CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, April 27, 2011, at 8:00 p.m. in the Council Room of City Hall.

AGENDA

1. Pledge of Allegiance.

2. Roll Call.

3. General Announcements.

4. Approval of the election of the Chiefs of the Rye Fire Department.

5. Draft unapproved informal minutes of the Joint Meeting of the City Council and Board of Education held on April 9, 2011 and the minutes of the regular meeting of the City Council held April 13, 2011.

6. Mayor's Management Report
   - Not-for-profit and Tax status Update
   - Legal Update

7. Presentation on Changes to the City's Snow Ordinance.

8. Presentation on Changes to the City's Code.

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

10. Authorization for the City Manager to enter into an Intermuncipal Agreement with the Village of Port Chester and Cottage Landings, LLC.

11. Authorization for the City Manager to enter into an Amendment to the Lease Agreement with Lester's of Rye, LLC.

12. Resolution authorizing an additional three-month extension of the PILOT Agreement between Avon Capital Corporation and the Westchester County IDA.

13. Authorization for City Manager to enter into an Inter-municipal Agreement with the Village of Sleepy Hollow as the lead municipality on a grant program to assist in the carrying out of Phase II Stormwater Implementation Projects.

14. Authorization for City Manager to enter into an Inter-municipal Agreement with Westchester County for the Stop-DWI Patrol/Datamaster Project for the City of Rye Police Departments.

15. Resolution to amend the City of Rye's FOIL procedures.

16. Resolution updating the terminology for a standard workday for elected and appointed officials as per requested reporting requirements of the New York State and Local Employees' Retirement System.

17. Consideration of referral to the Board of Architectural Review and City Consultant, the Special Permit Application (#TC010) submitted by New Cingular Wireless PCS, LLC ("AT&T") for modifications to its existing wireless telecommunications facility on the roof top of 66 Milton Road.

18. Consideration of referral to the Board of Architectural Review and City Consultant, the Special Permit Application (#TC013) submitted by New Cingular Wireless PCS, LLC ("AT&T") for modifications to its existing wireless telecommunications facility located at 350 Theodore Fremd Avenue.

19. Miscellaneous communications and reports.

20. Old Business.

21. New Business.

22. Adjournment.

* *

The next regular meeting of the City Council will be held on Wednesday, May 11, 2011 at the **Square House** 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 under "RyeTV Live".

* Office Hours of the Mayor on 4/27/11 will be held from 6:30 pm to 7:00 pm in the Mayor's Conference Room.

CITY COUNCIL AGENDA

NO. 4 DEPT.: Fire Department DATE: April 27, 2011

CONTACT: Chief George Hogben

AGENDA ITEM: Approval of the election of the Chiefs of the Rye Fire Department.

FOR THE MEETING OF:
April 27, 2011

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: Approve the election of George Hogben as Chief of the Department, Anthony Scarfone as 1st Assistant Chief, and Michael Taylor as 2nd Assistant Chief.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood x Other:

BACKGROUND: At the April 2011 Rye Fire Department Annual Meeting the following Chiefs were elected. George Hogben was elected Chief, Anthony Scarfone 1st Assistant Chief, and Michael Taylor 2nd Assistant Chief, subject to the approval of the City Council in accordance with Article 13, Section 2 of the Rye City Charter.

CITY COUNCIL AGENDA

NO. 5 DEPT.: City Clerk DATE: April 27, 2011

CONTACT: Dawn F. Nodarse

AGENDA ITEM Draft unapproved informal minutes of the Joint Meeting of the City Council and Board of Education held on April 9, 2011 and the minutes of the regular meeting of the City Council held April 13, 2011, as attached.

FOR THE MEETING OF:
April 27, 2011

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council approve the draft minutes.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND:
Approve the informal minutes of the Joint Meeting of the City Council and Board of Education held on April 9, 2011 and the minutes of the regular meeting of the City Council held April 13, 2011, as attached.

DRAFT INFORMAL MINUTES of the Joint Meeting of the City Council of the City of Rye and the School Board of the City of Rye held in City Hall on April 9, 2011 at 9:00 A.M.

PRESENT:

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

JOSHUA NATHAN, President
KENDALL EGAN
EDWARD FOX
KATY KEOHANE GLASSBERG
YOUNG KIM
RAY SCHMITT
LAURA SLACK
Board Members

SCOTT PICKUP, City Manager
EDWARD SHINE, Superintendent of Schools
SALLY ROGOL, Recreation Superintendent
KATHREEN RYAN, School District Business Manager
BRIAN DEMPSEY, Traffic and Pedestrian Safety Committee Chair
MAUREEN GOMEZ and STEVE CADENHEAD, Shared Roadways Committee
HELEN GATES, Safe Routes to School Committee

ABSENT: RICHARD FILIPPI, Councilman

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

The meeting commenced with a roll call for both boards.

Mayor French said the public expects the City and School District to work together and great progress has been made and this agenda should move that progress forward. Board

President Nathan echoed the Mayor's comments saying that the partnership between the two boards is excellent.

3. Traffic and Pedestrian Safety Initiatives Update

● Summary on the completion of the stimulus projects adjacent to the schools.

Brian Dempsey. Chair of the Traffic and Pedestrian Safety Committee, said that the five stimulus projects were basically done with a couple of minor clean up projects that will be completed in the Spring. Improvements included: replacement of the traffic signal outside City Hall; a cross walk and bump outs were put in at Midland Avenue and Palisade Road; new crosswalk and pedestrian signals were put in at Playland Parkway and Forest Avenue; a new sidewalk was put in along the Boston Post Road near Johnson and Hannan Place; and the repair and installation of a sidewalk system on Oakland Beach Avenue. The City is looking at other issues now relative to an increase in students at Osborn School that causes additional traffic backups.

● Shared Roadways Initiatives: new project identification process, road sharrows

Maureen Gomez of the Shared Roadways Committee said that the Shared Roadways Committee had been formed in 2010 to examine the roadways in Rye from the perspective of all users. They utilize the Five Es from the Safe Routes to School model (Engineering, Enforcement, Encouragement, Education and Evaluation) as a guiding principle. This year they are emphasizing education and encouragement. Education must extend to all users of the roadways. The philosophy of the Shared Roadways Committee is to analyze the targeted user groups by observation to determine potential projects. Observations and suggestions regarding the different schools were presented:

Osborn School

- Parents and children should be encouraged to walk to the crosswalk and not cross at Sonn Drive.
- Homeowners should be asked to remove shrubbery that encroaches into the sidewalks.
- The utility pole that blocks sight lines and also blocks sidewalks should be moved.
- Children should be educated about the rules of bicycling on roads.

Midland School

- The center crosswalk could be removed and replaced with two crosswalks, one at the North end and one at the South end of the school.
- Some crosswalks on Forest Avenue are faded beyond recognition.
- The five points intersection on Midland Avenue and the rotary near Citibank are confusing and dangerous.

Milton School

- There is no pedestrian crossing signal at the corner of Oakland Beach Avenue and Milton Road on the sidewalk side of Oakland Beach Avenue at the corner near La Panetierre Restaurant.

- Something should be done to let pedestrians know that there is oncoming traffic coming through the crosswalk at that intersection due to the left turn signal.
- The crosswalk at the intersection of Forest and Hewlett Avenues should be moved to the South side.
- Look at putting a crosswalk across Dearborn Avenue.

High School/Middle School

- Due to sun glare parents drift into the crosswalks. Put up portable bollards in the crosswalk that can be removed after morning drop off.
- Many children from Forest Avenue and Grace Church Street use the Eve Lane cut through. The path and stairs are in disrepair and should be made safer.
- Test the use of crossing flags at the worst crossings.

It was suggested that a new list of projects should be drawn up and ranked according to priority.

Steve Cadenhead of the Shared Roadways Committee said that the Committee has three prongs of activities: programs, policies and projects. They are compiling a list of projects to be prioritized that will be brought to the Council with their recommendations in May. They are focusing on school safety projects, but also taking a long-term look at projects for safety and enjoyment in Rye. The Committee will also address a sidewalk policy and a Complete Streets policy. Mr. Cadenhead provided an overview of "sharrows" which are markings placed on roadways to indicate to motorists that the road will be shared by both cars and bikes. They also provide an indication to bicyclists as to where they should ride. Sharrows are included in the most recent edition of the Manual of Uniform Traffic Control Devices. The Committee is working with staff to determine pilot locations for sharrows.

● Safe Routes to Schools Initiatives

Helen Gates of the Safe Routes to School Committee provided a summary of the 2010-2011 accomplishments of the Committee in the schools and in the community in the areas of education and encouragement. The Committee wants to create awareness and encourage responsible behavior by both drivers and school children to bring about safer walking and driving in the community. Behaviors that should be encouraged include: complying with the speed limit, crossing in crosswalks and turning off phones while driving. Ms. Gates also spoke about the Walking School Bus Program that is used in Larchmont, where children, carrying a large sign with the name of their school bus, go from house to house, accompanied by a parent or other adult, picking up children as they walk to school. A pilot Walking School Bus program will be kicked off for the elementary schools in Rye in the next few weeks.

A suggestion was made that it might be a good time to bring back the Rye Youth Council to get them involved with safety projects. It was also suggested that the City should analyze roads prior to repaving them to determine any opportunities to widen them and provide additional shoulder areas in the right-of-ways.

4. Discussion on a joint statement on mandate relief

In January, the School Board adopted a Resolution saying that any tax cap proposal adopted by the State Assembly should include unfunded mandate relief. The two Boards discussed a proposal to pass a joint Resolution opposing the proposed tax cap, especially if it is adopted without mandate relief. It was the consensus that the two Boards would review the proposed Resolution, circulate any proposed changes and vote on the Resolution at their next meetings.

5. Review of fields and facilities management scheduling and IMA

Sally Rogol, City Recreation Superintendent and Kathleen Ryan, School District Business Manager, discussed their work on coordinating the use of fields. Ms. Ryan said the schools currently do not have an automated system for scheduling the use of space. She said they are looking at a program to manage the fields electronically in a cooperative effort with the Recreation Department. Ms. Rogol added that they are looking to streamline the process to make it more efficient and are looking at products to use as a shared resource. It is hoped that a new system can be in place by September.

6. Modified Drugs, Alcohol, and Safety Program Outline

Dr. Shine reported that four days in the late Spring have been designated for Detective Wood to come into the schools and meet with the fifth graders to go through four major topics: alcohol, tobacco, marijuana and internet safety. A key issue is for the children to recognize that the police are their friends and are there to protect and defend. Having Detective Wood in the schools at the fifth grade level is a way of building a long-term relationship with the children. The School District will also be working with Commissioner Connors and Detective Wood during the summer to look at places where Detective Wood can get involved with the Elementary and Middle Schools next year. City Manager Pickup added that there has also been discussion about other topics that may be included such as safe walking to school and distracted driving and, therefore, the curriculum may be adjusted in the future. He said this is an attempt to adapt the program to fit better into the school calendar.

It was suggested that research has shown that having the DARE Program in the fifth grade is too early and that the program might be better suited to the Middle School aged student with other topics being more appropriate for the fifth grade level such as appropriate use of cell phones.

7. Executive Session

Mayor French made a motion, seconded by Councilman Jovanovich and unanimously carried to adjourn into Executive Session to discuss personnel at 11:05 a.m.

Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried to adjourn the Executive Session at 11:27 a.m.

8. Adjournment

There being no further business to discuss Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried, to adjourn the meeting at 11:27 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk

DRAFT UNAPPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on April 13, 2011 at 8:00 P.M.

PRESENT:

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

ABSENT: None

The Council convened at 7:35 p.m. Councilwoman Gamache made a motion, seconded by Councilman Jovanovich and unanimously carried, to immediately adjourn into Executive Session to discuss personnel matters. Councilman Filippi made a motion, seconded by Councilman Sack and unanimously carried, to adjourn the Executive Session at 8:10 p.m. The regular meeting convened at 8:17 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

The proposals for Playland are available for review in City Hall. Email the Mayor at mayor@ryeny.gov to set up an appointment.

The City is trying to set up a meeting for Rye residents with Westchester Joint Water Works.

4. Draft unapproved minutes of the regular meeting of the City Council held March 30, 2011

Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the regular meeting of the City Council held on March 30, 2011, as submitted.

5. Mayor's Management Report
   - Hen Island Update

City Manager Pickup reported that he and Corporation Counsel Wilson have met with representatives of the County and Health Department to go over the structure of a complaint that had been received in order to determine the areas that were being reviewed. He provided a status update on four areas that the City is engaged in:

There is one open item with the Kuder Island Association (the Association) for an abandoned structure on the Island. The Building Inspector issued a violation based on code enforcement issues. Corporation Counsel Wilson said the cottage owner/shareholder appeared in City Court and asked for a month to either fix the structure or demolish it and is due back in court in three weeks.

Mosquito Control – There are two issues involved. The City participates in a County larvicide program that puts cakes in catch basins. On Hen Island, the mosquitoes are salt marsh mosquitoes, and the County does not have a program to control that type of mosquito and is not interested in creating one. The City does not intend to aggressively pursue this type of mosquito.

Sanitary Sewers Standards – In 2010 the Building and Property Maintenance Codes were updated. There is new language about sanitation and composting toilets and other products available that are considered compliant with the Code. This information has been shared with the Association and the County in order to set a standard to be pursued on the Island.

Potable Water – This issue is also impacted by the 2010 Code changes. The Corporation Counsel has shared the new language with the County and the County is working with the County Attorney's Office and members of the Health Department regarding the new definition of potable water and how the standards would apply to the County Health Codes.

Ray Tartaglione related a phone conversation he had with Bill Mooney from the County Executive's Office regarding the issues of sanitary connections, potable water and mosquito infestations and offered suggestions as to how problems on Hen Island could be dealt with by connecting with a county trunk line located near the island or drilling wells on the island. He added that Mr. Mooney said if there was a mosquito infestation on Hen Island it would be the responsibility of the Association.

- FOIL Procedures Update

Corporation Counsel Wilson reported on the three changes to the City's FOIL Procedures that were being suggested.

- The appeals process would be changed to have all appeals to FOIL requests handled by the Corporation Counsel as the appeals officer. Currently the City Council hears appeals if they are submitted within ten business days of a City Council meeting and by the Corporation Counsel if not.

- A new Section 9E would be created, which outlines at what point the City can charge the requestor for staff time.
- The wording of the procedures would be updated to comply with current requirements for electronic FOILs contained in the Freedom of Information Law.

A suggestion was made that any payments required in connection with a FOIL request should be paid prior to documents being copied and requests should be required to be specific. It was also suggested that the public could be losing something if the Council no longer decided the appeals.

City Manager Pickup said the updated procedures would come back to the Council for approval at a later date.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

Carroll v. City of Rye – the trial of this tax certiorari matter has been adjourned until May.

Shew v. City of Rye – reply papers were served this week in further support of the City's Motion to Dismiss this lawsuit that is currently pending in Westchester County Supreme Court.

Beaver Swamp Brook – Harrison has commented back to the Administrative Law Judge on the draft permit and has indicated that they have no issues with the conditions imposed on the permit. The City must comment on the draft permit or raise any new issues that the City would like included in its petition, originally filed in 2007, by April 22nd.

Schubert v. City of Rye – A decision was received from Judge Karas in connection with this federal civil rights action dismissing all federal claims with prejudice. The decision did not cover the state law claims against Paul Shew.

6. Presentation on the Rye Meeting House

Anne Stillman of the Committee to Save the Bird Homestead and Walter Sedovic of Walter Sedovic Architects presented an update on the project to renovate the Rye Meeting House. Ms. Stillman said there have been two volunteer work days on the grounds this Spring and many people have also been volunteering their expertise. Mr. Sedovic outlined the work that is planned for the Meeting House that he said would yield a functional site for the City at its conclusion. A public walk through was held with potential bidders and the scope of the work is tailored to the funding available and the required time line. 95% of the issues deal with managing water at the building. Swales will be reincorporated at the base of the building and around the parameter and the finishing will be one of three choices: a grass that draws moisture from the ground; cobbles; or a geotextile matrix. All of these options will alleviate the issues at the roof level which lead to percolation of water to the interior of the building. The foundation is solid and well constructed, but rubble stone begins to fall apart. Lime grout will be injected back into the foundation to solidify the foundation that is in place. The siding, which currently consists of clapboard and shingles, will not be removed. The paint will be stripped and it will be

repainted. The gutters will be removed and a small drip edge will be added around the parameter of the roof to allow water to fall into the swale. The tower and bell will be restored and repaired. The roof will reflect the original roof which was red cedar wood shingle. A paint analysis is being done to determine what color to use that will accurately reflects a period in the building's history and also require the least amount of maintenance. The project could begin in May and will be completed within the time frame required by the Save America's Treasures Grant.

7. Presentation by City Planner, Christian Miller, on the Locust/Purchase Traffic Signal Project

City Planner Miller gave an overview of the major components of the plan. The traffic signal at Locust Avenue and Purchase Street will be eliminated and replaced with stop signs. Since the eliminated traffic light contained a cobra headlight, three new street lights are proposed that will provide adequate levels of lighting in the evening. Bump outs or curb extensions will be put in on Purchase Street opposite Locust Avenue and at the intersections and also smaller ones on either side on Locust Avenue. The bump outs will keep vehicles from encroaching too closely to the intersections; allow better turning radius for larger vehicles and make the stop signs more visible. Bump outs will also make pedestrians more visible and reduce their crossing distance. There is also an opportunity to add more green space into the downtown with the bump outs. One large tree will be removed and six trees will be planted on Purchase Street. Crosswalks will be painted because staff has not found a product that is both durable and esthetically pleasing to use in the crosswalks. The project is not as expensive as replacing the traffic signal and frees up money to be spent in other areas. There will be a loss of two to four parking spaces depending on if the spaces are striped. However, the striping of parking spaces on Purchase Street is encouraged because it causes an easier flow of traffic. It is expected that the project will be done in August, which is the slowest time of year for businesses, and anticipated to take three to four weeks. The plan has been reviewed by the Traffic and Pedestrian Safety Committee and the Planning Commission and has been presented to the Chamber of Commerce.

City Manager Pickup said there is $165,000 in the current capital budget for this project. It is anticipated that the bids may come in at about $100,000. City Planner Miller recommended that the remaining funds be used for the Smith and Elm intersections, which are not part of this project.

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

Darcy Gibson, Kirby Lane North, inquired about the impact that the Kirby Lane South Sewer District will have on the North Kirby Lane Sewer District. Residents of Kirby Lane North are concerned that the new sewer will share the pump station that they are paying for. City Manager Pickup said that upon completion of the project and apportionment, the public improvements became the property of the City of Rye. Because public money as well as private money was expended on the project it is too early to determine how the financial burden might be shared. He said the Corporation Counsel is looking into the question of intervening users and any requirements for financial contributions. He said he is also consulting with the Dolf Rotfeld engineering firm and hoped to be able to report back to the Council in May.

9. Resolution to transfer $25,000 from contingency to the Annual Sewer/Drain Account for the emergency repairs on Wainwright Street

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

> **WHEREAS,** City staff has determined that the amounts required for emergency repairs on pipes on Wainwright Street in fiscal 2011 were not anticipated and were not provided for in the adopted 2011 budget by $25,000; and
>
> **WHEREAS,** the General Fund Contingent Account has a balance of $250,000; now therefore be it
>
> **RESOLVED,** that the City Comptroller is authorized to transfer $25,000 from the General Fund Contingent Account to the Annual Sewer/Drain Account.

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.

9A. Joint Resolution of the Rye City School District and the City of Rye regarding a state property tax cap and unfunded mandates

May or French said that a tax cap has been adopted by the State Senate and will now be considered by the State Assembly. He said this agenda item came out of the discussions held at the Joint Meeting with the School Board on April 9th and has been adopted by the Board of Education. There was a discussion among the members of the Council regarding the concept of a tax cap and whether it should be imposed only with mandate relief, or, not at all.

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

> Be it **RESOLVED** by the Rye City School District Board of Education and the Mayor and Council of the City of Rye, that we recommend the New York State Assembly reject a state property tax cap, unless concurrent and significant unfunded mandate relief is included in the legislation.

WHEREAS, New York State leads the nation in local property taxes, in large part because New York leads the nation in imposing unfunded state mandates upon local municipalities and school districts;

WHEREAS, by some studies, these unfunded mandates represent as much as 20% of the budgets of municipalities and school districts;

WHEREAS, the projected growth in pension and health insurance costs in 2011 and 2012 will far exceed the growth in property tax levies allowed under a cap, and that by 2014 employee benefit costs alone could consume or even exceed both the school district's and the city's entire permitted property tax levy increase;

WHEREAS, state laws such as the Triborough Amendment further impede the ability of the school district and the city to control costs by carrying forward certain costly prior contractual provisions, undermining the immediacy of conducting fair, realistic negotiations that are responsive to current economic conditions;

WHEREAS, the establishment of a 2% tax cap, as proposed by the Governor and approved in the State Senate, would ultimately require drastic cuts in essential local school district and city programs, services, and staffing that would compromise our residents expectations for quality of life;

THEREFORE, BE IT RESOLVED that the Rye City School District Board of Education and the Mayor and Council of the City of Rye strongly urge that the New York State Assembly reject the property tax cap approved by the State Senate;

BE IT FURTHER RESOLVED that the establishment of any tax cap follow the reformation of current unfunded mandates and the restructuring of public pension benefits and the collective bargaining process in order to ensure that our school district and municipality do not suffer undue and unwanted cuts in services, programs and staffing.

ROLL CALL:

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

The Resolution was adopted by a vote of 5 in favor, 1 against and one abstention.

10. One appointment to the Landmarks Advisory Committee for a three-year term, by the Mayor with Council approval

Councilwoman Parker made a motion, seconded by Councilwoman Gamache and unanimously carried, to appoint Sean Janeski to the Landmarks Advisory Committee for a three-year term expiring on January 1, 2014.

11. One appointment to the Board of Architectural Review for a three-year term, by the Mayor with Council approval

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to appoint William Fegan to the Board of Architectural Review for a three-year term expiring on January 1, 2014.

12. Council designation to the Litigation and Case Management Committee

Mayor French designated Councilman Joseph Sack to serve on the Litigation and Case Management Committee.

13. Miscellaneous Communications and Reports

Councilwoman Keith congratulated the Sustainability Committee on their recent forum. She said the Sustainability team will be working with City Manager Pickup and Golf Club Manager Scott Yandrasevich to do a walk about at the Golf Club on May 5th. The Safe Routes to School Committee will kick off "Walking School Buses" on May 17th. The YMCA will be presenting their Capstone Report with ideas on Forest Avenue on April 28th at the Library.

Mayor French said he felt the City should do some outreach to the community prior to construction beginning on the Central Avenue Bridge.

14. Old Business

Councilman Sack said he believed the City should get the same type of permit that was issued by the Department of Environmental Conservation (DEC) as last year, which would allow for the trapping of coyotes. He said the City should take the position with the DEC that it should not have to wait for something to happen in order to get the permit. City Manager Pickup said the City had requested the same permit, but the DEC chose to issue the harassment permit instead.

In connection to a tax refund approved by the Council at the last meeting and denied by the County, Councilman Filippi asked if there had been any answer to his inquiry about the issuance of a tax credit by the County. Corporation Counsel Wilson said she would follow up with the County.

15. New Business

Councilwoman Gamache said that the State Legislature is considering a proposal to resurrect the commuter tax, which would impose a 1% tax, to be split between the City of New York and the MTA, on earnings in New York City of non-residents. She suggested that the Council should adopt a Resolution opposing it.

Councilwoman Keith asked if the Citizens Finance Committee or Government Relations Committee could look into what is happening in Albany. Mayor French said he believed the Government Relations Committee was already looking into the issue of mandates. Ms. Keith also suggested that the Rye Youth Council should be reestablished for next Fall and offered to serve as liaison. Councilwoman Parker said she believed perpetuating the Youth Council required participation by the School District.

16. Adjournment

There being no further business to discuss Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the meeting at 10:30 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk

CITY COUNCIL AGENDA

NO. 6 DEPT.: City Council DATE: April 27, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: Mayor's Management Report

FOR THE MEETING OF:
April 27, 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:

- Not-for-profit and Tax status Update
- Legal Update

CITY COUNCIL AGENDA

NO. 7 DEPT.: City Manager's Office DATE: April 27, 2011

CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Presentation on changes to the City's Snow Ordinance.

FOR THE MEETING OF:
April 27, 2011

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION:

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:

A presentation will be made by the City Manager on changes to the City's Snow Ordinance.

CITY OF RYE
LOCAL LAW NO. 2011

A Local Law amending Chapter 167 "Sidewalks" Section 47 "Removal of Snow and Ice"

Be it enacted by the Rye City Council as follows:

Chapter 167-47 "Sidewalks – Removal of Snow and Ice"

Section 1.

§ 167-47. Removal of Snow and Ice.

[Amended 11-17-1948; 8-16-1961 by Ord. No. 11-1961]

Every owner, lessee, occupant and other person having charge of any building or lot of ground fronting or abutting upon a sidewalk **and any sidewalk areas at the intersections of streets where there are marked crosswalks**, including any unpaved area used as a sidewalk or walkway, on any public street or public place in the City of Rye shall, within 24 hours after the cessation of every fall of snow or the formation of any ice on the sidewalk in front of or adjacent to said building or lot of ground, remove or cause the said snow or ice to be removed or cleared entirely from the said sidewalk; provided that in case the snow or ice on any sidewalk in front of or adjacent to said building or lot of ground shall be frozen so hard that it cannot practically be removed, the owner, lessee, occupant or other person having charge thereof shall, within the time hereinabove specified, cover and strew the said sidewalk, **including any sidewalk areas at the intersections of streets where there are marked crosswalks**, or cause it to be covered and strewn with sifted ashes, sand or some other similar material and shall, as soon thereafter as weather will permit, thoroughly clean said sidewalk and remove the said ice and snow therefrom.

Section 2. **Severability**

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

Section 3.

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

CITY COUNCIL AGENDA

NO. 8 DEPT.: Corporation Counsel DATE: April 27, 2011

CONTACT: Kristen K. Wilson, Corporation Counsel

AGENDA ITEM: Presentation on changes to the City's Code.

FOR THE MEETING OF:
April 27, 2011

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION:

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:

A presentation will be made by the Corporation Counsel on changes to the City's Code.

Proposal for

Code Revitalization Services

City of Rye
Westchester County
New York

March 21, 2011
Valid for 6 months

Presented by
GENERAL CODE

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EXECUTIVE SUMMARY

ABOUT GENERAL CODE

Serving the needs of communities for over 45 years, General Code provides codification and enterprise content management solutions to more than 2,700 municipal governments throughout the United States and Canada. General Code's focus on superior client service, commitment to quality and technical innovation has made our organization the codifier of choice for progressive municipalities who understand the value of transparency and efficient operations. Our staff has developed, implemented and maintained codification projects for a wide variety of local governments, ranging from small towns and villages to major cities and counties. We invite you to view a selection of customer testimonials on our website, www.generalcode.com.

SITUATION ANALYSIS

The City of Rye is located in Westchester County in southeastern New York and was became a city in 1942. Since then, the City has grown and changed and currently is home to more than 14,000 residents.

The Code of the City of Rye was originally published by General Code in 1978. A second volume was added in 1994. It has been updated 174 times by General Code, most recently in January 2011, including legislation through Local Law No. 11-2011. The binders are nearing the point where they will be filled to capacity and unable to accept additional new legislation. At this time, the City wishes to consider the option of converting the Code from the 6-by-9-inch format to the 8 ½-by-11-inch format, to better allow for future growth. General Code can meet the City's objectives and has outlined its price, processes, and procedures for doing so in the following proposal for the City's consideration.

GENERAL CODE RECOMMENDATION

The City of Rye's challenges will be met and goals achieved through our Revitalization recommendation outlined within. With the above considerations in mind, General Code has the following recommendations for the Code of the City of Rye:

- General Code will provide professional codification services to ensure that the Code of the City of Rye is up-to-date, accurate and enforceable, including incorporation of any revisions or new legislation as may be necessary.
- General Code will provide the City with new Code books in an 8 ½-by-11-inch format, which will be more functional and more visually accessible to the reader, and which will better allow for continued growth of the Code in the future.
- General Code will also create a new index for the Code book, so that users of the Code can easily locate Code sections on a particular subject.
- General Code will also update the online version of the Code through its eCode360 platform.
- Finally, General Code will work with the City in the future to provide for ongoing supplementation and updating of the Code as may be necessary from time to time.

SUMMARY OF INVESTMENT: **$ 24,400 ***

The investment is explained in detail in the investment section of this proposal and is based on the requirements identified by the City.

Note: Price may vary depending on Project Options selected by the City.

EDITORIAL OBSERVATIONS

Reasons for the City to consider this work at this time include:

- Many copies of the Code may be in various stages of upkeep or may have been lost altogether. This is not an unusual situation, but one that can reduce the reliability and value of the Code as a legal, administrative, enforcement and reference tool. The current binders are now filled to capacity leaving little or no room for expansion.

- With all of the legislation adopted over the years, the binders may be wearing out with age and use. Many municipalities have found the 8 ½-by-11-inch page size for the Code to be more functional. Not only does this page size photocopy more efficiently, but the larger pages accommodate more text in a readable format. This results in the handling of fewer pages by Code holders during supplementation. The fewer pages handled, the less likely that errors might be made in removing/replacing pages. In addition, tables and charts are better laid out on the larger pages, making them easier to use.

- A Code is a living document that is constantly under revision through the addition of new legislation and amending of existing laws to stay current with the times. Over time, inconsistencies, duplications and conflicts will begin to occur and may become contentious or may cause significant problems for the community. This is not an unusual situation, but one that can reduce the reliability and value of the Code as a legal, administrative, enforcement and reference tool.

- There may be a need for the City to have the Code reviewed to identify areas that may not have kept pace with changes in state statutes or which no longer accurately reflect the current practices and policies within the City. For example, fees and penalties contained in the Code may need to be reviewed to ensure they cover enforcement and administrative costs and are high enough to deter those from breaking the laws; titles of officers and employees, as well as departments, may have changed (Dog Wardens may now be Animal Control Officers or the former Building Inspector may now be the Code Enforcement Officer); and new laws are required for situations not previously regulated, such as recycling, cell towers and wind turbines.

Since 1962, General Code has been developing flexible formats and procedures that accommodate changes and growth. As a result of our efforts, many of the Codes on our shelves that were originally published 20 or more years ago are still viable documents because they were "built" with ample room for growth and designed so that new material could be easily added to the document.

The organizational structure of the Code makes locating specific information nearly effortless. With the adoption of each new local law, the task of accessing current information can become more and more difficult. The publication of your new Code by General Code will make information more readily available for the City of Rye officials, employees and residents.

PROJECT DELIVERABLES

Preliminary Telephone Conference: As the first step in the process, General Code will consult with the City's designated contact person. The purpose of this discussion is to review the project generally and clarify any initial questions for both General Code and the City.

Project Materials: To begin the project, General Code will use the following materials:

- A copy of the 1978 City's Code as updated through Supplement 174 / Local Law No. 11-2010

General Code requests the City set up a process during the project to routinely send any new legislation upon adoption. These additional materials will be included in the Code up to the point where the editorial work has been completed and shall be subject to an additional charge at the end of the project.

Organizational Analysis: The first part of the analysis of the City's legislation will be the preparation of an Organizational Analysis for the City to review. The editor will prepare a proposed Table of Contents of the Code and a listing of legislation reviewed, along with any missing material and adoption dates, and other questions pertaining to the completeness of materials being reviewed.

Manuscript: A Manuscript will be prepared using the materials obtained from the City. The Manuscript organizes your legislation into a logical system, arranged alphabetically by subject matter into chapters. Amendments will be incorporated into the Manuscript, and repealed or superseded material will be noted. The Manuscript will show exactly the legislation currently in effect.

Editorial Analysis: For the second part of the analysis of the City legislation, an Editorial Analysis will be prepared for your review. The editor will do a thorough review and analysis of your legislation and provide specific recommendations and input for improvement. The Analysis will be compiled into a workbook, with an easy-to-use checklist format. The Editorial Analysis will include the following:

- Identification of duplications, conflicts and inconsistencies between or within various sections of the Code
- Identification of duplications, conflicts and inconsistencies with New York statutes
- Any practical recommendations to make your legislation more enforceable
- Suggestions regarding fines, fees and penalties
- Suggestions on ways to modernize your legislation

Review: The City will review the Editorial Analysis and make whatever changes it feels necessary. A review period is set by the Performance Schedule and we stress the importance of staying within the allotted time period to avoid disruptions in the production process and delays in the delivery of the new Code.

Editing: During the editing process we will:

- Prepare a Table of Contents listing all chapters and articles included in the Code
- Insert descriptive title headings for each chapter, article and section
- Include historical notations indicating the source and date of adoption of each enactment
- Include cross-references and Editor's Notes, as required
- Edit the text to incorporate any revisions and additions previously approved in the Editorial Analysis phase
- Copyread to correct typographical and spelling errors

Publication of new Code volumes: The base price includes the publication of 15 new Code volumes in high-quality, custom-imprinted post binders; you may choose blue, dark red, green, brown, black, or gray - with white, silver or gold silk-screen lettering. The City Seal can also be embossed on the front and spine if you wish. Each copy of the Code will be serial-numbered and we will provide forms for you to keep track of the distribution of the Codes.

Disposition List: The Disposition List sets forth in chronological order, the subject matter, date of adoption and disposition of each item of new legislation reviewed with the project and indicates its inclusion in or omission from the Code. The Disposition List is designed to assist you in locating not only legislation included in the Code but legislation that is not included.

Derivation Table: Our agreement with the City provides for the renumbering and reorganization of the Code into our standard format. To ease the transition from the old numbering to the new numbering system, we will prepare a Derivation Table. The Derivation Table, which will be included at the end of the published Code, will clearly show the chapter numbers from the City's existing Code, and where they have been included in the new Code.

Comprehensive Index: General Code will prepare and publish a comprehensive Index for the Code. The Index is specifically designed to be easy to use, so that the information in the Code can be quickly located.

Pamphlets (Reprints of Individual Chapters): We will provide the City with 15 soft-covered Zoning pamphlets. Pamphlet bindings provide for easy updating of the pamphlet copies as the chapters in the Code are updated.

Code Adoption Legislation: We will prepare the proposed Code adoption legislation and/or necessary information to establish the Code as an official document. This material will be furnished to the City Attorney for review and enactment by the governing body. If the Code adoption legislation is enacted and returned to us within 90 days of submission, we will include this material in the Code free of charge. Once the Code is adopted, it can be amended directly to change, add or delete material.

Code Delivery; Recordkeeping; Supplement Distribution: After the Code is delivered, we will review the project with you to ensure that everything meets your expectations. At that time, we will work with you to set up an effective recordkeeping system to keep track of the distribution, sale and maintenance of Codes and supplements. Our standard system makes it easy for you to keep track of Codes and to ensure that they are being kept up to date. Each Code is serial-numbered, and each supplement is serial-numbered to match the Code books and individually enveloped and addressed to the department or individual who holds that copy of the Code. They can either be mailed directly to Code holders from our offices or sent to you for distribution.

Update eCode360®: Once the project has been completed, General Code will update your eCode360 with the new version of your Code.

CODE FORMATTING AND STYLE

Organization: The Code will be divided into parts to accommodate different types of legislation. Typically Part I is made up of the legislation of an administrative nature, namely, that dealing with the City's departments, officers and employees; Part II is made up of the legislation that regulates the general public. The various pieces of legislation will be organized into chapters, arranged alphabetically by subject matter. For example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." Wherever there are two or more pieces of legislation dealing with the same subject, they will be combined into a single chapter. In such chapters, the use of article designations will preserve the identity of the individual pieces of legislation.

Table of Contents: The Table of Contents details the chapters included in the Code and can be used to help locate desired provisions. Space will be reserved for later insertion of new material in its proper alphabetic sequence. Such space is accommodated in the body of the Code by breaks in the page-numbering sequence between chapters.

Pagination: Each chapter forms an autonomous unit in the page-numbering system. The first page number in each chapter is the number of that chapter followed by a colon and the numeral "1." For example, Chapter 6 begins on page 6:1, Chapter 53 on page 53:1, etc. If a page were to be added between pages 53:2 and 53:3, it would be numbered 53:2.1. This system makes it possible to add or to change pages in any chapter without affecting pages in other chapters and to insert new chapters without affecting the existing organization.

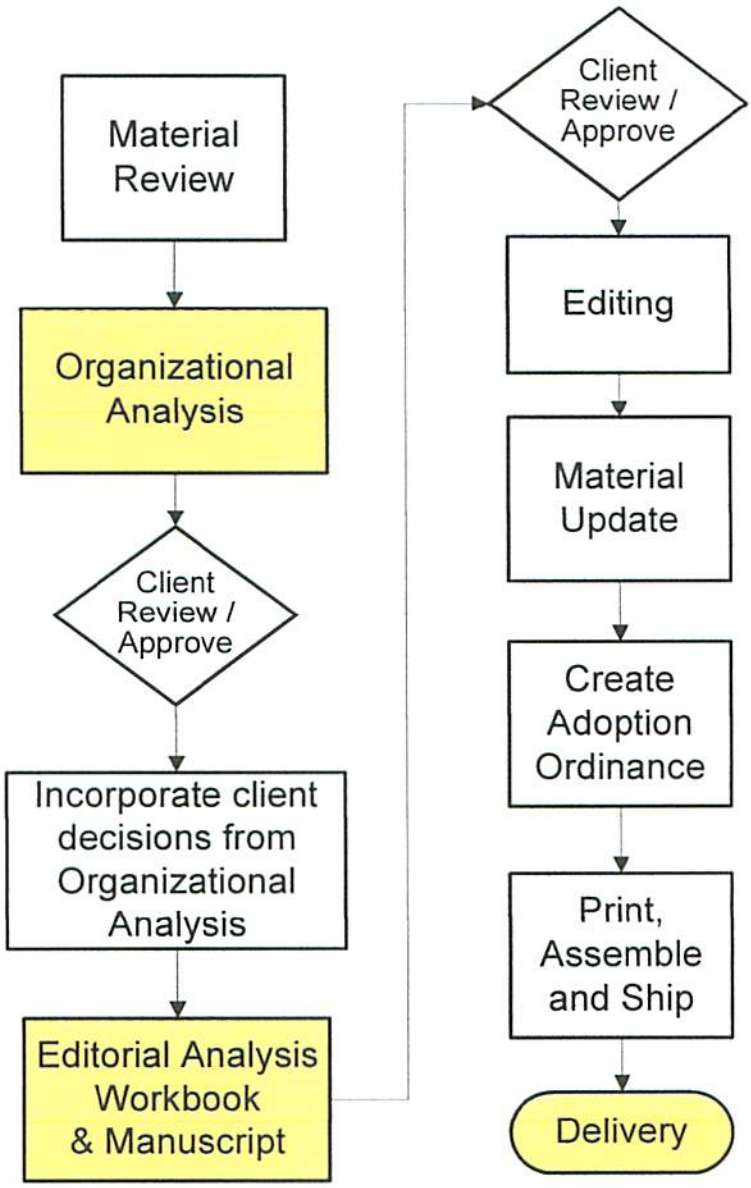
Section numbering: We use a chapter-related section-numbering system in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 is § 6-1, while the fourth section of Chapter 53 is § 53-4. New sections can then be added between existing sections using a decimal system. For example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.

Scheme: The scheme is the list of section titles, which precedes the text of each chapter. These titles are written so that taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease of reference, scheme titles are repeated as section headings in the text.

Legislative histories: The legislative history for each chapter or article, as appropriate, is located immediately following the scheme for that chapter. The history indicates the specific legislative source from which the chapter was derived, including the enactment number, if pertinent, and the date of adoption. Amendments to individual sections or subsections are indicated by boldfaced histories directly in the text.

General References and Editor's Notes: Each chapter containing material related to other chapters in the Code includes a table of General References to direct the reader's attention to those related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

WORKFLOW


Material Review
Organizational Analysis
Client Review / Approve
Incorporate client decisions from Organizational Analysis
Editorial Analysis Workbook & Manuscript
Client Review / Approve
Editing
Material Update
Create Adoption Ordinance
Print, Assemble and Ship
Delivery

INVESTMENT DETAIL & OPTIONS

Prices noted for listed components of the project are valid for 6 months from the date of this proposal.

Preliminary Telephone Conference	Formatting & Stylization
Conversion of 1978 Code, as updated through	Duplication
Supplement No. 174/L.L. No. 11-2010	15 Standard Imprinted Binders
Proofreading	Comprehensive Index
Organizational Analysis	Update eCode360®
Editorial Analysis	Derivation Table
Manuscript	Disposition List
Code Adoption Legislation	Shipping
Editorial work	15 Pamphlet Copies of Ch. 197, Zoning

Base Revitalization Services Project **$ 24,400**
(Shipping included)

OPTIONAL COMPONENTS

Additional Codes purchased with this project $ 65 each

PERFORMANCE AND PAYMENT SCHEDULES

Performance Schedule: *(Reflects business days excluding legal holidays)*

- Initial telephone conference: within 30 days of contract signing.
- Submission of the Organizational Analysis: within 90 days of contract signing and receipt of the materials; Municipality has 30 days for review.
- Submission of the Manuscript and Editorial Analysis: within 160 days of receipt of the responses to the Organizational Analysis; Municipality has 110 days for review.
- Delivery of Code volumes: within 145 days of approval to proceed with the publication of the Code.

Payment Schedule:

- 25% of the total project price shall be invoiced within 30 days of contract signing.
- 25% of the total project price shall be invoiced upon submission of the Organizational Analysis.
- 25% of the total project price shall be invoiced upon submission of the Manuscript and Editorial Analysis.
- 25% of the total project price shall be invoiced upon delivery of the Codes to the Municipality.

AUTHORIZATION & AGREEMENT

The **City of Rye, New York** hereby agrees to the procedures outlined above, to General Code's Terms and Conditions which are available at www.generalcode.com/TCdocs, and authorizes General Code to proceed with the project.

Base Revitalization Project Price **$ 24,400 ***

OPTIONAL COMPONENTS

☐ _____Additional Code books purchased at $ 65 each: $ _____

Total Investment with any selected options: **$ _____**

CITY OF RYE, WESTCHESTER COUNTY, NEW YORK

By: _____ In the Presence of: _____

Title: _____ Title: _____

Date: _____ Date: _____

GENERAL CODE, LLC

By: _____ In the Presence of: _____

Title: _____ Title: _____

Date: _____ Date: _____

Please sign, fax and mail this page to General Code at (585) 328-8189.
A signed copy of this agreement will be mailed back to the City for its records.

CITY COUNCIL AGENDA

NO. 10 DEPT.: City Manager's Office DATE: April 27, 2011

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Authorization for the City Manager to enter into an Intermunicipal Agreement with the Village of Port Chester and Cottage Landings, LLC to provide services for dwelling units located on Cottage Street.

FOR THE MEETING OF:
April 27, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council authorize the City Manager to sign an Inter-municipal Agreement with the Village of Port Chester and Cottage Landings, LLC to provide services to selected properties located on Cottage Street.

IMPACT: ☐ Environmental X Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND: By this Agreement the City of Rye agrees to provide the services of fire protection, police services, animal control, solid waste collection, and ambulance service to the selected dwelling units on Cottage Street.

This agreement shall continue in full force and effect for a period of one year from the date hereof, and for further successive terms of one year until terminated by notice on writing given by either municipal party to the other and to the THIRD PARTY or its heirs, successors and assigns and to the Suburban Division, New York Fire Insurance Rating Organization, at least ninety (90) days prior to the end of any yearly term.

AGREEMENT

This AGREEMENT made this day of March 2011, by and between the CITY OF RYE, Westchester County, New York, hereinafter referred to as the "FIRST PARTY", the VILLAGE OF PORT CHESTER, Westchester, New York, hereinafter referred to as the "SECOND PARTY" and COTTAGE LANDINGS, LLC, with its office at 211 South Regent Street, Rye Brook, New York, 10573, hereinafter referred to as "THIRD PARTY".

WITNESSETH

WHEREAS, the THIRD PARTY is the owner of real property situated partly in the Village of Port Chester, and mostly in the City of Rye, which property (the "Subject Property") is more particularly described in Exhibit "A" annexed hereto and made a part hereof; and

WHEREAS, access to this property is possible only via Cottage Street in the SECOND PARTY; and

WHEREAS, the THIRD PARTY is seeking to develop said real property by the erection of Moderate Income Units ("Units") on that portion of the Subject Property wholly within the FIRST PARTY; and

WHEREAS, said Units are situated in the FIRST PARTY, which require emergency or time-sensitive responses, or which are to be provided on a routine and recurring basis; and

WHEREAS, it is proposed that the FIRST PARTY would provide the services of fire protection, police services, animal control, solid waste collection and ambulance service; and

.

WHEREAS, it is proposed that the SECOND PARTY would provide the sanitary sewage and storm drainage connection into the sanitary sewer and storm drainage facilities of the SECOND PARTY; and

WHEREAS. The FIRST PARTY is desirous of providing to the proposed Units upon the Subject Property those services aforesaid, and is willing to enter into an agreement with the SECOND PARTY for it to provide such additional services; and

WHEREAS, the legislative bodies of the FIRST and SECOND PARTIES, after examination and investigation, are of the opinion that the other has suitable apparatus and appliances for the furnishing of such respective services to the proposed units; and

WHEREAS, THIRD PARTY shall apply for and obtain a street opening permit as per requirement of the SECOND PARTY; and

WHEREAS, FIRST PARTY and SECOND PARTY are authorized to enter into this agreement by the provisions of Article 5-G of the General Municipal Law.

NOW, in consideration of the promises and the mutual covenants set forth, the FIRST PARTY and the SECOND PARTY agree as follows:

FIRST: That in the opinion of the legislative bodies of the FIRST and SECOND PARTIES, each of the parties has suitable apparatus and appliances for the furnishing of the respective services to the proposed Units.

SECOND: The FIRST PARTY will provide the following services to the Units to be constructed: fire protection, police services, solid waste collection, animal control and ambulance service.

THIRD: The SECOND PARTY will provide the following services to the Units to be constructed: storm drainage and sanitary sewer connection.

FOURTH: This agreement shall continue in full force and effect for a period of one year from the date hereof, and for further successive terms of one year until terminated by notice on writing given by either municipal party to the other and to the THIRD PARTY or its heirs, successors and assigns and to the Suburban Division, New York Fire Insurance Rating Organization, at least ninety (90) days prior to the end of any yearly term. If this agreement shall terminate, the FIRST PARTY shall provide the services set forth in paragraph THIRD.

FIFTH Nothing herein shall be construed so as to require either municipal party to maintain its present personnel, equipment and apparatus with respect to any of the services to be performed by it, but it is the intention of the FIRST PARTY and SECOND PARTY to maintain its present departments providing such services as hereinabove specified, both as to personnel, apparatus and appliances, insofar as it is practicable to do so.

SIXTH: This agreement is made with the FIRST PARTY and SECOND PARTY as municipal corporations and it not be construed as one made with any individual resident OT property owner within the territory of either municipality.

SEVENTH: The FIRST and SECOND PARTY represent that it has adequate general liability insurance to protect against claims arising out of the furnishing of the aforesaid services, and agrees to add the other as an additional insured under such insurance in relation to services provided to the other. Such insurance shall be evidenced by certificate of insurance furnished to the other and approved by counsel for the FIRST PARTY and SECOND PARTY prior to the implementation of this agreement.

EIGHTH: That it is expressly understood and made a condition of this agreement that the school district of the FIRST PARTY shall have the exclusive responsibility to educate school-age children in the Units.

In Witness Whereof, the FIRST and SECOND PARTY have caused these presents to be executed by its duly authorized officials and its corporate seal to be hereunto affixed and the THIRD PARTY has caused these presents to be duly executed, the day and year first above written.

CITY OF RYE, FIRST PARTY

By: _____
Scott Pickup, City Manager

Approved as to Form:

_____
Corporation Counsel

VILLAGE OF PORT CHESTER, SECOND PARTY

By: _____
Christopher J. Russo, Village Manager

Approved as to Form:

_____
Village Attorney

COTTAGE LANDINGS, LLC, THIRD PARTY

By: _____
Louis Larizza

:

CITY COUNCIL AGENDA

NO. 11 DEPT.: City Manager DATE: April 27, 2011

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Authorization for the City Manager to enter into an Amendment to the Lease Agreement with Lester's of Rye, LLC.

FOR THE MEETING OF:
April 27, 2011

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: Resolution authorizing an amendment to the current Lease Agreement with Lester's of Rye, LLC for the property at 1037 Boston Post Road.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The current lease between the City of Rye and Lester's of Rye, LLC will be amended as follows:

- The term of the lease is extended from the current expiration date of March 31, 2012 to terminate on March 31, 2013.
- The annual rent during the extension term will be $275,000.00.
- Additional rent during the extension term will include sewer taxes assessed against the property in monthly installments.

See attached.

CITY OF RYE
CITY HALL • RYE, NEW YORK 10580
TELEPHONE (914) 967-5400

April 13, 2011

Lester's of Rye LLC
2411 Coney Island Avenue
Brooklyn, New York 11223

Re: SECOND AMENDMENT TO LEASE AGREEMENT

"Premises"	Building located at 1037 Boston Post Road, Rye, New York and appurtenant parking lot.
"Landlord"	City of Rye.
"Tenant"	Lester's of Rye LLC, as successor-in-interest to The Cloz Companies, Inc. by Assignment and Assumption.
"Lease"	Lease dated as of October 23, 2006 between Landlord, as landlord, and Assignor, as tenant, as amended by an Amendment to Lease Agreement acknowledged October 10, 2007.
"Assignment and Assumption"	Assignment and Assumption Agreement dated as of July 1, 2008 between Tenant and The Cloz Companies, Inc.

Landlord and Tenant, being bound unto the Lease, hereby agree to modify and amend the Lease by entering into this Second Amendment. The terms of the Second Amendment are as follows:

1. **Incorporated Terms.** All terms set forth in the Lease are incorporated herein, except as expressly modified and amended below.

2. **Term.** The parties acknowledge and agree that the Commencement Date of the initial Term of the Lease is April 1, 2007 and the Expiration Date of the initial Term of the Lease is March 31, 2012. The Term of the Lease is hereby extended for an additional period of one (1) year (the "Extension Term"), to commence April 1, 2012 (the "Extension Term Commencement Date") and to terminate March 31, 2013 (the "Extension Term Expiration Date"), both dates inclusive. The Term of the Lease (defined in Section 1(e) of the Lease) shall be deemed to have been adjusted accordingly.

3. **Extension Term Rent.** The Annual Rent payable by the Tenant during the Extension Term (the "Extension Term Rent") shall be **$275,000.00** per annum (**$22,916.67** per month). The Tenant shall commence payment of the Extension Term Rent on the Extension Term Commencement Date, and shall continue payments until the Extension Term Expiration Date.

4. **Additional Rent – Sewer Taxes.** During the Extension Term, Tenant shall pay as Additional Rent the Tenant's share of the Sewer Taxes assessed against the Property in monthly installments as set forth in Rider 2 of the Lease.

5. **Landlord's Work.** Landlord shall have no obligation to perform any work in or to the Premises, and Tenant shall accept and continue possession of the Premises in its "as is" condition.

6. **Broker.** Landlord and Tenant each mutually covenant, represent and warrant, the one to the other, that it has had no dealing or communications with any broker or agent in connection with this Second Amendment and each covenants and agrees to pay, hold harmless and indemnify the other from and against any and all cost, expense (including reasonable attorneys' fees) or liability for any compensation, commission or charges to any broker or agent claiming the right to receive same through the indemnifying party.

7. **Interpretation.** In the event of any inconsistencies between this Second Amendment and the Lease, this Second Amendment shall govern and be binding. All words and terms used in this Amendment and not otherwise defined shall have the respective meanings ascribed to them under the Lease.

8. **Ratification of Lease.** Except as expressly modified and amended in this Second Amendment, all of the terms, provisions and conditions of the Lease are hereby ratified and confirmed by Landlord and Tenant.

9. **Binding Effect.** This Second Amendment shall inure to the benefit and be binding upon the parties hereto and their respective legal representatives, successors and permitted assigns.

10. **Counterparts.** This Second Amendment may be executed in any number of counter-parts, all of which taken together shall constitute but one and the same agreement and all of which shall be of equal validity and effect. This Second Amendment, when sent by electronic or facsimile transmission, shall be considered as an original with the same binding force as the original.

11. **Notices.** All notices in connection with this Agreement or the Property shall be made in writing and shall be personally delivered, or delivered by a national overnight courier service, or send by certified mail, return receipt requested, postage prepaid. Notices to Landlord shall be delivered to the address specified in Section 1(a). Notices delivered to Landlord also shall be delivered in the manner specified herein simultaneously to Landlord at the address specified in Section 1(b) and to Landlord's legal counsel, Harris Beach PLLC, 445 Hamilton Avenue, Suite 1206, White Plains, New York 10603, Attn: Kristen Kelley Wilson, Esq. Notices to tenant shall be delivered to the Premises. Notices delivered to Tenant shall also be delivered in the manner specified herein simultaneously to Tenant at 2411 Coney Island Avenue, Brooklyn, New York 11223-5021 and to Tenant's legal counsel Attention: James A. Kole, Esq., Kole & Kole, 270 Madison Avenue, FL13, New York, New York 10016. All notices shall be effective upon delivery or attempted delivery in accordance with this provision. Either party may changes its notice address upon written notice to the other party given in accordance with this provision.

The remaining provisions of the Lease shall remain in full force and effect.

This document shall be known as the Second Amendment.

By signing below, the Landlord and Tenant agree to the terms of this Second Amendment:

Landlord:

_____

By: Scott D. Pickup, City Manager
City of Rye

Tenant:

_____

By: Perry Schorr, Managing Member
Lester's of Rye LLC

CITY COUNCIL AGENDA

NO. 12 DEPT.: City Manager's Office DATE: April 27, 2011

CONTACT: Scott Pickup, City Manager

ACTION: Resolution authorizing an additional three-month extension of the PILOT Agreement between Avon Capital Corporation and the Westchester County IDA.

FOR THE MEETING OF:
April 27, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Mayor and Council approve the extension.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The current Payment in Lieu of Tax Agreement (PILOT) was extended by the City Council and will expire on June 30, 2011. Avon is requesting an additional three-month extension of the agreement through September 30, 2011 to finalize zoning and land use issues for their proposed renovation and upgrade of the facility at 601 Midland Avenue.

See attached.

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EVAN M. EISLAND

MICHAEL V. CARUSO
JOANNA C. FELDMAN
DEBORAH A. GOLDBERGER
EDMUND C. GRAINGER, III
PATRICIA W. GURAHIAN
ALICE D. KORNFELD
RUTH F-L. POST

FRANK S. McCULLOUGH (1905-1998)
EVANS V. BREWSTER (1920-2005)

Received
APR 20 2011
City Manager's Office
Rye, New York

April 20, 2011

VIA HAND DELIVERY

Honorable Mayor French
and Members of the City Council
City of Rye
1051 Boston Post Road
Rye, New York 10580

Re: Additional Three (3) Month Extension
of PILOT Agreement
between Avon Capital Corporation ("ACC")
and the Westchester County IDA ("IDA"),
dated as of January 24, 1996

Dear Mayor French & Members of the Council:

This firm represents ACC/Avon Products, Inc. (hereinafter "Avon") in connection with the above referenced Payment in Lieu of Tax Agreement (the "PILOT") regarding the premises located at 601 Midland Avenue, Rye, New York (the "Property"). As you know, last year the City Council granted an extension of the PILOT through June 30, 2011. We are writing to request an additional three month extension of the PILOT, through September 30, 2011, for the reasons set forth herein.

It must be noted that the sole purpose of the PILOT (and any extension thereto) is to ensure that no real estate property tax revenues are lost by the City as a result of the IDA's ownership of the Property (which is leased back to Avon), as was the case in 1995 when this issue first came before the Council.

Avon is currently in the process of obtaining the required approvals from the City of Rye in connection with the proposed project, consisting of a renovation and upgrade in order for the

Facility to remain a viable location for Avon in the long term. While it was originally thought that the Facility only requires amended site plan approval (following a public hearing), including a concurrent environmental review process, from the Rye Planning Commission, it has now become apparent that an amendment to the Rye Code (from the Rye City Council) with respect to fences on properties in certain business zones is also required before the Planning Commission can grant final site plan approval. The need for this amendment requires Avon to request an additional three month extension of the current Avon/IDA agreements until September 30, 2011. Avon intends to apply for IDA assistance for the renovation project while the zoning and land use issues are being fully resolved.

Based on the foregoing, we respectfully request on behalf of Avon that this matter be placed on the April 27, 2011 City Council agenda for consideration of a resolution confirming that the City has no objection to the requested additional three month extension of the PILOT, and authorizing the Mayor or City Manager to execute the necessary documentation to confirm the City's agreement to the additional three month extension of the PLIOT.

If you have any questions or require additional information, please do not hesitate to contact our office.

Very truly yours,

Frank S. McCullough, Jr.

FSM:smm

cc: Avon Capital Corporation
Ms. Eileen Mildenberger–IDA Executive Director
Alan D. Fox, Esq.—IDA Counsel
Scott Pickup--City Manager
Christian Miller—City Planner

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

WHEREAS, ACC/Avon Products, Inc. (hereinafter "Avon") has operated a facility in Rye at 601 Midland Avenue since the late 1950's; and

WHEREAS, in 1995, pursuant to Article 18-A of the General Municipal Law, the Westchester County Industrial Development Agency (I.D.A.) approved financial assistance for Avon to develop a financial service center at its facility in Rye; and

WHEREAS, the financial assistance to Avon resulted in sales tax savings in regard to the planned development costs; and

WHEREAS, the financial assistance also included a PILOT agreement entered into by Avon to ensure that no real estate property tax revenues are lost by the City as a result of the I.D.A. involvement; and

WHEREAS, on September 20, 1995, the Rye City Council unanimously adopted a resolution stating no objection to the Avon/I.D.A. financial assistance plan; and

WHEREAS, the term of the financial assistance plan and PILOT agreement expires on December 31, 2010; and

WHEREAS, Avon has requested a six (6) month extension to the existing financial assistance plan and PILOT agreement to allow Avon time to obtain required approvals from the City of Rye to renovate and upgrade its Midland Avenue facility; and

WHEREAS, pursuant to Section 859-a of the General Municipal Law, the I.D.A. held a public hearing on November 30, 2010 in the City of Rye on the six (6) month extension request;

RESOLVED, that the City Council of the City of Rye has no objection to the six (6) month extension of the I.D.A. financial assistance plan and PILOT agreement, which continues to ensure that no real estate property tax revenues are lost by the City as a result of the I.D.A. involvement.

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.

CITY COUNCIL AGENDA

NO. 13 DEPT.: City Manager DATE: April 27, 2011

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Authorization for City Manager to enter into an Inter-municipal Agreement with the Village of Sleepy Hollow as the lead municipality on a grant program to assist in storm water drainage system mapping to help fulfill Phase II Storm water Program Requirements.

FOR THE MEETING OF:
April 27, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Mayor and Council authorize the City Manager to enter into the agreement.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:

Acting on behalf of the participating municipalities, the Village of Sleepy Hollow was awarded a grant from the New York State Department of Environmental Conservation, under the Environmental Protection Fund Contract C304394, to assist in the fulfilling MS4 Phase II Storm water Permit Requirements. As a participating municipality, the City of Rye will receive funding from the grant towards completion of storm water system mapping, including GPS location of all drainage structures (manholes, catch basins and remaining out falls).

See attached documentation.

INTER-MUNICIPAL AGREEMENT

AGREEMENT, made the day of , 2011 by and between

THE VILLAGE OF SLEEPY HOLLOW, a municipal corporation of the State of New York, having an office and place of business at 28 Beekman Avenue, Sleepy Hollow, New York 10591,

(hereinafter referred to as "Sleepy Hollow")

and

THE VILLAGES OF ARDSLEY having an office and place of business at 507 Ashford Avenue, Ardsley, New York 10502, BRONXVILLE having an office and place of business at 200 Pondfield Road, Bronxville, New York 10708, ELMSFORD having an office and place of business at 15 South Stone Avenue, Elmsford, New York 10523, HASTINGS-ON-HUDSON having an office and place of business at 7 Maple Avenue, Hastings-on-Hudson, New York 10706, IRVINGTON having an office and place of business at 85 Main Street, Irvington, New York 10533, PELHAM having an office and place of business at 95 Sparks Avenue, Pelham, New York 10803, PELHAM MANOR having an office and place of business at 4 Penfield Place, Pelham Manor, New York 10803, PORT CHESTER having an office and place of business at 222 Grace Church Street, Port Chester, New York 10573 , RYE BROOK having an office and place of business at 938 King Street, Rye Brook, New York 10573, TOWNS OF EASTCHESTER having an office and place of business at 40 Mill Road, Eastchester, New York 10709, OSSINING having an office and place of business at 16 Croton Avenue, Ossining, New York 10562, MOUNT PLEASANT having an office and place of business at 1 Town Hall Plaza, Valhalla, New York 10595 and CITIES OF PEEKSKILL having an office and place of business at 840 Main Street, Peekskill, New York 10566, and RYE having an office and place of business at 1051 Boston Post Road, Rye, New York 10580

(hereinafter referred to as "Participating Municipalities").

W I T N E S S E T H :

1. **WHEREAS,** the participating municipalities agreed to work cooperatively in the process of applying for and implementation of a grant program associated with MS4 Phase II Stormwater Management projects; and

2. **WHEREAS,** Sleepy Hollow, acting on behalf of the participating municipalities applied for and has been awarded a grant from the New York State Department of Environmental Conservation under the Environmental

Protection Fund **Contract C304394** (hereinafter "the grant")], to assist in the carrying out of MS4 Phase II Stormwater Permit Implementation Projects; and

3. **WHEREAS,** in conformance with the information contained in the application for the grant submitted on behalf of the participating municipalities by Sleepy Hollow, the participating municipalities shall undertake a series of initiatives which are described in the Work Plan marked **Schedule A, Contract C304394** which are attached hereto and made a part hereof; and

4. **WHEREAS,** pursuant to the grant obtained from the New York State Department of Environmental Conservation the participating municipalities are required to undertake and complete said Work Plan; and

5. **WHEREAS,** Dolph Rotfeld Engineering, P.C., has worked cooperatively with Sleepy Hollow and the participating municipalities in the development of the grant application and the Work Plan; and

6. **WHEREAS,** Dolph Rotfeld Engineering, P.C. will work with Sleepy Hollow and the participating municipalities, serving as the Administrative Management Consultant, in the overall administration and management of the grant; and

7. **WHEREAS,** the grant requires contributions from the participating municipalities, including the Village of Sleepy Hollow; and

8 **WHEREAS,** Sleepy Hollow shall be the recipient of the grant and shall be responsible for fiscal management thereof, including the vouchering for reimbursement for expenditures associated with the grant; and

9. **WHEREAS,** proposed budgets, which included proposed expenditures and contributions from the participating municipalities have been developed and marked as **Schedule B** for submission to the NYS Department of Environmental Conservation ("DEC") for review and approval.

NOW THEREFORE, Sleepy Hollow and the participating municipalities agree as follows:

Article I. Rights and Responsibilities of the Participating Municipalities.

Section 1.1 The Participating Municipalities shall provide the staff necessary to implement the work plan in **Schedule A.**

Section 1.2 The Participating Municipalities shall cooperate fully with the scheduling of the work to be performed in accordance with the work plan.

Section 1.3 The Participating Municipalities shall provide all required documentation of in-kind work performed for the grant in a form and manner to be mutually agreed upon between the Participating Municipalities and the DEC.

Section 1.4 The Participating Municipalities agree to enter into Data Sharing Agreements with Westchester County.

Section 1.5 The Participating Municipalities shall provide certificates of insurance naming the Village of Sleepy Hollow as additional insured, with the following minimum coverage:

A. Worker's Compensation and Employers Liability Policy – covering operations in New York State

B. Comprehensive General Liability Policy – with limits of no less than $1,000,000/$3,000,000 Bodily Injury and Property Damage.

Certificates shall provide that thirty (30) days written notice, by registered mail with return receipt requested, prior to cancellation or expiration, shall be given to the Village of Sleepy Hollow. Policies that lapse and/or expire during the term of work shall be recertified and received by the Village no less than thirty (30) days prior to the expiration or cancellation.

Article 2. Role of Administrative Management Consultant (hereinafter "consultant").

Section 2.1 The consultant will organize and in some cases conduct workshops, coordinate activities between participating municipalities and sub-consultants, conduct clerical, postage and communication efforts in support of said activities.

Section 2.2 The consultant will provide needed clerical and office support for tracking of the grant.

Section 2.3 The consultant will coordinate the activities of the Participating Municipalities in conjunction with the grants.

Section 2.4 The consultant, acting as agent for the Participating Municipalities, may contract with sub-consultants in order to meet the requirements of the work plan.

Section 2.5 The consultant may recommend additional activities, beyond those included in the work plan, to carry out the goals and objectives included in the grants.

Section 2.6 The consultant will be responsible for preparation of reports as required by the DEC.

Article 3. Role of the Village of Sleepy Hollow

Section 3.1 Sleepy Hollow will be responsible for the fiscal management of the grant, including but not limited to the payment of bills.

Section 3.2 Sleepy Hollow will contract for the audit of the grant.

Section 3.3 Sleepy Hollow will provide a centralized financial and programmatic recordkeeping documenting grant expenditures and activities.

Article 4. Term of the Agreement.

Section 4.1 The agreement shall be for a term of twenty five (25) months, which term shall be retroactive to December 1, 2010 and continuing to December 31, 2012 (may be adjusted based on receipt of fully executed contract, anticipate 12 months to complete actual work)

Section 4.2 The term may be extended under terms to be mutually agreed upon by the Participating Municipalities.

Article 5. Notices.

All notices to the Participating Municipalities shall be sent to the representative selected by each Participating Municipality to receive notice. The listing of representatives and the addresses associated therewith is included herewith and marked **Schedule C**. A participating municipality may choose to receive any and all notices via email.

Article 6. Miscellaneous

Sleepy Hollow Mapping Consortium

New York State Department of Environmental Conservation
Contract No. C304394

Inter-municipal Agreement

Schedule "A"

Municipal Initiatives and Requirements

Participating Municipalities shall be responsible for providing both monetary and in-kind services in order to provide the matching share to the cost of work completed in their respective municipalities. The costs to be matched include those associated with the administrative manager (consultant), and sub-consultant(s) retained to gather the actual GPS coordinates (field data) of individual stormwater catch basins and manholes as well as documenting and digitizing the field data in both electronic and hard copy maps for transmittal to the respective participating municipalities, Westchester County and New York State Department of Environmental Conservation. Estimated costs per participating municipality have been developed based on the estimated number of stormwater catch basins and manholes with said information provided by the municipality.

Sleepy Hollow Mapping Consortium

New York State Department of Environmental Conservation
Contract No. C304394

Inter-municipal Agreement

Schedule "B"

Proposed Expenditures and Contributions by Participating Municipalities

In –Kind Services including staff time for location and retrieval of any documents including files and maps relating to individual municipal stormwater conveyance systems, and administrative time including IMA review and resolution. Staff time for a person knowledgeable of the municipal stormwater conveyance system to accompany and assist the GPS consultant technician in the location of individual stormwater catch basins and manholes. Transportation in the form of a utility/pickup truck for transportation of the municipal staff person and GPS consultant technician in locating individual stormwater catch basins and manholes.

Sleepy Hollow Mapping Consortium

New York State Department of Environmental Conservation
Contract No. C304394

Inter-municipal Agreement

Schedule "C"

Municipal Representative

Municipality Agency	Name	Title	Telephone	Fax	e-mail
Dolph Rotfeld Engineering, P.C.	Dolph Rotfeld, P.E.	Principal Engineer	914-631-8600	914-631-5789	dolph@drepc.com
Dolph Rotfeld Engineering, P.C.	Michael Ritchie	Project Manager	914-631-8600	914-631-5789	mritchie@drepc.com
Dolph Rotfeld Engineering, P.C.	James Maxwell	Engineer	914-631-8600	914-631-5789	Jimax153@optonline.net
Village of Ardsley					
Village of Bronxville					
Town of Eastchester					
Village of Elmsford					
Village of Hastings on Hudson					
Village of Irvington					
City of Peekskill					
Town of Mount Pleasant					
Town of Ossining					
Village of Pelham					
Village of Pelham Manor					
Village of Port Chester					
City of Rye					
Village of Rye Brook					
Village of Sleepy Hollow					

CITY COUNCIL AGENDA

NO. 14 DEPT.: City Manager DATE: April 27, 2011

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Authorization for City Manager to enter into an Inter-municipal Agreement with Westchester County for the Stop-DWI Patrol/Datamaster Project for the City of Rye Police Department.

FOR THE MEETING OF:
April 27, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Mayor and Council authorize the City Manager to enter into the agreement.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:

In an effort to increase the enforcement of laws against DWI and maintain a County-wide record keeping standard for this information, the County is requesting a continued municipal participation in the STOP-DWI Patrol/Datamaster Project. In exchange for the City's participation, the County will reimburse the City an amount not to exceed $8,400.

The Agreement is for a four-year period commencing January 1, 2011 through December 31, 2015.

See attached documentation.

POLICE DEPARTMENT

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

William R. Connors
Police Commissioner

April 8, 2011

Memorandum for: Scott D. Pickup, City Manager

Subject: **INTER-MUNICIPAL AGREEMENT RE: STOP-DWI GRANT FUNDING**

Attached is an Inter-Municipal Agreement (IMA) prepared by the Westchester County Department of Public Safety regarding the allocation of grant funding pursuant to the Westchester County STOP-DWI Patrol Project for the period from January 1, 2011 through December 31, 2015. The document essentially renews a prior contract that was in effect from 2005 through 2010.

Pending review by the Corporation Counsel as to form, I recommend that it be executed to enable the Department to continue grant-funded DWI enforcement.

Submitted for your consideration.

William R. Connors
Police Commissioner

WRC/wrc

Connors, William R.

From: Tomassi, Patricia [pat5@westchestergov.com]
Sent: Friday, April 08, 2011 3:02 PM
To: Connors, William R.
Cc: Scappaticci, Tom
Subject: STOP DWI 2011-2015 AGREEMENT
Attachments: Agreement -RYE- 04082011.doc

April 8, 2011

Commissioner William R. Connors
Rye City Police Department
21 McCullough Place
Rye, NY 10580

Dear Commissioner Connors,

RE: STOP-DWI PATROL PROJECT REIMBURSEMENT CONTRACT
JANUARY 1, 2011 – DECEMBER 31, 2015

County Executive Robert P. Astorino would like to invite your municipality to participate in the Westchester County STOP-DWI Program.

In 2006, the Board of Legislators granted authority for Westchester County STOP-DWI Program to enter into an agreement with each municipality for a five (5) year term beginning January 1, 2006 and ending December 31, 2010. The existing agreement which ended on December 31, 2010, has been amended for a five (5) year term beginning January 1, 2010 and will extend through December 31, 2015.

Enclosed is a copy of the Intermunicipal amendment between the Westchester County STOP-DWI Program, Department of Public Safety, and your municipality. **This amendment to the original contract is required for your police department to participate in the STOP-DWI Patrol/Datamaster Project and be eligible for reimbursement.**

Please complete the agreement with all of the required forms and notarizations properly signed and certified. In addition, it will be necessary for you to submit your municipality's insurance certificate (or letter stating self-insured and comply with insurance requirements) and a copy of your municipal governing board resolution approving this amendment.

It is important that this amendment be completed and returned by your municipality in a timely fashion. Final execution and payment to your municipality will be expedited by returning the correctly completed documents.

Please note that this agreement is being sent directly to you, Chief Connors, and we are requesting that you forward it to the officer in charge of executing agreements for your municipality. You can contact me if you have any questions.

Thank you for your continued cooperation with the Westchester County STOP-DWI Program and your commitment to keeping the roads of Westchester County safe for all of its citizens.

Sincerely yours,

GEORGE N. LONGWORTH, COMMISSIONER-SHERIFF

By:

Vito J. Pinto, Director

Rye: 2011-2015- 32

THIS **AGREEMENT** made this day of , 2011 by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (hereinafter referred to as the "County")

Acting by and through its Department of Public Safety Services (hereinafter referred to as the "Department")

And

City of Rye
1051 Boston Post Road
Rye, NY 10580

_____ a municipal corporation of the State of New York having an office and place of business at _____ _____, New York _____ acting by and through the _____ Police Department, (hereinafter referred to as the "Municipality").

1. In consideration of an amount not to exceed EIGHT THOUSAND FOUR HUNDRED ($8,400.00) DOLLARS per year to be paid in the manner and at the rates set forth in Schedule "A," which is attached to and forms a part of this Agreement, the Municipality shall participate in the Westchester County STOP-DWI Patrol/Datamaster Project as described in Schedule "A" (hereinafter the "Work").

2. The parties recognize and acknowledge that the obligations of the County under this Agreement are subject to the County's receipt of funds from New York State to operate the Westchester County STOP-DWI Patrol/Datamaster Project.

If, for any reason, the full amount of said funds is not paid over or made available to the County by New York State, the County may terminate this Agreement immediately or reduce the amount payable to the Municipality, in the discretion of the County. The County shall give prompt notice of any such termination or reduction to the Municipality. If the County subsequently offers to pay a reduced amount to the Municipality, then the Municipality shall have the right to terminate this Agreement upon reasonable prior written notice.

In addition, the parties recognize and acknowledge that the obligations of the County under this Agreement are subject to annual appropriations by its Board of Legislators pursuant to the Laws of Westchester County. Therefore, this Agreement shall be deemed

executory only to the extent of the monies appropriated and available. The County shall have no liability under this Agreement beyond funds appropriated and available for payment pursuant to this Agreement. The parties understand and intend that the obligation of the County hereunder shall constitute a current expense of the County and shall not in any way be construed to be a debt of the County in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the County, nor shall anything contained in this Agreement constitute a pledge of the general tax revenues, funds or moneys of the County. The County shall pay amounts due under this Agreement exclusively from legally available funds appropriated for this purpose. The County shall retain the right, upon the occurrence of the adoption of any County Budget by its Board of Legislators during the term of this Agreement or any amendments thereto, and for a reasonable period of time after such adoption(s), to conduct an analysis of the impacts of any such County Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates set forth herein. If the County subsequently offers to pay a reduced amount to the Municipality, then the Municipality shall have the right to terminate this Agreement upon reasonable prior written notice.

This Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Municipality, then the Municipality shall have the right to terminate this Agreement upon reasonable prior written notice.

3. All records or recorded data of any kind compiled by the Municipality in completing the Work described in this Agreement, including but not limited to written reports, studies, computer printouts, graphs, charts, and all other similar recorded data, shall become and remain the property of the County. The Municipality may retain copies of such records for its own use and shall not disclose any such information without the express written consent of the Stop-DWI Director or his designee ("Director"). The County shall have the right to reproduce and publish such records, if it so desires, at no additional cost to the County.

4. The Work to be performed pursuant to the terms of this Agreement shall commence January 1, 2011 and continue through December 31, 2015.

The Municipality shall issue progress reports to the County as the Director may direct and shall immediately inform the Director in writing of any cause for delay in the performance of its obligations under this Agreement.

5. The Municipality agrees and shall be subject to the insurance requirements contained in Schedule "B", which schedule is attached to and forms a part of this Agreement. In addition to

and not in limitation of the insurance provisions contained in Schedule "B", the Municipality agrees:

(a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligent or intentional acts, errors and omissions or willful misconduct of the County, the Municipality shall indemnify and hold harmless the County, its officers, employees, and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising out of the negligent or intentional acts, errors and omissions or willful misconduct of the Municipality or third parties under the direction or control of the Municipality; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action arising out of the negligent or intentional acts, errors and omissions or willful misconduct of the Municipality or third parties under the direction and control of the Municipality and to bear all other costs and expenses related thereto.

6. The Municipality shall comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations, including, but not limited to, those applicable to the Municipality as an employer of labor or otherwise.

7. Requests for payment to be made shall be submitted by the Municipality on properly executed payment vouchers of the County in accordance with Schedule "A" and paid only after approval by the Director. All payment vouchers must be accompanied by a numbered invoice and must contain the invoice number where indicated. All invoices submitted during each calendar year shall utilize consecutive numbering and be non-repeating. In no event shall payment be made to the Municipality prior to completion of all Work and the approval of same by the Director.

The Municipality shall, at no additional charge, furnish all labor, services, materials, tools, equipment and other appliances necessary to complete the Work, unless specific additional charges are expressly permitted under this Agreement. It is recognized and understood that even if specific additional charges are expressly permitted under this Agreement, in no event shall total payment to the Municipality exceed the not-to-exceed amount set forth in Section 1 above.

All payments made by the County to the Municipality will be made by electronic funds transfer ("EFT") pursuant to the County's Vendor Direct program. Municipalities doing business with Westchester County, who are not already enrolled in the Vendor Direct Program, will be required to fill out and submit an EFT Authorization Form prior to receiving an award or purchase order. The EFT Authorization Form and related information are annexed hereto as Schedule "C." The completed Authorization Form must be returned by the Municipality to the Westchester County Department of Finance ("Finance Department") prior to execution of the contract. In rare cases, a hardship waiver may be granted. For a Hardship Waiver Request Form, please contact the Finance Department.

8. (a) The County, upon ten (10) days notice to the Municipality, may terminate this Agreement in whole or in part when the County deems it to be in its best interest. In such event, the Municipality shall be compensated and the County shall be liable only for payment for services already rendered under this Agreement prior to the effective date of termination at the rates specified in Schedule "A." Upon receipt of notice that the County is terminating this Agreement in its best interests, the Municipality shall stop work immediately and incur no further costs in furtherance of this Agreement without the express approval of the Director, and the Municipality shall direct any approved subconsultants to do the same.

In the event of a dispute as to the value of the Work rendered by the Municipality prior to the date of termination, it is understood and agreed that the Director shall determine the value of such Work rendered by the Municipality. The Municipality shall accept such reasonable and good faith determination as final.

(b) In the event the County determines that there has been a material breach by the Municipality of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Municipality of written notice thereof, the County, in addition to any other right or remedy it might have, may terminate this Agreement and the County shall have the right, power and authority to complete the Work provided for in this Agreement, or contract for its completion, and any additional expense or cost of such completion shall be charged to and paid by the Municipality. Without limiting the foregoing, upon written notice to the Municipality, repeated breaches by the Municipality of duties or obligations under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure.

9. All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail, postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County:
Commissioner - Sheriff of Public Safety
1 Saw Mill River Parkway
Hawthorne, New York 10532

With a copy to:
Director, Drug Prevention & STOP-DWI
112 E. Post Road, 3rd Floor
White Plains, New York 10601

with a copy to:
County Attorney
Michaelian Office Building, Room 600

148 Martine Avenue
White Plains, New York 10601

To the Municipality:

_____
_____
_____

10. This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

11. In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the parties.

12. Nothing contained herein shall be construed to make either party the agent, employee or co-venturer of the other and the parties hereto expressly disclaim the existence of any such relationship between them.

13. The failure of the County to insist upon strict performance of any term, condition or covenant herein, shall not be considered a waiver of such breach or default or any subsequent breach or default of the terms, conditions and covenants herein. The remedies contained herein are cumulative and shall not limit or restrict any other remedy at law or in equity to which the County may be entitled.

14. Except as provided herein, the Municipality shall not assign, sublet, subcontract or otherwise dispose of this Agreement, or any right, duty or interest herein, without the prior express written approval of the County. Any purported delegation of duties, assignment of rights under this Agreement without the prior express written consent of the County is void. No assignment, subcontracting, subletting or other such disposition of this Agreement, either with or without such consent of the County, shall serve to relieve the Municipality of its obligations under this Agreement.

15. This Agreement shall be construed and enforced in accordance with the Laws of the State of New York.

16. This Agreement shall not be enforceable until signed by all parties and approved by the Office of the County Attorney.

IN WITNESS WHEREOF, the County of Westchester and the Municipality have caused this Agreement to be executed.

THE COUNTY OF WESTCHESTER

BY:_____
GEORGE N. LONGWORTH
Commissioner – Sheriff of Public Safety

MUNICIPALTIY

BY:_____
Name & Title

Approved by the Westchester County Board of Legislators on the 31st day of January, 2011 by Act No 13-2010.

Approved by the Westchester County Board of Acquisition and Contract on the 24th day of March, 2011.

Approved as to form
and manner of execution

_____
Sr. Assistant County Attorney
County of Westchester
S/A/DPS/STOP DWI 2011/STOP DWI Agr 2011-2015 F.doc

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On the _____ day of _____ in the year 2011 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: _____ _____

Notary Public

RPL § 309-a; NY CPLR § 4538

CERTIFICATE OF AUTHORITY
(CORPORATION)

I, _____,
(Officer other than officer signing contract)

certify that I am the _____ of
(Title)

the _____
(Name of Corporation)

a corporation duly organized and in good standing under the _____
(Law under which organized, e.g., the New York Business Corporation Law) named in the foregoing agreement; that

_____
(Person executing agreement)

who signed said agreement on behalf of the _____
(Name of Corporation)

was, at the time of execution

_____
(Title of such person)

of the Corporation and that said agreement was duly signed for and on behalf of said Corporation by authority of its Board of Directors, thereunto duly authorized and that such authority is in full force and effect at the date hereof.

_____
(Signature)

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On the _____ day of _____ in the year 2011 before me, the undersigned, a Notary Public in and for said State, _____personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the officer described in and who executed the above certificate, who being by me duly sworn did depose and say that he/she resides at _____, and he/she is an officer of said corporation; that he/she is duly authorized to execute said certificate on behalf of said corporation, and that he/she signed his/her name thereto pursuant to such authority.

_____
Notary Public
Date

SCHEDULE A

STOP-DWI PATROL PROJECT

The STOP-DWI Patrol Project is an overtime, added, patrol effort to enforce the New York State Vehicle and Traffic Laws against intoxicated and impaired driving (DWI/DWAI) in Westchester County. Each participating municipality, through its police department, must submit the required documentation to claim reimbursement from the STOP-DWI Program. This is described below.

The Patrol Project requires that the STOP-DWI Patrol activity and assignment be in addition to the participating police department's normal and /or routine patrol activity and assignment. **It cannot be used to replace any regular, normal or routine patrol**. The additional patrol must be conducted during the critical DWI/DWAI hours of evening and nighttime as approved by the STOP-DWI Director. The STOP-DWI Patrol Project vehicle must bear the special logo and markings to increase public awareness of the enforcement effort. A police chief project director is appointed to work with the STOP-DWI Program in the operation of the patrol project. **ALL PATROLS AND SOBRIETY CHECKPOINTS MUST BE SCHEDULED AND APPROVED PRIOR TO CONDUCTING SAID OPERATION. THE MUNICIPALITIES' DWI PROJECT COORDINATOR MUST CALL THE COUNTY'S STOP-DWI OFFICE AND GET AN APPROVED CONTROL NUMBER. ONLY OPERATIONS WITH AN APPROVED CONTROL NUMBER WILL BE PROCESSED FOR PAYMENT.**

The maximum amount payable under this Agreement is $8,400.00 per year as follows: each Municipality may seek reimbursement for an amount up to $6,000.00 per year representing additional, overtime, DWI road patrol enforcement which shall be reimbursed at $1,500.00 per quarter. In addition, $2,400.00 is available to the Municipality for special patrols only upon further written request by the Municipality and approval of the Director of the STOP-DWI Program. The release of the additional $2,400.00 is based upon performance and availability of funds.

Sobriety Checkpoints may be conducted with the reimbursable funds and one or more quarters may be combined to fund this particular effort. Coordination with the STOP-DWI Program Director is required **before** the checkpoint is conducted.

Patrol Project Reimbursement Documentation Packet - The following four items are required for reimbursement under this program and **MUST** be forwarded to the STOP-DWI Office within two weeks of the end of each quarter for payment to be approved. Each Municipality is required to maintain copies of all submitted documents and have them available for examination for a minimum of two calendar years in addition to the current calendar year. This is to facilitate future audits.

A. **OFFICER Tracking Report**: This is to be completed and signed by the Police Officer assigned to a specific STOP-DWI Patrol. All of the entries must be completed, including the date, times, number of hours, number of stops, tickets issued, arrests made before submission.

B. **PATROL Tracking Report Summary**: This is to be completed and signed by the Supervisor in charge for a specific STOP-DWI Patrol. The report summarizes the work of each officer assigned to particular STOP DWI patrol duty for a given date. The information should be a compilation of the individual Officer Tracking Report.

C. **Payment Voucher**: A copy of the overtime report form used by the Municipality to pay each assigned officer must be included. Copy MUST show the assigned officer's name, number of hours, and assignment to solely to STOP-DWI Patrol. **AN AUTHORIZED INDIVIDUAL MUST SIGN THE SUBMITTED COPY AS CERTIFICATION THAT IT IS A TRUE AND ACCURATE COPY OF THE ORIGINAL AND THAT THE STOP-DWI PATROL ASSIGNMENTS WERE IN ADDITION TO ROUTINE PATROLS**. The originals are to be kept by the submitting agency.

Vouchers MUST include your municipality's assigned "Vendor number." and "Account number". They must show that they are for the STOP-DWI Patrol Program and include the quarter and dates, officer's name, number of hours worked, officer's actual hourly rate and total payment for officer. The rate of reimbursement for officers assigned to STOP-DWI is the officer's actual hourly rate up to a maximum of $75.00 per hour.

D. **Quarterly Summary Report:** For reimbursement, each submission must have a Summary Report included. This Report, which indicates the activity of the Municipality for the quarter, will cover a specific period and should be submitted at the **END OF THE QUARTER**. This is a Summary of the **Patrol Tracking Report Summary** that is filled out for each STOP DWI Enforcement Patrol

Copies of the **OFFICER'S Patrol Tracking Report,** the **PATROL Tracking Report Summary,** as well as the **Payment Voucher** are to be attached to the completed **Quarterly Summary Report**. This complete reimbursement documentation packet is to be forwarded to:

Director, STOP-DWI
112 E. Post Road
3rd Floor
White Plains, New York 10601

ANY REIMBURSEMENT DOCUMENTATION PACKET FILED MORE THAN 30 DAYS AFTER THE CLOSE OF A QUARTER WILL NOT BE PAID UNLESS SPECIAL ARRANGEMENTS HAVE BEEN MADE WITH THE STOP-DWI PROGRAM DIRECTOR IN ADVANCE.

SCHEDULE B
STANDARD INSURANCE PROVISIONS
(MUNICIPALITY)

1. Prior to commencing work, the Municipality shall obtain at its own cost and expense the required insurance from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better, and shall provide evidence of such insurance to the County of Westchester, as may be required and approved by the Director of Risk Management of the County. The policies or certificates thereof shall provide that thirty days prior to cancellation or material change in the policy, notices of same shall be given to the Director of Risk Management of the County of Westchester by registered mail, return receipt requested, for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, submit the same to the Department of Risk Management of the County of Westchester for approval and submit a certificate thereof. Upon failure of the Municipality to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated. Failure of the Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification. All property losses shall be made payable to and adjusted with the County.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the County of Westchester.

2. The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the "Special Conditions" of the contract specifications):

(a) Workers' Compensation. Certificate form C-105.2 (9/07) or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: www.wcb.state.ny.us (click on Employers/Businesses, then Business Permits/Licenses/Contracts to see instruction manual).

If the employer is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

(b) Employer's Liability with minimum limit of $100,000.00.

(c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of $1,000,000.00 for bodily injury and $100,000.00 for property damage or a combined single limit of $1,000,000.00 (c.s.l.), naming the County of Westchester as an additional insured. This insurance shall indicate the following coverages:

(i) Premises - Operations.
(ii) Broad Form Contractual.

(d) Automobile Liability Insurance with a minimum limit of liability per occurrence of $1,000,000.00 per occurrence for bodily injury and a minimum limit of $100,000.00 per occurrence for property damage or a combined single limit of $1,000,000.00 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages:

(i) Owned automobiles.
(ii) Hired automobiles.
(iii) Non-owned automobiles.

3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County of Westchester (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County of Westchester is named as an insured, shall not apply to the County of Westchester.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County of Westchester (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance polices shall be assumed by and be for the account of, and at the sole risk of, the Municipality.

CITY COUNCIL AGENDA

NO. 15 DEPT.: City Manager DATE: April 27, 2011

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Resolution to amend the City of Rye's Foil procedures.

FOR THE MEETING OF:
April 27, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the City Council amend the current FOIL procedures.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The following changes are proposed to the City's FOIL Procedures:

- The Corporation Counsel would be the appeals officer for all appeals of FOIL requests. Currently the City Council hears appeals if they are submitted within ten business days of a City Council meeting with the Corporation Counsel handling all others.
- A new Section 9E would be created outlining at what point the City can charge the requestor for staff time.
- The wording of the procedures would be updated to comply with current requirements for electronic FOILs contained in the Freedom of Information Law.

See attached.

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 the 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. They 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 responses 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.

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Section 4. Location.

Records shall be available for public inspection and copying at the office of the records access officer 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 **City Hall is** regularly open for business except that all records must be returned to their proper custodian at lease ~~5~~ **30** minutes before closing time. ~~The City's hours of operation from Memorial Day though Labor Day shall be 8:30 A.M. to 4:30 P.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) If records are maintained on the internet, the requestor shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.

~~(b)~~ **(c)** Officials shall respond to a request for records no more that five (5) business days after receipt of the request. This response will acknowledge receipt of request and indicate that the requestor will receive a response within twenty (20) business days unless otherwise noted. **Any electronic requests received after 5:00 P.M. will be considered received by the City on the next business day**

~~(c)~~ **(d)** A request for access to records should be sufficiently detailed to identify the records. Where possible, the requestor should supply information regarding dates, titles, file designations or other information which may help identify the records.

~~(e)~~ **(f)** 1. A current list, by subject matter, of all records produced and retained in accordance with the Department of Education's State Archives Schedule MU-1, shall be maintained by each records access officer by the City Clerk of or the appropriate records access officer and shall be available for public inspection and copying. The list shall be sufficiently detailed to permit the requestor to indentify the file category of the records sought.

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2. The subject matter list shall be updated periodically and the date of the most recent updating shall appear on the first page. The updating of the subject matter list shall not be less tat semiannual.

3. A duplicate copy of such current subject matter list shall be filed by each records access officer with the City Clerk who shall consolidate and maintain all such current lists. Each records access officer shall keep a copy of these regulations with the subject matter list.

~~(e)~~ **(f)** Appropriate personnel of the City of Rye shall assist the requestor in identifying requested records.

~~(f)~~ **(g)** 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 in part, and explain in writing the reasons therefore.

~~(g)~~ **(h)** Upon failure to locate records, the appropriate official shall certify that:

1. The City of Rye is not the legal custodian of the requested records; or,

2. The requested records, after diligent search, cannot be found.

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 requestor 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.

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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 requestor of the right to appeal to the **Corporation Counsel** ~~City Council~~ **within ten (10) business days of the denial**. ~~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 Corporation Counsel ~~City Council Manager 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)~~ **(c)** of these regulations, such failure shall also be deemed a denial of access. In such cases, appeals must be filed within thirty (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)~~ **(c)** The time for deciding an appeal by the City's ~~Council Manager 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 requestor 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)~~ **(d)** The appeal shall be determined by the ~~City Council Manager or the~~ City's Corporation Counsel's office within ten (10) business days if 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.

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~~(f)~~ **(e)** A person requesting an exception from disclosure, or an agency denying access to record, shall in all appeal proceedings have the burden of proving entitlement to the exception.

~~(g)~~ **(f)** A proceeding to review an adverse determination upon appeal may be commenced pursuant to Article 78 of the Civil Practice Law and Rules in accordance with all applicable provisions of the law.

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. **The City has the authority to redact portions of a paper record and does so prior to the disclosure of the record by making a photocopy from which the proper redactions are made.**

(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.

(e) The fee the City may charge for a copy of any other record is based on the actual cost of reproduction and may include only the following:

(1) an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and

(2) the actual cost of the storage devices or media provided to the person making the request in complying with such request; or

(3) the actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's

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information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.

(f) The City shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an agency employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.

(g) A person requesting a record shall pay the City the required fee for copying or reproducing the record in advance of the City preparing such copy.

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 regulation 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 regulation or the application thereof to other persons and circumstances.

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CITY COUNCIL AGENDA

NO. 16 DEPT.: City Manager's Office DATE: April 27, 2011

CONTACT: Scott Pickup, City Manager

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

FOR THE MEETING OF:
April 27, 2011

RYE CITY CODE,
CHAPTER
SECTION

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

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood Other:

BACKGROUND:
The New York State and Local Employees' Retirement System established a new requirement which requires all elected and appointed officials to track and report a standard work day. The City Manager and the Corporation Counsel must track and report their hours to the City Clerk. The New York State Retirement System has requested changes to the resolution passed by the City Council on August 11, 2010 to include the following:

- an end date for the City Manager for retirement purposes only
- an end date for the Corporation Counsel of 12/31/10 to reflect that the position is no longer a City employee
- a standard minimum work day of 6 hrs for the Corporation Counsel

See attached resolution.

Standard Work Day and Reporting Resolution

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

Title	Name	Standard Work Day (Hrs/Day)	Term Begins/Ends	Participates in Employer's Time Keeping System (Y/N)	Days/Month (based on Record of Activities)
Appointed Employees					
City Manager	Scott D. Pickup	7	7/1/10 – 1/1/2014*	Y	N/A
Corporation Counsel	Kristen Wilson	6	1/1/10 – 12/31/10	N	10

* For retirement purposes only

On this XX day of XXXXX, 2011

Signature: _____ Date enacted:XXXX, 2011

I, Dawn Nodarse, clerk of the governing council of the City of Rye, of the State of New York, do hereby certify that I have compared the foregoing with the original resolution passed by such board, at a legally convened meeting held on the XXX day of XXX, 2011 on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original.

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

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

CITY COUNCIL AGENDA

NO. 17 DEPT.: Corporation Counsel DATE: April 27, 2011

CONTACT: Kristen K. Wilson, Esq., Corporation Counsel

AGENDA ITEM: Consideration of referral to the Board of Architectural Review and City Consultant, the Special Permit Application (#TC010) submitted by New Cingular Wireless PCS, LLC ("AT&T") for modifications to its existing wireless telecommunications facility on the roof top of 66 Milton Road.

FOR THE MEETING OF:
April 27, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council refer the Special Use Permit Application (#TC010) by New Cingular Wireless PCS, LLC ("AT&T") to the BAR and City telecommunications consultant.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND: New Cingular Wireless PCS, LLC ("AT&T") is seeking approval for modifications to its existing wireless telecommunications facility on the roof of the Blind Brook Lodge located at 66 Milton Road. *The original application was approved by the City Council at a Council meeting held on November 17, 2004.*

Pursuant to Sections 196-13 and 196-16 of the Code of the City of Rye the Council may refer the application to the Board of Architectural Review (BAR) and consultant. In addition to the application fee the applicant has provided a $5,000 escrow to pay for the consultant selected by and working for the City of Rye. Consistent with prior practice, staff will forward the application to its consultant who will provide a written assessment in advance of the public hearing. See attached application.

CUDDY&
FEDER LLP

445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
Tel 914.761.1300 Fax 914.761.5372
www.cuddyfeder.com

April 5, 2011

Via Federal Express
Mayor French and Members of the City Council
c/o Mr. Vincenzo Tamburro
City Hall
1051 Boston Post Road
Rye, New York 10580

Re: New Cingular Wireless PCS, LLC ("AT&T") Site Q73
Antenna and Equipment Upgrades at Existing AT&T Site
CC Case #: TC 010
BP Case #: P0512521
Premises: 66 Milton Road, Rye, New York
Tax Map Designation: Section 146.11, Block 1, Lot 73

Dear Mayor French and Members of the City Council:

On behalf of our client, New Cingular Wireless PCS, LLC ("AT&T"), we respectfully submit this application and its enclosures pursuant to Section 196-5V of the Rye City Code in connection with minor modifications proposed by AT&T to upgrade its existing wireless telecommunication facility located at 66 Milton Road, Rye, New York. These upgrades are in furtherance of AT&T's Long Term Evolution "LTE" deployment and the provision of enhanced services to the public.

Prior AT&T Approvals
AT&T was previously granted special permit approval by the City Council as incorporated in CC Case No. TC 010 and was issued a Building Permit #P0512521 for the existing facility. The zoning approval was for panel antennas mounted on the cupola of the existing building and associated unmanned equipment cabinets on the rooftop of the existing building.

Proposed AT&T Upgrade
AT&T proposes to add three (3) new panel antennas to the exterior of the existing cupola. Remote radio head units will be installed inside the cupola and additional fiber and coax cables will be routed inside the existing cable trays on the roof. An additional receive only Global Positioning Satellite ("GPS") antenna will be installed on the existing equipment platform railing along with two small cabinets (24"x 23" x 27"). None of these upgrades will be readily visible to the public given the treatment applied to the antennas to replicate a brick color scheme. All of these minor modifications are consistent with the prior issuance of a special use permit to AT&T by the City Council.

Application Materials
In addition to this letter, AT&T submits eight (8) copies of the following documentation in support of its modification application:

(A) City Telecommunications Special Permit Application Form;
(B) Copy of AT&T's Prior Approvals;
(C) Structural Letter, prepared by URS Corporation, dated January 18, 2011, which concludes the existing building can structurally accommodate AT&T's proposed antenna modifications;
(D) RF Exposure Analysis, prepared by Bechtel Communications, dated February 5, 2011, evidencing that the maximum power density from the proposed antennas is well below the maximum permissible exposure limit established by the FCC;
(E) Photographs of the existing facility.

In addition to the forgoing, we also enclose eight (8) sets of full size drawings prepared by URS Corporation, last revised February 1, 2011.

SEQRA & Waiver Requests
This minor upgrade to AT&T's existing wireless facility site is exempt from SEQRA as a Type II action. See 6 NYCRR Section 617.5(c)(7) and NYSDEC guidance on pg. 31 of the Department's SEQRA Handbook. As such, no environmental assessment form or SEQRA action is required for review. Additionally, given the minor nature of the upgrade, AT&T requests that waivers for all but the above information be granted pursuant to Section 196-5U and V of the City Code.

Fees & Use of Outside Consultants
Enclosed please find two (2) checks made payable to the City of Rye in the amounts of $3,000.00 and $5,000.00 representing the application and escrow fees. Given the minor nature of this project, we respectfully request that the City's retention of any third party consultant be limited to a paper review and report on the updated MPE report included as Exhibit C and for an amount not to exceed $1,000.

Timing of Review
Given the limited nature of this upgrade with no significant changes to the building and our client's desire to provide enhanced services to the public, we would ask that this matter be processed at the Board's earliest convenience and within the 90 day timeframe provided for by the FCC for this type of application.

Thank you for your understanding of this request on behalf of our client and please do not hesitate to contact me.

Very truly yours,

Christopher B. Fisher, Esq.

Enclosures

cc: Joseph Sweet, AT&T (w/out enclosures)
Michael Gerard, AT&T (w/out enclosures)
Doug Gardner, Bechtel (w/enclosures)
Bernard Morgan, Bechtel RF (w/out enclosures)
Joe Falivene, URS Corporation (w/out enclosures)

CITY COUNCIL AGENDA

NO. 18 DEPT.: Corporation Counsel DATE: April 27, 2011

CONTACT: Kristen K. Wilson, Esq., Corporation Counsel

AGENDA ITEM: Consideration of referral to the Board of Architectural Review and City Consultant, the Special Permit Application (#TC013) submitted by New Cingular Wireless PCS, LLC ("AT&T") for modifications to its existing wireless telecommunications facility located at 350 Theodore Fremd Avenue.

FOR THE MEETING OF:
April 27, 2011
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council refer the Special Use Permit Application (#TC000) by New Cingular Wireless PCS, LLC ("AT&T") to the BAR and City telecommunications consultant.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND: New Cingular Wireless PCS, LLC ("AT&T") is seeking approval for modifications to its existing wireless telecommunications facility located at 350 Theodore Fremd Avenue. *The original application was approved by the City Council at a Council meeting held on April 15, 1998.*

Pursuant to Sections 196-13 and 196-16 of the Code of the City of Rye the Council may refer the application to the Board of Architectural Review (BAR) and consultant. In addition to the application fee the applicant has provided a $5,000 escrow to pay for the consultant selected by and working for the City of Rye. Consistent with prior practice, staff will forward the application to its consultant who will provide a written assessment in advance of the public hearing. See attached application.

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April 8, 2011

Mayor French and Members of the City Council
c/o Mr. Vincenzo Tamburro
City Hall
1051 Boston Post Road
Rye, New York 10580

Re: New Cingular Wireless PCS, LLC ("AT&T") Site NYNYNY0868
Antenna and Equipment Upgrades at Existing AT&T Site
CC Approval Date: April 15, 1998
Premises: 350 Theodore Fremd Avenue, Rye, New York
Tax Map Designation: Section 146.0, Block 1, Lot 62.2

Dear Mayor French and Members of the City Council:

On behalf of our client, New Cingular Wireless PCS LLC ("AT&T"), we respectfully submit this application and its enclosures pursuant to Section 196-5V of the Rye City Code in connection with minor modifications proposed by AT&T to upgrade its existing wireless telecommunication facility located at 350 Theodore Fremd Avenue, Rye, New York. These upgrades are in furtherance of AT&T's Long Term Evolution "LTE" deployment and the provision of enhanced services to the public.

Prior AT&T Approvals

AT&T was previously granted special permit approval by the City Council on April 15, 1998 for the existing facility on the roof of this commercial building along I-95. The zoning approval incorporated nine (9) panel antennas mounted on the penthouse of the existing building and associated unmanned equipment cabinets within an equipment room in the penthouse of the existing building.

Proposed AT&T Upgrade

AT&T's existing facility consists of only six (6) panel antennas mounted on the penthouse despite having been approved for nine (9). AT&T proposes to add the remaining three (3) panel antennas in the originally approved location on the penthouse as well as a receive only Global Positioning Satellite ("GPS") antenna. Remote radio head units will also be installed on the existing penthouse facility. In addition, AT&T will add new fiber and coax cables inside the existing cable tray and additional equipment will be installed inside the existing equipment area. None of these upgrades will materially change the existing facility and its limited visibility to the public. All of these minor modifications are consistent with the prior issuance of a special use permit to AT&T by the City Council.

Application Materials

In addition to this letter, AT&T submits eight (8) copies of the following documentation in support of its modification application:

(A) City Telecommunications Special Permit Application Form;
(B) Copy of AT&T's Prior Approval Resolution;

(C) Structural Letter, prepared by URS Corporation, dated January 18, 2011, which concludes the existing building can structurally accommodate AT&T's proposed modifications;

(D) RF Exposure Analysis, prepared by Bechtel Communications, dated February 6, 2011, evidencing that the maximum power density from the proposed antennas is well below the maximum permissible exposure limit established by the FCC;

(E) Photographs of the existing facility.

In addition to the forgoing, we also enclose eight (8) sets of full size drawings prepared by URS Corporation, last revised March 10, 2011.

SEQRA & Waiver Requests

This minor upgrade to AT&T's existing wireless facility site is exempt from SEQRA as a Type II action. See 6 NYCRR Section 617.5(c)(7) and NYSDEC guidance on pg. 31 of the Department's SEQRA Handbook. As such, no environmental assessment form or SEQRA action is required for review. Additionally, given the minor nature of the upgrade, AT&T requests that waivers for all but the above information be granted pursuant to Section 196-5U and V of the City Code.

Fees & Use of Outside Consultants

Enclosed please find two (2) checks made payable to the City of Rye in the amounts of $3,000.00 and $5,000.00 representing the application and escrow fees. Given the minor nature of this project, we respectfully request that the City's retention of any third party consultant be limited to a paper review and report on the updated MPE report included as Exhibit D and for an amount not to exceed $1,000.

Timing of Review

Given the limited nature of this upgrade with no significant changes to the building and our client's desire to provide enhanced services to the public, we would ask that this matter be processed at the Board's earliest convenience and within the 90 day timeframe provided for by the FCC for this type of application.

Thank you for your understanding of this request on behalf of our client and please do not hesitate to contact me.

Very truly yours,

Christopher B. Fisher, Esq.

Enclosures

cc: Joseph Sweet, AT&T (w/out enclosures)
Michael Gerard, AT&T (w/out enclosures)
Doug Gardner, Bechtel (w/enclosures)
Jung Lee, Bechtel (w/out enclosures)
Bernard Morgan, Bechtel (w/out enclosures)
Joe Falivene, URS (w/out enclosures)