OF RYE**

### **NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, March 16, 2011, at 8:00 p.m. in the Council Room of City Hall. *The Council will convene at 7:30 p.m. and it is expected they will adjourn into Executive Session at 7:31 p.m. to discuss personnel matters.*

### **AGENDA**

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meeting of the City Council held March 2, 2011.
5. Mayor's Management Report
  - Flood Control Projects Update
  - Legal Update
6. Consideration of a request by the Milton Elementary School PTO to approve a parade to precede the Milton Elementary School Fair on Saturday, March 19, 2011 from 9:00 a.m. to 10:15 a.m.
7. Public Hearing to amend Local Law Chapter 53, Section 53-2, "Membership of Architectural Review Board", to reduce the number of Board members from seven to five and to permit non U.S. Citizens to serve on the Board.
8. Presentation on Parking Technology.
9. Presentation by Commissioner Connors on Coyote Season.
10. Residents may be heard who have matters to discuss that do not appear on the agenda.
11. Resolution for sole source approval for Phoenix Environmental Care products for fairway lawn maintenance fertilizers and Earthgreen Products for greens maintenance products.  
Roll Call
12. Bid Award for Street Materials (Bid #1-11).  
Roll Call.
13. Consideration to set a Public Hearing to amend Local Law Chapter 93, Section 93-6, "Filming – License Fee", to amend the fee for filming in the City.

14. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department.
15. Review and discussion of FOIL Procedures.
16. Miscellaneous communications and reports.
17. Old Business.
18. New Business.
19. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, March 30, 2011 at 8:00 p.m.

\*\* City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at [www.ryeny.gov](http://www.ryeny.gov) under "RyeTV Live".

\* Office Hours of the Mayor on 3/16/11 will be held from 7:00 pm to 7:30 pm in the Mayor's Conference Room prior to the scheduled meeting.



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: March 16, 2011

CONTACT: Dawn F. Nodarse

**AGENDA ITEM:** Draft unapproved minutes of the Regular Meeting of the City Council held March 2, 2011, as attached.

**FOR THE MEETING OF:**

March 16, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

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

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

Approve the Unapproved Minutes of the Regular Meeting of the City Council held March 2, 2011, as attached.

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on March 2, 2011 at 8:00 P.M.

PRESENT:

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

ABSENT: None

The Council convened at 7:02 p.m. Mayor French made a motion, seconded by Councilman Jovanovich and unanimously carried, to immediately adjourn into Executive Session to discuss real estate matters. Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the Executive Session at 8:15 p.m. The regular meeting convened at 8:25 p.m.

1. Pledge of Allegiance

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

2. Roll Call

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

3. General Announcements

Mayor French noted the passing of Ned Pugh, who had been a member of the committee that established the City Manager form of government in Rye.

4. Draft unapproved minutes of the regular meeting of the City Council held February 9, 2011

Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried, to approve the minutes of the regular meeting of the City Council held on February 9, 2011, as submitted.

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

*Lear Beyer*, representing the Westchester Children's Museum, requested that the Council include language regarding locating the Children's Museum in the North Bathhouse at Playland in the principles Resolution it would be considering later in the Agenda.

*John Carolin*, 66 Milton Road, asked if a decision had been made regarding the request of the American Legion to upgrade the flags on Purchase Street to larger flags. He said the Legion Post would be willing to share some of the cost. City Manager Pickup said he had been in contact with another member of the Legion regarding the issue.

*Ken Weissberg*, 16 Loewen Court, asked for an update on the Central Avenue Bridge. City Manager Pickup said there was a meeting with the Department of Transportation (DOT) on February 22<sup>nd</sup>. They have agreed to move the bridge project on a separate track from the Theodore Fremd Avenue Wall project. The design report for the bridge is fully submitted. The City must obtain NEPA compliance (the Federal Highway Administration Environmental Review Process) and will then receive a Disadvantaged or Minority Business goal for the bridge and at that point the City will be authorized to out to bid. He said he believed the project might be out to bid in the Summer, and estimated construction could start in the Fall.

*Robert Schubert*, 980 Forest Avenue, spoke about issues related to his lawsuits in connection with the pond on his property. He asked that the City conduct a city-wide referendum to establish the true position of the residents relative to his issues. Corporation Counsel Wilson said that his representatives are in contact with the City and a public meeting is not the proper forum to discuss aspects of the litigation.

*Sis D'Angelo*, Wappanocca Avenue, asked if there have been any discussions with Metro North regarding repairing the wall under the railroad bridge on Purchase Street. City Manager Pickup said that project is not included in the current station program and would have to be a new appropriation.

*Chuck Pateman* spoke about two matters. (1) It is his belief that if the decision from the Federal Court in the Schubert matter goes against the City it will be a serious problem. (2) The recent court decision in connection with Hen Island that said the City has the authority to enforce a law that is currently in the City Code. He said the City should not consider repealing the law. He read from an article in the *Journal News* regarding septic system requirements in towns located near reservoirs and said the requirements imposed were similar to those already in the Rye City Code. Mayor French said that the City has reengaged the County in connection with issues on Hen Island including potable water, building violations, storage and disposal of sewage, and mosquitoes. City Manager Pickup said that a February 14<sup>th</sup> letter from Ray Tartaglione was forwarded to the County and the Health Department and members of the County Executive's staff are working on it. The City will respond when they receive the County's recommendations.

*Ray Tartaglione* read excerpts from a 2007 report on an investigation conducted on Hen Island by the Department of Public Safety, the County of Health Department and the City Building Department. He said the City did not need to wait for recommendations from the County on Hen Island because they have already been made. City Manager Pickup said the

report was attached to Mr. Tartaglione's February 14<sup>th</sup> letter that was forwarded to the County. He added that when recommendations from the County are received Mr. Tartaglione will be made aware of them.

*Jim Amico, 350 Midland Avenue*, said that the Department of Public Works continues to plow snow into the corners of crosswalks and suggested the City should change the way snow is plowed. He also said that there is garbage on Purchase Street that would not have been there if the street had been completely cleared of snow as has been done in the past.

6. Mayor's Management Report  
● Legal Update

Corporation Counsel Wilson reported on the following issues:

Delli Paoli v. Board of Appeals – The petitioner in this Article 78 proceeding has submitted Reply papers and the matter is now fully submitted and pending in Westchester County Supreme Court.

Beaver Swamp – Harrison has submitted the updated Traffic Impact Study on the Beaver Swamp Brook application. The Department of Environmental Conservation (DEC) has all the information they sought from Harrison and should make a SEQRA decision within the next few weeks on the environmental impact of Project Homerun.

7. Public Hearing regarding the establishment of the Kirby Lane Extension Sanitary Sewer Special Assessment District

Dolph Rotfeld, of Dolph Rotfeld Engineering, provided an update on the project. The preliminary plans have been finished; discussions have been held with the Health Department, and his company is ready to proceed with the final drawings, pending a decision by the Council. City Manager Pickup said that the final vote tally on the most recent petition is 25 voting in favor of the district and four voting against, which is well in excess of the 66 2/3% statutory requirement.

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

- *Richard Slack, Grace Church Street*, asked if the current plan called for use of the infrastructure that was built for the last Kirby Lane Sewer Special Assessment District. If so, he said there should be a reduction in the assessments charged to the residents in that district, who paid for the infrastructure.

Councilman Sack questioned why people would vote against the proposed district and asked why people who don't want the district have to be included. He also asked if there was a health reason why those people should not be excluded. Mr. Rotfeld said everyone should be included in the interests of public health and the public at large. He said the public health

benefit of a sewer line over a septic system is that the useful life of a septic system is only 20 years in ideal conditions. City Manager Pickup said that the Health Department approved the district as shown, which included those properties and he is not sure if the approval would be given if those lots were excluded.

- *Greg Ressa, Kirby Lane*, said that the process began in 2009 and there have been at least three hearings and a workshop. Everyone has had an opportunity to state their concerns and indicate their support or opposition to the project. The creation of the district was supported by 86% of those in the district.
- *Gene McGuire, Kirby Lane*, said that the district should be approved for the health of the water in Long Island Sound.
- *Diane Beveridge, Kirby Lane*, said that if those who do not want the district were excluded from paying, it would not be fair to those who did if the homes are sold and the new owners wanted to hook up to the sewer.

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

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

**RESOLVED** that the City Council of the City of Rye hereby approves the establishment of the Kirby Lane Extension Sanitary Sewer Special Assessment District.

ROLL CALL:

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

The Resolution was adopted by a 7-0 vote.

8. 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

Councilman Jovanovich said that by changing the citizenship requirement for the Board of Architecture Review (BAR) it was a great way to widen the pool of talent of qualified people to serve on the Board. Mayor French clarified that the law would require the person to be a resident of Rye but not a United States citizen. He also suggested reducing the number of members from seven back to five.

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

**WHEREAS**, the Council wishes to amend Chapter 53 “Architectural Review” of the Code of the City of Rye by amending Section 53-2 “Membership of Architectural Review Board”; and

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

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

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on March 16, 2011 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

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

**PUBLIC NOTICE  
CITY OF RYE**

**Notice of Public Hearing on a proposed local law to amend Chapter 53, “Architectural Review” by amending §53-2 “Membership of Architectural Review Board” 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 16th day of March, 2011 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend Chapter 53, “Architectural Review” by amending §53-2 “Membership of Architectural Review Board” of the Code of the City of Rye

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

Dawn F. Nodarse  
City Clerk  
Dated: March 3, 2011

Agenda Item 10 was taken out of order.

9. Resolution on potential uses for Rye Playland to be submitted to Westchester County

Mayor French said that the RFP's (Requests for Proposal) regarding ideas for Playland are due to the County on March 10<sup>th</sup>. The Mayor and Charles Dorn, Chair of the Playland Advisory Committee and Playland Strategic Planning Committee, have been appointed to sit on the County Committee that will review the proposals. The Resolution for consideration at this meeting will be forwarded to the County in order to officially notify the County of what the City of Rye would like to see at Playland. Councilwoman Parker reported briefly on the Town Hall meeting she had held for children to obtain their opinions on what should be done at Playland and noted that they had presented some very sophisticated ideas that touched on marketing and advertising.

Tracy Kay, representing the Westchester Children's Museum ("the Museum"), outlined the Museum Board's reasoning for requesting that reference to the Museum to be located in the North Bathhouse be included in the Resolution based on the long-process of obtaining the approvals necessary for that location and the money that will be invested into the location by the Museum in exchange for a ten-year, \$1 per year lease from the County. He said that if any other proposed use for that location was accepted, the approval process would have to begin again. There was a discussion among the Council about adding the Museum to the proposed Resolution and how it would be included in a Resolution that espoused principles, and, if added, where and how it would be included. Charles Dorn, Chairman of the Playland Strategic Planning Committee, advised against putting language about the Museum being located in the North Bathhouse, saying that there had not been a consensus of the Committee that it should be located there. There was also a discussion regarding the inclusion of additional language to the Resolution referencing the City's Zoning Code, Master Plan and LWRP in order to better protect Rye's interests. On the other hand, it was suggested that approving a Resolution prior to the RFP's being considered could "handcuff" the City as the project proceeds.

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

**RYE CITY COUNCIL RESOLUTION REGARDING THE CITY'S PRIMARY PRINCIPLES AND VALUES TO BE APPLIED DURING WESTCHESTER COUNTY'S REVIEW OF PROPOSALS SUBMITTED IN RESPONSE TO THE REQUEST FOR PROPOSAL ENTITLED "REINVENTING PLAYLAND PARK FOR THE 21<sup>ST</sup> CENTURY"**

WHEREAS, in anticipation of Westchester County issuing a "Request for Proposal" (RFP) about Playland, the Rye City Council (the "City Council") appointed a Playland Strategic Planning Working Group in 2010. Soon thereafter, Westchester County issued the RFP entitled "Reinventing Playland Park for the 21st Century. "

WHEREAS, through the fall of 2010 and the beginning of 2011, the Playland Strategic Planning Working Group met on a regular basis to educate themselves on the issues concerning Rye, our residents and Westchester County. These public meetings plus community forums, a tour of the park and a significant amount of formal and informal input from our residents have allowed us to present the following findings.

WHEREAS, the County's RFP is unusual because it does not reflect any particular vision for Playland and invites responses to supply such a vision. Therefore, widely differing responses reflecting many visions can be expected. In light of this, the Rye Playland Strategic Planning Working Group has not focused on defining a "Rye vision" for Playland. Instead it has sought to identify principles and values it believes should be applied to evaluate responses to the request for proposal.

NOW, THEREFORE, BE IT RESOLVED, that based on the Playland Strategic Planning Working Group's findings, the City Council adopts the following principles:

1. Playland is first and foremost a public resource for the use and enjoyment of all residents of Rye and Westchester County. Any proposed use of the Playland site should be consistent with insuring public use of and access to open space, Long Island Sound and facilities.

There is wide scope for enhancing existing facilities and open space and increasing access to them, while ensuring pedestrian safety. These opportunities range from such simple measures as ensuring walks are open more frequently to more substantial but not new undertakings such as enhancing the aquatic facilities

New uses such as augmented concert, sports or other facilities may also be proposed and, if so, should also be assessed in the same light. While private enterprise may have a role in any proposed use of Playland, the role should nevertheless be consistent with preserving and enhancing open space available to all.

Rye supports the establishment of the Westchester Children's Museum in the North Bath House.

2. Any use of the Playland site must be sensitive to environmental considerations and sustainability, including the integrity of the Edith Read Sanctuary, Playland Lake and the waters of Long Island Sound. Playland's fragile natural site requires any proposed use be carefully examined for adverse impact. Sewage, solid waste, noise and visual pollution intrusive to neighbors are vital considerations as are congestion and energy efficiency. Any future use of Playland should emphasize the improvement of the environmental impact to the site.
3. A substantial portion of Playland has been designated a National Historic Landmark. This is the highest level of national historic designation and reflects Playland's unique historical importance. While adaptive uses of existing facilities or changes, removal or replacement of structures which

are not national historic landmarks could be considered, any of these should be consistent with the historic heart of Playland.

4. Any proposal affecting the Playland site must be examined to insure it is both financially responsible and sustainable. Demonstrated financial viability over the long term is an essential criterion in evaluating any proposal. However, public parks rarely are profitable in a commercial sense, and an appropriate proposed use could well contemplate a sustainable level of public expenditure to maintain the existing or a re-envisaged Playland and supporting infrastructure. Proposed uses consistent with the principles set forth above that present opportunities to reduce these costs or the portion of them borne by the public should be given careful consideration.
  
5. Rye has a long established designated zoning policy which reflects a careful balancing of many considerations. This policy is reflected in the Master Plan, the Zoning Code, the Local Waterfront Revitalization Plan and other chapters within the Rye City Code concerning environmental and other health and safety issues (e.g., wetlands, stormwater runoff). These laws and regulations protect the interests of affected neighborhoods and the community at large.

Any proposal affecting Playland should comply with existing Rye ordinances. New structures or uses should be on a scale including height and mass and in a style consistent with, or complimentary of, Playland's site, neighborhood and access.

ROLL CALL:

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

The Resolution was adopted by a vote of 6 in favor and 1 abstention.

There was also a discussion about members of the Council taking a stand on proposals being made in connection with Playland prior to the RFP's being reviewed. Corporation Counsel Wilson advised the Council not to take a position regarding any proposal prior to the County opening and reviewing same in order to prevent possible accusations of conflict of interest or bias if Council action is required on any proposal in the future.

10. Resolution to adopt the proposed changes to the City of Rye's post 65 retiree Aetna health insurance program

Prior to the adoption of the proposed Resolution, members of the Finance Committee gave a presentation regarding public sector pension and benefit trends. David Mullane, Chair of the Finance Committee, said that a subcommittee of the Committee was formed to look at both healthcare and pension benefits. The subcommittee, that included Norm McMasters, Mike Capanitti, Mike Guarneri, Warren Keegan and Fred Dunn, focused on healthcare because it is a local or contractual issue that the City can address in contrast to pension reform, which is controlled by the State Constitution. The presentation by members of the subcommittee included the following topics:

- The size of Rye's healthcare liability;
- A comparison of approaches to benefits taken by the private and public sectors;
- Remedial action taken by other state and local entities;
- Recommended actions for Council consideration.

City Manager Pickup said that there are parameters in New York State that define what changes the City can make. He said the proposal under consideration by the Council at this meeting is a good first step because healthcare is the area where the City has the best opportunity to make changes. The proposal under consideration is a change to the post 65 retiree benefits. It is a change within a sustainable, comparable program that provides a direct benefit cost to the City. Public information sessions have been held at City Hall, and were also put on the City website. The City is trying to preserve as many benefits as possible within an affordable and reasonable approach. The City intends to bring this discussion to other units in order to address the long-term liabilities. City staff met with members of the Finance Committee and it was the consensus that this was a correct approach for the City to begin with.

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

**RESOLVED**, that the City Council of the City of Rye hereby adopts the proposed changes to the City of Rye's post 65 retiree Aetna health insurance program.

ROLL CALL:

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

The Resolution was adopted by a 7-0 vote.

11. Authorization for City Manager to enter into a preservation easement with the New York State Historic Preservation Office in satisfaction of a grant for the Rye Meeting House from the National Park Service

City Manager Pickup said that this action was tied to the Save America's Treasures Grant previously approved for the Rye Meeting House. By approving the Conservation Easement Agreement, the City is fully eligible to receive the \$49,305 in grant money.

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

**RESOLVED**, that the City Manager is hereby authorized to enter into a Conservation Easement Agreement with the New York State Historic Preservation Office for the Save America's Treasures Grant for the Rye Meeting House.

ROLL CALL:

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

The Resolution was adopted by a 6-1 vote.

12. Appeal of denial of FOIL request by Timothy Chittenden

Corporation Counsel Wilson said that the documents requested were provided with certain information redacted because the matter in question is an open police investigation and because of the personal privacy of the individual involved as constituted under the Public Officers Law.

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

**RESOLVED** that the appeal of the partial denial of a Freedom of Information Law (F.O.I.L.) request made by Timothy Chittenden is hereby denied.

ROLL CALL:

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

The Resolution was adopted by a 7-0 vote.

13. Miscellaneous Communications and Reports

Councilwoman Parker announced that she and Corporation Council Wilson are members of the Rye Lions Club. She said it is a wonderful organization and encouraged people to join.

Councilwoman Keith said that the Shared Roadways Committee is currently out speaking with the public about opportunities to improve pedestrian safety. The Sustainability Committee is holding a Stakeholders Meeting on March 31<sup>st</sup> at the Rye Free Reading Room. Grassroots Environmental Education is having a seminar at the Westchester Green Town Conference on May 17<sup>th</sup> at Wainwright House.

14. Old Business

Councilman Sack asked City Manager Pickup to provide a report on properties currently not taxed that possibly could be taxed.

15. New Business

City Manager Pickup said that City Assessor Noreen Whitty has asked to hire special counsel to assist the City in a pending tax certiorari case. He asked the Council to agree to hire Richard Blancato, Esq.. He said the City would work within a capped fee if the Council so desired.

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

**RESOLVED**, that the City Manager is authorized to retain Richard Blancato, Esq. to represent the City of Rye in the tax certiorari matter *Carroll v. The City of Rye*.

ROLL CALL:

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

The Resolution was adopted by a 7-0 vote.

16. Adjournment

There being no further business to discuss Councilman Sack made a motion, seconded by Councilwoman Gamache and unanimously carried, to adjourn the meeting at 11:34 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk



# CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: March 16, 2011

CONTACT: Mayor Douglas French

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

**FOR THE MEETING OF:**

March 16, 2011

**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:

- Flood Control Projects Update
- Legal Update



# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Manager

DATE: March 16, 2011

CONTACT: Scott D. Pickup

**AGENDA ITEM:** Consideration of a request by the Milton Elementary School PTO to approve a parade to precede the Milton Elementary School Fair on Saturday, March 19, 2011 from 9:00 a.m. to 10:15 a.m.

**FOR THE MEETING OF:**

March 16, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council consider granting the request.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

The Milton Elementary School PTO is requesting the Council approve a parade to precede the Milton Elementary School Fair on Saturday, March 19, 2011 from 9:00 a.m. to 10:15 a.m.



# CITY COUNCIL AGENDA

NO. 7

DEPT.: Corporation Counsel

DATE: March 16, 2011

CONTACT: Kristen Wilson, Corporation Counsel

**ACTION:** Public Hearing to amend Local Law Chapter 53, Section 53-2, "Membership of Architectural Review Board", to reduce the number of Board members from seven to five and to permit non U.S. Citizens to serve on the Board.

**FOR THE MEETING OF:**

March 16, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

Currently, a fully constituted Architectural Review Board has seven members. At times, finding able and qualified members is difficult and a quorum of the Board to conduct business at meetings is not always possible. The amendment would reduce the number of members from seven to five.

Membership on the Architectural Review Board currently requires that all members be United States citizens. Due to constraints in finding willing and able members to serve on the Board who are United States citizens, the proposed amendment will expand the residency requirement for serving members of the Board to include non-citizens.

See attached draft Local Law.

**CITY OF RYE  
LOCAL LAW NO. 2011**

**A local law to amend Chapter, 53-2 “Membership of Architectural Review Board”  
of the Code of the City of Rye as follows:**

**Section 1**

**[Amended 2-1-2006 by L.L. No. 2-2006]**

§ 53-2 Membership of Architectural Review Board.

In accordance with Article 19 of the Rye City Charter, there is hereby created a Board of Architectural Review which shall consist of seven members who shall serve without compensation. **Any** # members of the Board shall be a **lawful** residents of the City and shall be specially qualified by reason of training or experience in architecture, land development, community planning, real estate, landscape architecture, architectural history, engineering, law, building construction or other relevant business or profession, or by reason of civic interest and sound judgment to judge the effect of a proposed erection, reconstruction or alteration of a structure upon the desirability, property values and development or preservation of surrounding areas and to understand and carry out the legislative findings and policy statements of the Council set forth in §53-1. **There shall be no requirement that a member of the Board be a citizen of the United States.** At least one member shall be a registered architect in the State of New York. The Chair and other members of the Board shall be appointed by the Mayor, with the approval of the Council, for terms of three years, with staggered terms, such terms to be subject to renewals at the discretion of the Mayor, subject to the approval of the Council, except that one new appointment made in 2006 shall be for a two-year term, and one new appointment made in 2006 shall be for a one-year term so that term, and thereafter their successors shall be appointed for terms of three years from and after the expiration of the term of their predecessors in office. In the same manner, vacancies shall be filled for the unexpired term of any member whose place has become vacant.

**Section 2**

This law will take effect immediately upon filing with the New York State.



# CITY COUNCIL AGENDA

NO. 8      DEPT.: City Manager's Office      DATE: March 16, 2011  
CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Presentation on Parking Technology.

**FOR THE MEETING OF:**  
March 16, 2011  
**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:**

**IMPACT:**     Environmental     Fiscal     Neighborhood     Other:

**BACKGROUND:**

A presentation will be made by Gerry Seitz on new parking technology available for City use.



July 16, 2010

Mr. Scott Pickup  
City of Rye  
1051 Boston Post Road  
City Manager  
Rye, New York 10580

Dear Scott:

We believe StreetSmart Technology LLC is uniquely positioned to provide the City of Rye with a reliable parking control and management solution that will help the city to achieve its vision of improving parking operations for all stakeholders.

The StreetSmart Solution™ is a fully integrated parking space control and management information system. It includes space by space vehicle detection, metering, and wireless telemetry all linked to a geospatial management information portal and field force automation system. Our system monitors the status of every parking space 24/7. Parking space occupancy, meter operational status, violation status, and more flow continuously to the city's StreetSmart Portal™. This command and control interface provides parking and parking enforcement managers with an unprecedented near real-time view of the status of almost every aspect of the city's parking operations. And the SST Field Force Automation™ tools empower the parking workforce to achieve the highest standards of performance.

The SST System provides enhanced meter functionality which increases parking meter revenues, increases parking space turnover and minimizes parking maintenance, collection, and enforcement workloads. These operational values include the elimination of several time-consuming activities like tire-chalking (or the electronic equivalent) and meter auditing. The System also provides timely and actionable management information not only tracking parking meter and enforcement revenues daily, the system produces parking occupancy and turnover statistics upon which parking policies, enforcement adjudication, and many other mission critical decisions can be more objectively based.

The SST System offers significant "green" benefits to the city; it produces more parking space turnover so that more parking is available to more motorists more often. This unique function serves to reduce motorist "cruising" while searching for available parking spaces which reduces congestion, miles driven, and vehicle emissions.

StreetSmart is not just a technology company; our leadership is primarily made up of parking professionals who collectively have more than a century of experience in parking management and operations. This parking DNA is one of the key reasons that StreetSmart is the only source for a completely integrated, end to end, parking control and management information system.

Per our various discussions, we propose that both the City of Rye and StreetSmart Technology LLC would benefit from your conducting an operational trial of the technology and its derivative capabilities. We need to identify c. 50 metered spaces as a parking location suitable for the Phase 1 deployment. Christian and I have talked about doing something behind June & Ho.

We are prepared to deploy our technology to these at StreetSmart Technology's sole expense and with no fixed obligation to the city. The purpose of the project is to enable Rye to evaluate the SST System and determine if the technology should be rolled out and deployed citywide.

We propose the following program framework and calendar;

For the first 30 days after the technology has been deployed and commissioned, we will operate the SST System in a passive mode to develop operational baselines and benchmarks. During that period no changes will be made to the city's current maintenance, collections, or enforcement activities. After the 30 days and for a period of 60 days thereafter, you will adjust your collections, maintenance and enforcement methods to fully incorporate and utilize the SST System to manage these locations. Your assessment of the operational performance and impacts of the StreetSmart Solution™ will be based on (but not limited to) the comparison of key parking operational metrics pre deployment versus post. Benchmarks representing the operational histories of these parking locations and the data collected during the baseline assessment period will be quantified, mutually agreed upon, and will serve as the basis for comparison(s). More specifically we propose the following evaluation criteria be used;

#### Value of Data Acquisition and Reporting:

- Quantifying undeveloped enforcement opportunity;
  - Identify and document the number of violations that occur 24/7
  - Compare the number of enforcement opportunities to the historical tickets written
- Focus policy decisions on developing identified opportunity
- Real-time management information; maintenance, collections, enforcement alerts to field personnel
- Geospatial mapping, dashboard / operational reporting, associated analytics
- Quantifying opportunity costs of non-payment
- Quantify potential productivity improvements and cost savings
- Thought "partnership" and consulting value add regarding "best practices"

#### Value of Enhanced Meter Functionality:

- Meter-timer-reset, anti-meter-feeding, automatic meter auditing, other
- Quantify above; before / after comparisons

#### Operational Performance:

- System reliability / uptime
- SST service and support levels

Finally, we propose that if the city realizes new and incremental revenues from its use of the SST System during or after the Phase 1 deployment, the city will pay such monies to StreetSmart Technology to a maximum of StreetSmart' usual fee. This "revenue neutral" concept means that any payments are "results based" and conditioned entirely on the successful generation of additional meter and enforcement revenues attributable to your use of the SST System.

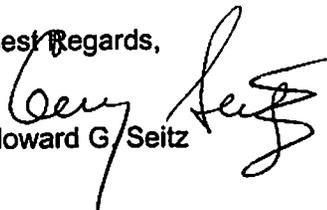
I enclose a copy of our form agreement for your review and signature.

Richard Matarangelo and Tim Pierson will be working with me on this. Their numbers are (732)735-5526 and (917) 597-0111, respectively.

We understand you would like us to be in position to start the trial period shortly after Labor Day and will point for this.

After review, if you have any questions, please do not hesitate to call.

Best Regards,

  
Howard G. Seitz

CC: The Honorable Douglas French  
Christian Miller w/enc.  
Kirby Andrews  
Timothy Pierson  
Richard Matarangelo

**Phase 1 Deployment AGREEMENT (the "Agreement")**  
**by and between**  
**STREETSMART TECHNOLOGY, LLC**  
**and**  
**THE CITY OF RYE**

This Agreement is being entered into on this \_\_\_\_\_ day of \_\_\_\_\_, by and between StreetSmart Technology, LLC, (hereinafter the "Vendor"), and the City of Rye (hereinafter "Rye.")

**RECITALS**

- A. Rye maintains and operates certain parking meters within its city limits, collectively described as its metered parking locations (hereinafter the "Metered Parking Locations"); and
- B. Rye is responsible for operating these Metered Parking Locations; and
- C. Vendor has introduced to Rye a new parking control, data acquisition, management information, and workforce automation technology (hereinafter the "StreetSmart Solution™") that Vendor represents will provide improved parking management information, increased parking space turnover, increased parking revenue and improved enforcement productivity; and
- D. Vendor desires to provide, install and maintain the StreetSmart Solution in a defined subset of the Metered Parking Locations, (hereinafter the "Phase 1 Locations") so that Rye can evaluate the performance of the StreetSmart Solution™; and
- E. Rye is interested in having the StreetSmart Solution™ installed in the Phase 1 Locations to determine the StreetSmart Solution's efficacy in generating additional revenue, encouraging improved turnover, providing real-time maintenance and enforcement alerts, and generating managerially useful information; and
- F. Parties hereto desire to execute this Agreement to evaluate the performance of the StreetSmart Solution™ in the Phase 1 Locations.

Now, therefore, in consideration of these mutual promises listed above, the parties hereto agree as follows:

#### **1. EVALUATION CRITERIA**

(See Attachment A)

#### **2. PHASE 1 LOCATIONS**

Rye will permit the Vendor to install its technology to manage approximately fifty (50) parking spaces located in a mutually agreed upon test area. The parking spaces in the test area will be collectively referred to hereinafter as the "Phase 1 Locations."

#### **3. VENDOR DUTIES**

Vendor will:

- a. Provide and install its technology in substantial conformance with plans and specifications as agreed to by the parties.
- b. Provide the necessary hardware, meter programming, vehicle detection technology, telemetry, web services, handheld communication devices, and pay for all costs associated with the installation of the StreetSmart Solution™ in the Phase 1 Locations.
- c. Provide Rye personnel with training and systems support so that Rye staff can provide routine maintenance of the installed technology.
- d. Provide Rye managers with access to a secure management information portal to enable real time remote inspection of parking activity and operations as well as access to reporting of key parking metrics.
- e. Provide product warranties to Rye consistent with current parking industry trade practices.
- f. Be financially responsible for the repair/replacement of any defective system components that malfunction for any reason other than vandalism, breakage due to street resurfacing, or theft.

#### **4. RYE DUTIES**

Rye will:

- a. Provide the Vendor with the parking meter and enforcement revenue histories of the Phase 1 Locations.
- b. Collect meter and enforcement revenues and related parking data on a timely basis, and provide routine parking system maintenance.
- c. Use its best efforts to ensure that enforcement of parking violations within the Phase 1 Locations conforms to the best practices recommended by the Vendor for the use of its technology.
- d. After the StreetSmart Solution is installed and operational, provide Vendor with all current and relevant meter revenue and enforcement statistics for the Phase 1 Locations in a timely manner.

#### **5. PHASE 1 LOCATIONS DURATION**

The duration of this Agreement will be 90 days starting with the completed installation and commissioning of the StreetSmart Solution™. This 90 day evaluation period shall be referred to hereinafter as the "Evaluation Period."

#### **6. CONTINGENT PAYMENT**

During the Evaluation Period Rye shall have an obligation to pay the Vendor a fee only if the StreetSmart Solution generates combined meter and enforcement revenues in excess of the historical benchmarks for the Phase 1 Locations. If combined meter and enforcement revenues are greater than the historical benchmarks Rye hereby agrees to pay the Vendor all revenues in excess of the historical benchmarks for the Phase 1 Locations to a maximum fee of \$30.00 per monitored parking space per month for the duration of the Evaluation Period. The first invoice will be sent on the sixty-first day of the Evaluation Period; the first and all subsequent invoices will be payable on "net 30" terms after receipt by Rye. This fee will represent the total fee liability of Rye under this Agreement and no further invoices will be issued or payable unless both parties agree in writing to an extension of the Evaluation Period.

#### **7. EVALUATION**

Rye will evaluate The StreetSmart Solution™ in accordance with the following criteria: I) the competence and quality of installation, II) meter and system functionality and reliability, III) potential impacts on meter revenue and enforcement productivity within the Phase 1 Locations and citywide. Rye will prepare a written report summarizing its evaluation for review and consideration by Rye stakeholders as it considers the continuation and or expansion of the use of the StreetSmart Solution.

#### **8. SUBSEQUENT AGREEMENT**

Unless the Parties enter into a subsequent agreement to extend the Evaluation Period or permanently install the StreetSmart Solution across a larger portion of Rye's Metered Parking Locations, this Agreement will expire sixty (60) days after Rye's review of the Evaluation. This Agreement may be terminated by either party, without cause, by serving thirty (30) days written notice of its desire to terminate. This Agreement may be extended upon mutual written agreement of both parties.

#### **9. EQUIPMENT REMOVAL**

Vendor shall remove the installed hardware portion of the StreetSmart Solution (other than any pucks) at the end of the Evaluation Period, or upon termination of this Agreement, unless a subsequent agreement is executed to continue the use of the StreetSmart Solution beyond the Evaluation Period.

#### **10. BREACH**

In the event either party breaches any material provision of this Agreement, the other party at its option may, in addition to the other legal remedies available to it, terminate this Agreement, and, in the event that the breaching party is the Vendor, Rye may remove all or part of the Vendor's installed hardware and related improvements. Termination because of breach shall be upon a minimum of ten (10) days notice, unless the breach is cured within such ten (10) day period, with the notice specifying the date of termination.

#### **11. RYE INDEMNIFICATION**

Rye shall indemnify, defend, protect, and hold harmless the Vendor, its employees, officers, directors and agents from any claims damages, loss and expenses, of every kind and nature whatsoever, arising out of, resulting from, Rye's negligent performance of its obligations under this Agreement.

#### **12. VENDOR INDEMNIFICATION**

The Vendor shall indemnify, defend, protect, and hold harmless Rye, its employees, officers, directors and agents from any claims damages, loss and expenses, of every kind and nature

whatsoever, arising out of, resulting from, or in any manner directly connected with the Vendor or the Vendor's negligent performance of its obligations under this Agreement. The Vendor or Vendor's agent shall provide evidence of insurance sufficient to protect Rye with respect to any claim, loss, damage or injury that arises out of or is in any way related to the installation of the StreetSmart Solution.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

APPROVED AS TO FORM:

The City of Rye

By: \_\_\_\_\_

Date: \_\_\_\_\_

StreetSmart Technology, LLC

By: \_\_\_\_\_

Date: \_\_\_\_\_

## Exhibit "A"

### Phase 1 Deployment Goals and Objectives:

Demonstrate and document SST System potential impact on parking operations;

1. Data Acquisition and Management Information
2. Meter Revenue
3. Enforcement Revenue
4. Compliance
5. Meter Operability
6. Parking Space Turnover
7. Maintenance Productivity
8. Enforcement Productivity

### Methodology:

The StreetSmart Solution™ will operate for 30 days following installation and commissioning programmed to operate like every other standard parking meter in the the Phase I Location. During this 30 day baseline collection and benchmarking period no changes will be made to the standard parking meter management practices i.e. the meters will be operated, maintained, collected and enforced "as usual." During these 30 days the meters will collect parking occupancy and turnover, enforcement, and revenue data that will document operational baselines.

At the beginning of the 31<sup>st</sup> day of operation the StreetSmart Solution's features and functions above will be enabled and the StreetSmart Solution™ will operate in this mode for the next 60 days. During this 60 day period Rye will undertake its best effort to change its parking meter management processes and utilize the field force automation tools provided by the StreetSmart Solution™ i.e. Maintenance Alerts, Enforcement Alerts, etc. As during the baseline collection period, the StreetSmart Solution™ will be collecting and compiling operational statistics.

At the end of the 90 days, the close of the Phase 1 period, Rye will be in a position to compare and contrast the performance of the parking operation "before and after" implementation of the StreetSmart Solution™. All data, interim reports, and a draft final report will all be made available to Rye.



# CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager's Office

DATE: March 16, 2011

CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Presentation by Commissioner Connors on Coyote Season.

**FOR THE MEETING OF:**

March 16, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

A presentation will be made by Police Commissioner Connors on Coyote Season.



## **CITY OF RYE FACT SHEET RE: COYOTES**

Residents of Rye take great pride in the natural endowments of our community: one-fifth of the City's land is dedicated to recreation and conservation. It is important to remember that we share these areas with the animals that inhabit them; a variety of animals are found within our community, including deer, fox, rabbits, raccoons, and coyotes.

Coyotes are hunters, and primarily feed on rodents, insects, and small animals, including rabbits, squirrels, and small deer. They are normally timid around humans, but some coyotes in suburban areas have lost their fear of people, which can be dangerous. It is important to act aggressively to maintain that natural fear.

### ***WHAT YOU SHOULD DO:***

- If you encounter a coyote, be aggressive. Loud noises and forceful behavior will normally scare the animal away. Wave your arms and throw sticks or stones.
- Do not feed coyotes.
- Do not provide food sources that may attract them, such as outdoor pet food or bird seed. They may be attracted by the birds and rodents drawn to bird feeders.
- Make garbage inaccessible.
- Do not allow pets to run free. Coyotes can see cats or small dogs as prey (coyotes' average weight is 35 pounds; they will usually yield their territory to mid-sized or larger dogs). Conflicts are most frequent in March and April, when coyotes are establishing their dens.
- Small children should be supervised by an adult while outdoors.

Coyote attacks on humans can happen, although they are rare (for example, in an average year in New York State, 650 people are hospitalized and one killed in dog attacks, vs. a handful of coyote attacks nationwide). The mere presence of coyotes in our community is part of the ecology of the area, and not dangerous in itself; however, the animals' behavior should be monitored to ensure that they are not acting dangerously or aggressively, or exhibiting a lack of fear.

Unusual coyote behavior should be reported to the City of Rye Police Department at (914) 967-1234 so sightings can be recorded and officers dispatched if necessary. Attacks or emergency situations should be reported via 911.

Additional information on coyotes can be found on the New York State Department of Environmental Conservation's website, <http://www.dec.ny.gov/animals/6971.html>

# What Should I Do When I Encounter a Coyote?

Seeing a coyote is not a bad thing. Often, hikers, hunters, bird watchers, etc, will encounter coyotes in the field simply because their activities put them in places that coyotes call home. However, to reduce the likelihood of bad interactions with coyotes, the simple answer to the question “what should I do when I see a coyote?” is to make it fear you. This is especially important when we see coyotes in areas that are commonly used by people, especially children, such as parks, playgrounds, and schoolyards. We cannot change the fact that coyotes do exist, and will continue to exist in suburban and urban areas. We can, however, condition them to not want to encounter people. Here are a couple of techniques that may help with this. Keep in mind that not all of these techniques instill fear in coyotes, but simply disturb or annoy them in hopes of discouraging them from hanging around a particular area.

- **Sound an air horn**
- **Spray the coyote with a hose**
- **Use visual and/or auditory scare devices** - A number of products exist that use a motion sensor to activate a spot light and radio or some other noise intended to chase off undesired animals.
- **Yell, wave your arms, and make yourself look big and scary** - Use body language to reinforce your aggression. Make sure that your voice and body language are as aggressive as possible. Taking a step or making a quick, sudden movement toward the coyote can make this approach more effective.
- **Throw rocks or sticks**
- **Spray with pepper spray** - This is a last resort approach and is designed more to discourage or stop an attack.

## **In the case of an attack, fight back!** **Kick, Punch, Poke**

Make sure to target sensitive areas such as the eyes, nose, and throat. A large prey item that fights back is not a desirable target for a coyote. Make sure children have a plan that involves the aggression tactics described above in case they have an encounter with a coyote. Small children should be supervised and told to yell out “coyote” repeatedly until an adult responds.

**Report an attack to your local police agency immediately.** Follow up with a call to DEC so that we, in conjunction with local law enforcement can act accordingly. Contact your New York State Department of Environmental Conservation (DEC) **Region 3 Wildlife Office** at **(845)256-3098** to report any other undesirable interactions with coyotes.





# CITY COUNCIL AGENDA

NO. 11

DEPT.: City Manager's Office

DATE: March 16, 2011

CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Resolution for sole source approval for Phoenix Environmental Care products for fairway lawn maintenance fertilizers and Earthgreen Products for greens maintenance products.

**FOR THE MEETING OF:**

March 16, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve the resolution designating these vendors to be sole source providers.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

The Rye Golf Club has been a leader for the City in their efforts on sustainability through the use of products that are more environmentally friendly. Two companies meet those objectives: Phoenix Environmental Care products for fairway lawn maintenance fertilizers and Earthgreen Products for greens maintenance products.

See attached.

Mayor and Rye City Council  
1051 Boston post Road  
Rye, NY 10580

March 10, 2011

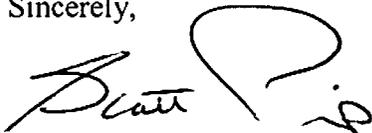
Dear Mayor and Rye City Council:

The Rye Golf Course staff has spent considerable time and energy testing soil characteristics and severely limiting the use of fertilizer and pesticides in the maintenance of the grass surfaces at Rye Golf Club.

Our pest management and compost programs also rely heavily on the consistency of the products selected, and we have not found any competitor who can match our current program success.

In order to support this program, and further comply with purchasing directives from the auditor's comments from 2009, I am requesting that you support the designation of Phoenix Environmental Care Products as an approved sole source vendor for fairway lawn maintenance fertilizers, and Earthgreen Products as a an approved sole source for greens maintenance products.

Sincerely,

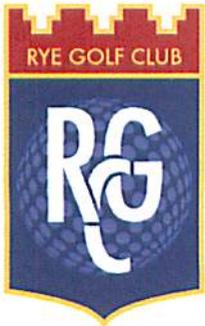
A handwritten signature in black ink that reads "Scott Pickup". The signature is written in a cursive style with a large, stylized "P" and "i".

Scott Pickup

# Memo

**To:** Scott Pickup, City Manager  
**From:** Scott Yandrasevich  
**CC:**  
**Date:** March 10, 2011  
**Re:** Sole source

---



**RYE GOLF CLUB**

330 BOSTON POST ROAD  
RYE, NEW YORK 10580

T 914-835-3200

F 914-835-3229

Scott,

Today's changing environment of sustainability has created companies to evaluate their product lines and develop or distribute new products that are more environmentally friendly. As you are aware we have been using organic products and compost tees for many years and have been in the forefront in our area with these applications on a golf course.

The two PO's submitted with sole source/exclusive vendor are distributing products that are in some cases the price point but in all cases work in conjunction with our overall sustainable objectives.

Scott

CITY OF RYE  
 1051 BOSTON POST ROAD, RYE, NY 10580  
**PURCHASE ORDER**  
 FEDERAL I.D. NUMBER: 13-6007325  
 TAX EXEMPT CERTIFICATE NUMBER: A172642

ORDER DATE	VENDOR ID	P O #
3/7/2011	# 249	

SSN #	FEDERAL ID NUMBER

AUDITED BY	AUDIT DATE

*Re @  
 94-2011*

CLAIMANT'S NAME & ADDRESS  
 PINNACLE TURF, INC.  
 40 SKYVIEW LANE  
 NEW ROCHELLE, NY 10804

CITY OF RYE USE ONLY ACCOUNT	AMOUNT
627805 54305	50,000.00
<b>TOTAL</b>	<b>\$50,000.00</b>

SHIP TO ADDRESS\*  
 RYE GOLF CLUB  
 330 BOSTON POST ROAD  
 RYE, NY 10580

DATE	DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED PRICE
3/1/2011	BLANKET PO FOR FERTILIZERS & PESTICIDES	1	50,000.000	50,000.00
				-
				-
				-
				-
				-
				-
				-
				-
				-
			TOTAL	\$50,000.00

REMARKS  
 Sole Source Provider - see letter of exclusivity

APPROVALS
<i>ARC</i> 
DEPARTMENT HEAD
RECEIPT OF GOODS/SERVICES
CITY COMPROLLER
CITY MANAGER



Owen R. Towne  
President

Owen.Towne@PhoenixEnvCare.com

To Whom it May Concern,

Please accept this letter as proof that Steve Renzetti, Pinnacle Turf, Inc., of New York is a Platinum distributor for Phoenix Environmental Care, LLC in Nassau, Rockland, Suffolk and Westchester Counties of New York. This includes all Phoenix Environmental Care Products.

As a Phoenix Platinum Distributor Pinnacle Turf has full access to all Phoenix products with exclusive features including marketing programs, product stewardship and training as well a full field service support from Phoenix. In their capacity as a Platinum Distributor, Pinnacle has exclusive access to all Phoenix marketing programs including product and customer rebates. In addition to maintain their Platinum status, Pinnacle is required to maintain efficient logistics and adequate inventory for optimum customer service. Pinnacle has and continues to meet all these Platinum requirements.

Phoenix offers a very limited distribution in the NY market due to its stringent requirements for marketing and logistics. Pinnacle Turf is a Phoenix distributor that has consistently exceeded these requirements. Please let me know if additional information is needed. Thank you for using Phoenix Products.

Sincerely,

A handwritten signature in blue ink that reads "Owen Towne".

Owen Towne,  
President

CITY OF RYE  
 1051 BOSTON POST ROAD, RYE, NY 10580  
**PURCHASE ORDER**  
 FEDERAL I.D. NUMBER: 13-6007325  
 TAX EXEMPT CERTIFICATE NUMBER: A172642

ORDER DATE	VENDOR ID	P O #
3/7/2011	#2166	

SSN #	FEDERAL ID NUMBER

AUDITED	AUDIT DATE

*ALQ  
 9B-2011*

CLAIMANT'S NAME & ADDRESS  
 YVE NOVOTNY  
 DBA/ EXECUTIVE TURF PRODUCTS  
 92 VINE ROAD  
 STAMFORD, CT 06905

CITY OF RYE USE ONLY ACCOUNT	AMOUNT
627805 54305	25,000.00
<b>TOTAL</b>	<b>\$25,000.00</b>

SHIP TO ADDRESS\*  
 RYE GOLF CLUB  
 330 BOSTON POST ROAD  
 RYE, NY 10580

DATE	DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED PRICE
3/7/2011	BLANKET PO FOR GREENS FERTILIZERS	1	25,000.000	25,000.00
	MENEFEE HUMATE (MH300 \$18.00 & MH150 \$19.00 per bag)			-
	GROW-PLEX SP \$250.00 PER CONTAINER			-
	SEAMATE \$390.00 PER CONTAINER			-
			<b>TOTAL</b>	<b>\$25,000.00</b>

REMARKS  
 OTHER QUOTES:  
 This vendor is the exclusive distributor in NY of these items.

APPROVALS
<i>ALQ</i>
DEPARTMENT HEAD
RECEIPT OF GOODS/SERVICES
CITY COMPTROLLER
CITY MANAGER



[www.earthgreen.com](http://www.earthgreen.com)

## Earthgreen Products Inc.

8144 Walnut Hill Lane, Suite 1075  
Dallas, Texas 75231 USA  
Corporate Headquarters

(214) 750-4698  
(800) 764-6464  
Fax (214) 750-1158

Rye Golf Club  
330 Boston Post Road  
Rye, NY 10580

To whom it may concern:

Ken Gentile with Executive Turf Products is the exclusive distributor of Earthgreen Products for turf grass applications in the state of New York. Products include:

Earthgreen Products Menefee Humate  
GrowPlex  
Nutri-Plus 5-15-15  
SeaMate  
SeaMate Fe 6-8-12.

Please let us know if you require any additional information.

Sincerely,

John Lown  
President



# CITY COUNCIL AGENDA

NO. 12

DEPT.: Public Works

DATE: March 16, 2011

CONTACT: George J. Mottarella, City Engineer

**ACTION:** Award bid for Street Materials (Bid #1-11).

**FOR THE MEETING OF:**

March 16, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That Bid #1-11 be awarded to Putnam Materials for crushed stone and graded processed stone, to Peckham Materials for sub-base, binder course (both types), shim course, top course (both types) and curb mix and to Dakota Supply for concrete (both types).

**IMPACT:** Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The City Engineer has reviewed the bids for street materials received from five vendors and has recommended the bid be awarded to the low bidders as follows:

Crushed stone ¾ – Putnam Materials  
Graded processed stone – Putnam Materials  
Sub-base (recycled concrete) – Peckham Materials  
Binder course Type 3 - Peckham Materials  
Binder course Type 4 - Peckham Materials  
Shim course Type 5 - Peckham Materials  
Top course Type 6F - Peckham Materials  
Top course Type 7F - Peckham Materials  
Asphaltic concrete curb mix - Peckham Materials  
Class "A" Concrete – Dakota Supply  
K-Krete® - Dakota Supply

DATE: March 9, 2011  
TO: Scott Pickup, City Manager  
FROM: George J. Mottarella, City Engineer  
RE: Bid #1-11, Street Materials

---

I have reviewed the bids received for Bid #1-11, Street Materials and a copy of my bid tabulation is attached for your convenience. Please note that the F.O.B. price is shown as bid and as computed according to the mileage adjustment formula in the bid.

I recommend the bid be awarded as follows:

Crushed stone $\frac{3}{4}$	=	Putnam Materials
Graded processed stone	=	Putnam Materials
Sub-base (recycled concrete)	=	Peckham Materials Corp.
Binder course Type 3	=	Peckham Materials Corp.
Binder course Type 4	=	Peckham Materials Corp.
Shim course Type 5	=	Peckham Materials Corp.
Top course Type 6F	=	Peckham Materials Corp.
Top course Type 7F	=	Peckham Materials Corp.
Asphaltic concrete curb mix	=	Peckham Materials Corp.
Class A Concrete	=	Dakota Supply
K-Krete®	=	Dakota Supply

cc: Dawn Nordarse, City Clerk  
Scott Fontecchio, General Foreman

**STREET MATERIALS**

**Bid #1-11**

NAME OF BIDDER		RCA Asphalt		Dakota Supply		Peckham Materials		Putnam Materials		Canal Asphalt	
#	Items	PER TON		PER TON		PER TON		PER TON		PER TON	
		F.O.B.	Delivered	F.O.B.	Delivered	F.O.B.	Delivered	F.O.B.	Delivered	F.O.B.	Delivered
	Crushed Stone 3/4"	37.00/49.50*	No Bid	No Bid	No Bid	No Bid	No Bid	17.00/39.49*	27.00	35.00/47.86*	No Bid
	Graded Processed Stone NYS 304.02	No Bid	No Bid	No Bid	22.45	No Bid	No Bid	11.00/33.49*	22.00	No Bid	No Bid
	Sub-base NYS 304.6	No Bid	No Bid	No Bid	20.50	7.00/10.95*	14.00	No Bid	No Bid	No Bid	No Bid
#	Items	PER C.Y.		PER C.Y.		PER C.Y.		PER C.Y.		PER C.Y.	
		F.O.B.	Delivered	F.O.B.	Delivered	F.O.B.	Delivered	F.O.B.	Delivered	F.O.B.	Delivered
403.13	Binder Course Type 3 (3.5%)	80.00/92.50*	N/A	No Bid	N/A	75.00/78.95*	N/A	No Bid	N/A	78.00/90.86*	N/A
403.14	Binder Course Type 4 (4.0%)	No Bid	N/A	No Bid	N/A	75.00/78.95*	N/A	No Bid	N/A	78.00/90.86*	N/A
403.15	Shim Course Type 5 (8.25%)	100.00/112.50*	N/A	No Bid	N/A	78.00/81.95*	N/A	No Bid	N/A	100.00/112.86	N/A
403.17	Top Course Type 6F (6.4%)	85.00/97.50*	N/A	No Bid	N/A	75.00/78.95*	N/A	No Bid	N/A	78.00/90.86*	N/A
403.19	Top Course type 7F (7.0%)	90.00/102.50*	N/A	No Bid	N/A	78.00/81.95*	N/A	No Bid	N/A	83.00/95.96*	N/A
714.06	Asphaltic Concrete Curb Mix (7.5%)	100.00/112.50*	N/A	No Bid	N/A	80.00/83.95*	N/A	No Bid	N/A	No Bid	N/A
#	Items	PER C.Y.		PER C.Y.		PER C.Y.		PER C.Y.		PER C.Y.	
502.2	Class "A" Concrete	N/A	No Bid	N/A	125.00	N/A	No Bid	N/A	No Bid	N/A	No Bid
8502.95	Controlled backfill ("K-Krete")	N/A	No Bid	N/A	81.40	N/A	No Bid	N/A	No Bid	N/A	No Bid
*Mileage adjustment as per bid specifications											



# CITY COUNCIL AGENDA

NO. 13

DEPT.: Corporation Counsel

DATE: March 16, 2011

CONTACT: Kristen Wilson, Corporation Counsel

**ACTION:** Consideration to set a Public Hearing to amend Local Law Chapter 93, Section 93-6, "Filming – License Fee", to amend the fee for filming in the City.

**FOR THE MEETING OF:**

March 16, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

Local Law Chapter 93, Section 93-6, "Filming – License Fee" is being updated to not only amend the fee for filming. but to remove the specific fee amount from the Law so that future changes to fees may be set by resolution of the City Council.

See attached draft Local Law.

**CITY OF RYE  
LOCAL LAW NO. 2011**

**A local law to amend Chapter 93 “Film Permits” § 93-6 “License fee” of the Code of the City of Rye as follows:**

**Section 1**

§ 93-6 License Fee.

The fee to be paid shall be determined by the City Clerk for each license, including a license for a portion of a day, as follows:

A.

License fee for use of public property. The minimum fee shall be \$1,600 per day, and the maximum fee shall not exceed \$16,000 per day **be set by resolution of the City Council**. The City Clerk, in determining the specific fee to be required, shall take into consideration the following factors which would denote a greater use of public property and therefore require higher fees:

(1)

Use of public parking spaces.

(2)

Use of vehicle travelways requiring the rerouting or directing of traffic.

(3)

Use of pedestrian travelways requiring the rerouting or directing of pedestrian traffic.

(4)

Use of public buildings during normal operating hours.

(5)

Use of other public areas during normal operating hours.

(6)

The size of the filming location.

(7)

The number of filming locations.

(8)

The number of hours the filming location or locations will be used.

(9)

Use or involvement of City personnel.

(10)

Use or involvement of City equipment.

(11)

Use of explosives.

(12)

Involve dangerous activities.

B.

License fee for use of private property. The fee for filming on private property shall be ~~\$350 per day~~ **set by resolution of the City Council.**

## **Section 2**

This law will take effect immediately upon filing with the New York State.



# CITY COUNCIL AGENDA

NO. 14 DEPT.: Police DATE: March 16, 2011  
CONTACT: William R. Connors, Police Commissioner

**AGENDA ITEM:** Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order #117.8

**FOR THE MEETING OF:**

March 16, 2011

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** Approval of a revised General Order #117.8, "Mobile Video Recording Systems".

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:  
Enhancement of the operational effectiveness of the Department.

**BACKGROUND:** Mobile Video Recording Systems were introduced in the Department under General Order #117.8, effective February 17, 2006. The proposed revision updates Department procedures to reflect the introduction of an updated system, the Panasonic "Arbitrator," which records digital images and sound that are downloaded to a server by wireless transmission when vehicles equipped with the system return to Police Headquarters. The system eliminates the need for installation and removal of storage media (VHS tapes were used by the original systems) and is expected to be far more efficient and effective.

Two Arbitrator systems are being installed in department vehicles; they were purchased under a \$30,000 grant from the United States Department of Justice COPS Technology Program. Additional systems will be added in the future if and when funding permits.

Copies of the proposed order in "strike and replace" and draft format are attached. It has been provided to the Rye Police Association for review pursuant to the provisions of the collective bargaining agreement.

**CITY OF RYE POLICE DEPARTMENT**

<b>General Order #117.8</b>	<b>New [ x ]</b>	<b>Revised [ ]</b>
<b>Supersedes: G.O. 117.8 02/17/06</b>		
<b>Subject: Mobile Video Recording Systems</b>		
<b>Date Issued 00/00/11</b>	<b>Date Effective 00/00/11</b>	<b>Page 1 of 4</b>
<b>Issuing Authority: William R. Connors, Police Commissioner</b>		

Purpose:

To establish guidelines for the recording, use, management, storage, and retrieval of audio-visual media recorded by in-car video recording systems.

Definitions:

**Recorded media:** refers to any media that captures and records audio-visual signals, including analog (VHS, SVHS, HI 8mm) or digital (Wavelet, JPEG, MPEG) media.

**In-car Camera System/Mobile Video Recording System (MVRS):** these terms are synonymous, and are defined as any mechanism that captures audio and visual signals on a device installed in a Department vehicle.

**Mobile Video Recording System (MVRS) Operator:** refers to personnel who have been trained in the operation of, and are authorized to operate, Mobile Video Recording Systems.

Policy:

The use of in-car video systems has been demonstrated to be an invaluable aid to law enforcement personnel in capturing evidence; documenting events, actions, conditions, and statements made during arrests, traffic stops, and other critical incidents; enhancing the Department's ability to establish probable cause for arrest; evaluating tactics and procedures; and documenting the professionalism with which police officers perform their duties.

Procedure:

The following procedures will be followed when a Mobile Video Recording System (MVRS) is installed in a Department vehicle:

1. MVR equipment installed in Department vehicles will be configured to activate:
  - a. when emergency lights are activated

**Deleted:** or siren

- b. when the system is manually activated by the assigned officer via wireless transmitter
- c. when the system is manually activated using the system's software interface.

2. When assigned to operate a vehicle equipped with a Mobile Video System, the assigned officer shall:

a.

a. The assigned officer will perform a pre-tour inspection at the beginning of each tour to ensure that the MVRs is operating properly. That inspection will include the following:

i. Remote audio transmitter function:

- 1. adequate battery power
- 2. connection to recording equipment is functional
- 3. remote activation feature is functional.

ii. Camera lens:

- 1. windshield and camera lens are free of debris or obstruction
- 2. camera is properly aimed.

iii. Recording system operation:

- 1. System is capturing both audio and video data.

Any defects or malfunctions shall be recorded on a Supplementary Report and reported to the Tour Supervisor without delay. Assigned officers will note the results of the pre-tour inspection on the Daily Activity Sheet.

3. The following incidents shall be recorded unless exigent circumstances render it impossible or impractical:

- a. All vehicle stops
- b. Field sobriety tests
- c. Priority responses requiring the use of emergency warning devices (lights and sirens), including pursuits
- d. Field interviews conducted within range of the audio and video recording device

Deleted: control panel mounted in the vehicle

Deleted: Obtain a Department-issued videotape (or other appropriate § storage media) from the supply designated for that unit. § Tapes will be maintained by the Department for a period of § ninety (90) days. Therefore, tapes will be labeled "1" § through "31" (adjusted by the number of days in a specific § month) corresponding to the days of the current month. The § officer will ensure that the tape corresponding to the § current day is installed in the vehicle. Upon completion of § the "B" Tour, the assigned officer will return the tape for § that day to its corresponding position in the storage § location. At the beginning of the "C" Tour, the assigned § officer will install the appropriately marked tape in the § vehicle. Appropriate entries will be made in the "Mobile § Video Recording Log" for each tour. In the event that a § MVRs-equipped vehicle is not utilized during the C Tour, § the first officer assigned to a vehicle during a given day § will install the new tape in the vehicle. §

NOTE: tapes will be labeled by vehicle and day, i.e., "CAR 10 - DAY 3" or "CAR 14 - DAY 27." If there is insufficient recording time remaining on a tape to complete a tour, a new tape will be issued and labeled by the Tour Supervisor.

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Deleted: 2. Correct tape/media is installed in the system § corresponding to the date. §

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- e. Any situation or event that the officer believes, through his or her training and/or experience, should be recorded.
4. When the MVRs is activated, officers shall ensure that the audio recording device is also activated, in order to provide the most complete record of events. Officers may also use the audio portion of the recording to narrate events as they occur to assist them in documenting the circumstances of an incident and/or to provide evidence for courtroom presentation.
  5. To prevent electronic interference when multiple MVRs are in use at the scene of an incident, only the primary assigned officer should activate his or her audio recording device, when possible. When appropriate, however, additional officers are not precluded from activating their recording devices in order to obtain additional perspectives on the incident.
  6. Officers shall ensure that the volume of other audio devices in their Department vehicles (AM/FM radios, tape players, etc.) is turned off or set at a level that does not interfere with the MVRs audio recording.

7. Recordings will not be reviewed on equipment other than the MVRs without the permission of the Commanding Officer, Detective Division.

8. MVRs recordings shall not be replayed for other than authorized Department personnel without the permission of the Commanding Officer, Detective Division.

General Order #117.8 Page 4 of 4

9. When material is recorded that is likely to be of value in the investigation or prosecution of an arrest, or in any civil or criminal proceeding, personnel complaint, or other forum, it will be safeguarded as evidence in accordance with relevant evidence/property handling procedures.

10. When a MVRs is activated to document an event, it shall not be deactivated until the event is concluded, with the exception of extended incidents or assignments, such as traffic control or accident scenes, in which case the assigned officer may deactivate the device to conserve recording time. When deactivating the device, the officer should document the reason for stopping recording by orally noting same on the recording and/or noting it on reports prepared regarding the incident.

11. If an officer believes a recording may have value for evidentiary, training, or other purposes, he or she shall advise his or her supervisor, and request that the recording be preserved for future use.

**Deleted:** .Officers shall not erase, alter, re-use, modify, or tamper with ¶ MVRs recordings.

**Deleted:** Only a supervisor may reissue a previously ¶ recorded media. Only Department-issued media are to be used in ¶ MVRs.

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**Deleted:** The safety tab should be removed from the videotape (or ¶ appropriate measures taken regarding other media) to prevent ¶ inadvertent re-recording.¶

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12. Assigned officers will be responsible for safeguarding remote wireless audio transmitters, the wireless audio transmitter's leather belt pouch and Lapel plug-in Microphone and any other MVRs equipment assigned to the vehicle. Notation will be made on the Patrol Activity Report that the devices are accounted for at the commencement and end of each tour.
13. Tour Supervisors will be responsible for ensuring compliance with this procedure by personnel under their supervision.

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Deleted: A Tape Log will be maintained for each vehicle in which a MVRs is installed, and will be maintained with the supply of media for the vehicle. Assigned officers and supervisors will complete the appropriate entries in the log during each tour.

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**CITY OF RYE POLICE DEPARTMENT**

General Order #117.8	New [ <input checked="" type="checkbox"/> ]      Revised [    ] Supersedes: G.O. 117.8 02/17/06	
<b>Subject:</b> Mobile Video Recording Systems		
<b>Date Issued</b> 00/00/11	<b>Date Effective</b> 00/00/11	Page 1 of 4
<b>Issuing Authority:</b> William R. Connors, Police Commissioner		

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**In-car Camera System/Mobile Video Recording System (MVRs):** these terms are synonymous, and are defined as any mechanism that captures audio and visual signals on a device installed in a Department vehicle.

**Mobile Video Recording System (MVRs) Operator:** refers to personnel who have been trained in the operation of, and are authorized to operate, Mobile Video Recording Systems.

Policy:

The use of in-car video systems has been demonstrated to be an invaluable aid to law enforcement personnel in capturing evidence; documenting events, actions, conditions, and statements made during arrests, traffic stops, and other critical incidents; enhancing the Department's ability to establish probable cause for arrest; evaluating tactics and procedures; and documenting the professionalism with which police officers perform their duties.

Procedure:

The following procedures will be followed when a Mobile Video Recording System (MVRs) is installed in a Department vehicle:

1. MVR equipment installed in Department vehicles will be configured to activate:
  - a. when emergency lights are activated

- b. when the system is manually activated by the assigned officer via wireless transmitter
  - c. when the system is manually activated using the system's software interface.
2. When assigned to operate a vehicle equipped with a Mobile Video System, the assigned officer shall:
- a.
  - a. The assigned officer will perform a pre-tour inspection at the beginning of each tour to ensure that the MVRS is operating properly. That inspection will include the following:
    - i. Remote audio transmitter function:
      - 1. adequate battery power
      - 2. connection to recording equipment is functional
      - 3. remote activation feature is functional.
    - ii. Camera lens:
      - 1. windshield and camera lens are free of debris or obstruction
      - 2. camera is properly aimed.

- iii. Recording system operation:
    - 1. System is capturing both audio and video data.
- Any defects or malfunctions shall be recorded on a Supplementary Report and reported to the Tour Supervisor without delay. Assigned officers will note the results of the pre-tour inspection on the Daily Activity Sheet.
3. The following incidents shall be recorded unless exigent circumstances render it impossible or impractical:
- a. All vehicle stops
  - b. Field sobriety tests
  - c. Priority responses requiring the use of emergency warning devices (lights and sirens), including pursuits
  - d. Field interviews conducted within range of the audio and video recording device

- e. Any situation or event that the officer believes, through his or her training and/or experience, should be recorded.
- 4. When the MVRs is activated, officers shall ensure that the audio recording device is also activated, in order to provide the most complete record of events. Officers may also use the audio portion of the recording to narrate events as they occur to assist them in documenting the circumstances of an incident and/or to provide evidence for courtroom presentation.
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- 6. Officers shall ensure that the volume of other audio devices in their Department vehicles (AM/FM radios, tape players, etc.) is turned off or set at a level that does not interfere with the MVRs audio recording.
- 7. Recordings will not be reviewed on equipment other than the MVRs without the permission of the Commanding Officer, Detective Division.
- 8. MVRs recordings shall not be replayed for other than authorized Department personnel without the permission of the Commanding Officer, Detective Division.

General Order #117.8 Page 4 of 4

- 9. When material is recorded that is likely to be of value in the investigation or prosecution of an arrest, or in any civil or criminal proceeding, personnel complaint, or other forum, it will be safeguarded as evidence in accordance with relevant evidence/property handling procedures.
- 10. When a MVRs is activated to document an event, it shall not be deactivated until the event is concluded, with the exception of extended incidents or assignments, such as traffic control or accident scenes, in which case the assigned officer may deactivate the device to conserve recording time. When deactivating the device, the officer should document the reason for stopping recording by orally noting same on the recording and/or noting it on reports prepared regarding the incident.
- 11. If an officer believes a recording may have value for evidentiary, training, or other purposes, he or she shall advise his or her supervisor, and request that the recording be preserved for future use.

12. Assigned officers will be responsible for safeguarding remote wireless audio transmitters, the wireless audio transmitter's leather belt pouch and Lapel plug-in Microphone and any other MVRs equipment assigned to the vehicle. Notation will be made on the Patrol Activity Report that the devices are accounted for at the commencement and end of each tour.
13. Tour Supervisors will be responsible for ensuring compliance with this procedure by personnel under their supervision.



# CITY COUNCIL AGENDA

NO. 15

DEPT.: City Manager's Office

DATE: March 16, 2011

CONTACT: Scott Pickup, City Manager

**AGENDA ITEM:** Review and discussion of FOIL procedures.

**FOR THE MEETING OF:**

March 16, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Council review the current FOIL procedures.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

Please see attached on current FOIL procedures.

## Procedures for Public Access to the Records of the City of Rye

### Section 1. Purpose and scope

- (a) These regulations are established pursuant to Article 6 of the Public Officers Law, known as the Freedom of Information Law.
- (b) These regulations provide the procedures by which records of the City of Rye may be obtained, for inspection and copies thereof obtained.
- (c) Personnel of the City of Rye shall furnish to the public the information and records required by law and those which were furnished to the public prior to enactment of the Freedom of Information Law, subject to the conditions contained in subdivision 2 of Section 87 of the Freedom of Information Law, or other provisions of law.

### Section 2. Designation of records access officer.

- (a) The City Manager shall be the Records Access Officer responsible for assuring compliance with these regulations, and designates the following persons as additional records access officers:
  - 1. The City Comptroller for all records in the Department of Finance.
  - 2. The City Assessor for all records in the office of the City Assessor.
  - 3. The Building Inspector for all records in the Department of Buildings.
  - 4. The City Engineer for all records in the Department of Public Works.
  - 5. The City Planner for all records in the offices of the Planning Commission and City Planner.
  - 6. The Police Commissioner for all records in the Department of Police.
  - 7. The City Clerk for all records in the office of the City Clerk and for all other records of the City of Rye not previously mentioned.
- (b) The records access officers shall be responsible for assuring appropriate response to public requests for access to records. The records access officers shall assure that appropriate personnel are adequately instructed in and properly perform the functions described in Sections 6 and 7 of these regulations and shall supervise the administration of these regulations.

### Section 3. Designation of fiscal officer.

The City Comptroller is designated the fiscal officer, who shall certify the payroll and respond to requests for an itemized record setting forth the name, address, title and salary of every officer or employee of the City of Rye.

#### Section 4. Location

Records shall be available for public inspection and copying at the office of the records access officers at City Hall, Boston Post Road, Rye, New York, or at the location where they are kept.

#### Section 5. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours regularly open for business except that all records must be returned to their proper custodian at least five minutes before closing time. The City's hours of operation from Memorial Day through Labor Day shall be 8:30 A.M. to 4:30P.M, Monday through Friday except holidays. The hours of operation for the remainder of the year shall be 9:00 A.M. to 5:00 P.M., Monday through Friday, except holidays.

#### Section 6. Request for public access to records

- (a) Requests for records shall be in writing (hard copy or electronically) in accordance with New York Public Officers Law. The custodian of the records has discretion to waive the requirement for written requests in appropriate circumstances.
- (b) Officials shall respond to a request for records no more than five (5) business days after receipt of the request. This response will acknowledge receipt of the request and indicate that the requester will receive a response within twenty (20) business days unless otherwise noted.
- (f) Upon locating the requested records, the appropriate personnel of the City of Rye shall, as promptly as possible, and within the time limits set in subsection (b) above, either:
  - (1) Make the records available by either (i) indicating a time and date when the records are available for review and inspection, or (ii) send the records electronically if the request was for electronic copies and the records can be sent electronically, or
  - (2) Deny access in whole or part, and explain in writing the reasons therefore.

#### Section 7. Inspection and copying of records.

- (a) A person who has requested access to the public records of the City of Rye shall be given full opportunity to see and inspect such records unless access is denied as provided in Section 8 herein.

- (b) The requester may also make a copy of the records he/she inspects. No record may be removed from the office where it is located without written permission of the person in charge of the office at that time.
- (c) Upon request and payment of the established fee, if any, the appropriate officer or employee shall prepare and deliver a transcript of such records.
- (d) Upon request and payment of the established fee, if any, an appropriate official of the City of Rye shall certify as correct a transcript prepared by the custodian of the records.
- (e) Section 8. Denial of access to records.
  - (a) Denial of access to records shall be in writing stating the reason(s) therefore and advising the requester of the right to appeal to the City Council. However, if the City Council does not meet within the statutory ten (10) business days following receipt of the appeal, the City's Corporation Counsel shall hear the appeal, unless the individual filing the appeal notifies the City Council in writing as part of the appeal that he/she would like the City Council to hear the appeal. In the event the individual prefers the appeal to be heard by the City Council, the individual agrees to waive the ten (10) day statutory period for hearing the appeal and the appeal will be heard at the next regularly scheduled City Council meeting. Appeals heard by either the City Council or the Corporation Counsel are final determinations (i.e. a City Council's determination on an appeal cannot be reheard by the Corporation Counsel and vice versa).
  - (b) If requested records are not provided promptly, as required in Section 6(b) of these regulations, such failure shall also be deemed a denial of access. In such cases, appeals must be filed within 30 days of the date by which the records were to be made available.
  - (c) The City Council shall hear and determine appeals from denials of access to records in the first instance with the City's Corporation Counsel hearing and determining appeals if there is no regularly scheduled City Council meeting within ten (10) business days after receipt of the appeal.
  - (d) The time for deciding an appeal by the City Council or the City's Corporation Counsel shall commence upon receipt of a written appeal identifying:
    1. The date of the appeal.
    2. The date and location of the original record request.

3. The records to which the requester was denied access.
  4. Whether the denial of access was in writing or by failing to provide records in accordance with the applicable time periods.
  5. A copy of the written denial, if any.
  6. The name and return address (or email address) of the requestor.
- (e) The appeal shall be determined by the City Council or the City's Corporation Counsel's office within ten (10) business days of the receipt of the appeal. If the appeal is submitted via email, any emails received after 5:00 p.m. will be considered received on the next business day. Written notice of the determination shall be served upon the person requesting the record and the Committee on Open Government.

A person requesting an exception from disclosure, or an agency denying access to a record, shall in all appeal proceedings have the burden of proving entitlement to the exception.

#### Section 9. Fees.

- (a) Except as otherwise specifically authorized by law, or by established practice prior to September 1, 1974, there shall be no fee charged for:
  1. Inspection of records;
  2. Search for records;
  3. Any certification pursuant to this part.
- (b) The fee for a photocopy transcript of records shall be 25 cents per single sided page for pages not exceeding 9 by 14 inches.
- (c) The fee for photocopies of records exceeding 9 by 14 inches per page or any non-paper format (such as computer disk, microfilm, etc.) shall be the actual costs of reproduction, which shall be deemed to be the average unit cost for making such a photocopy, excluding fixed costs such as operator salaries, except when a different rate is otherwise prescribed by statute.
- (d) The fee for a transcript that is typed, handwritten, or otherwise prepared by hand shall cover the clerical time involved in making the transcript, including comparison for accuracy.

#### Section 10. Public Notice.

A notice containing the job title or name and business address of the records officers and the appeal body shall be posted in the Office of the City Clerk. A copy of these rules will be kept in the custody of each records officer and be made available for inspection upon request.

Section 11. Severability.

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.