

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, October 19, 2011, at 8:00 p.m. in the Council Room of City Hall. *The Council will convene at 7:30 p.m. and it is expected they will adjourn into Executive Session at 7:31 p.m. to discuss real estate matters.*

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. Moment of Silence and Remembrance for former Mayor Mary Ann Ilse
4. General Announcements.
5. Draft unapproved minutes of the special meeting of the City Council held September 28, 2011 and the workshop/regular meeting of the City Council held October 5, 2011.
6. Mayor's Management Report
 - Update on the Rye Historical Walking Tour
 - Financial Update on 3rd Quarter results
 - Legal Update
7. Discussion of amending City of Rye Local Law Chapter 53, "Architectural Review" to reduce the number of applications subject to architectural review.
8. Follow-up discussion of Rye Town Park policy on dogs and the City of Rye Local Law Chapter 76, "Dogs".
9. Residents may be heard who have matters to discuss that do not appear on the agenda.
10. Consideration of referral to the Board of Architectural Review the Special Permit Application submitted by United Water Westchester, Inc. for the installation of towers and telecommunications equipment to collect billing information.
11. Consideration to set a Public Hearing to add a proposed Local Law to prohibit the use of plastic bags by Rye Merchants.
12. Authorization for the City Manager to enter into an Intermunicipal Agreement with the County of Westchester for the distribution of Homeland Security funded equipment.
13. Three appointments to the Rye Golf Club Commission by the Council for three-year terms expiring January 1, 2015, one appointment for a one-year term expiring January 1, 2013, and the designation of one member to the Rye Golf Club Nominating Committee.
14. Miscellaneous communications and reports.
15. Old Business.

16. New Business.

17. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, November 2, 2011. A special meeting of the City Council will be held on Wednesday, November 9, 2011 for the presentation of the 2012 Budget.

** 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 10/19/11 will be held from 7:00 pm to 7:30 pm in the Mayor's Conference Room.



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Clerk

DATE: October 19, 2011

CONTACT: Dawn F. Nodarse

AGENDA ITEM Draft unapproved minutes of the special meeting of the City Council held September 28, 2011 and the workshop/regular meeting of the City Council held October 5, 2011, as attached.

FOR THE MEETING OF:

October 19, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council approve the draft minutes.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Approve the minutes of the special meeting of the City Council held September 28, 2011 and the workshop/regular meeting of the City Council held October 5, 2011, as attached.

DRAFT UNAPPROVED MINUTES of the
Special Meeting of the City Council of the City of
Rye held in City Hall on September 28, 2011 at 7:30
P.M.

PRESENT:

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

ABSENT: None

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. Authorization for City Manager to make a benefit update to the Administrative Pay Group (APG) policy

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

RESOLVED, that the City of Rye Administrative Pay Group (APG) Policy is hereby amended to add the following language to the Health Plan section: “Effective 8/1/2011, in the case of a line of duty death, the Employer shall continue to provide full premium benefits for the deceased member’s spouse until the spouse is eligible for continuing coverage under Medicare. Dependents are also eligible for continued participation at employer expense for premium payments in the health insurance plan until emancipation, or the attainment of the maximum age for dependent eligibility.”

ROLL CALL:

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

The Resolution was adopted by a 5-0 vote.

4. Resolution authorizing Corporation Counsel to agree to a settlement proposal relating to the R.B.Conway v. Rye Litigation

Corporation Counsel Wilson said that the City had been approached with an offer to settle this matter, which includes two lump sum payments, the signing and filing of a Stipulation of Settlement, a Confidentiality Agreement and a General Release. If the agreement is not authorized, the trial of this matter is scheduled to begin on October 3rd.

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

RESOLVED, that the Corporation Counsel is hereby authorized to execute a Stipulation of Settlement to settle the *R.B. Conway & Sons, Inc. v. City of Rye* litigation.

ROLL CALL:

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

The Resolution was adopted by a 5-0 vote.

4A. Resolution to transfer \$85,000 from contingency to the Fire Department for costs pertaining to damage at the Locust Avenue Fire House from Hurricane Irene

City Manager Pickup said that there is a problem with basement flooding at the Locust Avenue Fire House and this transfer of funds is necessary to elevate the heating system above flood elevation and to replace drywall with a material that will be resistant to water. Moving the heating system must be done prior to the heating season that begins October 15th.

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

WHEREAS, City staff has determined that the amounts required for emergency replacement of the utilities at the Locust

Avenue Fire House due to damage from the flooding of Hurricane Irene were not anticipated and were not provided for in the adopted 2011 budget by \$85,000, and,

WHEREAS, the General Fund Contingent Account has a balance of \$175,000, now therefore be it

RESOLVED, that the City Comptroller is authorized to transfer \$85,000 from the General Fund Contingent Account to the Fire Department Account.

ROLL CALL:

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

5. Discussion of the revised City of Rye Financial Policy reflecting the new Government Accounting Standard regarding Fund Balance (GASB 54)

City Comptroller Gribbins reported on GASB 54 Fund Balance Reporting and Governmental Fund Type Definitions, which were issued in 2009 by GASB (Governmental Accounting Standards Board) and will be implemented in 2012. GASB 54 leaves the total amount of Fund Balance unchanged, but changes the categories used to describe the components of Fund Balance, which are currently Reserved and Unreserved. The new designations will be Non-Spendable, Restricted, Committed, Assigned, and Unassigned. The goal is to make it easier for officials to see how much spendable fund balance is available, as opposed to non-spendable. The changes will be implemented in the 2012 budget. Since the GASB 54 change will necessitate updating the City's Financial Policy document, Ms. Gribbins said it was also considered an opportunity to make some needed changes to the Policy in other areas. She highlighted the changes that will be presented to the Council for review and adoption later in the year. They include: adding an exemption from the Charter Bonding limits for borrowing to rebuild after a disaster; an increase in the amount required for Purchase Orders; a change order policy for purchase orders; a credit card policy; City staff updating the Council every other year about the City's OPEB liability; updating the names of the banks and depositories and authorized financial institutions; and replacing the specific dates referred to in the budget process with relative references. Ms. Gribbins was asked to find out if other watershed communities are also changing their policies regarding disaster bonding.

Paula Schaefer, representing the Finance Committee, said that Ms. Gribbins had used a required change as an opportunity to change the Financial Policy and that the Finance Committee agrees with her suggested changes. She added that the City's Financial Policy is a good working document.

6. Discussion of proposed Tree Ordinance Legislation

Mayor French said that the Council is in favor of changing the current Tree Ordinance but it has been delayed due to staff concerns about how it will be enforced. Last week a meeting was held with representatives of EAGR (Environmental Advocacy Group of Rye) regarding the proposed law. City Manager Pickup said that new language has been added to the draft legislation since discussions held by the Council in February. Information has also been provided to the Council about ordinances in other municipalities. Melissa Grieco of the EAGR group read a statement encouraging the adoption of a new Tree Ordinance. She said that trees are a common resource for all and stressed the many benefits trees provide to a community, including reducing stormwater runoff. She also said that other communities have adopted strong tree ordinances and several utilize the services of lay Tree Committees. Carolyn Cunningham, a member of the Planning Commission and EAGR, spoke about suggested changes to the law that would require a permit for removal of healthy trees with a DBH (Diameter Breast Height) of 8 inches or more and make clear cutting of trees on a property more difficult by limiting the number of tree cutting permits to no more than three per year per property. She also said the new law would apply to city-owned property, other than in city-owned right-of-ways, as well. The Planning Commission would be the appellate board for people seeking to take down more than three trees. City Manager Pickup said that the draft law would be reviewed with staff because it presents organizational challenges from when it was originally proposed, due to reduced staffing levels, which could impact a successful implementation of the law.

Robin Jovanovich, a member of the Board of Architectural Review (BAR), said she felt that replacement plans for trees that are removed should be required for applications submitted to the BAR. Daniel Gretto, a certified arborist, said he had reviewed the proposed law and considered it a good idea, but said it should also be sensible. He said he thought that the restriction of three removal permits per twelve month cycle was not practical and said he thought lot size should be taken into consideration. He also suggested that since people serving on tree committees may not be professionals, the City should empower their employees and have someone from DPW certified as an arborist. He volunteered his services to work with a committee on drafting sensible legislation. Bill Lawyer, also a member of EAGR, said he believed an arborist's point of view was important. He also said that people need to know the importance of maintaining the trees on their property.

Mayor French said he would like to hear feedback from other communities who have passed stronger tree ordinances about the reaction to the laws a year or two later. He also suggested that a workshop, separate from the City Council, should be held on this issue that would be coordinated by Councilman Filippi and include all the stakeholders.

7. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Councilwoman Gamache and unanimously carried, to adjourn the meeting at 9:07 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk

DRAFT UNAPPROVED MINUTES of the
Workshop/Regular Meeting of the City Council of the
City of Rye held in City Hall on October 5, 2011 at
7:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
RICHARD FILIPPI
PAULA J. GAMACHE
PETER JOVANOVIĆH (left the meeting at approximately 12:20 a.m.)
SUZANNA KEITH
CATHERINE F. PARKER
JOSEPH A. SACK
Councilmembers

ABSENT: None

Workshop

Mayor French introduced the workshop portion of the meeting by saying the purpose was to consider recommendations offered by the Shared Roadways Committee in order to narrow the focus and determine a legislative track and capital funding for projects.

Shared Roadways Committee Chairs Maureen Gomez and Steve Cadenhead said their process was based on gathering data from user groups. They have designated priority corridors or roads which get the most use by user groups and should get more capital funding. They said they were cognizant of budget constraints and focused on balancing the needs of all users of the roadways. They offered several recommendations:

Forest Avenue When the road is repaved, it should be widened where possible to 24 feet and the lanes should be reduced to ten feet or less to allow for a painted buffer. Rocks should be removed and the shoulder paved in order to create the buffer. Sharrows should be painted in the roadways. (A suggestion was made to try out the recommendation on a portion of the road that needs to be paved within the next few years.)

Theodore Fremd Avenue from Locust to the Metro North Train Station This is a County road that is heavily used by commuters. Paint a line that would create a buffer and narrow the roadway and continue down the “goat path” side until Purchase Street. Put in a mid-intersection crosswalk where people are currently crossing without one. People should be encouraged to cross at Locust Avenue and walk down the side of the street that has sidewalks. Covered bicycle racks at the train station might encourage more people to bike to the train station. (City Manager Pickup and City Planner Miller were opposed to the suggestion of a mid-intersection crosswalk and noted that there is already a project designed for this intersection that would work better and be safer.)

Loudon Woods Wall There is a project in the C.I.P.

Eve Lane Easement It is in bad shape. If use of the easement continues, could there be a collaborative effort with the City and Board of Education to alleviate the liability to homeowners. There could be a public/private partnership for the cost of clean up of the area by those who benefit from it. (The Board of Education is concerned about the cost of staffing the easement. There are also condemnation issues involved in securing the easement.)

The Five Points Intersection A study should be done of the area possibly considering a traffic circle.

Fireman’s Memorial Circle Look into painting safety strips and adding signage.

Crosswalks Review crosswalks and consider raised crosswalks with markings leading up to them for priority corners.

Sidewalks This is a policy issue. There should be a balancing of enforcement and plowing in order to meet the needs of all users. The snow removal policy needs further study. (There is no place to pile the snow. The policy for plowing snow is to clear the travel way.)

Obstructions in the SidewalksA policy should be established for the replacement of telephone poles by utility companies.

Suggestions were also made for policies to be adopted:

- Pass a Complete Streets Policy.
- Utilize priority shared quarters for capital project planning.
- Publish 15-minute walking radius schedules around key locations around the City.

Suggestions were also made regarding parking:

- The right parking policy and price are the ones that guarantee that there will be spaces available.
- Smart technology would reduce enforcement costs and increase revenue. It would also allow for tiered pricing. A discussion was held by the Council and former Councilmember Gerry Seitz regarding a proposed trial of smart parking technology.

The workshop portion of the meeting ended at 8:22 p.m. The regular meeting began at 8:27 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.

Agenda Item 4 was taken out of order.

3. General Announcements

The Disaster Center on Harbor Island will be closing on October 8th for those who wish to file applications for disaster relief related to the flooding. It is being coordinated through the Westchester Office of Emergency Management and the Village of Mamaroneck.

4. Presentation by Mayor and City Manager of Certificates of Public Service to members of the City staff who have served Rye for twenty-five or thirty years

Mayor French commented on the tremendous sacrifice and service by City employees and said the Council appreciated their service in these challenging times. The Mayor and City Manager Pickup acknowledged the following employees for 25 and 30 years of service to the City:

James Detlefs (DPW)	25 years
Scott Fontecchio (DPW)	25 years
Philip Moccio (DPW)	25 years
Sgt. Louis Olivier (Police Dept.)	25 years
Daniel DeCarlo (Fire Dept.)	30 years
Sgt. Nicholas Groglio (Police Dept.)	30 years
Richard Roode (Fire Dept.)	30 years
Jeffrey Simpson (DPW)	30 years

5. Resolution to accept a donation from the Rye YMCA to the City in the amount of \$20,000

Mayor French noted that the City and the Rye YMCA have been working as partners in the area of pedestrian safety initiatives for several years. Gregg Howells, Executive Director of the Y, said that the Y had been able to secure \$20,000 in grant money specifically earmarked to address strategies identified to create healthier communities, such as complete streets and shared roadways. He suggested that the money could fund paint and signage to make streets safer for motorists, pedestrians and cyclists.

The vote on this agenda item was taken during the Old Business section of the meeting (Agenda Item 16).

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

RESOLVED, that the City Council of the City of Rye hereby accepts a donation from the Rye

YMCA in the amount of \$20,000, to be earmarked for pedestrian safety initiatives.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

6. Draft unapproved minutes of the regular meeting of the City Council held September 14, 2011 and the special meeting of the City Council held September 16, 2011

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the regular meeting of the City Council held on September 14, 2011, as amended.

Councilwoman Gamache made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the minutes of the special meeting of the City Council held on September 16, 2011, as submitted.

7. Mayor's Management Report

- Sustainability Committee Update on potential environmental and energy saving projects for the City

Sara Goddard, Karen Bresolin and Judy Martin updated the Council on the projects the Sustainability Committee has been working on over the last year, in connection with the following topics:

Greenhouse Gas Emissions Audit The group has worked to gather the necessary data for each sector of the audit (residential, commercial and municipal). All data has been entered into the ICLEI software program that converts all energy usage into equivalent carbon dioxide units. They are working on the “write up”.

Reusable Bag Initiative They have studied the best practices of other communities to learn about their initiatives; promoted public and merchant awareness and support for the initiative; and want to move forward on a proposed retail shopping bag ordinance with city staff. Curbside recycling of plastic bags is not effective and storewide recycling is not economically viable. Plastic litter does not go away and stays in the environment.

Outreach Activities The Committee wants to reach out to the community by expanding the Sustainability Page on the City website; distributing information packets at public events and seeking public input; participating in Eye on Rye segments; and working with other environmental committees and community organizations.

Grease Recycling Initiative Used cooking oil from local businesses could be collected, refined and converted into ultra low sulfur diesel fuel and then purchased by the City at a discount and used in DPW vehicles. This could yield a 5-10% reduction in diesel prices.

Energy Efficiency Members of the Committee participated in a walk through of Whitby Castle and City Hall with Judy Martin, a green home consultant, who identified areas for improvement and offered both quick fixes and long-term solutions involving proposed capital projects.

Next Steps The Committee will finish the Greenhouse Gas summary; continue to reach out to the community; continue to partner with other communities; look for a person to source grants and funding; and finish writing the Sustainability Plan.

- Transportation Project Update including Locust/Purchase, Central Avenue Bridge, North Street Bridge, Central Avenue closure

City Manager Pickup provided an update on the following projects:

Locust Avenue/Purchase Street The striping on the road will be finished by the end of the week. Next week the tree wells will be cleaned out and prepared and new trees planted. The final step will be to install the pedestrian lighting.

Central Avenue Bridge The final Utility Agreement has been completed between United Water and the State and should be signed by this week. The City has received all the required permits and is awaiting the final notice to go to bid from the Department of Transportation (DOT). The project can then go forward and can start in the winter.

North Street Bridge This project is being bid out by Westchester County and will require closure of the bridge. The City has spoken with Osborn representatives and School Board representatives regarding the impacts of traffic flow due to detouring. The completed project will include a five to six foot dedicated pedestrian walkway. If the County awards the bid, the project could start next year after school ends and carry through into the fall.

Thruway Authority Project The Thruway Authority has notified the City that it will be doing additional work on the bridge portion that crosses over the New York State Thruway at Central Avenue. It is scheduled to start in the summer of 2012 if funding is approved.

There was a lengthy discussion of the Central Avenue Bridge project by residents of the Central Avenue and Orchard Avenue area that included *Ken McComb, Vickie Edmunds, Victoria Cerami, Cedric Raine, Tim Kirby and Karen Schultz*. Concerns were expressed that rebuilding the bridge would create safety issues for children who think of the blocked off section of the road as their yard, as well as about speeding on the road and sight and safety issues created by parking on Central Avenue. Additional concerns were raised about flooding issues that might be increased by rebuilding the bridge. Others indicated their support for rebuilding the bridge, saying that traffic control and safety issues were magnified for residents of Orchard Avenue with the bridge closed.

It was noted that the design for the proposed bridge would elevate the structure and allow more water to pass through. A suggestion was made that greater flood mitigation could be provided by the removal of the smaller Lowenstein and Nature Center bridges south of the Central Avenue Bridge. The larger flood mitigation projects are upstream and require millions of dollars coming from many sources, which take time to receive approvals.

- Legal Update

Corporation Counsel Kristen Wilson reported on the following matters:

- 2 Central Avenue (Black Bass Grill) – The City has been working with the owners of the property in City Court regarding property maintenance violations. They have filed for a demolition permit with the City, which has not been granted yet. An asbestos report on the property has been finalized and the schedule is being finalized with the Court to make sure the building is demolished as quickly and safely as possible. Councilman Jovanovich reported that there is a proposal before the Planning Commission in connection with the property that calls for retail use on the first floor and apartments above. He said the proposal would require the applicant to seek variances from the zoning law. He said he did not believe the Planning Commission would issue a recommendation to the Zoning Board of Appeals in favor of granting the variances.
- *R.B. Conway v. City of Rye* - The Stipulation of Discontinuance has been filed and the Stipulation of Settlement has been signed and will be filed on Friday when the first payment is made.

8. Presentation on Pedestrian Safety update on Sonn/Boston Post Road and Midland/Palisade

City Manager Pickup said that Councils look at traffic and safety issues over time and analyze them to determine if they have been effective and, if not, try to figure out other alternatives. Updates were done and reported on two locations.

Midland/Palisade Intersection Two prior speed studies had been done on the area, which resulted in a series of recommendations regarding traffic calming opportunities. The City was able to obtain Federal stimulus money to fund improvements for the intersection, which included the installation of a crosswalk, speed radar signs, handicapped ramps and bump-outs in an attempt to slow traffic in the area, increase pedestrian safety and increase sight distance for drivers. The Federal Government has yet to sign off on the stimulus funds for the project. Brian Dempsey, representing the firm TRC Raymond Keyes, provided an update on the intersection subsequent to those improvements. Recent studies show there has been a significant decrease in speeds at the intersection and there have been no accidents at the location as a result of the improvements. The intersection works well from a traffic operation standpoint. They also looked at issues related to putting all-way stop signs at the intersection. If a stimulus improvement is modified within the first ten years, the money must be returned. The City has the right to put up a stop sign, but since Midland Avenue is a County road, the City would require County approval of a work permit to do any physical improvements to the road. The County Traffic Engineer has indicated the County would not be in favor of it because it is not warranted based on the requirements set forth in the Manual on Uniform Traffic Control Devices for an all-way stop and has the potential to increase rear-end accidents. Testing a stop-sign is an option, but could lead

to driver confusion if the sign is subsequently removed and would require adequate signage. Based on these facts, the recommendation of TRC is that an all-way stop is not warranted at this location. City Manager Pickup said that the City considers this intersection one piece of an extended school zone that is impacted by traffic and has been looking at the issue of reducing speed in the entire corridor.

Members of the public, including *Jim and Maggie Amico, Charmaine Neary, and Ted Carroll* strongly urged the Council to put up an all-way stop at the intersection, saying that it did not matter what the report indicated; that children's safety and not reducing speed was the reason for installing the signs; and that the issue was bigger than the traffic manual. Mayor French said it was the will of the Council for City staff to look into doing a pilot all-way stop sign at the intersection.

SonnDrive/Boston Post Road

City Manager Pickup said that the wave of students is an ongoing condition that will require investment, cooperation and changing behaviors in order to make the condition work. City Planner Christian Miller reported on recent analysis that had been done by the City's design engineer on the last segment of the diet that was implemented last year. Traffic counts were done in June and additional ones will probably be done. From the pre-diet analysis done in 2009 the volumes of traffic were consistent with the post-diet volumes at the intersections. There was no meaningful change other than the left-turn movement from Oakland Beach Avenue and the right-turn movement from northbound Boston Post Road to Oakland Beach Avenue where volumes increased. There was a modest reduction in speed in the area. There are concerns about the level of traffic congestion as a result of the project. The consultant is still analyzing improvements that could be made to vehicle flow by reducing the amount of delay associated with the pedestrian phase at the Boston Post Road/Oakland Beach Avenue intersection that allows for a diagonal crossing. The diet was successful in shifting the traffic over and improved the real and perceived safety issue of walking along Boston Post Road from Sonn Drive to Oakland Beach Avenue. The idea was to make it safer to cross at a signalized intersection with a crossing guard, but people are still crossing at Sonn Drive even though it is not safe and not advised. He said the next step would be to fill the holes in the data and look at other options. Mayor French said that there has been a suggestion to create a grid box near the back parking lot across from Sonn Drive in order to create better sight lines.

Members of the public commenting on the presentation included *Maureen Gomez, Eric Moy, Bob Zahm, Allison Kim and Kim O'Connor*. Their comments included:

- The dedicated right turn lane on the southbound side of the diet is what causes the traffic back up. Could the two southbound lanes be put back to the pre-diet condition?
- The purpose of the diet was to get children safely to school by crossing at the crosswalk at Oakland Beach Avenue. Counts should be taken of the number of people crossing at Sonn Drive vs. the number crossing at Oakland Beach Avenue.
- The diet improved pedestrian safety. The issue now is visibility for people coming out of the back parking lot due to traffic in the southbound lanes. Could a police officer be stationed at the location for a half hour in the morning and afternoon to help people turn

out of the parking lot? (The Council briefly discussed using Auxiliary Police but City Manager Pickup advised that he did not believe there was sufficient manpower to cover the location for a school year.)

- The “do not block the box suggestion” is a good idea.
- The diet has been successful in addressing the pedestrian safety issue along the corridor but may have contributed to traffic issues.
- Why is there a crossing guard at Central Avenue when there is no sidewalk on the Beverage Mart side of the street? (There is a sidewalk there and a significant number of students cross there everyday.)

9. Public Hearing to amend Chapter 100, “Floodplain Management” of the Code of the City of Rye by amending §100-5(B) “Standards for all structures” regarding requirements for homes in the floodplain

Corporation Counsel Wilson said that the proposed local law was a clarification of when utilities or structures need to be elevated. City Manager Pickup said that in order to participate in the Flood Insurance Program, which the New York State Department of Environmental Conservation (DEC) administers on behalf of FEMA, this amendment to their Model Ordinance should be adopted. There is a second issue relating to the New York State Building Code and the issue of interpretation of repair and replacement of mechanicals which is an ongoing discussion outside of the proposed legislation.

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

Members of the public who commented on the proposed local law included: *Ken McComb, Michael Dinger, Carolina Johnson, Victoria Cerami, Jake Haynes and Paul Alimena*. Their comments included:

- The requirement to raise mechanical systems is a hardship to people.
- Couldn't residents be given a “grace period” to comply with the law in order to stagger the projects over a year?
- Would non-compliance with the State Building Code come up in a home inspection if someone is trying to sell their house? (It is a separate process that the City does not administer.)
- The State Building Code offers two options: raising mechanicals or waterproofing them, which might be more cost effective for some people. (There are water resistant standards under the State Code.)
- Are there specific rules about what can be repaired and what must be replaced for certain mechanical systems after a flood?
- What constitutes a substantial improvement? (Any damage that exceeds 50% of the market value of the structure.)

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

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

**CITY OF RYE
LOCAL LAW No. 6 2011**

**A Local Law amending Chapter 100, “Floodplain Management”
of the Code of the City of Rye by amending
Chapter 100-5(B) “Standards for all structures”.**

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

Section 1. Chapter 100-5(B) “Standards for all structures” is hereby amended by adding the following language after the section title:

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 100-3B.

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.

ROLL CALL:

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

NAYS: None

ABSENT: Councilmembers Keith and Jovanovich

The local law was adopted by a 5-0 vote.

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

Jordan Glass, Esq. spoke about the composting toilets that the Board of Directors of Kuder Island Colony have agreed to put in on Hen Island. He said he did not believe they will solve the problems on the island because they require electricity to operate and not all units have electricity, plus there is no back up system for when they fail. City Manager Pickup suggested that Mr. Glass bring his questions to the Kuder Island Association and added that the City is working in conjunction with the County Health Department, the regulatory agency, and this is the regulatory solution that has been offered and approved. *Ray Tartaglione* asked if the City

Council believes there are problems with mosquitoes, sewage and potable water on Hen Island. Mayor French said that the County has tested the water in and around Hen Island and it has tested negative and added that the County has also said that mosquitoes are not a problem that the City or County needs to address.

11. Summary of the 2012 Budget Process and Consideration of setting the 2012 Budget Workshop schedule

City Manager Pickup presented a schedule of dates for proposed budget workshops that include:

- November 9: Budget Presentation
- November 14: Budget Workshop
- November 16: Council meeting where Budget questions can be addressed
- November 21: Budget Workshop
- November 30: Budget Workshop
- December 7: Public Hearing on the Budget
- December 14: Budget Workshop
- December 21: Adoption of the Budget

Mr. Pickup said that staff was still working on specific topics for the workshops and hope to notify the Council prior to the next meeting.

12. Resolution for a Budget Amendment to increase tax certiorari expense by \$1,330,850 for the Osborn Settlement

Corporation Counsel Wilson said that the amount was budgeted but funds must be transferred between accounts to cover the payment that was previously made.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Comptroller to increase the 2011 Budget for Tax Certiorari expense by \$1,330,850, by transferring that amount from the Fund Balance designated for Tax Challenges.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

13. Consideration to set a Public Hearing to adopt a Local Law to override the State enacted tax levy limitation

City Manager Pickup said that NYCOM is still working on a best practices update based on the law because the State is still working on how the Tax Cap will be implemented. The City is awaiting answers to questions it posed to the Office of the State Comptroller seeking guidance. He said that adopting a local law to override the State legislation would be another tool for the City if it was necessary to exceed the 2% levy. Mayor French was reluctant to set a public hearing prior to the presentation of the 2012 Budget. City Manager Pickup said that by setting a public hearing for December 7th it would hold a place if the Council determined it needed to override the tax cap.

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

WHEREAS, the Council wishes to adopt a Local Law to override the State enacted tax levy limitation; and

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

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

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on December 7, 2011 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

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

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing on a proposed local law to override the State enacted tax levy limitation.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 7th day of December, 2011 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposed local law to override the State enacted tax levy limitation.

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

Dawn F. Nodarse

City Clerk

Dated: November 25, 2011

14. Consideration of a request by the Rye Chamber of Commerce to close a portion of Purchase Street on Sunday, November 27, 2011 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event

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

RESOLVED, that the City Council of the City of Rye hereby approves the request of the Rye Chamber of Commerce to close a portion of Purchase Street on Sunday, November 27, 2011 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event.

15. Miscellaneous Communications and Reports

There were no matters discussed under this agenda item.

16. Old Business

Councilwoman Keith asked for an update on Highland Hall. City Manager Pickup said that the second air test has not been completed yet and the owners are still doing cleaning and remediation. The hotel stays for residents have been extended for at least another week to ten days. Ms. Keith also asked what was being done about the situation of basement apartments in the floodplain. Corporation Counsel Wilson said it was being looked into because it will affect more than one property. Ms. Keith also asked for an update on the issue of crossing guards. City Manager Pickup said that there was no money in the budget to fund a study but added that because of the growth of the school population it is a matter that the City and Board of Education will have to deal with.

Mayor French said that EAGR had been asked to provide comment on composting toilets and suggested asking the Conservation Commission/Advisory Counsel (CC/AC) as well.

17. New Business

Councilwoman Keith asked what would happen to the orange barrels in the Central Business District with the completion of the renovations downtown. City Manager Pickup said they would be removed. Ms. Keith also asked for an update on Playland. Mayor French said that the Playland Committee had submitted their report to the County recommending that three

proposals continue to the next round for consideration. They are now being reviewed by County staff.

18. Adjournment

There being no further business to discuss Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the meeting at 12.51 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk



CITY COUNCIL AGENDA

NO. 6

DEPT.: City Council

DATE: October 19, 2011

CONTACT: Mayor Douglas French

AGENDA ITEM: Mayor's Management Report

FOR THE MEETING OF:

October 19, 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:

- Update on the Rye Historical Walking Tour
- Financial Update on 3rd Quarter results
- Legal Update



CITY COUNCIL AGENDA

NO. 7

DEPT.: City Manager's Office

DATE: October 19, 2011

CONTACT: Scott Pickup, City Manager

ACTION: Discussion of amending City of Rye Local Law Chapter 53, "Architectural Review" to reduce the number of applications subject to architectural review.

FOR THE MEETING OF:

October 19, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: A recommendation has been made to review Local Law Chapter 53, "Architectural Review" to reduce the number of applications which are currently subject to architectural review including:

- the clarification of small projects and exemption of small projects from review
- the removal of additional review on items such as windows and doors

See attached applicable sections of the current Local Law.

BAR Applications by year

2000 - 247

2001 - 225

2002 - 246

2003 - 298

2004 - 259

2005 - 265

2006 - 195

2007 - 234

2008 - 173

2009 - 152

2010 - 158

2011 - 186 - through the last BAR meeting date of 10/11/11

8 - pending applications for the next meeting date of 10/24/11

194 to date

§ 53-1. Legislative findings; definitions.

A. The Council hereby finds that excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of structures erected, reconstructed or altered in any residential, business and other areas in the City of Rye adversely affects the desirability of the immediate area and neighboring areas within the community and by so doing impairs the benefits of occupancy or use of real property in such areas, impairs the stability and value of both improved and unimproved real property in such areas, prevents the most appropriate development of such areas, produces degeneration of the property in such areas, with attendant deterioration of conditions affecting the health, safety, morals and general welfare of the inhabitants of the community, and destroys a proper relationship between the taxable value of real property in the community and the cost of municipal services provided therefor. It is the purpose of this chapter to prevent these and other harmful effects and thus to promote and protect the health, safety, morals and general welfare of the community.

B. As used in this chapter, the following terms shall have the meanings indicated:

[Amended 5-31-1995 by L.L. No. 6-1995]

ERECTED, RECONSTRUCTED or ALTERED

As defined in Chapter 68, Building Construction, of the Code of the City of Rye and in the approved regulations of the Building Inspector.

ORDINARY MAINTENANCE AND REPAIR

As defined in Chapter 68, Building Construction, of the Code of the City of Rye and in the approved regulations of the Building Inspector.

SMALL PROJECT

Any addition to or alteration or modification of an existing single- or two-family residence structure:

(1) For which a valid certificate of occupancy exists for all structures on the property;

(2) Upon which property there are no open building permits and no building permit or certificate of occupancy was issued within the immediate past 12 months;

(3) That:

(a) Has a gross floor area of 300 square feet or less where located in Zoning Districts R-1, R-2 and R-3 and 200 square feet or less where located in all other zoning districts;

(b) Does not create a second story if none previously existed on the structure; and

(c) Is less than 15% of the existing floor area of the structure; and

(4) That does not substantially change the appearance visible from the street of any front or side facade or roof.

STRUCTURE

Includes all buildings, accessory buildings, decks, signs and satellite earth station dish antennas as defined by Chapter 108, Housing Standards, and Chapter 197, Zoning, of the Code of the City of Rye.



CITY COUNCIL AGENDA

NO. 8

DEPT.: City Council

DATE: October 19, 2011

CONTACT: Councilman Joseph Sack

ACTION: Follow-up discussion of Rye Town Park policy on dogs and the City of Rye Local Law Chapter 76, "Dogs".

FOR THE MEETING OF:

October 19, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council discuss the City of Rye ordinance regarding dogs.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The City of Rye Code Chapter 76 "Dogs", adopted pursuant to NYS Agriculture and Markets Law section 122, currently requires that dogs must be on the leash at all times. Some residents have suggested that dogs be allowed off-leash at Rye Town Park from 5 a.m. to 9 a.m. in a designated area during specific times of the year.

See attached applicable sections of the current Local Law.

Chapter 76. DOGS

[HISTORY: Adopted by the Council of the City of Rye 2-4-1942 as Section 6-3.5 of Ch. 3 of the General Ordinances; amended in its entirety 12-15-2010 by L.L. No. 10-2010. Subsequent amendments noted where applicable.]

§ 76-1. Purpose.

The purpose of this chapter is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack damage.

§ 76-5. Running at large prohibited.

No person owning, harboring or having the custody and control of a dog shall permit such dog to be at large in the City of Rye, elsewhere than on the premises of the owner, except if on the premises of another person with the knowledge and consent of such other person.

§ 76-6. When leash required.

The owner, harborer or person having the custody and control of a dog in the City of Rye which is not on the premises of the owner or upon the premises of another person with the knowledge and consent of such person shall control and restrain such dog by a chain or leash not exceeding eight feet in length.

§ 76-8. Penalties for offenses.

Every person found to have violated this chapter shall be liable for a civil penalty of not less than \$25 nor more than \$50; for a second such determination within one year after the date of the prior violation, such person shall be liable for a civil penalty of not less than \$50 nor more than \$75; and upon a third or subsequent determination within one year after the date of first violation, such person shall be punished by a penalty of not less than \$75 nor more than \$100.



CITY COUNCIL AGENDA

NO. 10

DEPT.: City Manager's Office

DATE: October 19, 2011

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Consideration of referral to the Board of Architectural Review, the Special Permit Application submitted by United Water Westchester, Inc. for the installation of towers and telecommunications equipment to collect billing information.

FOR THE MEETING OF:

October 19, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council refer the Special Use Permit Application by United Water Westchester, Inc. to the BAR.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: United Water Westchester, Inc. is seeking approval to place towers and telecommunications equipment in the City at eight specified locations. This equipment would allow them to collect billing information on a drive-by basis without having to enter consumer homes.

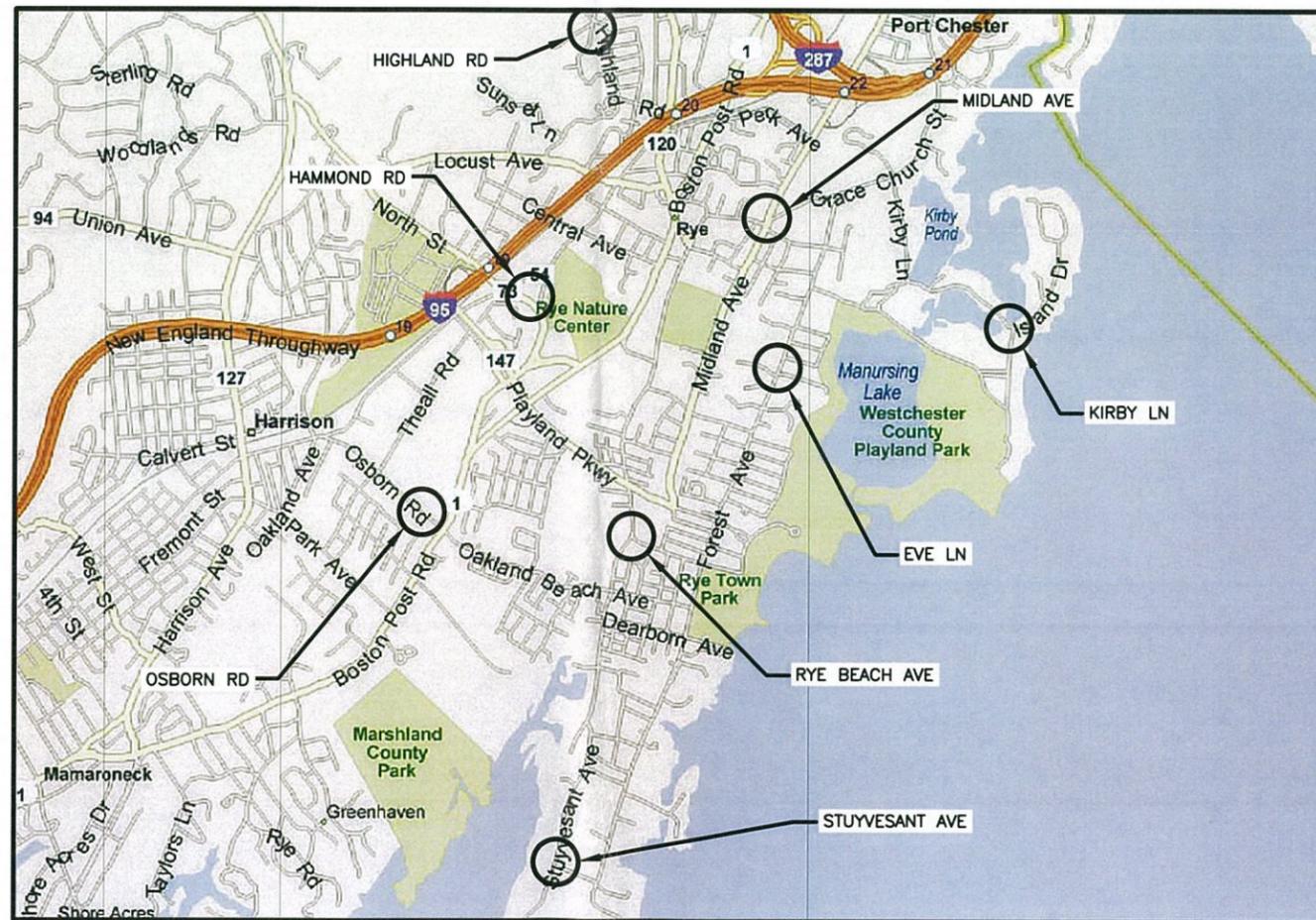
Pursuant to Sections 196-13 and 196-16 of the Code of the City of Rye the Council may refer the application to the Board of Architectural Review (BAR).

See attached application.

UNITED WATER WESTCHESTER, INC.
 NEW ROCHELLE, NEW YORK

AMI WESTCHESTER PROJECT CITY OF RYE

AUGUST 2011



SOURCE: MICROSOFT MAPPOINT 2010

SITE PLAN
 NOT TO SCALE

CAMP DRESSER & MCKEE
 ALBANY, NEW YORK

DRAWING INDEX

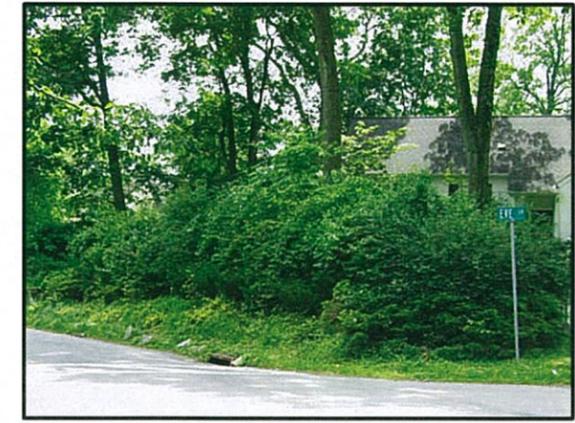
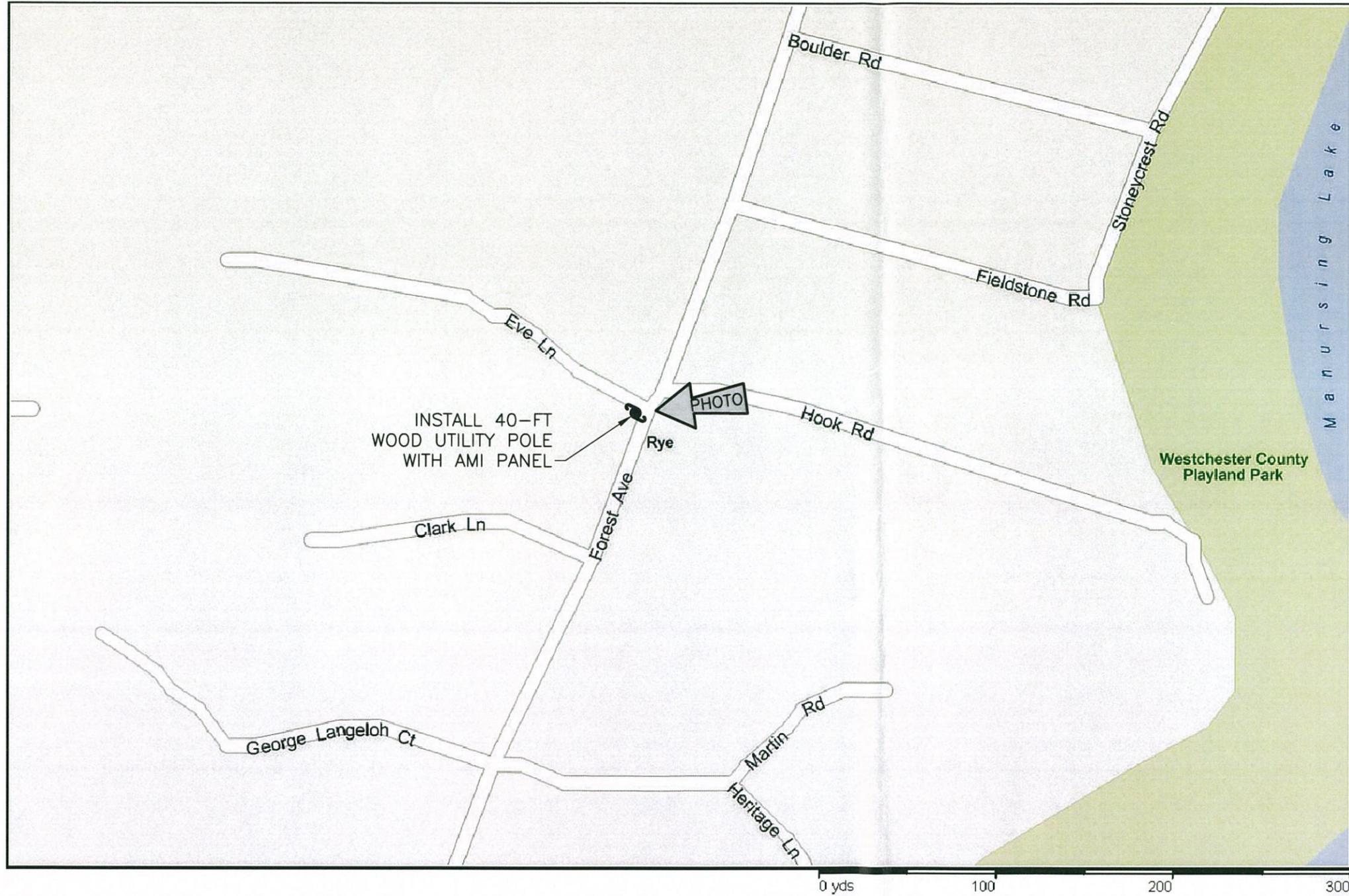
- COVER SHEET
- EVE LANE PLAN
- HAMMOND ROAD PLAN
- HIGHLAND ROAD PLAN
- KIRBY LANE PLAN
- MIDLAND AVENUE PLAN
- OSBORN ROAD PLAN
- RYE BEACH AVENUE PLAN
- STUYVESANT AVENUE PLAN
- GENERAL SCHEMATIC
- UTILITY POLE SIZE AND DETAILS



WARNING:
 IT IS A VIOLATION OF SECTION 7209, SUB-DIVISION 2 OF THE NEW YORK STATE EDUCATION LAW FOR ANY PERSON UNLESS ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER OR LAND SURVEYOR TO ALTER IN ANY WAY PLANS, SPECIFICATIONS, PLATES OR REPORTS TO WHICH THE SEAL OF A PROFESSIONAL ENGINEER OR SURVEYOR HAS BEEN ATTACHED.

CDM
 Camp Dresser & McKee
 11 British American Blvd.
 Latham, NY 12110
 Tel: (518) 782-4500

consulting • engineering • construction • operations

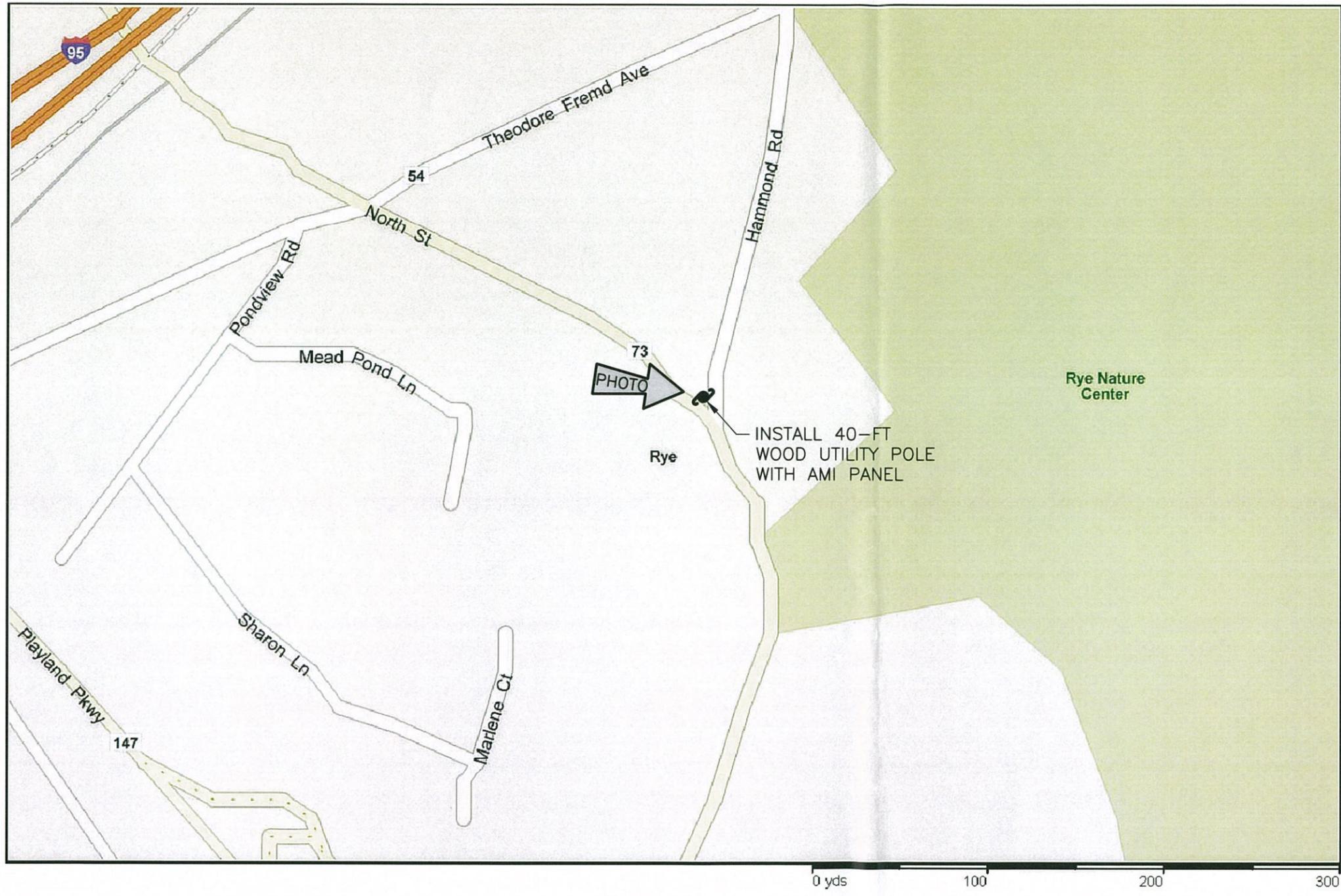


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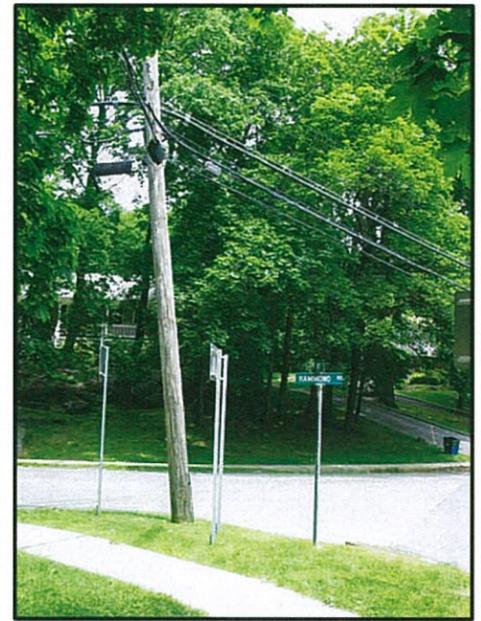


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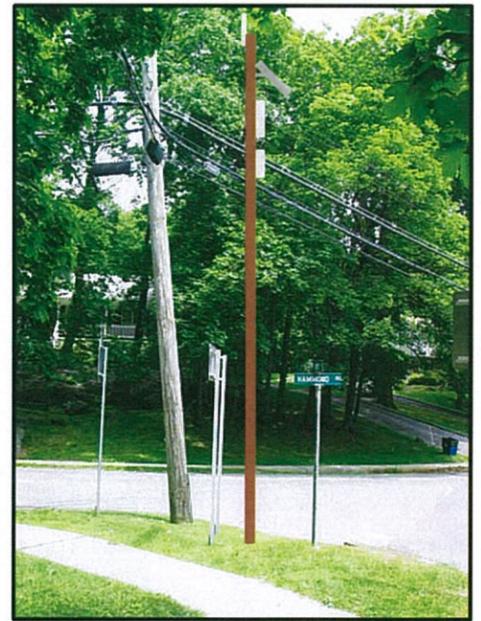
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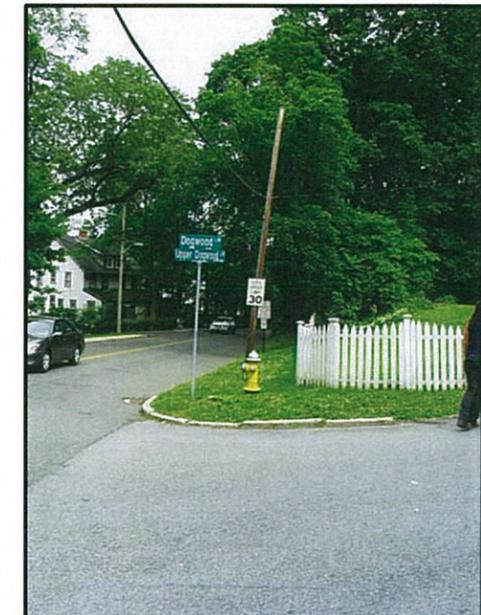
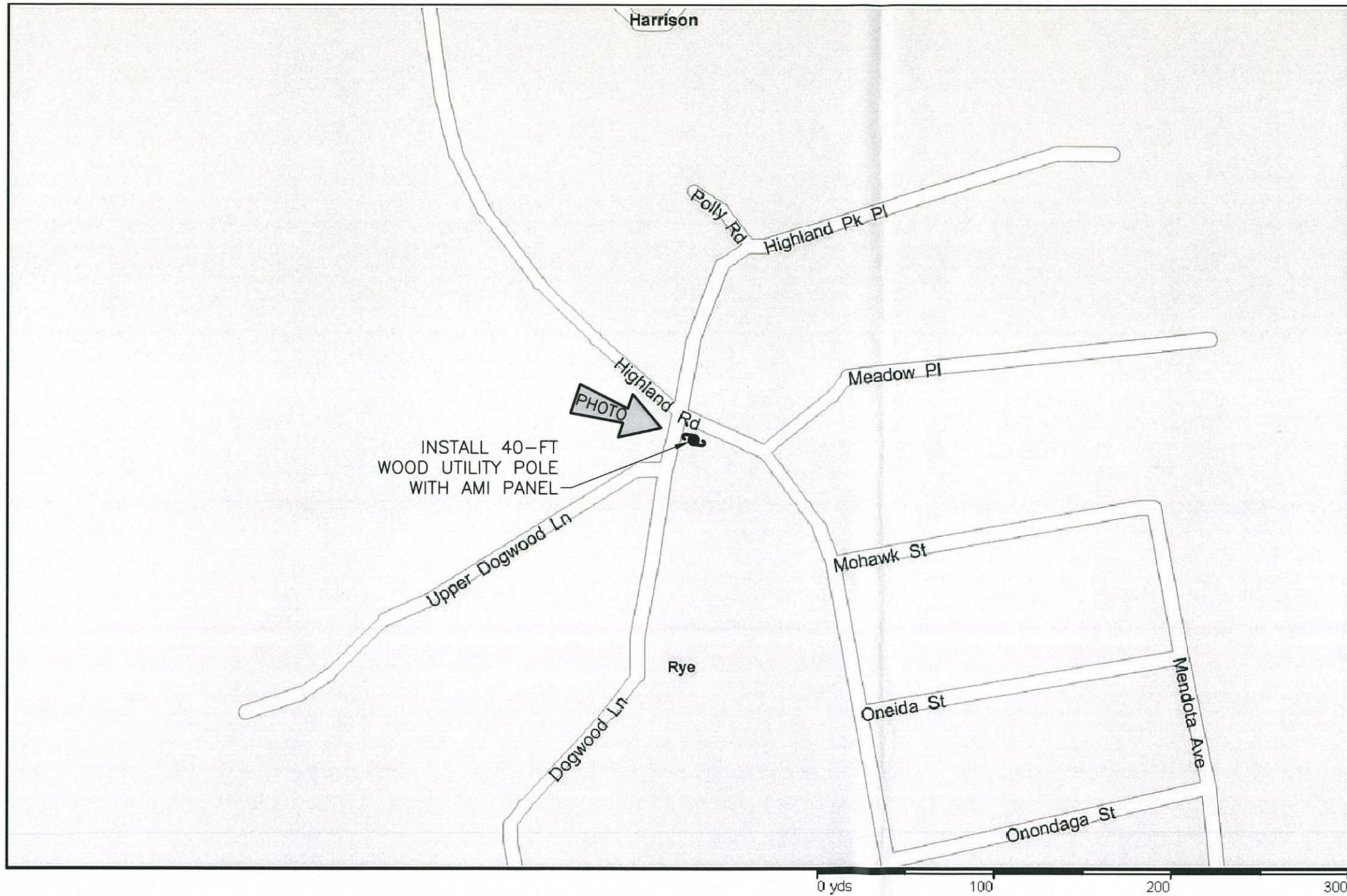
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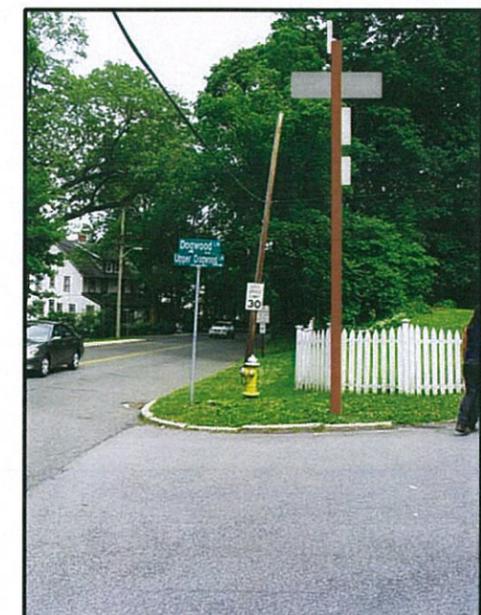
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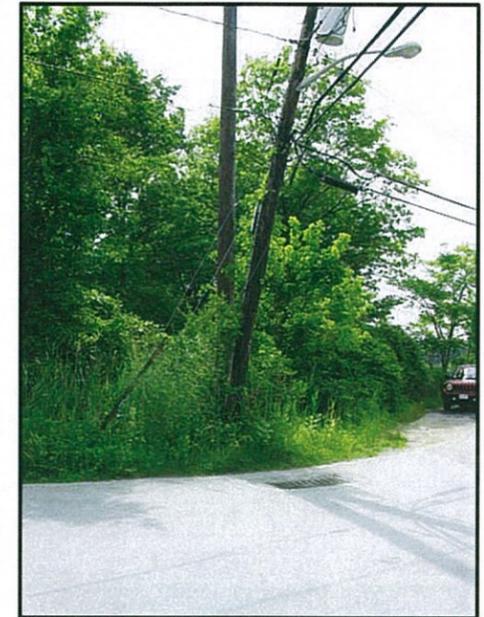
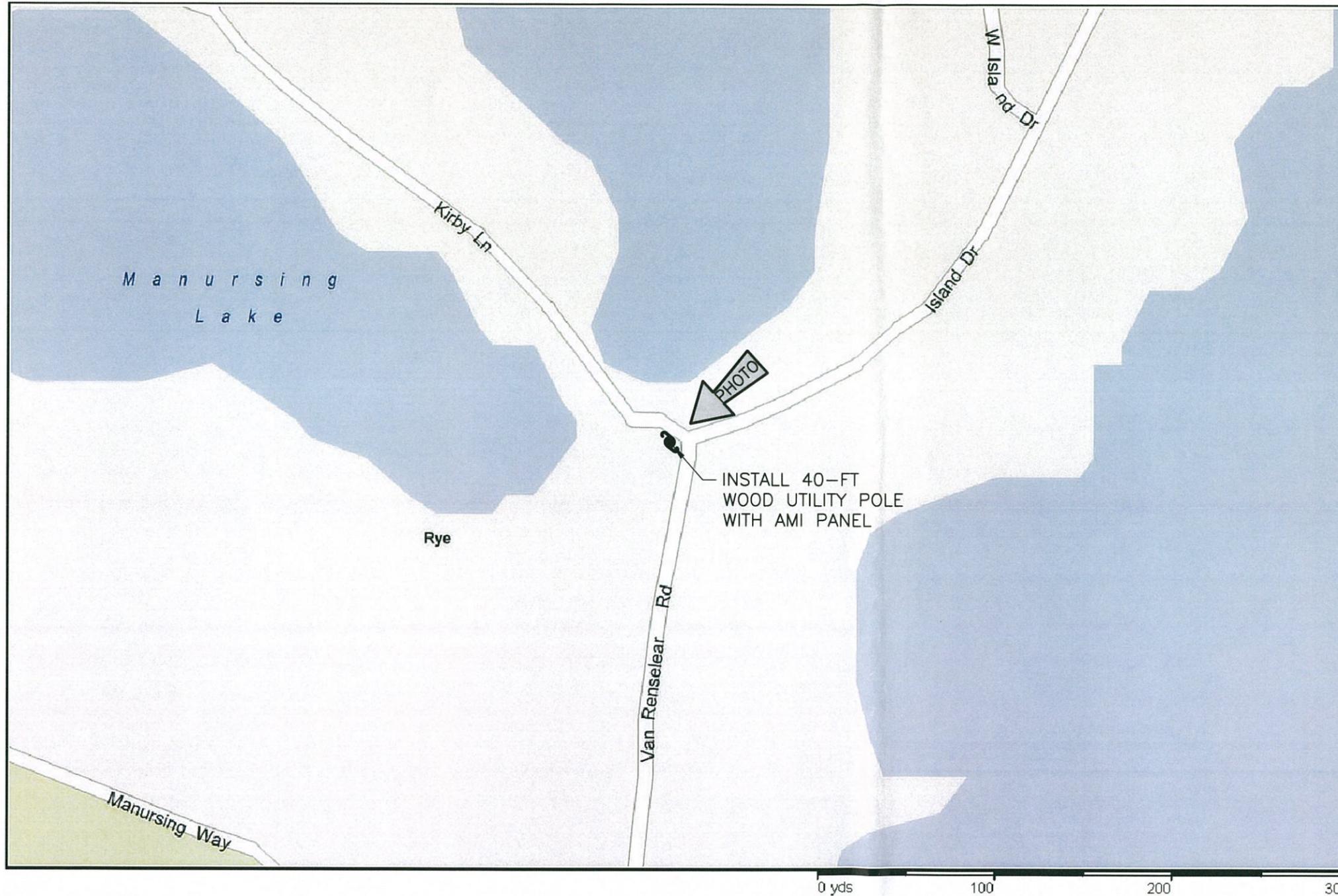


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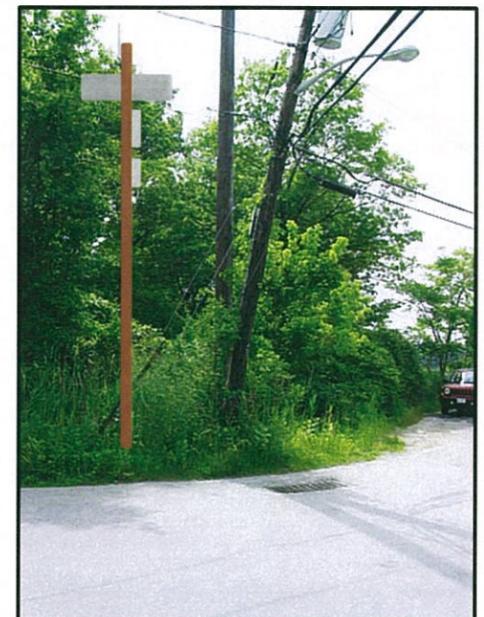
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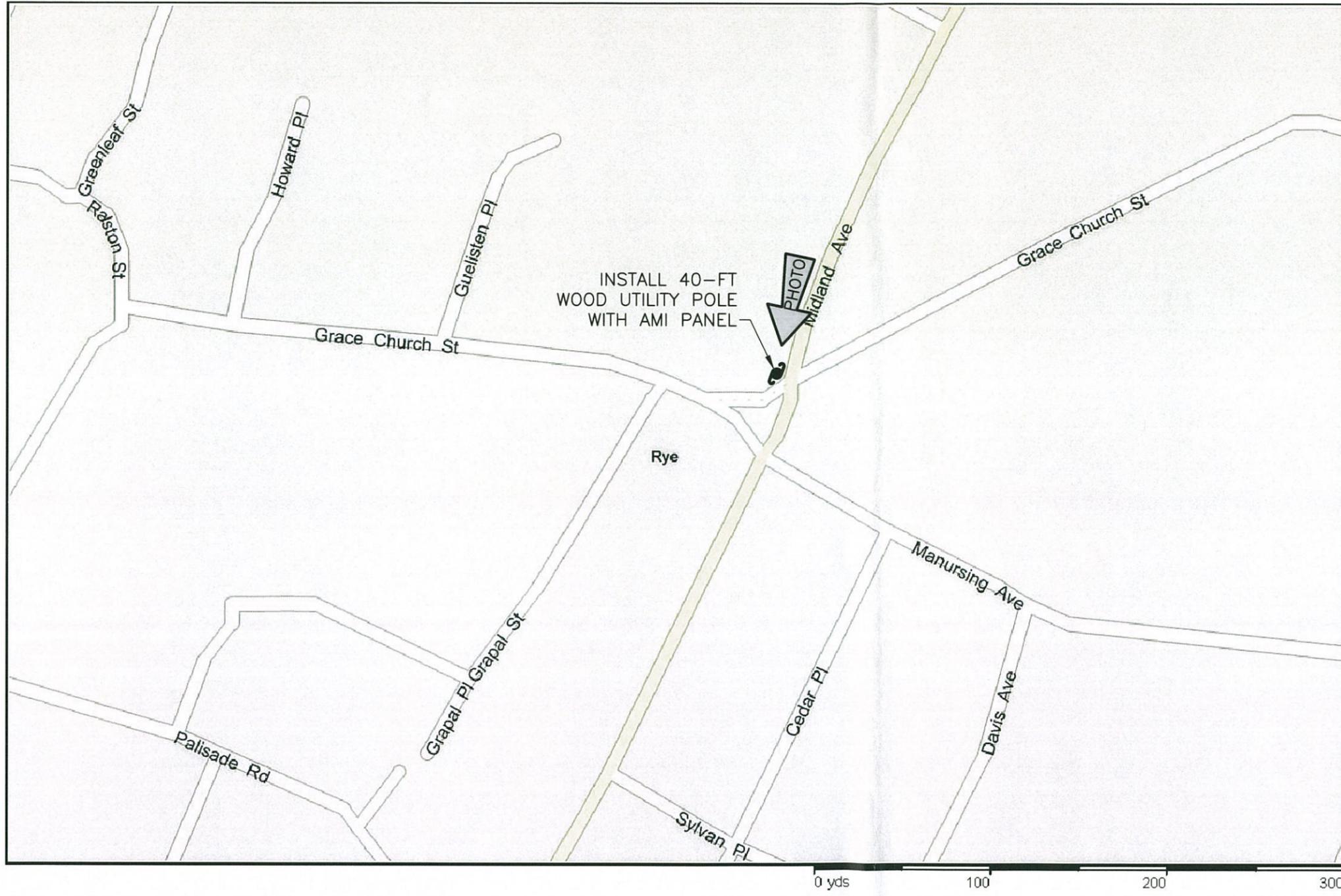
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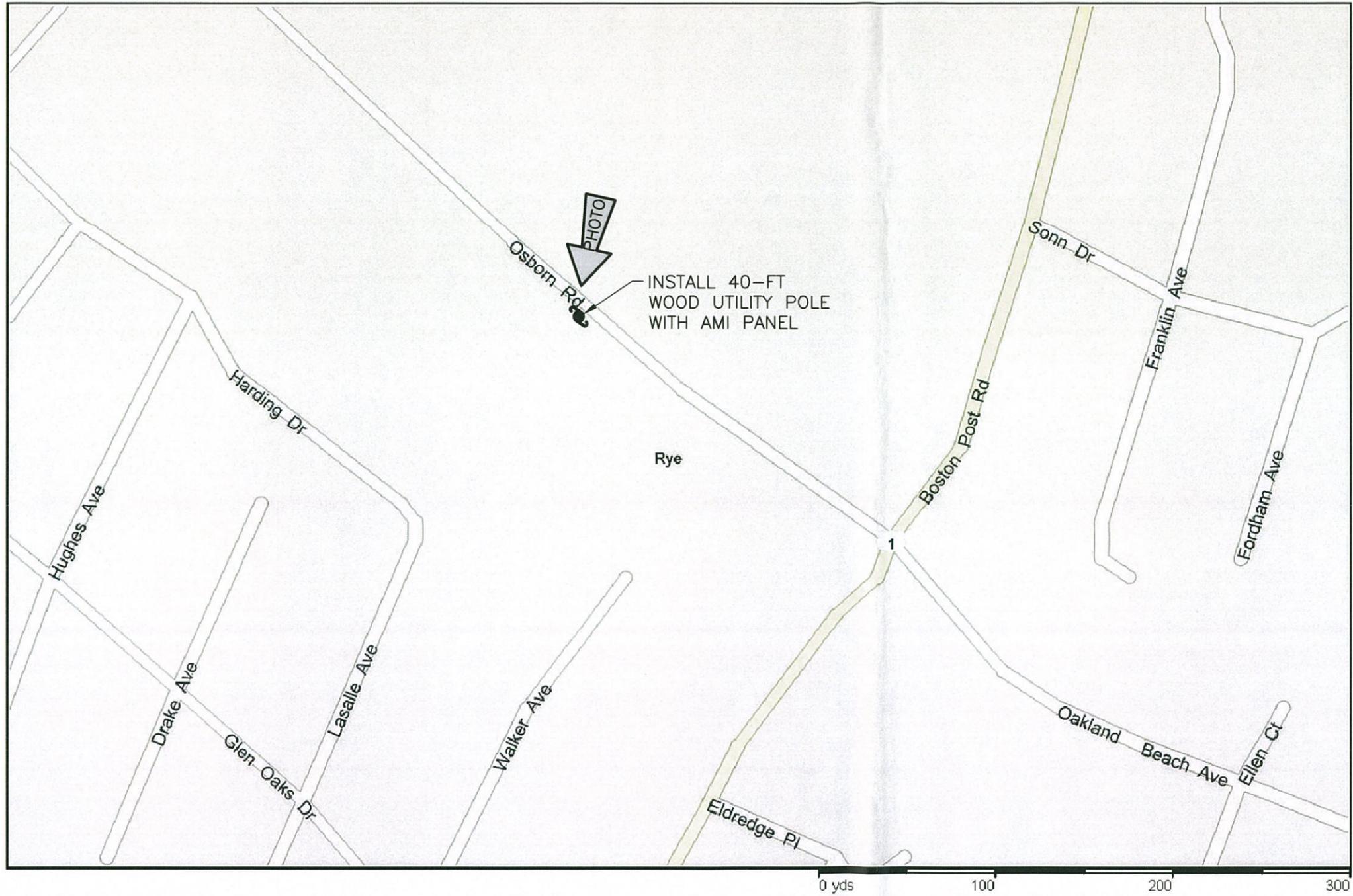
NOTE:

VARIOUS EXISTING POLE TYPES ARE LOCATED AT THIS INTERSECTION. UNITED PROPOSES TO USE A 40-FT WOOD POLE, HOWEVER CAN USE OTHER MATERIALS IF THE CITY PREFERS.



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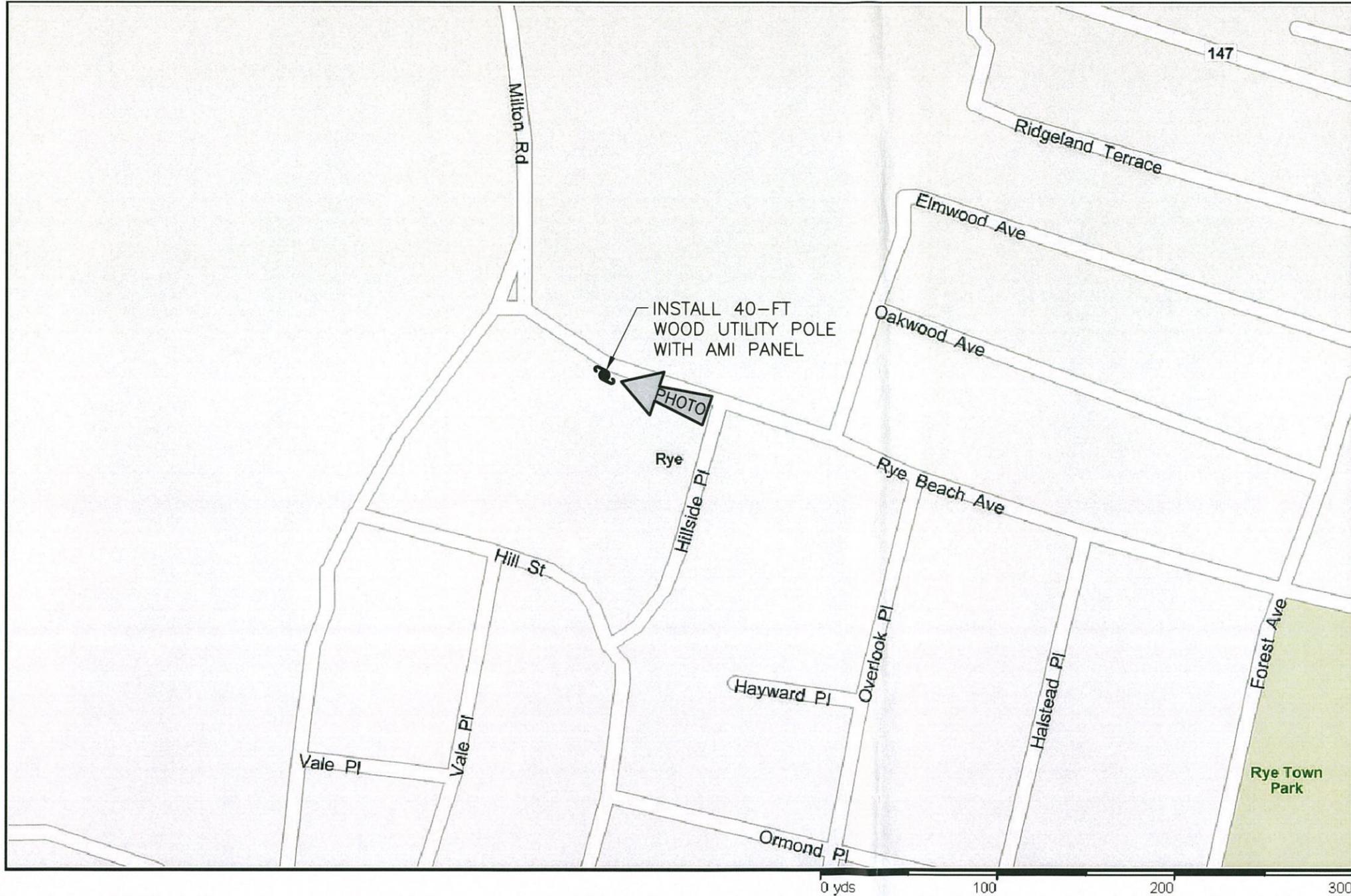
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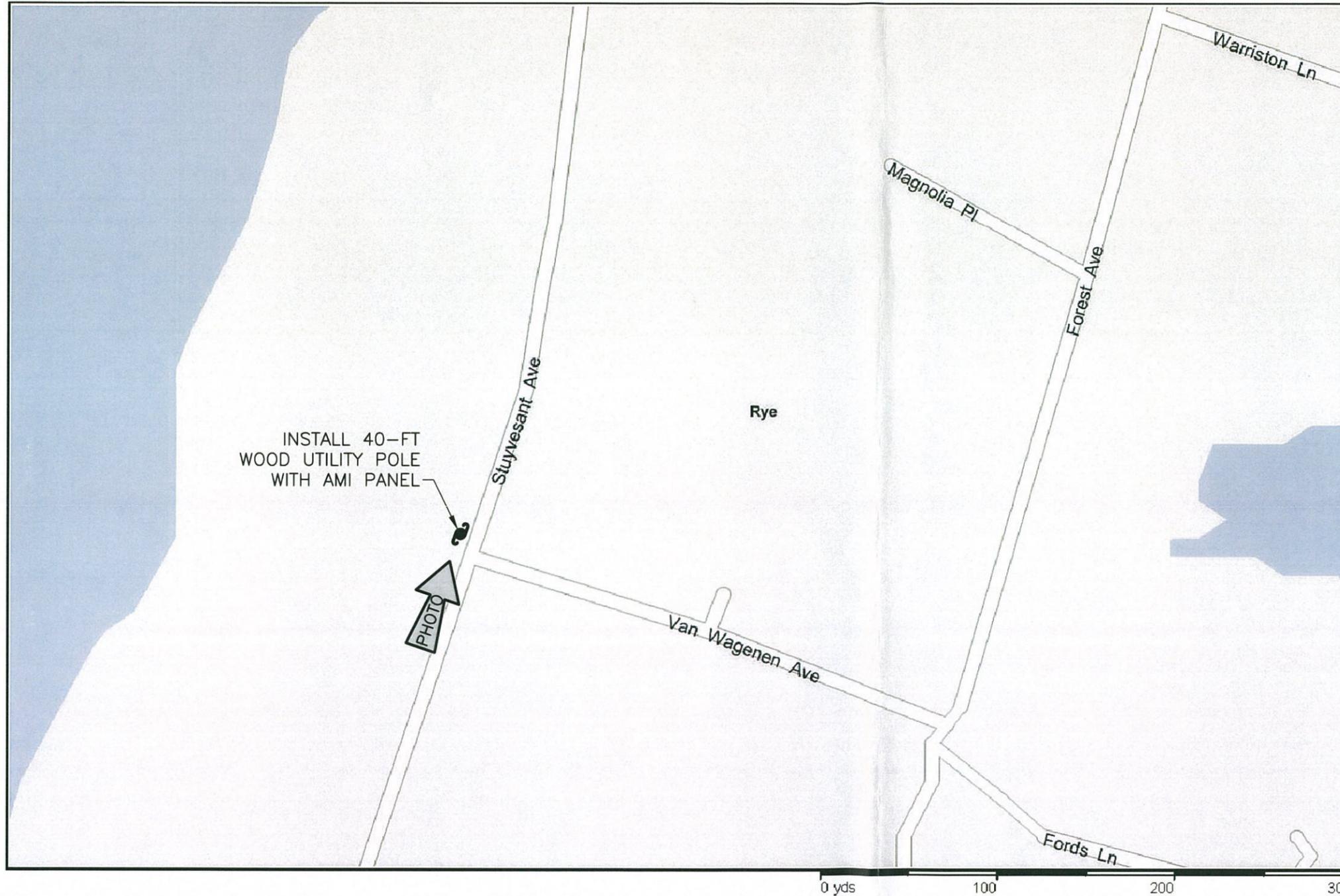
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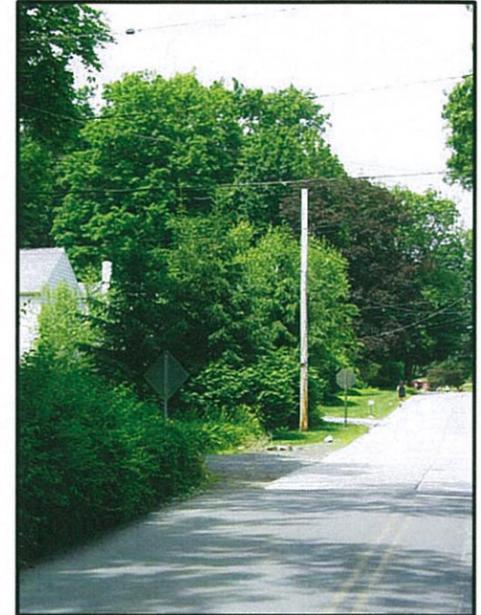
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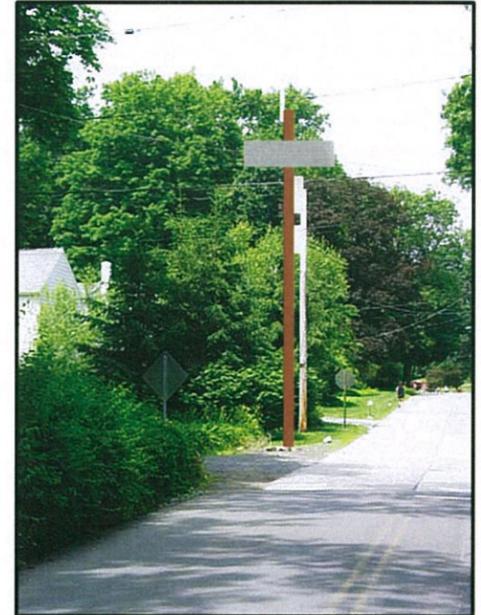


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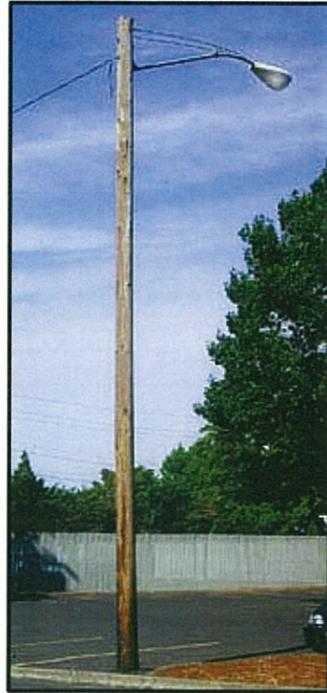


PROPOSED SITE PHOTOGRAPH

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FIBERGLASS POLE



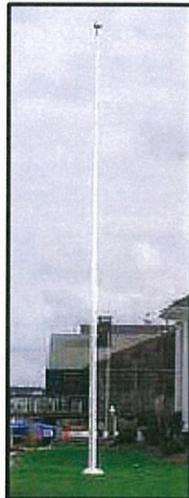
WOOD POLE



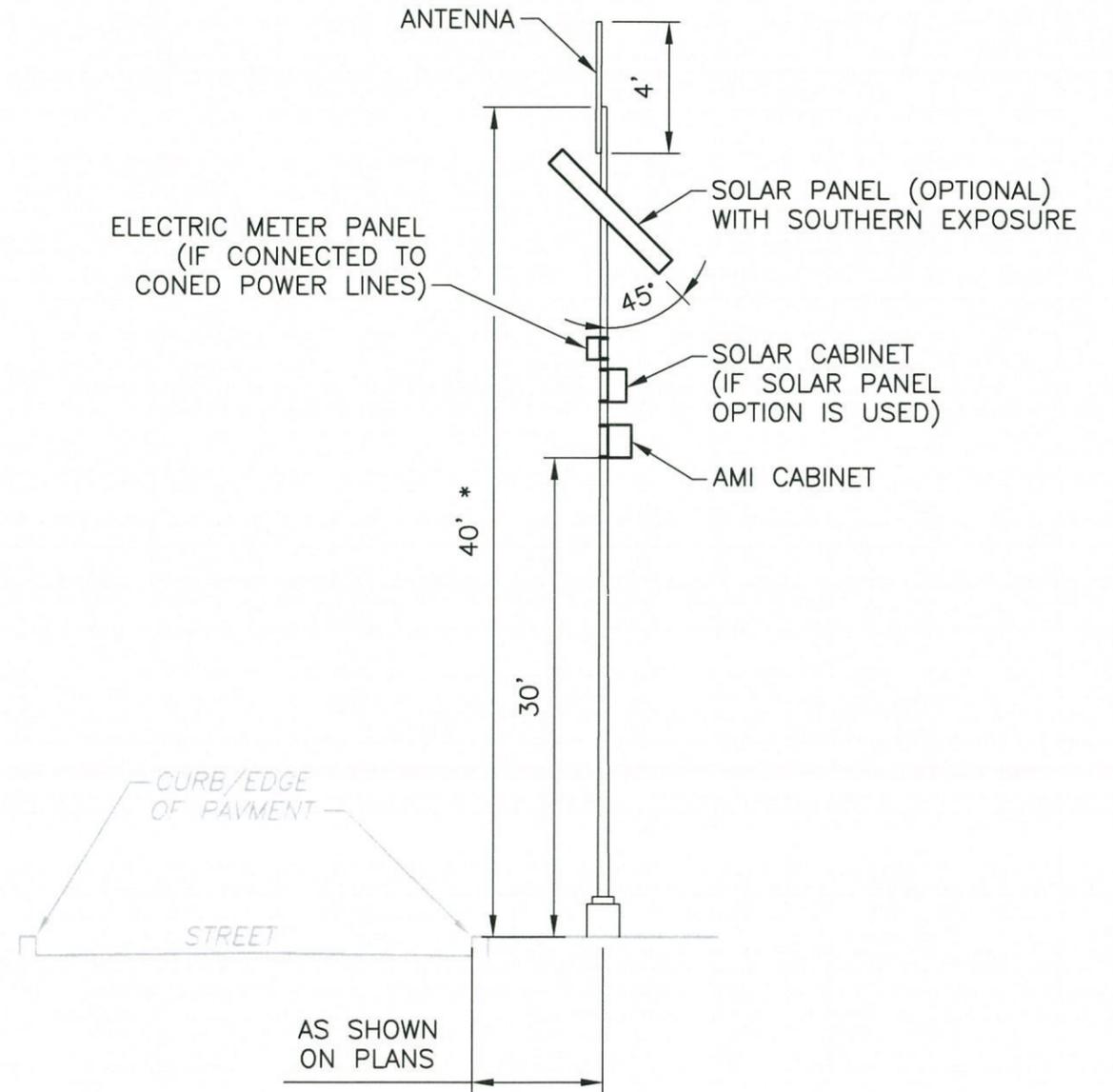
GALVANIZED POLE



GREEN PAINTED
STEEL POLE



FLAGPOLE



* HEIGHT OF POLE AND POLE MATERIAL CAN VARY ACCORDING TO THE REQUIREMENTS OF EACH MUNICIPALITY AND CURRENT POLE STANDARDS.

SCHEMATIC

NTS

40-FT Fiberglass				
Height (feet)	Diameter (inches)			Class
	Butt	Groundline	Tip	
40	21.43	20.59	16.05	H6
40	21.43	20.59	16.05	H5
40	21.31	20.47	15.89	H4
40	21.21	20.37	15.75	H3
40	16.92	16.08	11.59	H2
40	16.85	16.01	11.48	H1
40	15.96	15.12	10.63	1
40	15.82	14.98	10.42	2
40	15.82	14.98	10.42	3
40	15.82	14.98	10.42	4

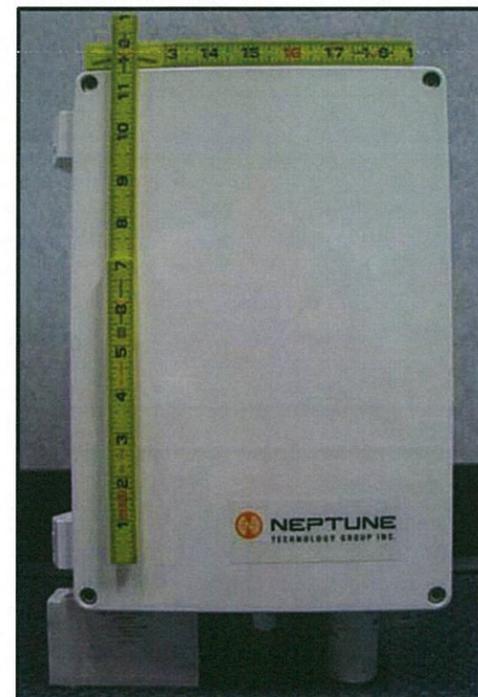
40-FT Wood Pole		
Height (ft)	Butt (ft)	Circumference (inches)
40	6.5	41
40	6.5	38.5
40	6.5	36
40	6.5	33.5
40	6.5	31
40	6.5	28.5

40-FT Galvanized Steel / Green Painted Steel						
Height	Butt	Groundline	Tip	Class	OD	Wall
40	10.75	10.75	10.75	1	8.625	0.145
40	9.625	9.625	9.625	2	8.625	0.188
40	8.625	8.625	8.625	3	8.625	0.188
40	8.625	8.625	8.625	4	9.625	0.188
40	8.625	8.625	8.625	5	10.75	0.188

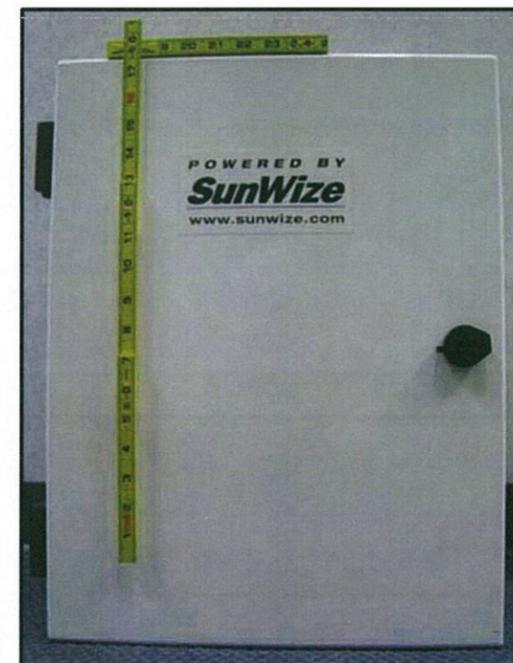
AMI Components Table			
Components	Dimensions (inches)		
	Height	Width	Depth
AMI Collector Panel	17	10	7
Sunwize Solar Battery Cabinet	21	16	12
Solar Panel	57	30	7

Utility Pole Size and Details		
	Location	Material*
Rye	Eve Lane	Wood
	Hammond Road	Wood
	Highland Road	Wood
	Kirby Lane	Wood
	Midland Avenue	Wood
	Osborn Road	Wood
	Rye Beach Avenue	Wood
	Stuyvesant Avenue	Wood
Port Chester	Grace Church Street	Wood
	King Street	Wood
	Parkway Drive	Wood
	Poningo Street	Wood
	Summit Avenue (2)	Antennae only
	Gilbert Place	Wood
	Loch Lane	Wood
Rye Brook	Anderson Hill Road	Wood
	Belle Fair Boulevard	Wood
	Berkley Drive	Wood
	Hillcrest Avenue	Wood
	Parkwood Place	Wood

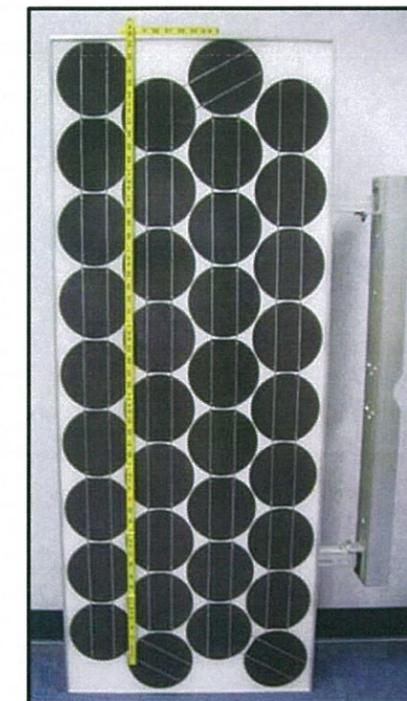
* UNITED WATER CAN INSTALL OTHER TYPES OF POLES TO MEET MUNICIPALITY REQUIREMENTS AS SHOWN ON THE GENERAL SCHEMATIC SHEET AND DETAILED ABOVE.



AMI COLLECTOR PANEL



SOLAR BATTERY CABINET (OPTIONAL)



SOLAR PANEL (OPTIONAL)



CITY COUNCIL AGENDA

NO. 11

DEPT.: City Council

DATE: October 19, 2011

CONTACT: Councilwoman Suzanna Keith

ACTION: Consideration to set a Public Hearing to add a proposed local law to prohibit the use of plastic bags by Rye Merchants.

FOR THE MEETING OF:

October 19, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: A proposal was presented by the Sustainability Committee to the City Council to adopt a new ordinance prohibiting the use of plastic bags for retail checkout of purchased goods. The Committee previously presented the proposal to the Rye Merchants at a Chamber of Commerce meeting; their support for the proposal is evidenced in fifty-five (55) signatures on the Sustainability petition for the new ordinance.

See attached draft Local Law and petition.

CITY OF RYE
LOCAL LAW NO. __ OF 2011

A Local Law to add Chapter 154 “Retail Checkout Bags” to the City Code of the City of Rye to encourage the use of reusable checkout bags and prohibit the use of plastic bags for retail checkout of purchased goods

Be it enacted by the Rye City Council as follows:

Section 1. Chapter 154 Retail Checkout Bags

§ 154-1. Purpose.

The intent of this ordinance is to improve the environment in Rye by encouraging the use of reusable checkout bags and banning the use of plastic bags for retail checkout of purchased goods. Retail establishments are encouraged to make reusable bags available for sale.

§ 154-2. Justification.

Non-biodegradable plastic bags often are discarded into the environment and end up polluting our waterways, clogging sewers, endangering marine life and causing unsightly litter. These bags last hundreds of years in landfills and are a potential source of harmful chemicals when they do break down.

§ 154-3. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section:

CHECKOUT BAG - a carryout bag that is provided to a customer at the point of sale. The term "checkout bag" does not include plastic produce bags or plastic bags measuring 28" by 36" or larger in size.

PLASTIC PRODUCE or GARMENT BAG - a flexible container made of very thin plastic material with a single opening that is used to transport clothing from a dry cleaner, produce, meats or other items selected by customers to the point of sale.

RETAIL SALES - the transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmers' markets, flea markets and restaurants. The term "retail sales" does not include sales of goods at yard sales, tag sales, other sales by residents at their home, and sales by not-for-profit organizations.

RECYCLABLE PAPER BAG - a paper bag that should have the following characteristics: (1) contains no old growth fiber; (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content; and (3) displays the words "Reusable" and "Recyclable" on the outside of the bag.

REUSABLE BAG - a bag with handles that is specifically designed and manufactured for multiple reuse and is: (1) made of cloth or other fabric; and/or (2) made of durable plastic that is at least 2.25 mils thick.

§ 154-4. Restriction on checkout bags.

- A. Any person engaged in retail sales shall provide only reusable bags and/or recyclable paper bags as checkout bags to customers.
- B. Nothing in this section shall preclude persons engaged in retail sales from making reusable bags available for sale to customers.

§ 154-5. Effective date.

This Chapter shall become effective six (6) months following its adoption to allow retail establishments to dispose of their existing inventory of plastic checkout bags and convert to alternative packaging materials.

§ 154-6. Penalties for offenses; continuing violations.

- A. In the event that there is noncompliance with this chapter, the owner of the property or the owner's agent or the person performing such violation shall be notified in writing and shall forthwith stop with the violating activity. Such notice shall be in writing and may be served upon a person to whom it is directed either by delivering it personally to him or her or by posting same upon a conspicuous portion of the property and sending a copy of same by certified mail.
- B. The penalty for each violation shall be up to \$150.00.
- C. Each occurrence of a violation, and each day that such violation continues, shall constitute a separate violation and shall be subject to a separate penalty and may be cited as such.

Section 2. This local law will take effect six months upon filing in the Office of the Secretary of State.

MERCHANT SIGNATURES AS OF: Wednesday, October 19, 11

Name	Signed Pledge
Alfred Harcourt Foundation	1
Angelas	1
Arcade Booksellers	1
Benefit Cosmetics	1
Better Homes/Rand Realty	1
Blue Monster Promotions	1
Blush	1
Bubble and Tweet	1
Carpet Trends	1
Citibank	1
Coldwell Banker/Country Properties	1
Corner Stone Caterers	1
Crozier-Gedney Architects	1
Dock Deli	1
Financial Spyglass	1
Fong's Dry Cleaning	1
Fresh Green Light	1
Gallery 52	1
Great Stuff	1
Hampton White	1
Houlihan Lawrence	1
Jay Heritage Center	1
June and Ho	1
JWH Design and Cabinetry	1
Le Beastro	1
Lola	1
Longford's Ice Cream	1
Morgan's Fish House	1
The Open House	1
Parkers	1
Patisserie Salzburg	1
Pilates Studio of Rye	1
Planet Pizza	1
Post Rd Market	1

DBA Allstate Insurance	1
R&M Woodrow Jewelers	1
Rhythm in Rye	1
Rock Island Sound	1
Rockridge Deli	1
Ruby's Oyster Bar & Bistro	1
Rye Art & Framing	1
Rye Beach Pharmacy	1
Rye Beverage Mart	1
Rye Health and Fitness	1
Rye Historical Society	1
Rye Nature Center	1
Rye Town Park	1
Scissors on the Sound	1
Silver Rush	1
State Farm	1
The Framing Corner of Rye	1
The Rye Free Reading Room	1
The Rye Grill & Bar	1
The Rye Record	1
The Rye Stationer	1
Trapp Optician	1
Tutta Bella Spa and Salon	1
Twinkle Toes	1
UPS	1
Wainwright House	1
Weezie D.	1
Wine At Five	1
Wish	1
<hr/>	
TOTAL YES	63

Notes:

- One "no": Sole Ryeders
- Most, but not all, are Chamber of Commerce members
- There is one signature for Rye Grill & Bar, Morgan's, Ruby's (same owner)
- There is one signature for Wish and Twinkle Toes (same owner)
- Jay Heritage head "signed" via email

RETAIL SHOPPING BAG ORDINANCE – FAQs

Justification/Background

Q: Why do we need a retail shopping bag ordinance?

A: Single-use, disposable plastic bags are a major source of litter and pollution in our environment. These bags do not biodegrade, are extremely difficult to recycle, and can only be “reused” once before being discarded. Most are never used more than once to transport goods from a store. The proposed ordinance is part of a larger educational campaign to encourage the use of reusable bags, thereby contributing to a cleaner, healthier environment.

Q: Is the problem really that bad, that we need to pass new legislation?

A: Yes. There is nothing useful about single-use bags. The lasting damage from a disposable plastic bag that is used – on average - for only 12 minutes before discarded, is huge. Plastic bags will remain in the environment hundreds, if not thousands, of years, and destroy wildlife, clog storm drains and fill landfills. This legislation will demonstrate that Rye understands the need to protect its environment by moving away from our “disposable” habit to a “reusable” one.

Q: Why isn’t an education campaign enough to get the point across?

A: Sometimes education is not enough to change habits that are considered part of every day life, but are actually of no value to the community, and can be harmful to many. As members of a community, we accept regulations imposed on us every day: we’re not allowed to litter; we must recycle; we are required to pick up after our dogs; we must use a seatbelt. This legislation is similar to these forms of legislation where voluntary compliance has not achieved the desired results because of reluctance of individuals to change their behavior.

Retail establishments impose rules too, that we, as shoppers, accept: Costco, for example, has imposed its own “regulation” by not offering bags to customers. It’s good business because it cuts costs.

Q: Is this a new concept?

A: No. Many communities, just like Rye, have understood the need to solve their litter and pollution problems by passing similar ordinances. Westport, CT, Southampton Village, NY and Chestertown, MD are three municipalities nearby that have passed ordinances, but there are hundreds of towns, cities and countries that have similar ordinances.

Q: What about “biodegradable” plastic bags? Why not use them?

A: Studies have shown that these types of bags do not effectively disintegrate back into nature¹. A far more important point is that these bags are disposable and thus, counter to the objective of reducing the amount of waste and pollution in our

¹ “Facing the Dirty Truth About Recyclable Plastics”
<http://e360.yale.edu/content/feature.msp?id=2400>

environment.

Q: Why aren't paper bags targeted?

A: The objective of the ordinance is to promote the use of reusable bags by reducing our dependence on single-use bags. It is a simple fact that single-use plastic bags are a chronic litter and pollution problem while paper bags, though not ideal, have far higher recycling rates and will biodegrade.

Q: Won't the proposed ordinance hurt business owners as paper bags, on average cost more than plastic?

A: Although they are less expensive than paper bags for retailers, plastic bags represent an insignificant portion of retailer operating expenses. No Westport business, for example, has closed down due to the elimination of plastic bags from its inventory as a result of the 2008 Westport ordinance.

The proposed ordinance is part of a larger campaign to reduce single-use bags. The use of disposable bags will decline as shoppers adopt reusable bags, allowing businesses to purchase less disposable bags and promote the sale of reusable bags.

Two studies conducted by Fairfield University one year after Westport passed its ordinance shows a significant increase in reusable bag rates (approx. 50%) at the Westport Stop & Shop relative to those in neighboring towns (Wilton and Norwalk: approx. 10 – 15%)² The Westport Stop & Shop management embraced the spirit of the ordinance to its advantage through the use of store signs and sales of reusable bags.

Q: Won't the proposed ordinance hurt consumers?

A: There will be a minimal cost associated with purchasing a few, inexpensive reusable bags. It is unlikely that retail prices will be affected by the elimination of plastic bags.

The Proposed Ordinance

Q: To whom does the Checkout Bag Ordinance apply?

A: The ordinance targets only retail transactions. Its goal is to reduce the use of disposable plastic bags, which are often discarded less than an hour after, but remain in our environment virtually forever.

Q: Who is exempt?

A: The ordinance does not apply to plastic bags used for personal use in the home. It does not apply to the sales of goods at yard sales, tag sales, other sales by residents at their home, and sales by non-profit organizations.

Q: What plastic bags from a store can still be used?

² Fairfield Uni. Retail Checkout Bag Surveys, 5/8/10; and June 2010

A: The ordinance does not apply to thick plastic bags -- those that at least 2.25 mils thick and sometimes called "reusable" shopping bags -- and plastic bags made of very thin plastic material with a single opening that is used for produce, meats, dry cleaning, newspapers or other items.

Q: How will retailers compensate for not being allowed to use single use plastic bags?

A: They will be able to use reusable bags and recyclable paper bags.

Q: Is the proposed ordinance too limited to make a difference?

A: No. By targeting the plastic bags that are used for the least amount of time before being disposed, we can make a real impact in our community. It's also important to reiterate that this is part of a larger educational campaign to encourage the use of reusable bags.

Q: What is the effective date?

A: Six months after the date of passage.

Q: What is a "recyclable paper bag"?

A: A recyclable paper bag has the following characteristics: (1) contains no old growth fiber, (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content, and (3) displays the words "Reusable" or "Recyclable" on the outside of the bag.

Q: What is a "reusable bag"?

A: A reusable bag is a bag with handles that is specifically designed and manufactured for multiple reuse and is (1) made of cloth or other fabric, and/or (2) made of durable plastic that is at least 2.25 mils thick.

Q: Can retailers "sell" shopping bags to their customers?

A: Yes. Any bag provided by a retailer can be sold to its customers, including paper, cloth or canvas shopping bags. Retailers are encouraged to promote the use of reusable bags, and sell them with their logo, if desired.

Q: What is the enforcement procedure?

A: The [City of Rye] is not required to check stores for compliance, but will respond to any complaints. A notice of non-compliance will be delivered to the person in violation of the ordinance.

Q: What is the penalty for non-compliance?

A: Up to \$150. Each day that a violation continues will constitute a separate violation and penalty.

Q: What will I use if I need to line my trash bin or pick up dog waste?

A: Garbage bags, newspaper bags will still be available.

Sample Paper Bag in use by CVS



Signage at Stop & Shop



- Also: - Lola's
 - Woodrow
 - Hampton White
 - Trapp.
 - Corner Store
 - Rye Beach
 - Paterson.

PLEDGE OF SUPPORT FOR REUSABLE BAGS

I pledge to encourage the use of reusable bags by eliminating single-use plastic bags from my inventory.

I recognize that although they were introduced just 25 years ago, single-use plastic bags have become an environmental problem and threaten the natural beauty of our coastal community.

I am encouraged by recent legislative action in many coastal communities, including Westport, CT, Southampton, NY and Colchester, MD to ban plastic bags from their retail stores.

	Business Name	Owner/Manager	Contact
1.	ARCADE Booksellers	PATRICK COCCOZZO	
2.	Wine At Five	CAI PALMER	
3.	Corner Store (Rye)	Harold M. Jr	Harold M. Jr
4.	Rye Rhythmic	Renee Drummond	Renee
5.	The Rye Stationer	Antonella Dattilo	
6.	WISH / Twinkle Toes	Dennis Madson	
7.	Rye Historical Society	Laure Brett	Sjordan@ryehistorical.soc
8.	Rye Nature Center	Christine Siller	christinesiller@ryenaturecenter.org
9.	Alfred Harcourt Foundation	Peter Juannini	PeterJuannini@gmail.com
10.	June and Ho	Jo Pal	Ho, June
11.	Rye Town Park	Bill Langer	same
12.	Carpet Trends	Margaret Ricketts	margaret@carpettrends.com
13.	Longford's Ice Cream	CHRISTINE VITA	cvita27@gmail.com
14.	Archie's Lounge	Kyle Kure	KMPRRM@bocittmeaweb.com
15.	Benefit Companies	Jennifer Ayde	Rye@Benefittees.com
16.	Chronic Coedney Deductals	Ray Detry	
17.	RYE HEALTH and Fitness	J.M.	tommy.martinez47@Yahoo.com
18.	Blush	Ara Sobalvado	Blushinrye10580@hotmail.com
19.	Bubble + Tweet	Iske Regras	bubbleandtweet@gmail.com

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	Business Name	Owner/Manager	Contact
1.	Framingham Corner	Pat Pato	Pat Pato
2.	The Rye Record	Robin Gaurand	Robin Gaurand
3.	Silver Rush	DENIS MATHEWS	Denise MATHEWS
4.	Rye Free Reading Room	Kitty Little (Dir.)	Kitty Little
5.	The Open House	Barbara Sperling	office of the open house co
6.	JWH Design & Cabinetry	Jennifer Howard	Same
7.	HAMPTON WHITES	John Josephine	same.
8.	Rhythm in Rye	Vanesa Ay	Renee Drummond
9.	Carpet Trends	Margaret Ricketts	same
10.	Blue Monster Promotions	Marc Kozak	same
11.	Blue monster Promotions	Cheryl Kozak	same
12.	Better Homes, Gardens Land Realty	Arlyne Ashkins	Kathy Yavari
13.	Wainwright House	Hilary Jones	same
14.	Parkus	Catherine Parke	same
15.	Eric Jeffries Citibank	DAVID Parks	Eric Jeffries
16.	Allstate	Zygi Nemzer	Zygi Nemzer
17.			
18.			
19.			

SARA GODDARD

914-645-6808

PLEDGE OF SUPPORT FOR REUSABLE BAGS

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	Business Name	Owner/Manager	Contact
1.	Tutta Bella Spa & Salon	Annette Pugliese	914-921-0881
2.			
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RYE SUSTAINABILITY COMMITTEE

Sara Goddard: 921-0715

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	Business Name	Owner/Manager	Contact
1.	POST ROAD MARKET	Gerard McElmer	
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19.			



SARA GODDARD
goddard sw@gmail
com

914-645-6808

RYE SUSTAINABILITY COMMITTEE



Rye Sustainability
Committee

PLEDGE OF SUPPORT FOR REUSABLE BAGS

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	Business Name	Owner/Manager	Contact
1.	Weezie D.	Suzie Belizaire	(14) 914 930-7355
2.			
3.			
4.			
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7.			
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11.			

SARA GODDARD



RYE SUSTAINABILITY COMMITTEE



Rye Sustainability Committee

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	Business Name	Owner/Manager	Contact
1.	JWH DESIGNS	JENNIFER HOWARD	jhoward@jwhdesigns.com
2.			
3.			
4.			
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11.			



CITY COUNCIL AGENDA

NO. 12

DEPT.: City Manager

DATE: October 19, 2011

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Authorization for the City Manager to enter into an Intermunicipal Agreement with the County of Westchester for the distribution of Homeland Security funded equipment.

FOR THE MEETING OF:

October 19, 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:

By order of the intermunicipal agreement, Westchester County will distribute specialized equipment to the City of Rye to better respond to Weapons of Mass Destruction. The original agreement was from November 20, 2003 through December 30, 2008. This is a renewal of that agreement.

The Agreement will commence upon execution and continue in full force and effect for five (5) years.

See attached documentation.

THIS AGREEMENT, made the _____ day of _____, 2011

by and between:

THE COUNTY OF WESTCHESTER, by and through its Department of Emergency Services, 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",)

and

CITY OF RYE, a municipal corporation of the State of New York, having an office and place of business 1051 Boston Post Road, Rye, NY 10580

(hereinafter referred to as the "Municipality").

W I T N E S S E T H:

WHEREAS, the State of New York has received grants from the Federal government for the purchase of specialized equipment; for conducting training and for staging exercises; and

WHEREAS, the specialized equipment includes, but is not limited to personal protective, detection, decontamination, communications hardware and supplies, (the "Equipment") to better respond to acts of terrorism involving chemical and biological agents, as well as radiological, nuclear and explosive devices (referred to as "Weapons of Mass Destruction") and to prepare a multi-year statewide Domestic Preparedness Strategy ("Strategy"); and

WHEREAS the approval by the Federal government of the Strategy enabled the State to enter into an agreement with the County, such agreement dated on or about May 29, 2002, and renewed effective May 30, 2007 for an indefinite term, whereby the State will continue to issue to the County, the Equipment the State had purchased, and the County agreed to use and distribute such Equipment to the local municipalities ("State Agreement"); and

WHEREAS, the County now in furtherance of its obligations under its agreement with the State, and to distribute equipment associated with other Homeland Security Funded Programs, including, but not limited to, State Homeland Security Program and Urban Area Security Programs, desires to enter into an intermunicipal agreement with the Municipality for the distribution of the aforesaid Equipment.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

1. GENERAL TERMS: The Municipality acknowledges and understands that the Equipment to be distributed pursuant to this Agreement is intended to enhance the ability of First Responders to safely and successfully detect, stabilize or mitigate Weapons of Mass Destruction. First Responders refers to, but is not limited to, fire, Hazardous Materials Response Teams, police, law enforcement, emergency medical services, public health, hospitals, and emergency management agencies (career and volunteer) whose employees or members may be required to work at the scene of a Weapon of Mass Destruction incident. The Equipment supplied under this agreement is not, however, intended to provide all of the equipment appropriate and necessary for the operation of a Hazardous Materials Response Team.

The County shall provide the Municipality, in writing, a list of the Equipment that will be distributed to the Municipality ("Equipment List"). Such Equipment List shall contain the following information: the quantity, make, model and serial number of each item of Equipment. The County shall then distribute the Equipment identified on the Equipment List to the Municipality. The Municipality shall acknowledge its receipt of the Equipment by executing a copy of the Equipment List and returning same to the Westchester County Commissioner of Emergency Services or his designee ("Commissioner").

The Municipality acknowledges that the distribution of Equipment is subject to the availability of funding from the Federal government. It is within the County's discretion how much and what type of Equipment to distribute to the Municipality. In addition, while it is not

currently anticipated that replacement Equipment or additional Equipment and supplies will be distributed under the federal Program, the County reserves the right to expand the Equipment List in the event additional federal, state or local funding becomes available. The parties understand and agree that such an expansion is not intended to be unduly burdensome on the Municipality. The County will send an amended Equipment List to the Municipality which shall identify Equipment to be distributed which is in addition to the Equipment initially distributed to the Municipality. While the Municipality is under no obligation to accept such additional Equipment, the Municipality, within ten (10) days of its receipt of an amended Equipment List, shall notify the Commissioner in writing whether or not it desires to accept the additional Equipment.

2. AUTHORIZED USE OF EQUIPMENT: The Municipality agrees that the Equipment shall only be used for appropriate training exercises and for emergency response situations, such as responding to an incident involving Weapons of Mass Destruction, or mutual aid request in accordance with law (such as General Municipal Law §§ 209-e and 209-f setting forth the State Fire Mobilization and Mutual Aid Plan and the Hazardous Materials Incident Response Plan) involving the same or other Deployment or Redeployment of the Equipment out of the Municipality as authorized by the County and the State. Deployment refers to the use of the Equipment by the County, and Redeployment refers to the movement of Equipment out of the County at the request of the State for use outside of the County of Westchester.

3. MUNICIPALITY'S RESPONSIBILITIES AND EQUIPMENT TRANSFER CONDITIONS:

a. The Municipality agrees and shall ensure that only qualified persons will utilize the Equipment when the Equipment is used by the Municipality, or third parties acting on behalf of the Municipality. The Municipality shall verify that such persons have fulfilled their initial and on-going training requirements in accordance with all federal, state, and County programmatic requirements, applicable laws and regulations, including but not limited to, the Occupational Safety and Health Administration ("OSHA") regulations.

b. The Municipality shall arrange for the intended users and operators of selected Equipment to complete a County or State-provided orientation session as well as periodic training sessions that will assure familiarization for those users and operators with the Equipment. Such sessions shall be conducted by the County or State at the Department of Emergency Services Training Facility or other local venue.

c. The Municipality agrees to periodically inspect the Equipment in order to ensure that the Equipment is in proper working order. If at any time the Municipality determines that the Equipment needs maintenance, the Municipality shall notify the Commissioner in writing. If the Municipality is uncertain whether the Equipment requires maintenance, the Municipality shall contact the Commissioner and request the County to inspect the Equipment in question.

d. The Municipality is not responsible to perform maintenance on the Equipment. The State, under its agreement with the County, shall maintain the Equipment in proper working order and calibrate per manufacturer's recommendations. The County reserves the right to remove the Equipment for calibration/service. Should the State be unable to calibrate/service the Equipment, the County reserves the right to remove the Equipment from service. The County is under no obligation to replace any Equipment so removed. The County shall properly decontaminate or dispose of any Equipment or related supplies in accordance with the manufacturer's recommendations and all applicable laws and regulations. The County agrees that it shall dispose of any contaminated Equipment in accordance with all applicable laws and regulations.

e. The Municipality understands and acknowledges that the State may direct the County to Redeploy the Equipment if it is determined to be needed in another location. In such event, the Municipality will promptly take all steps necessary to return the Equipment to the County for such Re-deployment, or make the Equipment available for the County, its agent or State to Re-deploy from the Municipality. The County, upon learning of a request to Re-deploy will notify the Municipality if it is deemed necessary to Re-deploy the Equipment due to an occurrence, imminent threat or increased vulnerability outside of the jurisdiction. The

Municipality agrees that it will make all of the Equipment available for Deployment or Re-deployment promptly upon being notified of same.

f. The Municipality agrees to cooperate with the County in the event the State determines to Re-deploy the Equipment for any reason whatsoever. The Municipality agrees to undertake whatever actions are requested by the County to transfer the Equipment back to the County for such re-deployment.

g. The Municipality understands and acknowledges that the State has the right to Reissue or retake possession and use of the equipment. In the event the County notifies the Municipality of such a Reissuance, the Municipality will promptly return possession of the equipment to the County or the State as directed by the County. The Municipality agrees to relinquish any claim in law or equity it may have concerning the Equipment in the event of equipment Redeployment or Reissuance.

4. **TERM:** The term of this Agreement shall commence upon execution and continue in full force and effect for five (5) years. In the event the State Agreement is terminated prior to the expiration hereof, this Agreement will terminate. In the event the State requires the County to amend the State Agreement, it may become necessary to modify this Agreement to reflect the changes to the State Agreement. If the Municipality does not agree to an amendment hereto, this Agreement will terminate. In either case, the parties will take all actions appropriate and necessary to return all Equipment distributed hereunder to the County in a timely fashion.

5. **OWNERSHIP OF EQUIPMENT:** The Municipality agrees that it shall not sell or otherwise transfer ownership of the Equipment. The Municipality acknowledges and agrees that the County retains ultimate control over the Equipment.

6. **AUDIT:** The Municipality agrees to utilize the Equipment only for the purposes and activities set forth in this Agreement and shall keep an accurate accounting of all Equipment received pursuant to this Agreement and the purpose for which the Equipment has been used by the Municipality. The Municipality will allow the County and the State to conduct periodic

visits for the purposes of inspection, inventory of the Equipment and auditing the records required hereunder. The Municipality shall establish and maintain complete and accurate written records, documents, reports, accounts and any other such writing relating to its possession and use of all Equipment provided pursuant to this Agreement. These records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter.

7. **TERMINATION**: (a) Either party upon ninety (90) days notice to the other, may terminate this Agreement in whole or in part when either party deems it to be in its best interest.

(b) In the event the Municipality defaults in the performance of any term, condition or covenant herein contained, the County at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or other lawful remedy, may terminate this Agreement upon forty eight (48) hours written notice to the Municipality, provided however, that the Municipality may defeat such termination notice by curing the default complained of within such notice period or, if not within such notice period, by promptly commencing to correct the default and diligently pursuing all necessary and appropriate action to affect such cure. Upon a second default by the Municipality, the County at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this Agreement without the requirement for further opportunity to cure.

(c) Upon termination, all right of the Municipality to the use of the Equipment shall absolutely cease and terminate as though this Agreement had never been made, but the Municipality shall remain liable to the extent hereinafter provided; and thereupon the County may, by its agents, enter upon the premises where any of the Equipment may be and take possession of all or any such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Municipality or its successors or assigns, to use the Equipment for any purposes whatsoever; but the County shall, nevertheless, have the right to recover from the Municipality any damages and expenses in addition thereto, including reasonable attorneys' fees, which the County shall have sustained by reason of the breach of any covenant of this Agreement. The County shall take immediate

possession of the Equipment issued hereunder wherever found, with or without process of law, and the County shall not be responsible for any damage which Municipality sustains by virtue of said act.

8. **ASSIGNMENT**: Any purported delegation of duties or assignment of rights under this Agreement, without the prior express written consent of the County is void.

9. **COMPLIANCE WITH LAW**: The Municipality shall comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations necessary to carry out the purposes of this Agreement.

10. **ACTS OF GOD**: Neither the County nor the Municipality shall be liable to the other or deemed to be in default for any delay or failure to perform under this Agreement resulting from acts of God, civil or military insurrection, explosions, floods, riots, earthquakes, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any other causes, but in every case the delays must be beyond the control and without the fault of the County, the Municipality or their respective contractors.

11. **INSURANCE & INDEMNIFICATION**: The Municipality shall comply with the insurance requirements contained in Schedule "A" entitled "Standard Insurance Provisions", attached hereto and made a part hereof, including, without limitation, the requirement of naming the County as an additional insured party and providing the County with proof of insurance. In addition to, and not in limitation of the insurance requirements of Schedule "A", the Municipality agrees:

(a) that, except for the amount, if any, of damage contributed to or caused by the County, the Municipality shall be responsible and answerable in damages for any and all accidents or injuries to persons (including death) or property arising out of or related to the use of Equipment issued under this Agreement by the Municipality, or third parties under the direction or control of the Municipality, including but not limited to its employees, volunteer membership or agents. The Municipality shall indemnify and hold harmless the County and the

State, their respective officers, employees and agents from claims, suits, actions, damages and costs, of every nature to the extent of its liability for damages as defined above and also for damage to equipment arising out of the Municipality's negligent acts or omissions; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of the use of the Equipment distributed under this Agreement by the Municipality, or third parties under the direction or control of the Municipality, including but not limited to its employees, volunteer membership or agents and to bear all other costs and expenses related thereto.

The Municipality may, in lieu of procuring and maintaining the aforesaid insurance, elect to obtain such coverage through a program of self insurance, which coverage and program shall be in accordance with generally accepted standards for similarly situated entities and approved by the County's Director of Risk Management.

12. NOTICES: 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 sent by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by overnight courier), to the respective addresses 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.

To the County:

Commissioner
Department of Emergency Services
4 Dana Road
Valhalla, New York 10595

With a copy to:

County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

To the Municipality:

13. **ENTIRE AGREEMENT:** 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.

14. **ENFORCEMENT:** This Agreement shall be construed and enforced in accordance with the laws of the State of New York. This Agreement shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

15. **INDEPENDENT CONTRACTOR:** The Municipality is an independent contractor and shall not make any claim, demand or application to or for any right based upon any different status.

16. **CONFLICT:** In the event of any conflict between the terms of this Agreement and those of its attachments, the terms of the Agreement shall control.

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

THE COUNTY OF WESTCHESTER

By: _____
Anthony W. Sutton
Commissioner of Emergency Services

By: _____
(Name and Title)

Authorized by the Westchester County Board of Legislators by Act No. 32-2010 adopted on the 26th day of April, 2010.

Authorized by the Westchester County Board of Acquisition and Contract on the 20th day of May, 2010.

Approved as to form and
manner of execution:

Sr. Assistant County Attorney
The County of Westchester
S/A/DES/WMD/2010/WMD Agreement 2010.doc

MUNICIPALITY'S ACKNOWLEDGEMENT

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

On this _____ day of _____, 2011, before me personally came
_____, to me known, and known to me to be the
_____ of _____,
the municipal corporation described in and which executed the within instrument, who being by me
duly sworn did depose and say that he, the said _____ resides at

and that he is _____ of said municipal corporation.

Notary Public County

CERTIFICATE OF AUTHORITY
(Municipality)

I, _____,
(Officer other than officer signing contract)
certify that I am the _____ of the
(Title)

(Name of Municipality)

(the "Municipality") a corporation duly organized in good standing under the

(Law under which organized, e.g., the New York Village
Law, Town Law, General Municipal Law)

named in the foregoing agreement that _____
(Person executing agreement)

who signed said agreement on behalf of the Municipality was, at the time of execution
_____ of the Municipality,
(Title of such person),

that said agreement was duly signed for on behalf of said Municipality by authority of its

(Town Board, Village Board, City Council)

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 this _____ day of _____, 2011, before me personally came _____
_____ whose signature appears above, to me known, and know to be the
_____ of _____,
(title)

the municipal corporation described in and which executed the above certificate, who being by
me duly sworn did depose and say that he, the said _____
resides at _____, and that he is
the _____ of said municipal corporation.
(title)

Notary Public County

SCHEDULE "A"
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 affected 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 policies shall be assumed by and be for the account of, and at the sole risk of, the Municipality.



CITY COUNCIL AGENDA

NO. 13

DEPT.: Golf Club

DATE: October 19, 2011

CONTACT: Scott Yandrsevich

AGENDA ITEM: Three appointments to the Rye Golf Club Commission by the Council for three-year terms expiring January 1, 2015, one appointment for a one-year term expiring January 1, 2013, and the designation of one member to the Rye Golf Club Nominating Committee.

FOR THE MEETING OF:

October 19, 2011

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council approve the appointments and designate the individual elected to serve on the Rye Golf Club Commission Nominating Committee.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The following individuals were elected to serve on the Rye Golf Club Commission for three-year terms beginning on January 1, 2012:

Charley Davies

Patricia Geoghegan

T.J. Hanson

The following individual was elected to serve on the Rye Golf Club Commission for a one-year term beginning on January 1, 2012:

Chris O'Brien

The following individual was elected to serve on the Rye Golf Club Commission Nominating Committee for one year:

Jim Codispoti

CITY OF RYE

MEMORANDUM

TO: Scott Pickup, City Manager
Scott Yandrasevich, Rye Golf Club Manager

FROM: Dawn F. Nodarse, City Clerk

SUBJECT: Rye Golf Club Commission & Nominating Committee Election

DATE: October 4, 2011

The following are the results of the Golf Club Election:

Envelopes Received	354
Valid Ballots Cast	333
Invalid Ballots	45*

* Voters are instructed to return their ballot in the envelope provided. If more than one ballot is enclosed in an envelope, all ballots in the envelope are considered invalid.

The election is for four representatives to the Golf Commission. The three candidates receiving the highest number of votes are elected to three-year terms. The candidate receiving the fourth highest number of votes is elected to a one-year term.

Candidates	# of Votes Received
Charley Davies	156
Patricia Geoghegan	176
T.J. Hanson	171
Allison Kelly	148
P. Stephen Lamont	134
Chris O'Brien	150
Mitch Pineault	92
Arthur Tiedemann	143

The election results for one member to the Nominating Committee are:

Candidates	# of Votes Received
Terence Caffrey	85
Jim Codispoti	178


Dawn F. Nodarse
City Clerk