

## **CITY OF RYE**

### **NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, December 21, 2011, at 8:00 p.m. in the Council Room of City Hall.

### **AMENDED AGENDA**

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the Budget Workshop held November 30, 2011, the Budget Workshop held December 5, 2011, and the Regular Meeting of the City Council held December 7, 2011.
5. Mayor's Management Report
  - Update on FEMA 2008 and 2009 Local Project Grants
  - Legal Update
6. Continuation of Public Hearing to adopt a Local Law to override the State enacted tax levy limitation.
7. Continuation of Public Hearing on the proposed 2012 Budget.
8. Resolution to adopt the 2012 Budget and establish the 2012 tax levy and 2012 tax rate.  
Roll Call
9. Residents may be heard on matters for Council consideration that do not appear on the agenda.
10. Resolution authorizing the City Comptroller to make the necessary year-end closing transfers.  
Roll Call
11. Resolution to authorize participation in Westchester County contracts.  
Roll Call
12. Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2012.  
Roll Call
13. Resolution fixing January 11, 2012 as the first regular meeting and the designation of the days and time of regular meetings of the City Council for 2012.
14. Resolution to transfer \$40,000 from contingency to the Public Works Department to purchase salt for storm coverage for the winter season.
- 14A. Resolution to transfer \$50,000 from contingency to the Risk Fund for Legal and Stenographer Services and Judgments and claims.

15. Resolution authorizing the Engineering Department to provide a letter to the County Board of Legislators requesting that 5 Sunset Lane be moved from the Blind Brook County Sewer District to the Mamaroneck County Sewer District.
16. Acceptance of donation to the Rye Police Department from the Rye Hospital Center in the amount of Seven Hundred Fifty (\$750.00) Dollars.  
Roll Call
17. Miscellaneous communications and reports.
18. Old Business.
19. New Business.
20. Adjournment.

\* \* \* \* \*

The next regular meeting of the City Council will be held on Wednesday, January 11, 2012.

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

\* Office Hours of the Mayor on 12/21/11 will be held from 7:30 pm to 8:00 pm in the Mayor's Conference Room.



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: December 21, 2011

CONTACT: Dawn F. Nodarse

**AGENDA ITEM** Draft unapproved minutes of the Budget Workshop held November 30, 2011, the Budget Workshop held December 5, 2011, and the Regular Meeting of the City Council held December 7, 2011, as attached.

**FOR THE MEETING OF:**

December 21, 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 Budget Workshop held November 30, 2011, the Budget Workshop held December 5, 2011, and the Regular Meeting of the City Council held December 7, 2011, as attached.

***DRAFT UNAPPROVED MINUTES*** of the  
Budget Workshop of the City Council of the City of  
Rye held in City Hall on November 30, 2011 at 8:00  
P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
PAULA J. GAMACHE  
PETER JOVANOVICH  
SUZANNA KEITH  
CATHERINE F. PARKER (Arrived at 8:14 p.m.)  
JOSEPH A. SACK  
Councilmembers

ABSENT: RICHARD FILIPPI, Councilman

1. Pledge of Allegiance

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

2. Roll Call

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

Mayor French said that the objective of the workshop was to walk away with a set of expense reduction and revenue increase ideas to discuss at the public hearing. He added that this is the first year of a five-year tax cap and the Council must look at doing things differently.

Prior to the listed agenda items, *Bernie Altoff* and *Carolina Johnson* addressed the Council about the fact that there are no flood mitigation projects in the proposed budget. Ms. Johnson said that maintenance for the area around the dam should be considered along with the City's other infrastructure needs. Mr. Altoff said that there are costs to the community in connection with flooding and suggested that if grant money to do a study on resizing the Upper Pond does not come through, the City should sell two-year short-term notes to fund it. He also suggested that if the City is considering a bond referendum for 2012, the resizing project for the Upper Pond should be included. City Manager Pickup said the City expects to hear about funding for the grants to do the study on the Upper Pond by December 2<sup>nd</sup>. There was a suggestion made of coming up with a bond referendum that would target public safety projects. City Comptroller Gribbins said that there was \$994,000 available for borrowing under the public safety exemption and said she would look into what type of projects would qualify.

3. Discussion of the FY 2012 Budget

- Debt Schedule

City Comptroller Gribbins said that the Council currently has limited borrowing options: \$200,000 subject to Council vote; \$1.9 million subject to a permissive referendum; and \$994,000 subject to the public safety exemption. The City's oldest debt is from 1998 (Golf Club) and will not drop off until 2018. General Fund debt will not start dropping off until 2020. Any debt incurred going forward will be added to the current expense base of the City. Ms. Gribbins said that if a bond resolution was presented at the November 2012 election, the Council would have until May to decide on what projects would be included in order to hold public hearings and adopt the necessary Resolutions. She added that as the money is paid back it will add to the expense base of the City and provided two scenarios of resulting tax rate increases for 2013 and 2014. This would not be exempt from the levy cap.

- Fund Balance Review

Ms. Gribbins provided the Council with a graph of the City's General Fund Unassigned Fund Balance showing a decrease from \$5 million in 2007 to a current level of \$2 million. The lowest level allowed by Charter is \$1.5 million. The amounts of Fund Balance budgeted for capital: 2007 - \$3.2 million of capital projects; 2008 - \$2.3 million in capital projects; 2009 - \$1.7 million in capital projects (\$140,000 was also used to lower the tax rate); 2010 - \$1.3 million in capital projects; 2011 - \$480,000 in capital projects; and in 2012 – no money is budgeted for capital projects. Ms. Gribbins ended this portion of her presentation by saying it was important for the City to begin replenishing its Fund Balance because it is something that the rating agencies will look at when the City goes out for debt. She said she would contact the City's bond counsel to determine how interest rates would be affected if the City lost its Aaa bond rating.

- Revenue Assumptions

Ms. Gribbins summarized the City's unallocated revenues, which are revenues that the City generates outside of fees and charges. She said that 80% of these revenues are from property taxes. Non property tax items that generate unallocated revenues include:

- Sales and use tax, occupancy tax, and utilities gross receipts tax, which have been budgeted flat for 2012 (Ms. Gribbins was asked to provide the Council with the numbers for sales tax receipts received for the first three quarters of the year.);
- Interest earnings, which is budgeted at \$50,000 for 2012, \$25,000 less than 2011;
- Miscellaneous – the budgeted amount is the Medicare Part D reimbursement;
- Interfund revenue is the surcharge to the Boat Basin and Golf Club that are passed through to the General Fund;
- Intergovernmental revenue is revenue sharing from the State and mortgage tax. Revenue sharing for 2012 was budgeted at 90% of what was received in 2010 and mortgage tax is kept at the 2011 level.

Ms. Gribbins said that all other revenue is generated through fees and charges and were compiled by City Departments to reflect what they forecast will come in next year.

Earlier in the meeting it was noted that there have been 42 cash sales on properties so far this year for a total of \$63,565 million. It was suggested that a 1% tax on the purchase price of these sales would have generated \$635,000 in additional revenue to the City. City Manager Pickup said he had spoken with Assemblyman George Latimer regarding the process of enacting this type of transfer tax, which would require State approval.

- Review of City Council Budget Questions

Comptroller Gribbins answered budget questions that had been submitted to her previously by Council members covering topics including: health insurance, labor contracts, loss of assessed value of properties, opportunities for consolidation of services, Rye Town Park operating losses, opportunities for increasing revenue, the implications of a 0.9% or 0% tax increase, overtime, workers compensation, Police Department staffing, parking violations, Fire Department equipment replacement, proposed building revenues, recreation programs, reducing all department budgets by 10%, garbage pickup, outsourcing departments, and the property at 1037 Boston Post Road. Ms. Gribbins said that all of the questions and answers would be posted on the City website.

City Manager Pickup said that he and Comptroller Gribbins have been working on proposed budget modifications to adjust the tax rate, which will be sent to the Council in their Friday packets.

4. Adjournment

There being no further business to discuss Councilwoman Gamache made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the meeting at 10:33 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk

***DRAFT UNAPPROVED MINUTES*** of the  
Budget Workshop of the City Council of the City of  
Rye held in City Hall on December 5, 2011 at 8:00  
P.M.

PRESENT:

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

ABSENT: RICHARD FILIPPI, Councilman

The Council convened at 7:30 p.m. Councilwoman Gamache made a motion, seconded by Councilwoman Keith and unanimously carried, to immediately adjourn into executive session to discuss labor relations. Councilman Jovanovich made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn the executive session at 8:13 p.m. The regular meeting convened at 8:34 p.m.

1. Pledge of Allegiance

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

2. Roll Call

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

3. 2012 Budget Review: Fire Department

Mayor French began by saying that the City lives in a “tax cap world” now and must look at things differently. The City Manager has put forth recommendations regarding the Fire Department that will allow the Council to look at things for the next five or ten years. City Manager Pickup summarized that in November a proposal was made to change the Charter to create a new position of Commissioner of Public Safety, who would have authority for both police and fire. A retirement in the Fire Department next year has provided an opportunity to look at the overall structure and look for opportunities.

Fire Chief George Hogben provided a summary of department activities for 2011 that keep the Department in compliance with New York State requirements. He also outlined what would be done during 2012 to maintain that compliance.

City Manager Pickup outlined the structure of operation of the Fire Department. By Charter, the Board of Wardens have the general responsibility for running the Department through the Chiefs and others in the command structure. There is also a full-time staff that consists of a Fire Inspector and paid staff. According to the Charter, the City Manager serves in an advisory role to the Board of Wardens. There is no specific relationship defined in the Charter between the City Council and the Board of Wardens. Going forward in a tax cap environment, the City must look for opportunities to be more efficient in the way it provides services. He said that the goal of the proposed changes was not to criticize the way the Department is being run, but simply to allow the Council and the community to review all options. He said that the creation of a Public Safety Commissioner and changing the relationship between the Board of Fire Wardens and the City Manager would both require public hearings.

Career Firefighter John Castelhana provided the Council with charts regarding the types of incidents the Fire Department responded to during 2009 and 2010 that detailed the various types of calls and man hours spent. He said the average number of calls during a year ranges from 800 to 1,000. At this point it looks like 2011 will be within the same range.

Richard Barber, a member of the Board of Wardens, read a statement regarding the proposed Charter changes to the operation of the Fire Department. He said that he believed if implemented, the morale of the department would drop. He said he believed the proposed changes to be a “vote of no confidence” to the Board of Wardens. Before creating a new position of Public Safety Commissioner, the City Manager should provide information on how it will save the City money and let the Board of Wardens know if the job description will require a background in fire related matters. He said any proposed changes to the Charter should first be referred to a Charter Revision Committee and then be voted on by the public. If this is not done, a petition of 550 signatures could force the matter to public referendum. He urged the Council to table the proposed Charter changes for an indefinite period of time.

Mayor French said that a longer discussion will be needed on the position of Public Safety Commissioner, but asked what would be the impact to the Board of Wardens and the volunteer portion of the Fire Department if the Charter was changed to have them report to the City Manager? Mr. Barber said that the Department works the way it is and that volunteers would be lost if they had to report to the City Manager.

John Castelhana referred to the study done in 2004, which was done in order to come up with recommendations for a better Fire Department. He gave credit to City Manager Pickup and Mayor French for looking into doing things differently in the Department. He added that the career staff did not believe a Public Safety Commissioner would suit the needs of the Department.

Captain Barry Nechis of the New Rochelle Fire Department also addressed the Council. He referred to consolidation studies for other fire departments in Westchester done three years ago, which noted that if a tax cap was enacted it would cause problems for delivery of services

by Fire Departments. He said that there are good and bad aspects to having a Public Safety Commissioner. The abilities of the Commissioner appointed will determine how well the position works because it is important that they understand the operations of both police and fire. He said that possibly a lower level supervisor would be a better solution for the day to day supervision issues that exist in the department. He noted that people don't understand all of the economics of fire protection and said that it includes not only the cost of the department, but also the costs of the water system and fire insurance costs paid by property owners, which are affected by the rating assigned to a community by the insurance industry. The way fire departments operate is controlled by the insurance rating system. He said that he believed the concept of the paid fireman and volunteers reporting to the same person makes the most sense.

James Finneran of the Board of Wardens suggested that while the Council is considering any changes to the Charter regarding operation of the Fire Department, the City Manager should attend the Board of Wardens monthly meetings. Fire Chief Hogben suggested that shift lieutenants be created for the paid staff in order to provide more structure

Members of the Council said that they would like more information on the operation of the Fire Department in order to determine what works and what can be done better. A suggestion was made that a plan be put in place for an interim Fire Inspector so that the Council is not rushed into making a decision before all options are explored. City Manager Pickup said that there are specific requirements needed to perform this function. A request was also made for more information on the operation of the parallel structures in the fire department. City Manager Pickup said he would work with the Fire Wardens and the paid staff and bring more options back to the Council in January. In response to a question about why he is recommending the position of Public Safety Commissioner, Mr. Pickup said that the City has to look at the balancing of interests of the community as it invests in police and fire over the next 20 to 30 years. He said the biggest investment of tax dollars is in public safety and the way the City manages these expenses will control the tax rate. It was suggested that another workshop dealing with the Fire Department should be scheduled for early in 2012.

4. General Budget Discussion and Questions

This agenda item was not discussed.

5. Discussion of setting a Public Hearing to amend the City of Rye Charter for the creation of a Public Safety Commissioner to head the Police Department and the Fire Department reporting directly to the City Manager

This agenda item was not discussed.

6. Adjournment

There being no further business to discuss Councilwoman Gamache made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the meeting at 9:53 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on December 7, 2011 at 8:00  
P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI (left the meeting at 11:30 p.m.)  
PAULA J. GAMACHE  
PETER JOVANOVICH  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT: NONE

The Council convened at 7:15 p.m. Councilwoman Gamache made a motion, seconded by Councilman Jovanovich and unanimously carried to immediately adjourn into executive session to discuss personnel. Councilwoman Parker made a motion, seconded by Councilman Filippi and unanimously carried to adjourn the executive session at 8:19 p.m. The regular session began at 8:24 p.m.

1. Pledge of Allegiance

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

2. Roll Call

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

3. General Announcements

- Councilman Sack is preparing a video in connection with the 70<sup>th</sup> anniversary of the City of Rye. Anyone who lived in Rye in 1942 and would like to share their memories of Rye at that time is invited to contact him.
- The swearing in ceremony for Council members will be held on January 1<sup>st</sup> at 4:00 p.m. at City Hall.

4. Approval of the election of one new member to the Rye Fire Department

Councilwoman Keith 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 election of Dorn Reed to the Poningoe Engine and Hose Company as approved by the Board of Fire Wardens at their November meeting.

5. Draft unapproved minutes of the special meeting of the City Council held November 9, 2011, the Budget Workshop held November 14, 2011, and the Regular Meeting/Budget Workshop of the City Council held November 16, 2011

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 November 9, 2011, as submitted.

Councilwoman Keith made a motion, seconded by Councilwoman Parker, and unanimously carried to approve the minutes of the budget workshop held on November 14, 2011, as submitted.

Councilman Filippi made a motion, seconded by Councilwoman Keith, and unanimously carried to approve the minutes of the budget workshop held on November 16, 2011, as submitted.

6. Mayor's Management Report

- Central Avenue Bridge Update

City Manager Pickup reported that he went to the Department of Transportation Regional Offices in Poughkeepsie to follow up on the final approval for this project. The Utility Agreements have been finalized; the final design paperwork has been submitted; the Construction Management Plan has been finished and submitted to Albany; and the Army Corps permits have been finalized. The plans have not been reviewed by the design reviewer yet. The Regional Engineer said that the approval may come by the end of the month. If that deadline is met, the earliest that bids could come before the Council would be late February or early March.

- Legal Update

Corporation Counsel Kristen Wilson reported on the following matters:

- *Black Bass Grill (2 Central Avenue)* – A tentative timeframe for asbestos removal and demolition of the building has been developed. Asbestos removal is scheduled for the week of December 12<sup>th</sup> and should be completed by the 16<sup>th</sup>. The Department of Labor has been notified and all the required notifications have been sent to the required State Departments. After a report is submitted on December 16<sup>th</sup>, the demolition permit will

be issued. Demolition of the building will occur within one week. The owners have agreed to post notices above what is required by law.

- *Highland Hall Tenants Association v. City of Rye, et al* – All of the respondents have filed motions to dismiss in connection with this Article 78 Proceeding. Subsequent to that, an Amended Petition was served that alleges new causes of action. The respondents are coordinating their efforts with respect to the new causes of action.

6A. Discussion of the Westchester Bee-Line Route 76 Line through Rye

Mayor French said that a portion of the Westchester Bee-Line Route 76 line that runs through Rye has been slated to be discontinued in the County Executive's proposed budget. Several residents have asked the Council to write to the County Executive asking to keep the line running. Councilwoman Gamache said that County Legislator Judy Meyers said that the route has been put in the Board of Legislator's budget. She expects that it will pass; that the County Executive will veto it; and that the veto will be overridden this year. The Mayor will draft a letter and distribute to the Council for comment.

7. Continuation of Public Hearing to add a proposed Local Law to prohibit the use of plastic bags by Rye Merchants

The public hearing remained open from the prior meeting. Corporation Counsel Wilson summarized the proposed law, which would define what types of bags may and may not be provided by retail users to their customers at the point of sale.

Members of the public who commented on the proposed local law included *Roger Blough, Alicia Mozian, Michael Woodrow and Jonathan Cunitz*. They all spoke in favor of the proposed local law and urged the City Council to adopt it. *John Carey* questioned how it would be legally possible to distinguish between different sized plastic bags and suggested the law should articulate the reason for the distinction.

Members of the Council spoke in favor of the proposed local law and thanked the members of the Sustainability Committee for their hard work in bringing forth the legislation.

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

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

**CITY OF RYE  
LOCAL LAW NO. 7 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.

**ROLL CALL:**

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

The local law was adopted by a 7-0 vote.

8. Public hearing on the proposed 2012 Budget

City Manager Pickup said that over the course of the five meetings and workshops that have been held since the 2012 budget was presented, there has been a consensus toward reducing the initial levy amount to make it conform with the tax cap legislation. Mr. Pickup presented a proposal to bring the budget under the current levy cap. There were four items for expense reduction: (1) reduce the legal budget by \$10,000; (2) reduce police overtime by \$50,000; (3) reduce maintenance expenses for pay stations by \$20,000; and (4) reduce the worker's compensation expense line by \$10,000, for a total of \$90,000 in expense reductions. There was also a proposal to increase revenues by \$110,000. This would be accomplished by: (1) change permit fees for commercial building activity permits to \$30 per \$1,000, to raise an additional \$50,000; (2) raise additional fees for the Recreation Department from rental fees and program opportunities to raise an additional \$10,000; and (3) increase the parking rates from \$.75 per hour to \$1.00 effective April 1, 2012 to increase revenue by \$50,000. The total adjustment from increases and reductions is \$200,000, which revises the proposed tax rate increase to 3.31% and revises the tax levy to a number that is \$8,538 below the 2% tax cap rate. Mr. Pickup noted that since the Council had adopted 2012 fees after a public hearing in June, any proposed fee increases would have to be discussed as part of the public hearing. There was also a suggestion to include an increase in the price of merchant parking permit fees in the hearing on increasing fees.

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

**RESOLVED**, that the revision to the proposed 2012 Budget as proposed by the City Manager is hereby accepted.

ROLL CALL:

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

NAYS: None

ABSENT: None

The Resolution was adopted by a 7-0 vote

Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously adopted, to open the public hearing for the proposed 2012 Budget.

Public Comment:

*Debra Julian*, representing the Library, urged the Council to restore \$75,000 in funding to the Library in order to bring it back to the 2010 funding level. She said that without this amount of funding the Library will be forced to close an additional day. She added that the Library is "tapped out" in their options for raising revenue but is looking into raising fines to be in line with other libraries in Westchester. She added that any income derived from increased fines would be minimal. Ms. Julian said that the Library Board has mixed feelings about a 414

proposal because it would involve marketing the library to the public and it might affect the private donor base.

*Bernard Altoff, Holly Kennedy and Carolina Johnson* urged the Council to deal with flooding in the budget and fund the Upper Pond soil survey study in the 2012 Budget.

*Jim Amico* suggested that money be added for additional crossing guards in the afternoon at the Milton Road and Parsons Street crossings.

Council budget suggestions included:

Councilwoman Parker:

- Raise the number for enforcement and fines to \$100,000;

Councilwoman Keith:

- Increase the building fee revenue to \$100,000;
- Increase sales tax revenue by \$10,000;
- Decrease Rye Town Park budget (the money budgeted for Rye Town Park is always for the previous year's loss.)
- Look into selling an asset;
- Cut the amount budgeted for materials and supplies. (The amount budgeted is \$400,000 lower than last year.)

Councilman Sack:

- Increase vehicle and traffic fines by \$55,000;
- Increase Building Department fees by \$82,000;
- Increase sales and use, hotel occupancy and mortgage tax revenues by \$143,000;
- Increase Recreation camp revenue by \$63,000;
- Reduce police overtime by \$25,000;
- Add \$100,000 for capital projects;
- Increase merchant parking fees to \$720.

Councilman Jovanovich:

- There may be room to increase sales tax revenues;
- There is nothing budgeted for potential police contract arbitration awards.

Councilwoman Gamache:

- Be careful about increasing revenue assumption in areas where the City has no control over the revenue;
- Any additional revenue should go back into the Fund Balance.

City Manager Pickup noted that the only people who spoke at the public hearing asked that additional money be put in the budget. He also warned that there was a movement to "means test" state aid, which could adversely affect the City.

There was a discussion of other scenarios considered for cutting expenses that did not impact life/safety budget items and were not included in the budget proposals currently being considered. Mayor French summarized the proposals under consideration as being: increase enforcement fines; increase building department permits; increase sales tax and mortgage tax revenues; increase merchant parking permit fees; and cut materials and supplies.

The public hearing was kept open until the next meeting.

Agenda item 11 was taken out of order.

9. Public hearing to amend the City Charter, Article 21, "Financial Procedures" to address the issuance of bonds for use in natural disaster reconstruction efforts

Councilman Filippi made a motion, seconded by Councilwoman Gamache and unanimously carried, to open the public hearing to amend the City Charter, Article 21, "Financial Procedures".

City Comptroller Jean Gribbins said that this proposal was presented to the Council on September 28<sup>th</sup>, October 19<sup>th</sup> and November 16<sup>th</sup>. She and City Manager Pickup have also worked with the Finance Committee and Bond Counsel. The exemption will give the Council latitude to borrow in the event of a disaster up to a maximum of \$2.5 million without having to go to referendum. It is similar to the public safety exemption, but is not capped at \$1 million per year.

No one from the public spoke on the proposed amendment to the Charter.

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

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

**CITY OF RYE  
LOCAL LAW NO. 8 OF 2011**

**A Local Law to amend the City Charter Article 21 "Financial Procedures" to  
address the issuance of bonds for use in natural disaster reconstruction  
efforts.**

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

**Section 1.**

§ C21-9. Bond resolutions.

A. All bond resolutions, except as hereinafter provided, authorizing the issuance of bonds in excess of 10% of the average of the gross annual budget of the city for the preceding three years shall be adopted by a vote of at least five members of the Council and shall be subject to the approval of a majority of the qualified voters voting at a general or special election.

B. All bond resolutions, except as hereinafter provided, authorizing the issuance of bonds in excess of 5% of the average of the gross annual budget of the city for the preceding three years but not more than 10% of such average shall be adopted by a vote of at least five members of the Council and shall be subject to a permissive referendum, provided that the aggregate of the proposed bond issue and the outstanding obligations under bonds previously issued subject to a permissive referendum does not exceed 10% of such average.

C. The Council may, by a vote of at least five members thereof, authorize the issuance of bonds not in excess of 5% of the average of the gross annual budget of the city for the preceding three years, provided that the aggregate of the proposed bond issue and the outstanding obligations under bonds previously issued without being subject to any referendum does not exceed 5% of such average.

D. The provisions of this section shall not apply to bond resolutions authorizing the issuance of bonds for the payment of judgments, or compromised or settled claims against the City, or awards or sums payable by the City pursuant to a determination by a court, or an officer, body or agency in an administrative or quasi-judicial capacity, or any capital improvement or equipment proposed to be constructed or acquired where the expense thereof, other than operation and maintenance, is to be borne by local assessment upon the several lots and parcels of land which the Council shall determine and specify to be especially benefited thereby, or capital improvements or equipment to be constructed or acquired which have been determined by resolution of the Council to be required to implement a Federal, State or County of Westchester mandate failure of which to comply with could, in the judgment of the Council expressed in a resolution, result in the imposition of a fine or penalty, or authorizing the issuance of obligations to be sold to the New York State Environmental Facilities Corporation or any successor thereto.

E. The provisions of this section shall not apply to bond resolutions authorizing the issuance of bonds for the payment of capital improvements or equipment proposed to be constructed or acquired for purposes determined by resolution of the Council to be required for public safety purposes requiring urgent action, in an amount not exceeding \$1,000,000 in the aggregate in any fiscal year, and provided that on the date of adoption of said bond resolution, the Council determines that the aggregate of the proposed bond authorization and the outstanding principal amount of obligations previously issued for public safety purposes requiring urgent action in reliance on this paragraph E does not exceed \$2,500,000. In making such determination, the Council shall disregard certain

such outstanding obligations to the extent provided below. Such determination shall be conclusive for all purposes of this paragraph E, irrespective of whether through inadvertence or otherwise such determination is later found to be inaccurate. In the event that the Council determines that the aggregate of the proposed bond authorization and the outstanding obligations issued for public safety purposes requiring urgent action exceeds \$2,500,000, the Council may authorize a mandatory public referendum on the question whether such bond authorization shall become effective. In the event of approval of such authorization at a referendum, such authorization shall become effective and i) the obligations issued or to be issued in reliance on such bond authorization, and ii) the outstanding amount of obligations previously issued or authorized for public safety purposes requiring urgent action in reliance on this paragraph E on the date of adoption of such bond authorization, shall be thereafter disregarded for all purposes of this paragraph E.

F. The provisions of this section shall not apply to bond resolutions authorizing the issuance of bonds for the payment of capital improvements or equipment proposed to be constructed or acquired for purposes determined by resolution of the Council to be required for natural disaster reconstruction as a result of a natural disaster, as declared by the Federal Government or the State Government requiring urgent action, in an amount not exceeding \$2,500,000 in the aggregate in any fiscal year, and provided that on the date of adoption of said bond resolution, the Council determines that the aggregate of the proposed bond authorization and the outstanding principal amount of obligations previously issued for natural disaster reconstruction purposes requiring urgent action in reliance on this paragraph F does not exceed \$2,500,000. In making such determination, the Council shall disregard certain such outstanding obligations to the extent provided below. Such determination shall be conclusive for all purposes of this paragraph F, irrespective of whether through inadvertence or otherwise such determination is later found to be inaccurate. In the event that the Council determines that the aggregate of the proposed bond authorization and the outstanding obligations issued for natural disaster reconstruction purposes requiring urgent action exceeds \$2,500,000, the Council may authorize a mandatory public referendum on the question whether such bond authorization shall become effective. In the event of approval of such authorization at a referendum, such authorization shall become effective and i) the obligations issued or to be issued in reliance on such bond authorization, and ii) the outstanding amount of obligations previously issued or authorized for natural disaster reconstruction purposes requiring urgent action in reliance on this paragraph F on the date of adoption of such bond authorization, shall be thereafter disregarded for all purposes of this paragraph F.

**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 will take effect on December 21, 2011.

ROLL CALL:

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

The local law was adopted by a 7-0 vote.

10. Public hearing to adopt the revised City of Rye Financial Policy

Councilman Filippi made a motion, seconded by Councilman Jovanovich and unanimously carried to open the public hearing on the revised City of Rye Financial Policy.

City Comptroller Gribbins said that she had worked with the Finance Committee on the proposed revision that was needed in order to reflect changes in Fund Balance required by GASB 54. Changes in addition to the language for GASB 54 include: addition of the disaster bonding provision; updating the banks and institutions; updating the purchasing policy; adding a change order form for purchase orders; and, adding a credit card policy.

No one from the public spoke.

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

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

**RESOLVED**, that the City Council of the  
City of Rye hereby adopts the revisions to the City  
of Rye Financial Policy as proposed.

ROLL CALL:

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

The Resolution was adopted by a 7-0 vote

11. Public Hearing to adopt a Local Law to override the State enacted tax levy limitation

City Manager Pickup said that because this is the first year that municipalities are dealing with the tax cap and because there are additional state reviews once the budget is submitted, NYCOM and other organizations have recommended that municipalities enact tax cap override legislation as a precaution even if they do not override the levy in their adopted budgets. Corporation Counsel Wilson said that the legislation must be adopted prior to the adoption of the budget.

Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried to open the public hearing to adopt a local law to override the State enacted tax levy limitation.

No one from the public spoke on the proposed local law.

The public hearing was kept open until the December 21, 2011 meeting.

12. Residents may be heard on matters for Council consideration that do not appear on the agenda

*Jim Amico*, 350 Midland Avenue, requested that the Council move this agenda item up earlier in the agenda. He read a statement about public participation in government and access to information and passed out copies of responses he had received from the City and County in response to a F.O.I.L. request he had filed. Corporation Counsel Wilson said she had provided him with non-exempt documents that were responsive to his response. Mr. Amico said he had received documents from the County that should have been part of the City's response. Ms. Wilson said that she considers this an Appeal of the City's initial F.O.I.L. response and would have to go back and review the documents Mr. Amico referred to in order to determine if they were exempt. Mr. Amico accused City Manager Pickup of trying to thwart his attempt to have a stop sign erected at Midland Avenue and Palisade Road.

*Jordan Glass, Esq.*, representing HealthHarbor read a statement about a court decision on a Federal §1983 action against the Town of Somers regarding control of content of speech at public meetings. He said the information that Ray Tartaglione has been trying to present at recent Council meetings does not qualify as controlled speech. He said the Council was encouraging an unnecessary lawsuit. He said County records indicate that Mayor French had STAR exemptions on both his primary residence and rental property from 1999 until mid-2011. *Ray Tartaglione* asked Mayor French if he would pay back taxes owed on the rental property he owned in Rye that had a STAR tax exemption. Mayor French said if he received an exemption he was not entitled to, he would pay back any money he owned and would follow up with the Assessor's Office.

13. Consideration to set a Public Hearing to amend the City of Rye Charter for the creation of a Public Safety Commissioner to head the Police Department and the Fire Department reporting directly to the City Manager

This agenda item was deferred to a later date.

14. Acceptance of Grant Award from Governor's Traffic Safety Committee in the amount of \$1,800 for participation in the "Child Passenger Safety" program  
Roll Call.

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

**WHEREAS**, the City of Rye has been awarded a New York State grant in the amount of \$1,800 for participation in the statewide 2011 "Child Passenger Safety" program; now, therefore, be it

**RESOLVED**, that the City of Rye accepts the aforementioned grant.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

15. Resolution to declare certain equipment as surplus  
Roll Call.

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

**WHEREAS**, the City has been provided with a list of City computer equipment identified as being obsolete or will become obsolete during 2011; and,

**WHEREAS**, the Police Department has recommended that said equipment be declared surplus; now, therefore, be it

**RESOLVED**, that said equipment is declared surplus; and, be it further

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

List of Equipment:

- 1 Dell E172fpb Monitor Serial #cn0m1609466333ah32nl
- 1 Dell Ultra Sharp 1702FP Monitor Serial #MX08G15247605319DGW5
- 1 Panasonic Toughbook CFM34 Laptop Computer Serial #1FKSA03533
- 1 Dell Dimension 4550 Computer Serial #D3KT021
- 1 Dell Dimension 4550 Computer Serial #93KT021

1 Dell Dimension 4550 Computer Serial #FL8W21  
1 Panasonic Toughbook CF 29 Serial #4EKSA35894 (destroyed by fire 8/11/08)  
1 Panasonic Toughbook CF 29 Serial #4EKSA35141 (destroyed by fire 2/28/09)  
1 HP Color Laser Jet 4650dtn Printer Serial #JPDAB05384  
2 Samsung Synemaster 700 B Plus serial #KG17H80K10449L  
1 Compaq Proliant ML530 Server Serial #D130FPY1K072  
1 Fargo Quattro 081410 Serial #90520171  
1 Quantum 1100 Snap Server, Model #70700228-004, Serial #FCC10U2756  
1HP Pro Curve Network Switch, Model #4000M/J4121A, Serial #SG02663074  
1 Compaq HP Proliant 800server Serial #D916CD10126  
1 HP Super Store DAT 24 Web Server Backup Drive Serial #IE25073581  
1 Dell Dimension 4400 Serial Number FTN7F11  
1 Dell Dimension 4400 Serial Number JCM7F11  
1 Dell Dimension 4550 Serial Number BL8WF21  
1 Compaq Deskpro EXM Serial Number 6052FR4ZD769  
1 Visioneer Strobe XP100 Serial Number TU3114557  
1 Visioneer Strobe XP200 Serial Number 339574239068560  
1 Dell E172 FPb Monitor, Serial #CNOM1609466333AH125L  
1 Visioneer Strobe XP200 Serial Number 345574423B000853  
1 HP Proliant ML370 Server, Serial #USE510A79W  
1 Dell E196FPf 19 inch Monitor, Serial #cnogc8117287262k4mdm  
1 HP D530 CMT Computer, Serial #USU442047R  
1 HP Laser Jet 2300n printer Serial #CNBGD40357  
1 Dell Dimension 4550, Serial Number 63KT021  
1 Dell E196FPF 19 inch Monitor, Serial #cnoge8117287264b2gvl  
1 Dell E196FPF 19 inch Monitor, Serial #cnogc8117287264b2gel

**ROLL CALL:**

**AYES:** Mayor French, Councilmembers Gamache, Jovanovich, Keith,  
Parker and Sack

**NAYS:** None

**ABSENT:** Councilman Filippi

The Resolution was adopted by a 6-0 vote.

**16. Miscellaneous Communications and Reports**

Councilwoman Parker reported that a dog had become ill after getting into an herbicide at Rye Town Park. She asked if the park's landscapers could be asked to use more natural pesticides or post notices when they are used. She asked if the Rye Town Park Commission could be asked to sign on to being pesticide free. Ms. Parker also said that the beach is not being opened consistently and asked the City Manager to look into it. Mayor French said there would be a community forum on Rye Town Park on January 7<sup>th</sup> at 10:30 at the Damiano Center.

Councilwoman Keith said the Sustainability Committee would probably do an Eye on Rye in connection with the adoption of the plastic bag law to educate the public. The Shared Roadways Committee will also do one in connection with their recent presentation to the Council in order to get public feedback. Mayor French said he and Councilwoman Keith would be meeting with the Committee's chairs in the near future.

17. Old Business

Mayor French said he had contacted the chairs of the Boards and Commissions regarding appointments for next year. He said the Council is always looking for new people to serve and will probably be making appointments in the second meeting in January.

18. New Business

There was nothing discussed under this agenda item.

19. Adjournment

There being no further business to discuss Councilwoman Keith made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the meeting at 12:08 a.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk



# CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: December 21, 2011

CONTACT: Mayor Douglas French

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

**FOR THE MEETING OF:**

December 21, 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 FEMA 2008 and 2009 Local Project Grants
- Legal Update



# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Manager

DATE: December 21, 2011

CONTACT: Scott D. Pickup, City Manager

**ACTION:** Continuation of Public Hearing to adopt a Local Law to override the State enacted tax levy limitation.

**FOR THE MEETING OF:**

December 21, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** New York State enacted a 2% tax cap on June 24, 2011. A provision in the law allows a municipality to override this tax cap under certain provisions including:

- Local governments may override the tax levy limit only by first passing a local law that allows for the tax levy limit to be exceeded.
- This override vote requires a 60 percent vote of the total voting power of the governing body to pass.
- In a case where a weighted vote is used to pass the budget, the override will require a 60 percent weighted vote of the local government 's governing body.
- The override vote must precede the vote on adoption of the budget although both votes may occur on the same day.

See attached draft Local Law.

**CITY OF RYE**

**LOCAL LAW NO. \_\_\_ FOR THE YEAR 2011**

**A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED  
IN GENERAL MUNICIPAL LAW §3-C**

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

**Section 1. Legislative Intent:** It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the City of Rye pursuant to General Municipal Law §3-c, and to allow the City of Rye to adopt a budget for the fiscal year beginning January 1, 2012 and ending December 31, 2012 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

The City Council finds that this local law would provide the City the flexibility it may need when it adopts the 2012 budget. Thus, the City Council of the City of Rye finds that it is in the best interests of the City to enact the local law.

**Section 2. Authority:** This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the City Council to override the tax levy limit by the adoption of a local law approved by vote of at least sixty percent (60%) of the City Council.

**Section 3. Tax Levy Limit Override:** The City Council of the City of Rye, County of Westchester is hereby authorized to adopt a budget for the fiscal year 2012 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

**Section 4. Severability:** If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. Effective date:** This local law shall take effect immediately upon filing with the Secretary of State.



## New York State Conference of Mayors and Municipal Officials

119 Washington Avenue, Albany, New York 12210 • Ph (518) 463-1185 • Fx (518) 463-1190  
Toll free number for NYCOM members 1-800-446-9266  
[www.nycom.org](http://www.nycom.org)

### Executive Committee

#### President

Diana M. Smith  
Mayor, Seneca Falls

#### First Vice President

William D. Nelson  
Mayor, Ogdensburg

#### Second Vice President

Richard J. Donovan  
Mayor, Minoa

#### Treasurer

Gerald D. Jennings  
Mayor, Albany

#### Immediate Past President

Samuel Teresi  
Mayor, Jamestown

#### Members

Michael R. Bloomberg  
Mayor, New York

Robert C. Corby  
Mayor, Pittsford

Howard M. Frawley  
Mayor, Angola

Donald M. Kasprzak  
Mayor, Plattsburgh

Ralph J. Kreitzman  
Mayor, Great Neck

James J. Miccio  
Mayor, Fishkill

Richard B. Milne  
Mayor, Honeoye Falls

Carolyn K. Peterson  
Mayor, Ithaca

Paul V. Pontieri  
Mayor, Patchogue

Ann M. Thane  
Mayor, Amsterdam

#### Affiliate Representative

Kathie B. Montigelli  
NYS Society of Municipal  
Finance Officers

#### Past Presidents: Ex-Officio

Gary A. Vegliante  
Mayor, West Hampton Dunes

John T. McDonald III  
Mayor, Cohoes

Ellen Polimeni  
Mayor, Canandaigua

Shawn D. Hogan  
Mayor, Hornell

.....  
Executive Director  
Peter A. Baynes

November 18, 2011

### Re: Property Tax Cap

Dear Mayor:

For the last several months, NYCOM has been working hard to educate our members – both on the phone and at the many tax cap workshops we have presented – about the various provisions of the tax cap law. One area that we continuously receive inquiries about is our guidance as to whether a municipality should enact a local law authorizing a property tax levy in excess of the cap.

It is important to remember that passing the local law does not mean you must exceed the cap – it simply gives your governing body the authority to do so. Yet, if a city council or village board of trustees decides to pass the local law authorizing such body to override the tax cap, the challenge for local officials will likely be trying to educate the public about the legitimate reasons for enacting such a local law.

Additionally, local officials – even in those communities where the override option is not exercised – are going to have to help their residents understand that, in many ways, this “tax cap” is no cap at all. First and foremost, it does nothing to address state mandates, which are the real cost drivers in municipal budgets and are the true cause of New York’s high property taxes. Furthermore, the tax cap law contains exclusions (e.g., settlement amounts arising out of tort actions and the excludable amount of pension costs) which, in reality, make the 2% cap a 3% or 4% cap, maybe even higher – depending upon how much “additional room” under the cap a community obtains from such exclusions. Finally, it is important to note that the cap is on the tax levy and not the tax rate. The bottom line is, even with this theoretical 2% tax cap in place and a municipality electing not to exceed the cap, residents may still experience an increase of more than 2% – in some cases, potentially much more than 2% – in their tax bills.

While NYCOM strongly believes that the decision to override the cap must be made by each community based upon their own individual circumstances, there are a variety of issues to consider when making this determination, such as:

**Fiscal Capacity** – A municipality may come to the conclusion, after reviewing all options, including spending and workforce reductions, that it must exceed the cap in order to continue to provide the level of essential services demanded by its residents.

Under other scenarios, including the following, a municipality may not necessarily decide to override the cap, but it would elect to pass the local law nonetheless.

**Precautionary Measure** – A municipality may be concerned that, particularly in the first year of the tax cap law with many uncertainties surrounding its interpretation and implementation, there is the very real potential for a local government to exceed the cap unintentionally. Without the local law in place, this could result in the municipality, at some later date, having to set aside money in a reserve fund, the amount of which would depend on how long it takes for the inadvertent mistake to be discovered. Passing the local law should “protect” the municipality if such a mistake occurs.

**Default Budgets** – The “default budget” provisions in the Village Law and in many city charters – whereby a mayor’s proposed budget becomes effective if the governing body does not act by a date certain – could lead to budgetary stalemates that result in the automatic enactment of a budget that includes a property tax levy in excess of the cap. If no local law to override the cap is in effect at such time, an automatic reduction in the levy to the capped amount will be necessary, thereby resulting in an immediately out-of-balance budget. Once again, the early passage of a local law authorizing the municipality to impose a levy in excess of the cap will help a municipality whose budget may be adopted by “default” avoid this situation.

**Local Control** – A municipality may choose to pass the local law to simply set aside the tax cap as an artificial device imposed as the state’s way to put the onus on local officials for what are in reality mandate-driven property tax increases. This action would, in turn, allow for a community-based discussion of local service priorities and the appropriate balance of spending cuts and revenue increases to fund such services, just as cities and villages do each and every year.

You, as local officials, are acutely aware of the pain caused by New York’s property tax problem. For the past year, NYCOM and our members have strongly made the case that a tax cap without significant mandate relief is a cop-out and will fail to yield meaningful and sustainable property tax relief. To date, the primary way local governments are keeping their tax levies under the cap for 2012 is by draining their limited amounts of fund balance. Clearly **this approach** is of very short-term value and increases long-term risks. Only through mandate relief that allows you to locally control your costs can New York achieve property tax relief and economic revitalization.

If you have thoughts or concerns regarding these critically important issues, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter A. Baynes", with a long horizontal line extending to the right.

Peter A. Baynes  
Executive Director

cc: Managers, Administrators, Fiscal Officers

# The Property Tax Cap

## *Guidelines for Implementation*



The information presented is current as of this publication's revision date.

**Table of Contents**

Key Components of the Tax Cap ..... 1

Technical Information ..... 2

    I. Applicability..... 2

    II. Quantity Change..... 3

    III. Inflationary Factor ..... 4

    IV. Calculating the Tax Levy Limit..... 4

    V. Filing the Levy Limit Calculation ..... 5

    VI. Limited Exclusions..... 6

    VII. Erroneous Levies ..... 9

    VIII. Overrides of the Tax Levy Limit..... 9

    IX. Budget Process: Final Adoption of a Budget..... 11

    X. Special Circumstances: Consolidation, Dissolution & Transfer of Functions..... 11

Appendix A ..... i

Appendix B .....ii

Appendix C .....iii

Appendix D .....iv

On June 24, 2011 the property tax cap was signed into law (see Chapter 97 of the NYS Laws of 2011). Below is guidance to assist local governments in the implementation of the property tax cap.

### **Key Components of the Tax Cap**

- ✓ **What is the property tax cap?**  
The tax cap law establishes a limit on the annual growth of property taxes levied by local governments and school districts to two percent or the rate of inflation, whichever is less.
- ✓ **Who is subject to the tax cap?**  
The cap applies to all independent school districts outside of the Big Five Cities (i.e. dependent school districts) and to all local governments including counties, cities, towns, villages and special districts (except those special districts noted below). The cap does not apply to New York City.
- ✓ **Are there exceptions to the tax cap?**  
There are limited, narrow exclusions to the cap, including certain costs of significant judgments arising out of tort actions and unusually large year-to-year increases in pension contribution rates.
- ✓ **Is there an override mechanism to the tax cap?**  
The tax levy cannot exceed the cap unless 60 percent of voters (for school districts) or 60 percent of the total voting power of the governing body (for local governments) approve such increase.
- ✓ **When is the tax cap effective?**  
The cap first applies to local fiscal years beginning in 2012. Local budgets that commenced in 2011 but conclude in 2012 are not affected.

## Technical Information

### I. Applicability

The tax cap applies to all independent school districts and all local governments outside of New York City, and is intended to capture the broad range of property taxes levied in New York. Accordingly, the tax cap applies broadly to property taxes that support all local governments, including special districts that are independently governed as well as special districts that are established, governed and administered by another municipality. Where a local government, such as certain special districts, is wholly integrated within another local government – i.e. the special district is established, administered and governed by the board of that other local government, and is supported by a tax levy imposed by and under the authority of that other local government – then any property tax being levied by the overarching local government to support the operations of the subordinate special district is considered part of the tax levy of the overarching local government for purposes of administering the tax cap and override vote, if any. The following entities are covered by the cap:

- All Counties (except those within NYC)
- All Cities (except NYC)
- All Towns
- All Villages
- All Fire Districts
- School Districts (including common, union free, central, central high school, and city school districts, but excluding NYC and the Big Four<sup>1</sup>)
- Special Districts (including, but not limited to sewer, water, library and fire protection districts). In the case of special districts the tax cap applies as follows:
  - The tax levy of a special district (such as a water or sewer district) that (i) has a separate independent elected board, and (ii) has the authority to levy a tax, or can require a municipality to levy a tax on its behalf, **is subject to the tax levy limit.**
  - The tax levy of a special district that (i) has a separate independent board appointed by the governing body of another local government, and (ii) has

---

<sup>1</sup> The budgets for the school districts in the Big Four Cities are within the cities' budgets, and those school districts have no separate taxing authority. The portion of the tax cap law applicable to local governments applies to the budgets of the Big Four Cities.

the authority to levy a tax, or can require a municipality to levy a tax on its behalf, **is subject to the tax levy limit.**

- To the extent the budget of a special district, such as a library district, is comprised of revenues generated by its own taxing authority, or by a tax levy of another local government that the local government is required to impose on behalf of that special district, those tax revenues fall within the tax levy limit of the special district. To the extent the budget of that special district is comprised of revenues generated by the taxing authority of another local government (such as a town or village), and that local government is not required to impose that tax levy on behalf of the special district, those tax revenues fall within the tax levy limit of the town or village.
- A tax levy that supports the operations of a special district that is established, administered and governed by the governing body of another local government— such as a tax levy imposed by a town or county board, under its authority, to support an improvement district created, administered and governed by that town or county board - is part of that town or county's tax levy, and **is to be applied to the tax levy limit of that town or county** – it is not to be separately reported by the special district.
- A special district that raises revenue solely through fees based on use **is not subject to the tax levy limit.**

## II. Quantity Change

The Quantity Change Factor adjusts the tax levy limit to reflect an increase in the full value of taxable real property in a local government due to physical or quantity change – i.e. new growth or significant additions to existing properties.

- The Commissioner of Taxation and Finance will issue a Quantity Change Factor for all local governments that have experienced an increase in the full value of taxable real property due to a physical or quantity change.
  - Increases in full value due to changes in assessment only do not constitute a basis for a quantity change factor. A physical or quantity change does not result from the splitting or merging of parcels.
  - Property returning to the tax rolls after the expiration of a PILOT does not constitute a basis for a Quantity Change Factor.

### III. Inflationary Factor

The growth in annual levy is limited to the lesser of 2 percent or the Consumer Price Index (CPI), subject to certain limited exceptions and adjustments. For the purposes of the cap the applicable CPI will be the unadjusted "All Items Consumer Price Index for All Urban Consumers" (CPI-U), the broadest and most comprehensive measure released by the Bureau of Labor Statistics. The CPI-U is released on a monthly basis, generally in the third week of the subsequent month.

Based on the most recently released calendar of release dates, the following table illustrates when the inflationary factor will be available for use by local governments in preparing their levy limit for upcoming budgets.

**Chart 1. Timing of the Release of CPI-U Index for the Property Tax Cap Inflation Factor**

Fiscal Year beginning	CPI-U period ends	CPI-U released
January 1, 2012	June 30, 2011	July 15, 2011
April 1, 2012	September 30, 2011	October 19, 2011
June 1, 2012	November 30, 2011	December 15, 2011
July 1, 2012	December 31, 2011	January 14, 2012

### IV. Calculating the Tax Levy Limit

Each local government shall calculate the tax levy limit for the coming year as follows:

- First, determine the total amount of **taxes levied**, not collected, in the prior fiscal year.
  - Property taxes levied by a town to fund the town budget under its taxing authority fall within the town's tax levy limit.
  - Property taxes levied by a town on behalf of another local government (e.g. fire district) pursuant to the taxing authority of that other local government fall within that other local government's tax levy limit.
- Second, if a "tax base growth factor" has been reported to the local government by the Commissioner of Tax and Finance, the total amount of taxes levied for the prior year is to be multiplied by the growth factor.
- Third, add any PILOTs that were receivable in the base year. The total amount of PILOTs receivable is to be included in the calculation of the tax levy limit. No adjustment is permitted.

- Fourth, beginning for fiscal year 2013, subtract the tax levy necessary to support expenditures for tort actions for any amount that exceeds 5 percent of the local government's tax levy in the prior fiscal year. There is no subtraction for these expenditures in the calculation for the 2012 fiscal year.
- Fifth, multiply the result by the allowable levy growth factor, which will be provided by the Office of the State Comptroller.
- Sixth, subtract any PILOTs receivable in the coming year. The total amount of PILOTs receivable is to be included in the calculation of the tax levy limit. No adjustment is permitted.
- Seventh, beginning with fiscal year 2013 budgets, add any available carryover from the prior fiscal year. There is no available carryover for the 2012 fiscal year.
- Eighth, unused exclusions associated with growth in pension costs or tort judgments may not be carried forward.

## **V. Filing the Levy Limit Calculation**

Each local government shall submit to the Office of the State Comptroller any information necessary for calculating the tax levy limit for the coming fiscal year prior to adopting a budget for that year. The Comptroller's office will provide additional information on the form and manner in which such submissions are to be made.

- A special district whose tax levy is determined by the board of another local government (such as a town or county board) does not have to separately submit the above information to the Office of the State Comptroller. The tax levy for that special district is part of that town or county's tax levy, is to be applied to the tax levy limit of that town or county, and is to be included within the information submitted by that town or county to the Office of the State Comptroller.
- A special district that raises revenues solely through fees based on use is not subject to the tax levy limit, and therefore does not have to submit the above information to the Office of the State Comptroller.
- All other special districts are each responsible for ensuring that its tax levy limit is calculated and reported in an accurate and timely manner.
- A special district may authorize another local government that handles its administrative affairs to calculate and report the tax levy limit on its behalf.

## VI. Limited Exclusions

The tax cap law allows for a limited number of exclusions to the tax levy limit. These exclusions are:

- **Torts.** Local governments can increase their property tax levy beginning for fiscal year 2012 above the levy limit (the base year levy as adjusted for growth and inflation) for costs resulting from court orders or judgments against the local government arising out of tort actions to be paid in the coming fiscal year. The adjustment can only be made for costs of those court orders or judgments that exceed 5 percent of the total prior year's tax levy. Tax certioraris and breach of contract actions are among the types of actions that **are not** tort actions.
- **Pensions.** The pension exemption is triggered if the annual growth in the average actuarial contribution rate for the Employees' Retirement System (ERS), the Police and Fire Retirement System (PFRS), or the normal contribution rate for Teachers' Retirement System (TRS) exceeds two percentage points. Under the exemption, pension costs associated with the annual growth in the employer contribution rate above two percentage points are exempted from the cap.
  - **Variance in Plans.** In years in which the pension exclusion is triggered, the pension exemption rate is the same percentage of salary (growth in the system average actuarial rate minus two percentage points) for all employers.

### Determining the Pension Exclusion

- In accordance with the employer contribution rates recently promulgated by the Office of the State Comptroller, the pension exemption will be triggered for both ERS and PFRS in local governments' FY 2012 budgets. The ERS average contribution rate is increasing by 2.6 percentage points and the PFRS average contribution is increasing by 4.2 percentage points. As a result, the ERS exemption is 0.6 percentage points and the PFRS exemption is 2.2 percentage points. These exemptions are calculated by subtracting two percentage points from the year-to-year increases in the ERS and PFRS average contribution rates (2.6 and 4.2 percentage points, respectively, for FY 2012). A similar exemption is allowed for local governments with TRS pension costs.
- For a hypothetical employer with a \$1 million ERS salary base and a separate \$1 million PFRS salary base, the ERS exemption would be calculated by multiplying 0.6 percent by the \$1 million salary base (\$6,000), and the PFRS exemption would be calculated by multiplying 2.2 percent by the separate \$1 million salary base (\$22,000), for a total pension exemption of \$28,000. All other pension costs fall within the property tax cap limitation.
- The system average contribution rate is to be utilized in calculating the amount of the exemption, even when the system average contribution rate is different than the actual contribution rate that the local government pays for its ERS pension plans. For example, if the ERS average contribution rate is increasing by 2.6 percent, and a local government's actual ERS plan contribution rate increased by only 2 percent, that local government would still be eligible to exclude 0.6 percent of its ERS salary base of \$1 million (or \$6,000). On the other hand, in years where the ERS average contribution rate increased by 3 percent and a local government's actual contribution rate increased by 3.5 percent, that local government can only exempt an amount equal to 1 percent of its \$1 million ERS salary base (or \$10,000).

- **Adjustments and Reconciliations.** Salary reconciliations and adjustments are not to be factored into the pension exclusion.
  
- **Contribution Rates.** The system average actuarial contribution rate is the average contribution rate paid by all employers in ERS and PFRS. It is published annually by the Office of the State Comptroller.
  - For fiscal years beginning in 2012, the Office of the State Comptroller recently published the ERS and PFRS contribution rates. TRS first published its estimated employer contribution rate in February 2011 for fiscal year 2012.
  - Local governments should use the ERS and PFRS contribution rates recently promulgated by the Office of the State Comptroller to calculate their exclusion for fiscal year 2012. Local governments with TRS pension costs should use the TRS contribution rate formally adopted in August 2011 (which was first published as an estimate in February 2011) for their FY 2012 budgets.
  - In future years, no local government may assume a pension exclusion until the Office of the State Comptroller officially promulgates the ERS and PFRS contribution rates. Accordingly, local governments will not be eligible to take advantage of the pension rate exclusion unless they use these contribution rates. If a local government's local law requires an earlier budget calculation and adoption, the local law must be changed with respect to when the budget is due in order to utilize the pension exception.
  
- **Salary Base.** The Office of the State Comptroller will provide local governments with their estimated salary bases to calculate their ERS and PFRS pension exclusions. Local governments with TRS pension costs must use their own salary base estimates to determine their TRS pension exclusion.
  - For ERS and PFRS, local governments must use the salary base projected by the Office of the State Comptroller in the calculation of their pension exclusion.
  - For TRS, local governments must continue to use their own initial salary base projections.
  
- **Amortization.** Local governments utilizing amortization may not levy for the pension exclusion.

## VII. Erroneous Levies

Excess levies that are collected due to calculations that are inconsistent with the statute are required to be placed in reserve.

- The law provides for no minimum threshold before funds are placed in reserve, although the Office of the State Comptroller may issue guidelines in this area.
- The law requires that cash be put in reserve.
- If the levy exceeds the tax levy limit due to technical or clerical errors, the excess amount shall be placed in reserve in accordance with Office of the State Comptroller requirements.
- If the Office of the State Comptroller finds upon audit that a local government has levied in excess of the tax levy limit, the local government must place an amount equal to the excess amount of the levy in reserve.

## VIII. Overrides of the Tax Levy Limit

Local governments **may override the tax levy limit only by first passing a local law** (or a resolution in the case of a fire or other special district) that allows for the tax levy limit to be exceeded.

- This override vote requires a 60 percent vote of the total voting power of the governing body to pass.
  - In a case where a weighted vote is used to pass the budget, the override will require a 60 percent weighted vote of the local government's governing body.
  - The override vote must precede the vote on adoption of the budget although both votes may occur on the same day.
- The local government may exercise reasonable discretion in drafting a local law or resolution that overrides the tax levy limit, but any such local law or resolution must contain language that clearly overrides the levy limit.
- The local governing body may adopt the budget right after adopting the local law. If the Secretary of State rejects the local law for filing because of technical reasons, and those technical reasons are not cured within a reasonable period of time, the amount of the tax levy that exceeded the tax levy limit (other than a levy for those items excluded from the tax levy limit) shall be placed in reserve pursuant to paragraph 6 of section 3-c of the General Municipal Law.

- In the event that a local government successfully overrides the tax levy limit, the base for the following year's tax levy limit calculation is the amount that was levied in the prior year inclusive of the override amount, less any amounts to be subtracted as set forth in the statute.
- In the case of a special district that requires a popular vote to pass the budgetary increase, the 60 percent voting requirement only applies to the board's vote, not to the popular vote (where only a majority vote continues to be required).

**Example: Non-Charter Counties Budget Process**

- The budget officer of a non-charter County has to submit a tentative budget by November 15, but may be required by the County's board of supervisors to submit that tentative budget by October 1.
- Members of the committee of the board of supervisors designated or created to review the tentative budget are entitled to investigate and inquire about the estimate of any administrative unit or the request for an appropriation of any authorized agency, and are entitled to attend all hearings conducted by the budget officer.
- The board of supervisors of that County has until December 20 to adopt a budget.
- Accordingly, that County has between 5 to 11 weeks to enact a local law that overrides the tax levy limit (which local law has to be upon the desks or tables of the board of supervisors for at least 7 calendar days, excluding Sundays, unless there is a message of necessity).
- As is required for all local laws, the proposed local law that overrides the tax levy limit is subject to a public hearing on five days notice, unless a local law prescribes a different notice requirement.
- See attached charts entitled **"Timeline for Tentative County Budget that Requires Tax Cap Override"** and **"Timeline for Tentative County Budget as Amended by Board of Supervisors that Requires Tax Cap Override."**

**Example: Town Budget Process**

- The town clerk of a town has to submit a tentative budget to the town board on or before September 30 (or on or before October 30 for towns in Westchester and Monroe Counties).
- A town board has until November 20 (or December 20 for towns in Westchester and Monroe Counties) to adopt the budget.
- Accordingly, towns in counties other than Westchester and Monroe have more than 6 weeks to enact a local law that overrides the tax levy limit (which local law has to be upon the desks or tables of the town board members for at least 7 calendar days, excluding Sundays, unless there is a message of necessity). Towns in Westchester and Monroe Counties have nearly 6 weeks to pass such a local law.
- As is required for all local laws, the proposed local law that overrides the tax levy limit is subject to a public hearing on five days notice, unless a local law prescribes a different notice requirement.
- See attached charts entitled “**Timeline for Tentative Town Budget that Requires Tax Cap Override**” and “**Timeline for Tentative Town Budget as Amended by the Town Board that Requires Tax Cap Override.**”

**IX. Budget Process: Final Adoption of a Budget**

A budget officer, or chief executive, may prepare a tentative budget that requires a tax levy in excess of the levy limit. However, the governing body cannot, without first complying with override requirements, (i) adopt a budget that requires a levy in excess of the tax levy limit, or (ii) impose or cause the imposition of a tax levy to the extent that a budget requires a levy in excess of the levy limit.

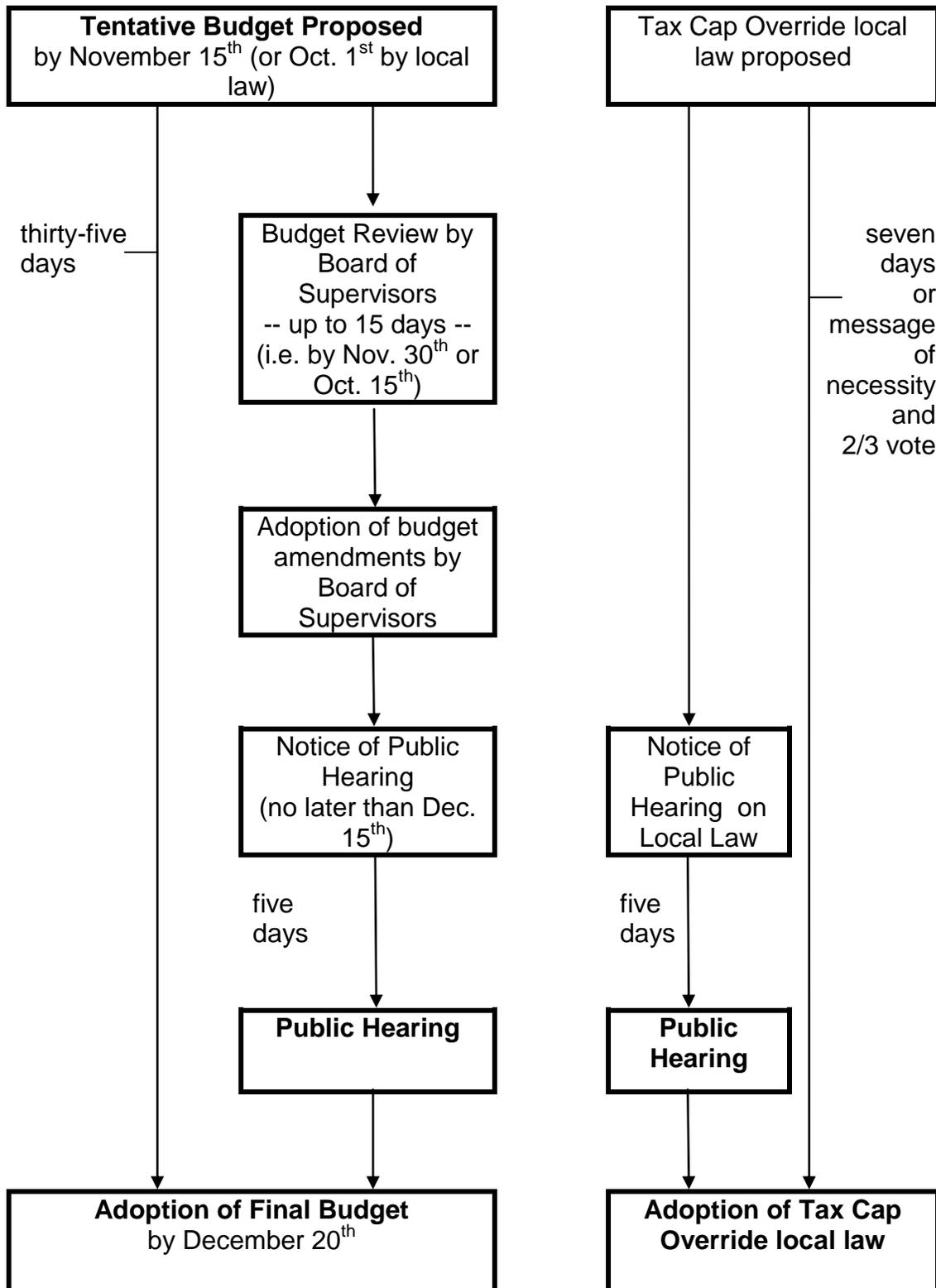
**X. Special Circumstances: Consolidation, Dissolution & Transfer of Functions**

When significant changes are made to the structure or governance of a local government, the tax levy limit calculation will need to be determined by the Office of the State Comptroller.

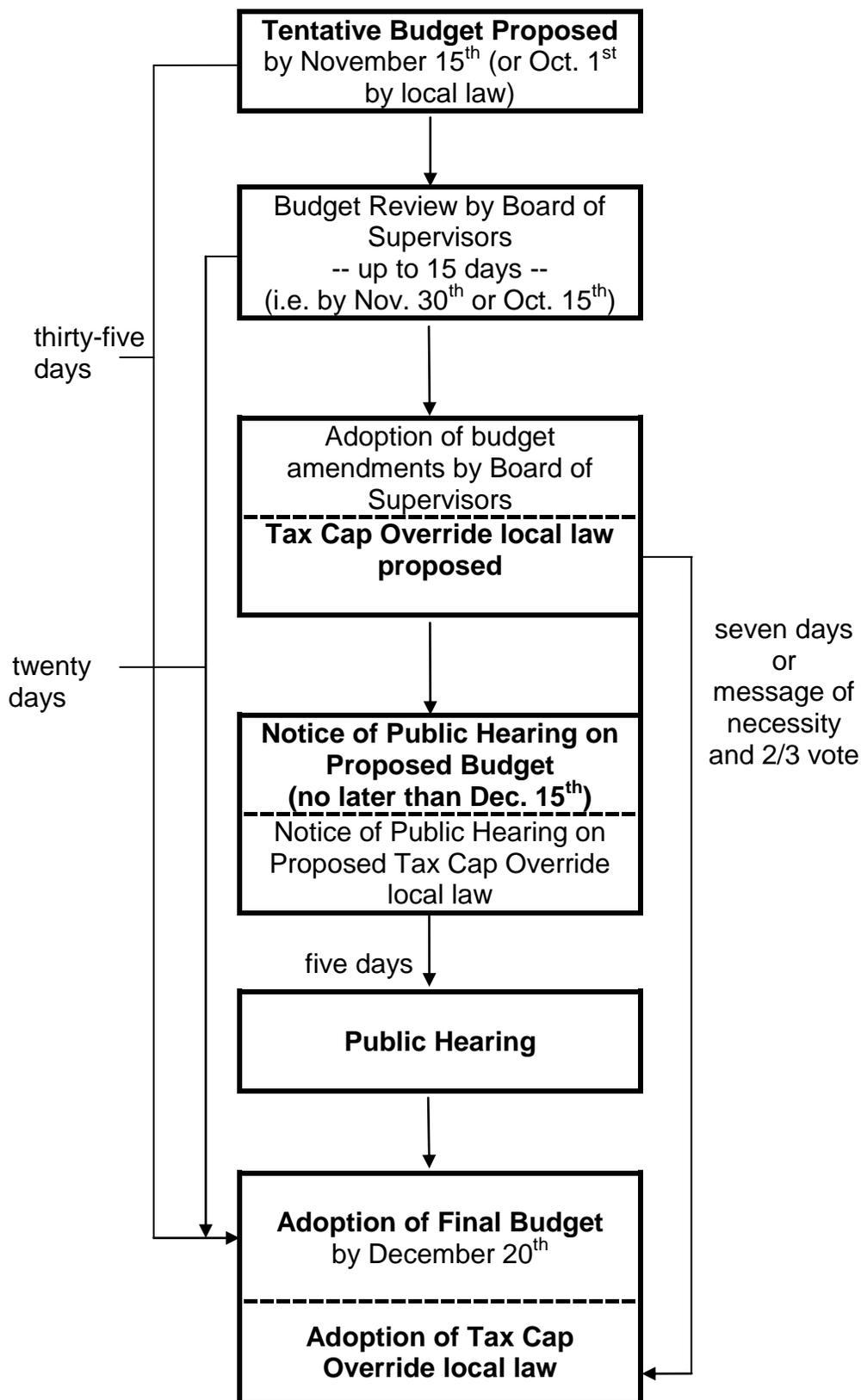
- **Consolidation.** When two or more local governments consolidate, the Office of the State Comptroller will calculate the tax levy limit for the first year after the consolidation. This calculation will be based upon the prior year tax levy limits of both local governments, but other factors pertaining to the consolidation may also be considered.

- **Transfer of Functions.** If a local government determines that it is in the best interest of the citizens to transfer the function for a governmental activity (such as policing) to another local government, the Office of the State Comptroller shall determine the costs and savings of the associated function for both local governments. This determination will be provided to the local governments so that the appropriate adjustments can be made to their tax levy limit calculations.
- **Dissolutions.** When a local government dissolves, the Office of the State Comptroller will calculate the tax levy limit for the local government that assumes the debts, liabilities and obligations of the former local government. This calculation will be based upon the prior year tax levy limits of both local governments, but other factors pertaining to the dissolution may also be considered.
- **New Local Governments.** The tax levy limit does not apply to the first fiscal year of a newly established local government (which is not the result of a consolidation or dissolution).

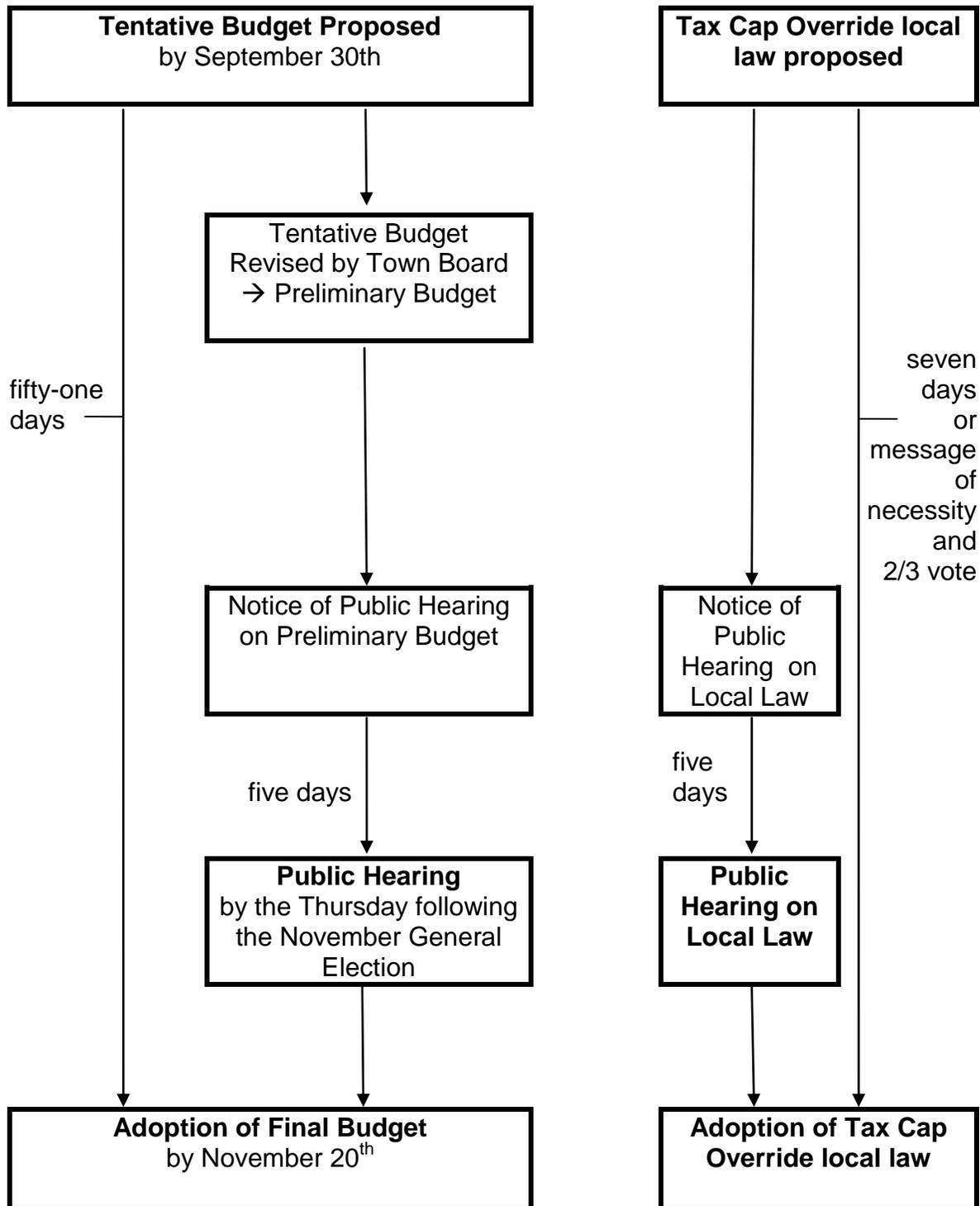
### Appendix A Timeline for Tentative County Budget that Requires Tax Cap Override



**Appendix B**  
**Timeline for Tentative County Budget as Amended by Board of Supervisors**  
**that Requires Tax Cap Override**

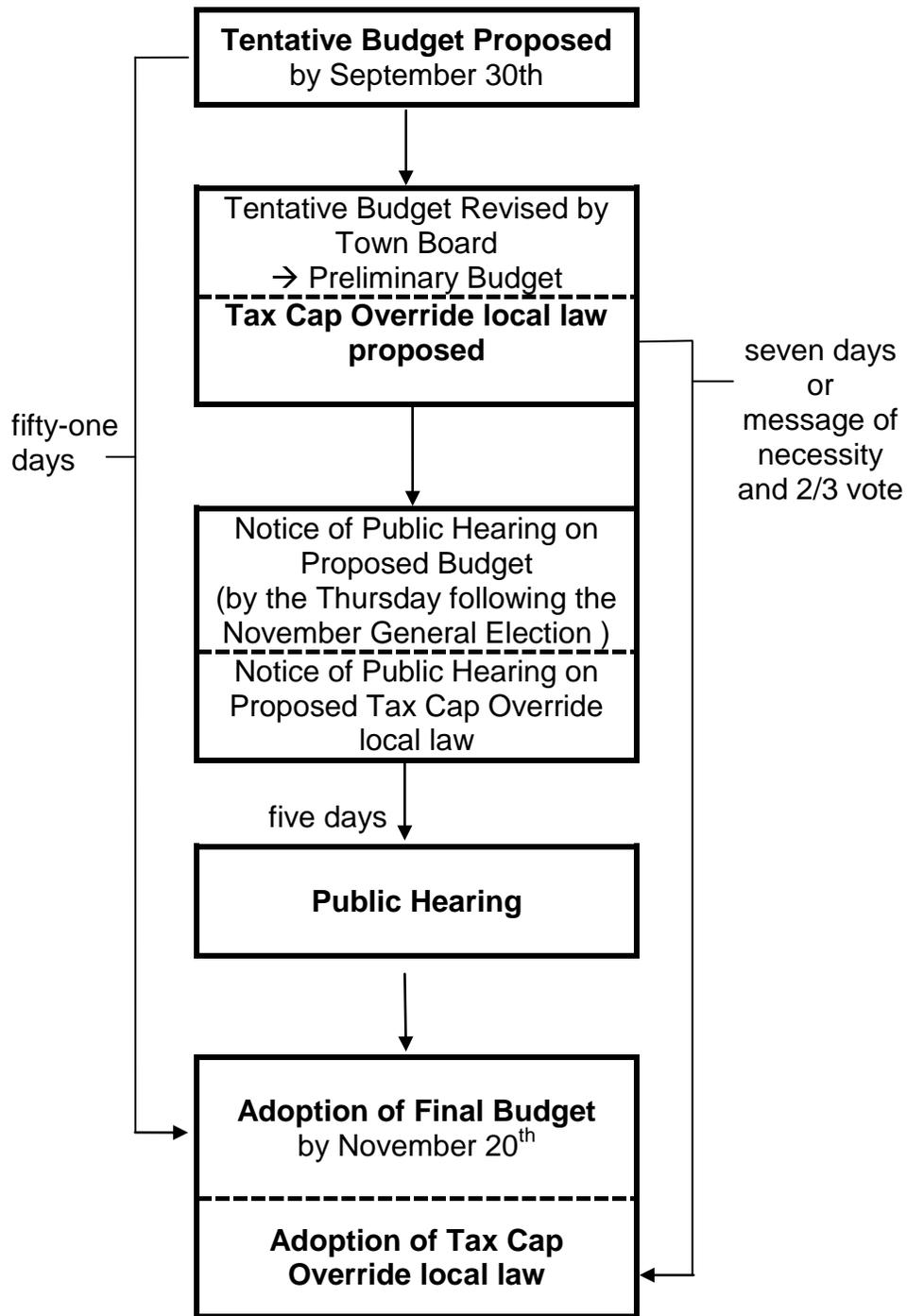


**Appendix C**  
**Timeline for Tentative Town Budget that requires Tax Cap Override\***



\* The budget calendars are different for towns in Monroe and Westchester Counties

**Appendix D**  
**Timeline for Tentative Town Budget as Amended by the Town Board**  
**that requires Tax Cap Override\***



\* The budget calendars are different for towns in Monroe and Westchester Counties



# CITY COUNCIL AGENDA

NO. 7

DEPT.: City Manager's Office

DATE: December 21, 2011

CONTACT: Scott D. Pickup, City Manager

**ACTION:** Continuation of Public Hearing on the proposed 2012 City Budget.

**FOR THE MEETING OF:**

December 21, 2011

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Mayor and the Council continue the public hearing on the proposed 2012 Rye City Budget.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

The City Manager presented the budget on November 9th. The Council held Workshops on November 14<sup>th</sup>, 16<sup>th</sup>, and 30<sup>th</sup>.

The proposed 2012 Budget is available on the City website [www.ryeny.gov](http://www.ryeny.gov) under City News: 2012 Tentative Budget.

The Budget adoption is scheduled for December 21, 2011.



# CITY COUNCIL AGENDA

NO. 8

DEPT.: Finance

DATE: December 21, 2011

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution to adopt the 2012 Budget and establish the 2012 City tax levy and 2012 tax rate.

**FOR THE MEETING OF:**  
December 21, 2011

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

**WHEREAS**, on November 9, 2011 the 2012 Tentative Budget was presented to the City Council, and,

**WHEREAS**, since November 9, 2011 the City Council has discussed possible amendments to the 2012 Tentative Budget, now, therefore be it

**RESOLVED**, that the tentative budgets and fee schedules as amended for the General Fund, Cable TV Special Revenue Fund, K.T. Woods Permanent Fund, Debt Service Fund, Capital Projects Fund, Boat Basin Enterprise Fund, Golf Club Enterprise Fund, Risk Retention Internal Service Fund and Building and Vehicle Maintenance Internal Service Fund, are hereby adopted for the fiscal year ending December 31, 2012, and be it further

**RESOLVED**, that the City Council does hereby certify to the City Comptroller the 2012 City of Rye tax rate of \$145.54 per \$1,000 taxable assessed valuation and the 2012 City of Rye tax levy of \$ 20,045,875 and be it further

**RESOLVED**, that the City Council does hereby direct the City Comptroller to apportion and extend against each taxable property listed upon the assessment roll at the tax rate certified in this resolution to produce the tax levy certified in this resolution, and to render tax notices for, and receive and collect, the several sums so computed and determined, with interest as provided by law, and any special assessments heretofore authorized and approved.

**IMPACT:**    Environmental    Fiscal    Neighborhood    Other:

**BACKGROUND:** On November 9, 2011 the City Manager and City Comptroller presented the 2012 Tentative Budget to the City Council. The tentative budget has since been reviewed and amended by resolutions adopted by City Council at public meetings. The above resolution provides for the adoption of the 2012 Budget.



# CITY COUNCIL AGENDA

NO. 10

DEPT.: Finance

DATE: December 21, 2011

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution authorizing the City Comptroller to make the necessary year-end closing transfers.

**FOR THE MEETING OF:**

December 21, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

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

**RESOLVED,** that the City Comptroller is hereby authorized to make the necessary 2011 fiscal year-end budget transfers in City accounts, provided a list of such transfers is furnished to the City Council after completion of such transfers.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other: Cost savings through operational efficiency

**BACKGROUND:** While at the fund level total actual expenditures do not exceed the total budgeted amount, there may be several detailed budget lines that show various over and under expended amounts. This resolution authorizes the City Comptroller to make the necessary year-end budget adjustments to ensure that the line item budgets are properly allocated.



# CITY COUNCIL AGENDA

NO. 11

DEPT.: Finance

DATE: December 21, 2011

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution to authorize participation in Westchester County contracts.

**FOR THE MEETING OF:**  
December 21, 2011

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

WHEREAS, by Act No. 8-1983, The County Board of Legislators authorized the County Purchasing Agent to act as Purchasing Agent for any city, town, village, school district or other unit of local government within the County of Westchester County, provided that said unit of local government by act, ordinance or resolution authorizes the County Purchasing Agent to act as its Purchasing Agent for items purchased by the County, and empowering designated officers and employees to sign requisitions, and further directing the proper official of local government to audit and pay County bills for the cost of County services within thirty (30) days after the receipt of said bill by the local government, and to provide the County with such insurance coverage as may be required by the County's Director of Risk Management, NOW, THEREFORE, be it

RESOLVED, that the County Purchasing Agent is hereby authorized to act as Purchasing Agent for the City of Rye, New York on a continuing basis, and be it further

RESOLVED, that the City Manager, the Assistant City Manager, the City Comptroller, and/or the City Engineer are hereby authorized to sign appropriate requisitions, and be it further

RESOLVED, that the City Comptroller is hereby authorized and directed to audit and pay County bills for the cost of County services within thirty (30) days after receipt of said bills, and be it further

RESOLVED, that the City Comptroller is hereby authorized to secure and provide to the County of Westchester any and all insurance required by the County's Director of Risk Management, in Accordance with County Act No. 8-1983.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The City of Rye participates in contracts awarded by the County of Westchester. The County of Westchester requires a resolution of our governing board for our continued participation in County purchase contracts.



# CITY COUNCIL AGENDA

NO. 12 DEPT.: City Manager's Office DATE: December 21, 2011  
CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Resolution authorizing the Mayor to enter into an agreement with the Rye Free Reading Room to furnish library services for 2012.

**FOR THE MEETING OF:**  
December 21, 2011  
**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** That the City Council approve the following resolution:  
RESOLVED, that the Mayor be and hereby is authorized to execute an agreement with the Rye Free Reading Room to furnish library services for 2012.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** Each year the City of Rye financially supports the operations of the Rye Free Reading Room (RFRR). In FY 2011, the contribution was in the amount of \$1,080,000. The enclosed agreement includes an appropriation of \$1,080,000. The agreement stipulates the specific rights and obligations of both parties, pursuant to section 256 of the Education Law of the State of New York.

THIS AGREEMENT, made as of the \_\_\_\_ day of January, 2012, by and between the CITY OF RYE, a municipal corporation located within the County of Westchester and State of New York, party of the first part, and RYE FREE READING ROOM, a free library association duly registered by the Regents of the University of the State of New York at a meeting thereof on January 24-25, 1917, and maintaining a free library in the City of Rye, County of Westchester and State of New York, party of the second part:

WITNESSETH, that the parties hereto, pursuant to section 256 of the Education Law of the State of New York, do hereby mutually covenant and agree as follows:

1. The party of the second part does hereby agree to furnish library privileges to the people of the City of Rye, under reasonable rules and regulations of the party of the second part, during the terms of this agreement.

2. The party of the second part does hereby agree that the Rye Free Reading Room will offer service to the public a minimum of 45.5 hours in the winter and 41 hours in the summer. The Library will make all best efforts to ensure that within its hours of operation that Saturday is open.

3. The party of the second part does hereby agree to submit to the City of Rye a financial report within two months of the close of its fiscal year and to provide copies of an annual narrative report prepared for association members. Copies of all audit reports prepared by independent audit firms or the State of New York will be filed, within 30 days of receipt, with the City Comptroller and the City Council's Audit Committee.

4. In consideration of the foregoing the party of the first part does hereby agree to pay the sum of One Million Eighty Thousand Dollars (\$1,080,000) to the party of the second part during the calendar year: Five Hundred Forty Thousand Dollars (\$540,000) to be paid in January, and Five Hundred Forty Thousand Dollars (\$540,000) to be paid in July.

5. Pursuant to said statute, such total sum shall be a charge upon the City of Rye and shall be raised, appropriated and paid in the same manner as other City charges.

6. This agreement shall be effective and continue for the calendar year 2012.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement as of the day and year first above written.

CITY OF RYE

By \_\_\_\_\_  
Mayor

RYE FREE READING ROOM

By \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
City Clerk



# CITY COUNCIL AGENDA

NO. 13

DEPT.: City Manager's Office

DATE: December 21, 2011

CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Resolution fixing January 11, 2012 as the first regular meeting and the designation of the days and time of regular meetings of the City Council for 2012.

**FOR THE MEETING OF:**

December 21, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

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

**Resolved,** that January 11, 2012 is hereby fixed as the first regular and the organizational meeting of the City Council for 2012.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

See attached tentative schedule for regular meetings of the City Council for 2012.

**CITY OF RYE**  
**CITY COUNCIL**  
**MEETING SCHEDULE 2012**

**MEETINGS BEGIN 8:00 P.M. AT CITY HALL**

January 11  
January 25

February 8  
February 29

March 14  
March 28

April 4  
April 18

May 9  
May 23

June 13

July 11

August 6 – Presentation of the CIP  
August 8

September 12

October 10  
October 24

November 7  
November 14 – Presentation of the Budget  
November 28

December 5  
December 19

# 2012

## January

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## February

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

## March

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

## April

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

## May

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

## June

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

## July

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## August

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

## September

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

## October

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

## November

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

## December

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

February 20 - 24 School closed  
 April 9 - 13 School closed  
 August 6 CIP Presentation

November 6 Election Day  
 November 7 Budget Presentation  
 November 22 Thanksgiving



# CITY COUNCIL AGENDA

NO. 14

DEPT.: Finance

DATE: December 21, 2011

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution to transfer \$40,000 from contingency to the Public Works Department for salt.

**FOR THE MEETING OF:**  
December 21, 2011

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

WHEREAS, City staff has determined that the amounts required for salt will exceed the amounts provided for in the adopted 2011 budget by an additional \$40,000, and,

WHEREAS, the General Fund Contingent Account has a balance of \$90,000, now therefore be it

RESOLVED, that the City Comptroller is authorized to transfer \$40,000 from the General Fund Contingent Account to Public Works department to cover salt costs.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** Use and status of the Contingent Account:

01/01/2011 Beginning balance	\$300,000
02/09/2011 Transfer to Public Works for Storm costs	(50,000)
04/13/2011 Transfer to Sewer/Drain Account for emergency repairs	(25,000)
06/15/2011 Transfer to Engineering Services for design fees	(25,000)
07/13/2011 Transfer to Rye Town Park account	(25,000)
09/28/2011 Transfer to Fire Department account	(85,000)
12/21/2011 Transfer to Public Works for Salt	<u>(40,000)</u>
12/21/2011 Balance	<u>\$50,000</u>



# CITY COUNCIL AGENDA

NO. 14A

DEPT.: Finance

DATE: December 21, 2011

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution to transfer \$50,000 from contingency to the Risk fund for Legal and Stenographer Services and Judgments and claims.

**FOR THE MEETING OF:**  
December 21, 2011

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

WHEREAS, City staff has determined that the amounts required in the risk fund for Legal and Stenographer services, and judgments and claims will exceed the amounts provided for in the adopted 2011 budget by an additional \$50,000, and,

WHEREAS, the General Fund Contingent Account has a balance of \$50,000, now therefore be it

RESOLVED, that the City Comptroller is authorized to transfer \$50,000 from the General Fund Contingent Account to the Risk fund to cover for Legal and Stenographer Services and Judgments and claims.

**IMPACT:**    Environmental    Fiscal    Neighborhood    Other:

**BACKGROUND:** Use and status of the Contingent Account:

01/01/2011 Beginning balance	\$300,000
02/09/2011 Transfer to Public Works for Storm costs	(50,000)
04/13/2011 Transfer to Sewer/Drain Account for emergency repairs	(25,000)
06/15/2011 Transfer to Engineering Services for design fees	(25,000)
07/13/2011 Transfer to Rye Town Park account	(25,000)
09/28/2011 Transfer to Fire Department account	(85,000)
12/21/2011 Transfer to Public Works for Salt	(40,000)
12/21/2011 Transfer to Risk Fund	<u>(50,000)</u>
12/21/2011 Balance	<u>\$ -0-</u>



# CITY COUNCIL AGENDA

NO. 15

DEPT.: Engineering

DATE: December 21, 2011

CONTACT: Christopher Tallarini, Assistant City Engineer

**AGENDA ITEM:** Resolution authorizing the Engineering Department to provide a letter to the County Board of Legislators requesting that 5 Sunset Lane be moved from the Blind Brook County Sewer District to the Mamaroneck County Sewer District.

**FOR THE MEETING OF:**

December 21, 2011

**RYE CITY CODE,**

CHAPTER N/A

SECTION N/A

**RECOMMENDATION:** That the City Council authorize the Engineering Department to submit the request to the Westchester County Board of Legislators.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The Apawamis Club is installing a public sewer main extension on Hunter Lane and Sunset Lane which can accommodate the connection from the existing homes on Sunset Lane. Steven S. Stuart and Catherine A.C. Froman of 5 Sunset Lane would like to connect to the proposed sewer main at their sole expense. Currently their property is located in the Blind Brook County Sewer District; to connect to the sewer main they will need to be moved to the Mamaroneck Sewer District. They are asking that the City Council authorize the Engineering Department to make a formal request to the Westchester County Board of Legislators to facilitate this change of sewer district.

See attached.



## ENGINEERING DEPARTMENT MEMORANDUM

**DATE:** December 14, 2011  
**TO:** Scott D. Pickup, City Manager  
**FROM:** Christopher A. Tallarini, Assistant City Engineer  
**SUBJECT:** 5 Sunset Lane, Sanitary Sewer Re-districting

Scott,

I have met with the resident of 5 Sunset Lane and their representative counsel. The Engineering Department is fully aware and in agreement with the proposed sanitary sewer district change.

We recommend that the City Council authorizes the Engineering Department to make a formal request to the Westchester County Board of Legislators, to have 5 Sunset Lane removed from the Blind Brook county sewer district and entered into the Mamaroneck county sewer district.

Currently the Apawamis Club is in the process of installing a sanitary sewer main on Hunter and Sunset Lane, where this residence will be connected. The proposed infrastructure will be able to accommodate any additional flow from the property at 5 Sunset Lane, as well as all other properties for which the sewer's design was originally intended.

Please let me know if any further information is needed.

Regards,

A handwritten signature in black ink, appearing to read 'Chris Tallarini', written in a cursive style.

Christopher A. Tallarini  
Assistant City Engineer

McCULLOUGH, GOLDBERGER & STAUDT, LLP

ATTORNEYS AT LAW

1311 MAMARONECK AVENUE, SUITE 340

WHITE PLAINS, NEW YORK

10605

(914) 949-6400

FAX (914) 949-2510

WWW.MCCULLOUGHGOLDBERGER.COM

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

FRANK S. MCCULLOUGH, JR.  
CHARLES A. GOLDBERGER  
JAMES STAUDT  
LINDA B. WHITEHEAD  
SETH M. MANDELBAUM  
EVAN M. EISLAND

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

December 12, 2011

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

Re: Application of Steven S. Stuart & Catherine A.C. Froman  
5 Sunset Lane, Rye, NY  
Tax Lot Designation: 146-6-1-8

Dear Mr. Pickup:

This firm represents Steven S. Stuart & Catherine A.C. Froman, the contract vendees of the property located at 5 Sunset Lane. As you may be aware, the Apawamis Club is in the process of installing a public sewer main extension in Hunter Lane, between the intersection of Hunter and Sunset and the existing public sewer main in Hunter Lane (south of Sunset Lane). This public sewer main extension has been designed to accommodate connections from the existing homes on Sunset Lane, including the subject property at 5 Sunset Lane. Our clients would like to connect to the new public sewer main being constructed by Apawamis, at their sole expense, in order to properly abandon the existing septic system on the property.

However, 5 Sunset Lane is located in the Blind Brook County Sewer District, while the public sewer main to which my clients wish to connect is located in the Mamaroneck County Sewer District. In fact, 5 Sunset is the first property in the Blind Brook District. In order to connect to the public sewer main in Hunter Lane, 5 Sunset must be located in the Mamaroneck Sewer District.

Based on the foregoing, and as we discussed with Chris Tallarini and George Motarella, we are now requesting that the City make the required formal request to the Westchester County Board of Legislators to have 5 Sunset Lane taken out of the Blind Brook District and placed into the Mamaroneck Sewer District. This request must come by resolution from the City Council.

We respectfully request that you place this matter on your December 21, 2011 City Council meeting agenda for discussion of the request to the Board of Legislators.

Thank you for your consideration of this matter. If you have any questions, please do not hesitate to contact my office.

Very truly yours,



Seth M. Mandelbaum

SMM:srw

cc: Steve Stuart  
Chris Tallarini, P.E.  
Kristen Wilson, Esq.  
Rob Aiello, P.E.



# CITY COUNCIL AGENDA

NO. 16

DEPT.: Police Department

DATE: December 21, 2011

CONTACT: William R. Connors, Police Commissioner

**AGENDA ITEM:** Acceptance of donation to the Rye Police Department from the Rye Hospital Center in the amount of Seven Hundred Fifty (\$750.00) Dollars.

**FOR THE MEETING OF:**

December 21, 2011

**RYE CITY CODE,**

CHAPTER

SECTION

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

Whereas, the Rye Hospital Center desires to donate Seven Hundred Fifty (\$750) Dollars to the Rye Police Department; and

Whereas, the fiscal 2011 General Fund budget did not anticipate these donations; now, therefore be it

Resolved, that the City Council of the City of Rye accepts the aforementioned donations; and be it further

Resolved that the City Comptroller is authorized to amend the fiscal 2011 General Fund budget as follows:

Increase Deferred Revenues -Police Donations \$750.00

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

The Rye Hospital Center, by letter dated December 9, 2011, advised the Police Department that the Center would like to make a contribution of \$750. The Police Commissioner recommends acceptance of this donation.



William R. Connors  
*Police Commissioner*

## POLICE DEPARTMENT

City of Rye, New York

21 McCullough Place

Rye, N. Y. 10580

Phone: (914) 967-1234

FAX: (914) 967-8341



December 9, 2011

Memorandum for: Scott D. Pickup, City Manager

Subject: **DONATION FROM RYE HOSPITAL CENTER**

Attached is a letter from Amy S. Schoen, Vice President for Administration, Rye Hospital Center, along with a check for \$750, to be donated to the Rye Police Department.

I have attached a copy of a letter to Ms. Schoen acknowledging the donation and expressing our appreciation.

I recommend acceptance of this donation.

Submitted for your consideration.

WRC/wrc

A handwritten signature in black ink that reads "William R. Connors".

William R. Connors  
Police Commissioner

# RYE HOSPITAL CENTER

754 Boston Post Road, Rye, New York 10580

(914) 967-4567 • www.ryehospital.org

## GOVERNING BOARD

JACK C. SCHOENHOLTZ, M.D., D.L.F.A.P.A.  
JOAN M. SCHOENHOLTZ, RN  
PETER M. SCHOENHOLTZ, M.S., L.C.S.W.

JACK C. SCHOENHOLTZ, M.D., D.L.F.A.P.A.  
*Medical Director/Administrator*

*Ex Officio*

MOITRI DATTA, M.D., F.A.P.A.  
*Director of Transition Age Youth Services*

JOHN J. MARCOGLIESE, M.B.A.  
*Chief Financial Officer*

AMY S. SCHOEN, B.A.  
*Vice President/Administration*

ELLIOT ROY SINGER, M.D., D.L.F.A.P.A.  
*Clinical Director*

December 9, 2011

William Connors  
Commissioner  
City of Rye Police  
21 McCullough Place  
Rye, New York 10580

Dear Commissioner Connors:

We offer this contribution with our thanks to you and your Department.

As in the past, we recognize the continuing efforts of the City of Rye Police to work cooperatively with the Hospital regarding problems that have come about because we are an open-door facility. The Department always responds to the Hospital in a prompt and supportive manner. Members of the department have demonstrated sensitivity and understanding in relating to our patients when there is need, or in just responding to questions that may arise. The Police continue to be courteous, cooperative and interested in helping us to resolve any difficulties.

Looking ahead to 2012 we hope that we can, once again, have a joint emergency drill exercise. The exercise in 2010 was most helpful.

The hospital cares about the community of which it is an integral part and we are grateful to the City of Rye Police Department for its skill and efficiency.

Sincerely,



Amy S. Schoen

Vice President for Administration

Enclosure



William R. Connors  
Police Commissioner

## POLICE DEPARTMENT

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



December 9, 2011

Ms. Amy Schoen  
Vice President for Administration  
Rye Hospital Center  
754 Boston Post Road  
Rye, New York 10580

Dear Ms. Schoen:

Thank you for your donation of seven hundred fifty dollars to the Rye Police Department.

Your kind contribution has been forwarded to the City Manager's Office for acceptance; upon Council approval, it will be deposited into a designated account maintained by the City of Rye, which is utilized for the purchase of equipment.

Thank you, as always, for your positive comments about the work done by our officers. I appreciate your ongoing efforts to maintain a good working relationship between the hospital and our Department. I look forward to conducting another joint Emergency Preparedness Drill; it is important that we keep doing such exercises routinely to maintain our readiness for whatever may come our way. When your schedule permits, please contact me or Lt. Falk and we will begin preparations.

Best wishes for the holiday season and I look forward to continuing to work with you and the hospital during the coming year.

Very truly yours,

A handwritten signature in black ink, appearing to read "Wm R Connors".

William R. Connors  
Police Commissioner