

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, April 4, 2012, at 8:00 p.m. in the Council Room of City Hall. *The Council will convene at 7:30 p.m. and it is expected they will adjourn into Executive Session at 7:31 p.m. to discuss collective bargaining and legal matters.*

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meeting of the City Council held March 28, 2012.
5. Mayor's Management Report
 - Legal Update
6. Presentation by the Government Policy & Research Committee on Prevailing Wage Standards.
7. Public Hearing to amend Local Law Chapter 90 "Fences and Walls" to further define the "Front Division Line" on corner lots.
8. Consideration to set a Public Hearing for April 18, 2012 to amend Chapter 187, "Trees" of the City Code regarding the legislation of trees.
9. Discussion of proposed changes to amend local law Chapter 180, "Taxicabs", Section 14, Payment of Fares, of the Code of the City of Rye to increase taxi fares.
10. Discussion of parking permit procedures in the City lots located at the Rye Arts Center and Highland Hall.
11. Discussion of the position of City Engineer and Public Works Superintendent and the upgrade of an existing staff position to Assistant Civil Engineer.
12. Resolution to transfer funds from the Contingency account and the Building and Vehicles fund, to fund the position of City Engineer/Public Works Superintendent and Assistant Civil Engineer.
Roll Call.
13. Consideration to amend local law Chapter 31, "Police Pension Fund", Section 9, Accrual and Payment of Pensions, to increase the payment amount for the sole recipient of the fund.

14. Adoption of the 2012 County property tax rates.
15. Authorization for the City Manager to enter into an agreement with FPM Group, Ltd. to perform hydrology and environmental engineering services regarding the impact on flood storage analysis at the Project Home Run site.
Roll Call.
16. Residents may be heard on matters for Council consideration that do not appear on the agenda.
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, April 18, 2012 at 8:00 p.m. A joint meeting of the City Council of the City of Rye and the Rye City School District Board of Education will be held on Saturday, April 21, 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 under "RyeTV Live".

* Office Hours of the Mayor on 4/4/12 will be at 7:00 pm in the Mayor's Conference Room.



CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: April 4, 2012

CONTACT: Dawn F. Nodarse

AGENDA ITEM Draft unapproved minutes of the Regular Meeting of the City Council held March 28, 2012, as attached.

FOR THE MEETING OF:

April 4, 2012

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council approve the draft minutes.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Approve the minutes of the Regular Meeting of the City Council held March 28, 2012, as attached.

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on March 28, 2012 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
LAURA BRETT
PETER JOVANOVIICH
SUZANNA KEITH
CATHERINE F. PARKER
JOSEPH A. SACK
Councilmembers

ABSENT: RICHARD FILIPPI, Councilman

The Council convened at 7:30 p.m. Councilwoman Parker made a motion, seconded by Councilwoman Keith and unanimously carried to immediately adjourn into executive session to discuss real estate matters. Councilman Jovanovich made a motion, seconded by Councilwoman Parker and unanimously carried to adjourn the executive session at 11:12 p.m. The regular session began at 8:17 p.m.

1. Pledge of Allegiance

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

2. Roll Call

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

3. General Announcements

- City representatives presented at the County Mobility Forum regarding the process of Complete Streets Planning.
- A public hearing was held at City Hall regarding the County Playland Pathway expansion project.

4. Draft unapproved minutes of the regular meeting of the City Council held March 14, 2012

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the minutes of the regular meeting of the City Council held on March 14, 2012, as submitted.

5. Bid Award for the Bowman Avenue Sluice Gate Project (Contract #2012-01)
Roll Call.

Mayor French noted that the Sluice Gate project is being funded with County, State and City money and has been approved by other municipalities and governmental agencies. City Manager Pickup said work on the project started after the floods of 2007 when the City hired an engineering firm to look at hydrology in order to come up with ways to mitigate flooding and hopefully this is the first of many steps. The bid numbers for the project came in better than had been anticipated.

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

WHEREAS, the Assistant City Engineer recommends that Contract #2012-01 be awarded to the low bidder, ELQ Industries, Inc., in the amount of Nine Hundred Seventy Thousand Seven Hundred Twenty-Five dollars and no cents (\$970,725.00), from account 585405-52906-85405 and,

WHEREAS, City staff has determined that the following costs will be associated with the Bowman Avenue Sluice Gate project for the Engineering firm of WSP Sells: Supplemental Agreement of \$42,300, Construction Inspection of \$50,000, and Construction Support of \$20,000, totaling \$112,300, from account 585405-52902-85405 and,

WHEREAS, the Accounts 585405-52902-85405 and 585405-52906-85405 have sufficient balance to fund the project, now therefore be it

RESOLVED, that the City Council award the Bowman Avenue Sluice Gate Project with the total cost of \$1,083,025.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Jovanovich, Keith, Parker and Sack

NAYS: None

ABSENT: Councilman Filippi

The Resolution was adopted by a 6-0 vote

Contract 2012-01
Bowman Avenue Dam Sluice Gate Project

Position	Contractor	Contractor's Bid	% Above Low Bidder
----------	------------	------------------	--------------------

1	ELQ Industries	\$970,725.00	0.00%
2	McNamee Construction	\$974,000.00	0.34%
3	Bilotta Construction	\$989,556.15	1.94%
4	Bradhurst Site Construction	\$1,084,208.00	11.69%
5	Legacy Value LLC	\$1,120,000.00	15.38%
6	Arben Group	\$1,148,000.00	18.26%
7	R. Pagni and Sons	\$1,185,875.00	22.16%
8	Fourmen Construction	\$1,208,497.00	24.49%
9	Rock Island Contractors Inc.	\$1,238,404.00	27.24%
10	Eventus Construction Co. Inc.	\$1,295,806.00	31.55%
11	Landi Contracting Inc.	\$1,450,000.00	37.69%
12	MVM Construction	\$1,485,000.00	37.60%

6. Authorization for the City Manager to enter into an agreement with WSP Sells for the Bowman Avenue Upper Dam Resizing Flood Control Project
Roll Call.

Mayor French said that the second piece of the flood plan is to retain more water upstream. The City wants to test the soil in the area above the dam to determine what a project to expand the size of the upper pond would cost. City Manager Pickup said the City had applied for FEMA mitigation grant funds and was awarded the money but has not received it yet, and now there is an opportunity to begin the engineering analysis for that option while contractors are on site for the Sluice Gate project. He said that when the award of the FEMA money is finalized, the City will ask to apply it to an engineering and feasibility analysis of additional storage north of Anderson Hill Road.

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

RESOLVED that the City Council of the City of Rye hereby authorizes the City Manager to enter into an Agreement with the engineering firm of WSP Sells for the Bowman Avenue Upper Dam Resizing Flood Control Project for the amount of One Hundred and Eight Thousand, Six Hundred Dollars (\$108,600.00) to be funded from account 585405-52902-85405.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Jovanovich, Keith, Parker and Sack

NAYS: None

ABSENT: Councilman Filippi

The Resolution was adopted by a 6-0 vote

7. Mayor's Management Report

- Update from the Recreation Commission

Bart DiNardo, the Chair of the Recreation Commission, said that he believed the Recreation Department accomplished their mission statement of “providing quality leisure services to all residents of Rye” in 2011. 2011 was a challenging year and the Department achieved over a 40% return on revenue for programs. The Department lost three staff members but the remaining staff members rose to the challenge. He said that user groups are very demanding and many have gone outside the City because there are not enough fields to support their programs and a Recreation Commission sub-committee is looking into a turf field with lighting and have hired a consultant to investigate the possibility. He said the Department needs to look at maintaining its fields and facilities but it is a very expensive and they may be coming back to the Council seeking money for capital improvements. There were 27 new programs introduced last year and each year the Superintendent evaluates all new programs at budget time to determine if they are worthwhile and valuable. The goals of the members of the Recreation Commission for 2012 are: (1) keep costs reasonable; (2) open the lines of communication with the public; (3) complete the field study and provide a recommendation; (4) talk with the Finance Committee about what recreation provides; (5) maintain fiscal vigilance; (6) create a foundation to raise private money to support recreation activities; (7) better communication with the City Council; (8) increase summer programs for the seniors; and (9) advocate in the community about the role of recreation.

- Update from the Sustainability Committee Update on energy saving projects: Biofuels, Energy Audit, the Plastic Bag Ban implementation and the April 23rd No-Idling Day.

Sara Goddard and Mimi Bateman made a presentation on various projects the Sustainability Committee has been working on:

- Energy Audit – An energy audit was done following approved ICLEI methodology. 2009 was selected as the baseline year and data was gathered on energy and waste-related activities from municipal and community sources. The data was then entered into ICLEI's Clean Air and Climate Protection software. After the data was input into the software it was converted into a summary of greenhouse gas emissions for both the municipality and community by sector and energy sources. The audit findings can be incorporated into the Sustainability Plan and can provide a framework to reduce Rye's carbon footprint. The Audit can also be used when applying for grants as evidence of existing effort and commitment by the City.
- No-Idling Day – April 23rd - Ten schools across four communities are participating in the event and the municipalities are preparing resolutions in support. The Committee has met with the Police Commissioner, who has agreed to help raise awareness prior to April 23rd and is requesting that a “No Idling” sign be put up in the parking lot near the Library.

- Plastic Bag Ban implementation – The Jay Heritage Center has underwritten the cost of posters, cards and information packets for merchants that have been distributed by the Sustainability Committee and Chamber of Commerce. There is a need for a way to handle the questions and concerns of the community when the law goes into effect. City Manager Pickup said the City does not anticipate doing aggressive enforcement of the law but more of encouraging compliance.

Beau Kemp of Hudson Biofuels made a presentation on the process of collecting used cooking oil from restaurants, filtering it to create recycled vegetable oil, and using the recycled oil as feed stock to produce biodiesel. Most of this biodiesel that is created is used as a blend of petroleum-based diesel for cars and trucks or for home heating oil. Utilization of the program could help reduce the City's carbon footprint, educate the business and residential community about the disposal of grease, and provide cost savings and environmental benefits to the City.

After the presentation the Council considered adopting a Declaration in support of the Sound Shore Communities' No-Idling Day.

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

As part of "Rye Sustainability Committee Celebrates Earth Day", The City of Rye is joining with the Village of Larchmont, Town of Mamaroneck, and the Village of Mamaroneck to declare Monday, April 23, 2012 a day of awareness about the harmful effects of engine idling and to encourage our community to take action to reduce unnecessary idling.

We recognize that excessive emissions from idling are harmful to our environment, our citizens' health, and a drain on our wallets. Excessive idling:

- is against the law, with a fine of up to \$250.00 for any vehicle idling longer than 3 minutes;
- wastes fuel and money;
- is hazardous to our health, impacting children more than adults; and
- affects air quality and pollutes the environment.

The City Council, Rye Police Department, and area schools are united in encouraging residents to:

- turn off their engines when idling for longer than 30 seconds;
- spread the word to family and friends and encourage others to eliminate unnecessary idling; and
- maintain vehicles to reduce excessive exhaust.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

- *Butler v. Planning Commission, et al* – Judge Lorenzo rendered a decision that upheld a Planning Commission decision to grant a modified subdivision approval in this Article 78 proceeding. Notice of entry has been served on the petitioner.
- *Shew v. City of Rye* – This matter has been settled in principle with no exchange of money. Paul Shew has agreed to withdraw his appeal to the Appellate Division, Second Department, on condition that a letter of recommendation is signed by Mayor French based on his relationship with Mr. Shew when the Mayor was Chairman of the Recreation Commission.

8. Presentation by Commissioner William R. Connors on the proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order# 121.04

Police Commissioner Connors said that the proposed revision to the Rules and Regulations of the Police Department regarding “Social Media” is something that has been looked at for the last year and a half and is based on a model policy published by the International Association of Chiefs of Police. About 48% of Police Departments have adopted such policies. It is a Risk Management issue that is supported by insurance companies and trade publications. The goal is not to promote the use of social media by the Police Department, although he noted that social media is becoming extensively used in law enforcement. The City must be prepared for the day it decides to move into this area in order to establish guidelines for use of social media by both the Department officially and personal use by members of the Department that will insure that the Department and the City are represented appropriately and properly. The policy for the Department establishes guidelines for authorization of content and the administration of what the Department might do and sets up rules for dissemination, language and decorum. The goal of the policy for personal use is to guarantee that personnel are free to express themselves appropriately as private citizens but also addresses statements made in regard to public duties. There was a discussion among the Council regarding whether the entire policy should be adopted or just the section dealing with use by department personnel because of liability issues that might arise due to responses that might be posted to a Department sponsored site. There was also a suggestion that there should be a city-wide policy for all employees regarding the use of social media.

9. Discussion of the position of City Engineer and Public Works Superintendent and the upgrade of an existing staff position to Assistant Civil Engineer

City Manager Pickup said that the City Engineer has also doubled as the Superintendent of Public Works and has traditionally been supported by a staff person who is an Engineering technician. With the retirement of the prior City Engineer, the City looked at trying to make the position one of a consulting engineer but with the workload and infrastructure needs of the City based on general maintenance, flood maintenance, flood recovery, flood mitigation and potential capital projects it has become evident that the position needs to be reestablished. Mr. Pickup said that 10% of capital projects consist of engineering soft costs and the City needs people to manage that aspect of the projects in order to insure better projects that are one time, and on budget. Council discussion touched on the following aspects: should the City continue to use a consultant rather than an employee in order to save money on benefit costs that are undefined;

has the City reached the tipping point for use of consultants where it is no longer efficient; how is the consultant position allocated in the budget; what changed since the adoption of the budget to warrant the reinstatement of the position; and, after it strategic discussion in January, the Council wants to move forward with an emphasis on the City's crumbling infrastructure.

Mitchell Palais of 70 Grace Church Street said that school districts utilize separate engineers to manage projects and suggested this was an alternative the City should explore.

10. Resolution to transfer funds from the Contingency account and the Building and Vehicles fund, to fund the position of City Engineer/Public Works Superintendent and Assistant Civil Engineer
Roll Call.

This agenda item was deferred.

11. Consideration of a request by the Rye Little League to approve a parade to kickoff Opening Day of the 55th Little League Season on Saturday, April 21, 2012 beginning at 12:00 p.m.

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

RESOLVED that the request of the Rye Little League for use of City streets for a parade to kickoff Opening Day of the 55th Little League Season on Saturday, April 21, 2012, beginning at 12:00 p.m. is hereby approved.

12. Consideration of a request by the Midland Elementary School PTO to approve a parade to precede the Midland Elementary School Fair on Saturday, April 28, 2012 from 9:00 a.m. to 10:15 a.m.

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

RESOLVED that the request of the Midland Elementary School PTO for use of City streets for a parade to precede the Midland Elementary School Fair on Saturday, April 28, 2012 from 9:00 a.m. to 10:15 a.m. is hereby approved.

13. Consideration of a request by the Rye YMCA for the use of City streets for the 24th Annual Rye Derby on Sunday, April 29, 2012 from 9:00 a.m. to 2:00 p.m.

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

RESOLVED, that the request of the Rye YMCA for the use of City streets for the 24th Annual Rye Derby on Sunday, April 29, 2012 from 9:00 a.m. to 2:00 p.m. is hereby approved.

14. Consideration of a request by the Cystic Fibrosis Foundation for the use of City streets for the 24th Annual Great Strides Walk on Sunday, May 20, 2012 from 9:00 a.m. to 2:00 p.m.

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

RESOLVED that the request of the Cystic Fibrosis Foundation for use of City streets for the 24th Annual Great Strides Walks on Sunday, May 20, 2012 from 9:00 a.m. to 2:00 p.m. is hereby approved.

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

Ray Tartaglione, 600 Anderson Hill Road, Purchase, said he understood the State had contacted the City regarding an investigation on Hen Island. City Manager Pickup said he had received a phone call from Ron Gatta and he put him in contact with the Board of Directors for Kuder Island. He said he is not sure what the State wants to do.

Jim Amico, 350 Midland Avenue, asked about the status of the work application for a stop sign on file with the County. City Manager Pickup said he spoke with the County Commissioner of Public Works about the application last week and he wants to have a follow up discussion on this matter because they must go out to the site and take measurements. There is a 50-foot limit from where the sign is located to where there is a cross-walk and if it is farther it will not meet the requirements for a controlled intersection. Mr. Amico also referred to an email received by Councilwoman Parker from the State Department of Transportation (DOT) recommending the City not go forward with the stop sign until the City has been reimbursed for the Stimulus Projects. He said the email suggested that if the City wants to proceed with the stop sign it should contact the DOT's Regional Office in Poughkeepsie. Mr. Amico inquired if any one had contacted this office. Mr. Pickup said he has spoken to the DOT about the project many times.

16. Miscellaneous Communications and Reports

Councilwoman Parker said that the City has still not been able to set up a meeting with the County Executive's Office regarding the #76 bus route situation. She said she understands that the meeting will no longer be in person, but a phone conversation. County Legislator Judy Myers says that Liberty Lines has provided numbers to the County regarding the extension of the #13 bus route to include the previous route of the #76 bus and it appears to be within fees already in the budget.

Councilwoman Keith asked that the presentation made at the County Mobility Workshop be put on the City website. She thanked all those who have helped the City with the various traffic and pedestrian safety projects that have been completed since 2007. She said that the NYU Capstone Program students would be coming to make a presentation in April on developing a manual for policies for a Complete Streets Program.

Mayor French said that the Rye Town Park Commission has voted to do away with the \$2 beach entrance fee; and is also looking: to get a car counter installed, to adopt the Port Chester parking model of displaying the receipt in the car window; and to accept credit cards. The tentative budget looks like it will break even, dependent upon the weather.

17. Old Business

Councilman Sack suggested that the Board of Ethics should be given the same authority to conduct investigations as the City Council, including the ability to subpoena witnesses and take sworn testimony; in order to conduct an investigation that he believes should have been conducted by the Council. Corporation Counsel Wilson said that changing the authority of the Board of Ethics would have to be done by local law, not Resolution. Councilwoman Parker said she hopes the Board of Ethics will issue a decision sending the issue back to the Council. Councilwoman Brett said that although the Board of Ethics does not have subpoena power, it does have the power to interview City staff.

Councilwoman Keith asked for an update on the following projects:

- 2 Central Avenue – The contractor has been on site to remove the asbestos but the Building Inspector must review the report on the removal before the demolition can take place. The Zoning Board has granted the owner's request for a variance.
- Central Avenue Bridge – The State Department of Transportation has issued more questions on the project. City Manager Pickup said that there are problems due to some of the issues raised about the Construction Management Plan that are physically impossible to answer. Staff is trying to arrange a meeting with Assemblyman Latimer.

Mayor French asked about the proposed sculpture exhibit on Purchase Street. Councilwoman Parker said that a tour of Purchase Street was taken and potential sites have been located. Discussions will need to be held with business owners at the proposed locations. City Manager Pickup said they hope to have a preliminary list by the second meeting in April.

18. New Business

Mayor French suggested that the Nature Center should make a presentation to the Council. He asked why the strip of parking spots near Sunrise Pizza and the Rye Bar and Grill were not metered. City Manager Pickup said that those spaces had been specifically designated by the Council a couple of years ago. He also said there would be an update on several parking “hot spots” on a future Council agenda.

Councilman Sack asked why there were different recycling trucks for cans and newspapers. City Manager Pickup said that because the current recycling trucks are not adequate and need to be replaced, the City is looking at different ways of collecting recycling for data collection purposes.

Councilwoman Keith asked when the proposed public safety bond would be discussed. City Manager Pickup said there would be a request to set a public hearing in April and two meetings in May to evaluate proposals and a meeting in June to put together a bond package and then a vote to move forward to permissive referendum in the fall. Ms. Keith also asked when the Council would move forward with a Complete Streets Resolution.

19. Adjournment

There being no further business to discuss Councilwoman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the regular meeting at 10:59 p.m.

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn into executive session to discuss a personnel matter relating to a complaint that was brought forward by an employee at 11:00 p.m. Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the executive session at 11:55 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: April 4, 2012

CONTACT: Mayor Douglas French

AGENDA ITEM: Mayor's Management Report

FOR THE MEETING OF:

April 4, 2012

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the City Manager provide a report on requested topics.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Mayor has requested an update from the City Manager on the following:

- Legal Update



CITY COUNCIL AGENDA

NO. 6

DEPT.: City Manager's Office

DATE: April 4, 2012

CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Presentation by the Government Policy & Research Committee on Prevailing Wage Standards.

FOR THE MEETING OF:

April 4, 2012

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

A presentation will be made by members of the Government Policy & Research Committee on Prevailing Wage Standards.

See attached.

Prevailing Wage



NEW YORK STATE LABOR LAW §220

Labor Law §220(3) Requirements



- Every contract with a Public Entity as a party that employs laborers, workman or mechanics must set forth the hours of work and the rate of pay.
- Workers must be properly classified in company records.
- Apprentices cannot be used unless in a Department of Labor approved program.

Prevailing Wage Rates and Benefits



- **Workers must be paid the prevailing wage rate for a day's work in the same trade in the locality within which such labor is performed.**
- **Workers must also be paid the prevailing supplements (benefits) including vacation, health, disability, pension.**

Public Works Defined



- Any fixed work designed and constructed or prepared to serve a public interest.
 - The courts look to the function served, not the magnitude of the project.
 - A public agency must be a party to a contract involving the employment of laborers, workmen, or mechanics, and
 - the contract must concern a public works project.
- *Erie County Indus. Development Agency v. Roberts*, 94 A.D.2d 532,537, (App. Div. 4th Dept. 1983), affd., 63 N.Y.2d 810 (1984)

Public Works: Some Examples



- Letter and sign painters employed by the City of New York are engaged in public work when they paint or letter signs and other information on public structures.
 - *Miele v. Joseph*, 280 A.D. 408, 113 N.Y.S.2d 689, (1st Dept.1952)
- The installation of town lighting fixtures is a “public work”.
 - *Long Island Lighting Co. v. Industrial Commissioner*, 40 A.D.2d 1003, 338 N.Y.S.2d 751 (2d Dept. 1972).
- Contracts for fabrication and installation of telecommunications facilities for New York City involved “public works” within meaning of prevailing wage statute.
 - *Joint Industry Bd. of Elec. Industry v. Koch*, 114 Misc. 2d 868, 452N.Y.S.2d 488 (Sup. Ct. N.Y. Co. 1982).

Held Not to be Public Works



- Construction of low and moderate income housing on private property. (Public funding but still not a public work)
- Key was the fact that ownership remained in private hands.

Matter of Vulcan Affordable Housing Corp v. Hartnett, 151 A.D.2d 84 (3d Dept. 1989)

- Construction of home for homeless teenage mothers not public work.
- Private entity developed and owned the facility,
- Project was to be used for a "specific and narrowly defined group" and
- Owner agreed to maintain facility as home for only seven years.

Matter of Cattaraugus Community Action Inc. v. Hartnett, 166 A.D.2d 891 (4th Dept.1990)

What is the Prevailing Wage Rate?



- The Department of Labor (DOL) determines the wages prevailing in various localities throughout the State.
- DOL relies on the Collective Bargaining Agreements freely negotiated at arms length between unions and employers that cover at least 30% of workers.
- When there is no Collective Bargaining Agreement for a particular trade in a locality DOL surveys wage data to arrive at the rate.

Where do you find the Prevailing Wage Rate?

The Department of Labor Website

www.labor.state.ny.us



Carpenter - Building		10/01/2007	
JOB DESCRIPTION Carpenter - Building		DISTRICT 1	
ENTIRE COUNTIES Albany, Fulton, Montgomery, Rensselaer, Schenectady, Schoharie			
WAGES			
Per hour:	07/01/2007	01/01/2008 Additional	06/01/2008 Additional
Carpenter	\$ 24.45	\$.40	\$ 1.50
Floor Coverer	24.45	.40	1.50
Carpet Layer	24.45	.40	1.50
Dry-Wall	24.45	.40	1.50
Lather	24.45	.40	1.50
Piledriver	24.95	.40	1.50
Diver-Wet Day	57.50		
Diver -Dry Day	25.45	.40	1.50
Diver Tender	25.45	.40	1.50
Welder	24.45	.40	1.50
Hazardous site pay, requiring protective gear shall be an additional \$1.50 PER HOUR.			
SUPPLEMENTAL BENEFITS			
Per hour worked:			
Carpenter	\$ 12.765	\$ 12.765	\$ 12.765
OVERTIME PAY See (B, E, E2, Q) on OVERTIME PAGE			
HOLIDAY			
Paid:	See (1) on HOLIDAY PAGE		
Overtime:	See (5, 6) on HOLIDAY PAGE		
REGISTERED APPRENTICES			
Wages per hour			
One year terms at the following percentage of Journeyman's wage:			
1st	2nd	3rd	4th
50%	60%	70%	80%
Supplemental Benefits per hour worked			
Carpenter			
1st year term	\$ 5.845	\$ 5.845	\$ 5.845
2nd year term	9.29	9.29	9.29
3rd year term	12.765	12.765	12.765
4th year term	12.765	12.765	12.765

Independent Impact Assessment Performed for New York State



**Kent Gardner, Ph.D. and Rochelle Ruffer, Ph.D.,
(2008). *Prevailing Wage in New York State: The
Impact on Project Cost and Competitiveness***

**Prepared for: New York State Economic Development
Council**

The Center for Governmental Research Engagement



- The Center for Governmental Research (CGR) was engaged by the New York State Economic Development Council (NYSEDC) to assess the impact of a prevailing wage requirement on the cost of construction in NYS.
- CGR designed this study to address certain questions, including: What is the cost impact on a typical construction project when prevailing wage is used rather than market wage?
- To answer the questions, CGR considered the impact of prevailing wage on labor costs and project costs for seven metropolitan statistical areas (MSAs) in New York and seven MSAs in other states.

GRC Methodology



- CGR developed cost estimates for a prototype construction project requiring 200,000 labor hours to complete and five million dollars of “other costs”. The “other costs” were assumed to be constant in all labor markets.
- The 200,000 labor hours were distributed among the 17 largest construction occupations according to their share of the construction workforce.
- The cost of labor by occupation for each of the NYS and comparison communities was estimated using published statistics on both market wages and prevailing wages from the federal and state labor departments.

Key Findings



- Market wages in New York State metropolitan areas are already higher than wages paid by projects funded by local industrial development agencies in comparison metros.
- At market wages, construction labor costs “downstate” (the Poughkeepsie, NYC and Long Island labor areas) are 33% higher than comparison communities.
- At prevailing wages, construction labor costs “downstate” are 154% higher than comparison communities.
- Higher wages translate into significantly higher construction costs.
- At market wages, prototype total project costs “downstate” are 16% higher than comparison communities.
- At prevailing wages, prototype total project costs “downstate” are 76% higher than comparison communities.

N.B., "downstate" figures do not necessarily directly correspond to the effects of Prevailing Wage in Rye but are referenced here for the purpose of comparison.

Representative Public Construction Project



A high-level description of a sample public construction project is provided below:

**City of Rye-Department of Public Works
Hewlett Ave. Sanitary Sewer Force Main**

- **Total cost of project \$377,386.36**
- **Gross wages for project \$107,229.30**
- **Total materials for project \$270,157.06**



CITY COUNCIL AGENDA

NO. 7 DEPT.: Corporation Counsel DATE: April 4, 2012
CONTACT: Kristen K. Wilson, Corporation Counsel

AGENDA ITEM: Public Hearing to amend Local Law Chapter 90 "Fences and Walls" to further define the "Front Division Line" on corner lots.

FOR THE MEETING OF:
April 4, 2012
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Changes have been proposed to Local Law Chapter 90 "Fences and Wall" regarding the front division line for corner lot properties which do not front on Boston Post Road.

See attached draft Local Law.

**CITY OF RYE
LOCAL LAW NO. __ OF 2012**

A Local Law to amend Chapter 90 “Fences and Walls” to the City Code of the City of Rye to further define “Front Division Line”

Be it enacted by the Rye City Council as follows:

Section 1. Chapter 90 Fences and Walls

§ 90-2. Definitions.

When used in this chapter, the following words shall have the meaning stated here. Words used in this chapter which are not defined here shall have the meaning defined by Chapter 197. Words not defined by this chapter or by Chapter 197 shall have the meaning established by common usage.

DIVISION LINE, FRONT

In the case of a lot abutting upon only one street, the property boundary line separating the lot from the street; in the case of a lot abutting more than one street, other than a corner lot, any such property boundary for the area which has been previously designated by the lot owner, pursuant to Chapter 197, as being the front yard or which has been irrevocably designated by the lot owner, pursuant to this chapter, as being the front division line. Each lot may have only one front division line unless it is a corner lot, as defined by Chapter 197 (§ 197-1), which would have two front division lines. **For the purposes of Chapter 90 only and notwithstanding the foregoing, in the case of a corner lot on Boston Post Road between the northern end of Old Post Road and Osborn Road where an existing residence does not front on Boston Post Road, such property shall be deemed to have only one front division line, that being the property boundary line separating the lot from the street upon which the residence faces.**

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



CITY COUNCIL AGENDA

NO. 8

DEPT.: City Manager

DATE: April 4, 2012

CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Consideration to set a Public Hearing for April 18, 2012 to amend Chapter 187 "Trees" of the City Code regarding the legislation of trees.

FOR THE MEETING OF:

April 4, 2012

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Environmental Advocacy Group of Rye (EAGR) and the Conservation Commission/Advisory Council have proposed changes to the existing City tree ordinance – Chapter 187 of the Rye City Code.

As requested by the Council at its March 14 meeting, attached is a draft local law amending the City's Tree Law and explanatory memorandum for the City's Council's consideration. If the attached law is deemed acceptable for a hearing by the City Council notice of the public hearing and the completion of a Full Environmental Assessment Form (EAF) will be required.

Christian K. Miller, AICP
City Planner
1051 Boston Post Road
Rye, New York 10580



Tel: (914) 967-7167
Fax: (914) 967-7185
E-mail: cmiller@ryeny.gov
<http://www.ryeny.gov>

CITY OF RYE
Department of Planning

Memorandum

To: Rye City Council

From: Christian K. Miller, AICP, City Planner

cc: Scott Pickup, City Manager
Kristen K. Wilson, Esq., Corporation Counsel

Date: March 30, 2012

Subject: **Amendments to Chapter 187, *Trees*, of the Rye City Code**

As requested by the City Council attached is a draft amending Chapter 187, *Trees*, of the Rye City Code. The attached draft is consistent with my remarks made at the Council's March 14, 2012 meeting. It provides for many of the changes to the tree law requested by the Environmental Advocacy Group of Rye (EAGR) including:

- Requiring all trees over 8 inches caliper (not just those in the front yard setback or abutting public property) to obtain a tree permit prior to removal.
- Requiring the City Golf Course, Parks and Nature Center to obtain tree removal permits.
- Expanding the list of prohibited trees to include invasive tree species.
- Including new provisions outlining responsibilities of the City and utility companies for the maintenance of trees.
- Increasing the fines and enforcement options for tree removal without a permit.
- Expanding the intent and purposes section the law.

The attached law continues to have the City's Tree Foreman administer the permit process and does not include provisions for a new Tree Review Committee to approve all tree removal permits as recommended by EAGR. As discussed at the Council's March 14 meeting, the administrative and procedural demands of a new discretionary board are significant and not recommended. As an alternative the attached local law would require Board of Architectural Review approval to remove three or more trees on one property. This change will increase permit processing, administrative support and permit compliance demands of the City Building Department. The Planning Department

Amendments to Chapter 187, *Trees*, of the Rye City Code

March 30, 2012

Page 2 of 5

will assist to the extent possible, however these additional responsibilities will require adjustments in current service to accommodate these new demands.

The following provides a detailed description of the proposed changes and where it differs from the amendments proposed by EAGR.

- *Findings and purpose (§ 187-1)*. This section was revised to include the additional language suggested by EAGR to enhance that the purpose of the tree law is to protect and provide for increased regulation of trees in the City. It does not include the language that the purpose of the law is to promote the planting of trees. This language is unnecessary because the existing tree law does not include barriers to planting of trees except for reasonable oversight by the City when trees are proposed to be planted on City property or City right-of-way.
- *Definitions (§ 187-2)*. The definition of “shrub” and “person” was revised or added to the existing law as recommended by EAGR. “Invasive species” was not defined, but the specific listing of prohibited trees was expanded to include invasive tree species. The definition of “protected tree” was not included in the definitions because it conflicted with the existing provisions designating protected trees in Section 187-16 of the law.
- *Planting of Trees (§ 187-3)*. No changes were made to this section. It was the intent of EAGR’s proposed changes to this section to remove barriers to planting trees on private property. It is unnecessary because the City does not restrict, charge fees or regulate the planting of trees on private property except for existing section 187-10 which “...prohibits silver maples and allied species, ailanthus and poplars of any variety within a distance of 20 feet from any public street, right-of-way, sidewalk or other public place.” EAGR’s proposed language potentially conflicts with existing provisions in the law, which requires residents to obtain Tree Foreman approval to plant trees on public property. The City must continue to retain its existing authority to require oversight of tree planting on City property to confirm that the proper tree is planted in the appropriate location.
- *Injury to Public Trees (§ 187-4)*. This section was amended to include the existing restrictions prohibiting the tying animals or fastening signs to public trees currently found in section 187-5 (see discussion immediately below). This change was made to provide for a new section 187-5 outlining the responsibilities of the City.
- *Responsibility of City (§ 187-5)*. This section was changed to include the language proposed by EAGR regarding the responsibility of the City with respect to the preservation and maintenance of trees.
- *Permit Required for Public Trees (§ 187-6)*. This section was amended as requested by EAGR that City Parks, Golf Course or Nature Center be subject to

Amendments to Chapter 187, *Trees*, of the Rye City Code

March 30, 2012

Page 3 of 5

the same tree removal process as private property owners. Tree removals within the City right-of-way would be exempt. This is a significant policy issue that the City Council should discuss. It would be more reasonable to require a higher threshold for permit activities given that these City properties are quite large and are providing public recreational opportunities. Going to the Board of Architectural Review to remove four trees on a 10,000 square foot property to construct a private residence is quite different from removing four trees on a 140-acre public golf course.

- *Removal of Limbs (§ 187-9)*. This section was amended to include new language proposed by EAGR regarding the responsibility of utility companies to adhere to the tree maintenance practices established by the International Society of Arboriculture (ISA) and American National Standards Institute (ANSI).
- *Prohibited Trees (§ 187-10)*. This section was amended to prohibit the planting of the following trees: Amur maple, Norway maple, Sycamore maple, Planetree maple, Princess Tree, White poplar, Silver poplar, Black locust, Yellow locust, False acacia, Tree of heaven, Copal tree and European black alder. The list of prohibited trees in the current law was expanded as recommended by EAGR to include invasive species. EAGR recommended that the law reference the Invasive Plant Atlas of New England (IPANE), as amended. The IPANE website includes a long list of invasive plant material including trees, shrubs and groundcover. In order to avoid confusion for the public and staff I amended the law to include only the tree species considered invasive by the IPANE website. I did not want to create the impression that the proposed tree law amendments prohibited certain kinds of shrubs or groundcover listed on the website.
- *Removal of Trees; Permit Required (§187-11)*. The law was revised as recommended by EAGR, to require that all trees over 8 inches DBH to obtain a tree removal permit. Currently, only those trees over 8 inches in caliper located in the front yard setback or abutting public property require a tree removal permit for the City's Tree Foreman. Under the proposed amended tree law tree removal permits would continue to be issued by the City's Tree Foreman consistent with current practice. Staff believes at this time that it can administer the increased permit load without the need to retain a consulting arborist¹. This will allow the permits to be administered more quickly and at a lower permit cost as encouraged by EAGR.

The law does not provide for a new Tree Review Committee (TRC) to review and approve each tree removal permit. As discussed at the Council's March 14 meeting, the administrative and procedural demands of a new discretionary board may be more significant than the City Council or EAGR realize. A TRC will be a discretionary review board and have the same administrative and

¹ 2011 – 97; 2010 – 71; 2009 - 79; 2008 – 52; 2007 – 85; 2006 – 80; 2005 – 78; 2004 – 88.

Amendments to Chapter 187, *Trees*, of the Rye City Code

March 30, 2012

Page 4 of 5

procedural responsibilities as any other City land use board, such as the City Planning Commission, Board of Architectural Review or Board of Appeals. A TRC will be required to meet on a regular basis, keep minutes, have meetings open to the public, keep records of its decisions, conduct site inspections and generally be prepared to work thorough conversations where the applicant or members of the community want a tree removed and others may not. Within this context there is increasing legal liability with not authorizing the removal of trees where there is evidence from a professional that the tree may represent a hazard.

As a more manageable alternative, the proposed draft law requires the Board of Architectural Review (BAR) to review and approve requests to remove more than three trees on a property. This change was made given that the BAR has some tree review responsibilities under the existing tree law and under Chapter 53 of the City Code. Furthermore, the removal of more than three trees is likely often related to activities that would be subject to BAR review anyway. This will provide some permitting efficiency for applicants and City Staff. At the Council's March 14 meeting a member of the BAR stated support for amendments to the tree law. Giving the BAR these additional responsibilities has not been confirmed with all BAR members.

Supporting the BAR will increase permit processing, administrative support and permit compliance demands of the City Building Department. The Planning Department will assist to the extent possible, however these additional responsibilities will require adjustments in current service to accommodate these new demands. The City Council or BAR may also want to offset these demands by considering adjustments in the definition of "small project" to reduce the number of applications the BAR reviews.

The attached also does not include section 187-5.D of the proposed EAGR law, which proposed a new provision that authorizes the TRC to require the planting of mitigation trees as a condition of a tree removal permit. Staff will be required to inspect properties to confirm that mitigation trees were planted and survived for a period of "two calendar years". Non-compliance with approved tree permits will increase enforcement responsibilities for the City and leave a property subject to inspection by City staff or the TRC. This is a significant issue that can encumber properties with permit conditions for an indefinite period unless specified in the law. A tree mitigation requirement for tree removal is not proposed at this time, but can be reexamined in the future.

- *Granting of Permits; Stop Orders (§187-12)*. The law was revised consistent with the recommendations of EAGR to allow for the City Manger to authorize tree removal without a permit for limited periods after storm events. The tree removal criteria was also revised to clarify that the Tree Foreman can authorize the removal of a tree already approved to be removed by a City land use board.

Amendments to Chapter 187, *Trees*, of the Rye City Code

March 30, 2012

Page 5 of 5

The law was not amended to change the tree removal criteria proposed by EAGR. The criteria are generally the same except that the proposed EAGR amendments would require a determination by a certified arborist that the tree is dead or requires removal. Requiring an applicant or the City to retain an arborist to determine whether a tree can be removed in all cases would be costly and potentially unnecessary when a tree is clearly dead or diseased. The City will continue its current practice of requesting an arborist determination from the applicant in cases where the health of the tree does not appear compromised in the opinion of the Tree Foreman.

The proposed EAGR law also proposed limiting tree removal for only the “placement of a primary structure on a lot.” This criteria is too limiting and would appear to prohibit other reasonable and permitted uses of property. The existing language in the law was retained, which allows removal “if a tree substantially interferes with a permitted use of the property”.

The attached law continues to have City staff retain its enforcement authority over the tree ordinance. Enforcement under the EAGR law would be dependant on whether the TRC determines there is a violation. Enforcement is an extremely sensitive issue that has legal ramifications that are challenging for a lay committee to administer.

Since the BAR would assume tree review authority this section of the law was revised to make the Planning Commission the appellate board in the event a permit is denied.

- *Prohibited Use of City Transfer Station for Trunks and Stumps (§187-15)*. This section was removed because it is no longer relevant. The City no longer operates a transfer station.
- *Penalties for Offences (§187-17)*. The law was revised as recommended by EAGR to increase the fine for unpermitted removal from \$250 to \$500. The section was also revised to incorporate some of the mitigation ideas suggested by EAGR in their proposed amendments. The revised enforcement section sets forth minimum tree caliper sizes for replacement trees lost to unauthorized removal similar to the mitigation provisions recommended by EAGR. It also allows for payment to a City tree replacement fund. Other aspects of the EAGR amendments to the enforcement section presented legal concerns that can be better addressed by Corporation Counsel.

DRAFT**LOCAL LAW
CITY OF RYE NO. _____ -2012****A Local law to amend Chapter 187 “Trees”, of the
Code of the City of Rye, New York**

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

Section 1. Chapter 187, “Trees”, of the Code of the City of Rye is hereby amended in its entirety and replaced with the following¹:

ARTICLE I Findings and Purpose

§ 187-1 Findings and purpose.

The preservation and maintenance of trees and wooded lands is necessary to protect the health, safety and general welfare of the City of Rye because trees provide shade, impede soil erosion, aid water absorption, reduce stormwater runoff, enhance air quality, mitigate global climate change, yield advantageous microclimate effects, offer a natural barrier to noise, provide a natural habitat for wildlife, enhance property values and add to the aesthetic quality of the community. The unregulated removal of trees deprives the community of all these benefits. The purpose of this Local Law is to preserve trees and minimize their damage and removal, thereby enhancing the health, property values and general welfare of the residents of the City of Rye.

ARTICLE II Definitions

§ 187-2 Definitions.

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

CITY NATURALIST The naturalist for the City of Rye or such representative as designated by the City Manager with the consent of the Conservation Commission.

DBH (Diameter Breast Height): The diameter of a tree measured at a point 4.5 feet above ground level at the base of the tree on the uphill side.

PERSON: Any individual, firm, partnership, association, or corporation or other legal entity.

RIGHT-OF-WAY The strip of land over which facilities such as roads are built as identified on the official City Map.

SHRUB A woody plants of relatively low height, having several ~~with many more or less erect~~ stems arising from the base and lacking a single trunk; a bush.

¹ For the reader’s convenience all changes to existing Chapter 187 are shown in underline for additions and ~~strikethrough~~ for deletions.

TREE All woody plants having one well-defined stem and a more or less definitely formed crown and attaining a height of at least 15 feet and a diameter of not less than two inches at maturity.

TREE FOREMAN The labor foreman in charge of trees or such representative designated by the Superintendent of Public Works.

ARTICLE III Trees on Public Property

[Amended 11-30-2005 by L.L. No. 4-2005]

§ 187-3 Planting of trees.

No person shall plant any tree, shrub or other vegetation within the limits of any public street, right-of-way, park or other public place without first obtaining a permit from the Department of Public Works and complying with the following requirements. Such a permit shall be granted only upon the determination by the Tree Foreman, after consulting with the Police Department, that such a planting will not create a traffic hazard and will not interfere with the use of such street, right-of-way, park or other public place by the public and that such planting will enhance the beauty and appearance of the street, right-of-way, park or other public place and the surrounding area.

- A. Trees planted within the limits of any public street, right-of-way, park or other public place shall be of a species and quality approved by the Tree Foreman and shall be planted at least 30 feet apart unless otherwise authorized by the Tree Foreman. Each tree shall measure not less than 2 1/2 inches nursery caliper.
- B. Should any tree, shrub or plant planted within the limits of any public street, right-of-way, park or other public place pursuant to any such permit, in the opinion of the Tree Foreman, at any time constitute a traffic hazard, interfere with the use of such street, right-of-way, park or other public place by the public or detract from the beauty and appearance of the street, right-of-way, park or other public place or the surrounding area, such tree, shrub or plant will be removed.

§ 187-4 Injuries to public trees.

The following acts as to City trees are prohibited: namely, to injure trees by chopping into them, scarring the trunks, driving nails into the trunks or limbs, building fires near trunks or under branches and pouring or depositing substances injurious to growth on soil near trees, including oil, gasoline, tar, creosote, salt or other injurious substances. No person shall fasten or tie any animal to or attach any sign, bill, card, notice or advertisement to any tree or shrub in any public street, right-of-way, park or public place or allow any animal under his control to injure any such tree or shrub.

§ 187-5 ~~Fastening of animals or attaching of signs to trees or shrubs. Responsibility of City~~

~~No person shall fasten or tie any animal to or attach any sign, bill, card, notice or advertisement to any tree or shrub in any public street, right of way, park or public place or allow any animal under his control to injure any such tree or shrub. It is the responsibility of the City to plant and maintain public trees. The City may remove any tree which is in an unsafe condition or is harmful to sewers, electric power lines, gas lines, water lines or other public improvements. The City shall not remove, top off, or substantially alter the shape of any living tree in the absence of one of the above conditions. Trees that are severely damaged by storms or other causes, or trees under utility wires or other obstructions where pruning practices are impractical, may be exempted from this provision. Where public trees are to be planted under utility lines, selections shall be made of a species compatible to be planted under power lines and other utilities. This Article does not prohibit the planting of public trees by property owners provided that the General Foreman of the Department of Public Works has reviewed and approved such plantings.~~

§ 187-6 Permit required for ~~treating~~ public trees.

No person shall prune, spray, treat cavities, fertilize, cable, brace or otherwise treat or cause to be treated City trees without first having obtained a permit from the Department of Public Works and approved by the Tree Foreman. No City employee shall treat City trees without first consulting the Tree Foreman.

No tree eight (8) inches DBH or greater shall be removed from City of Rye Parks, Golf Course or Nature Center without first obtaining a tree removal permit approved by the Tree Foreman. The removal of more than three (3) trees eight (8) inches DBH or greater within one (1) year shall not be permitted unless approved by the Board of Architectural Review. The Board of Architectural Review shall only approve tree removals where such removals are consistent with the tree removal criteria provided in §187-12.B.

§ 187-7 Deposit to guarantee proper work.

Before a permit shall be issued, the applicant must deposit with the Department of Public Works a sum of money equal to the cost of such treatment as a guaranty that said work will be properly done. The Department of Public Works shall pay this money to the Comptroller. This sum of money shall be returned after the work has been inspected by the Tree Foreman, provided that he or she shall certify that said work is up to standard. If it is not properly done, the Tree Foreman shall cause the work to be completed to his or her satisfaction. After the completion of the work, the Tree Foreman shall certify to the Comptroller the cost of completing the work, and the surplus remaining after deducting such cost shall be returned to the applicant.

§ 187-8 Use of spurs, insulated wires or guy wires.

Any person, including public utilities, their agents, servants and employees, is prohibited from climbing trees with the aid of spurs. Any wires of public utilities passing among the branches of City trees shall be properly insulated so as to prevent damage to said trees. Guy wires shall not be attached to trees in such a manner as to girdle or restrict growth. When it is necessary to

attach any guy wires or cables, such devices shall be attached by means of lag hooks screwed into the trunks or by eyebolts passing through the trunk.

§ 187-9 Removal of limbs.

When it is necessary to remove limbs to make clear passage for wires and where the removal of such limbs might injure a tree or spoil its symmetry or otherwise mar its appearance, it shall be necessary to obtain a permit from the Department of Public Works before starting such work. It shall not be necessary to secure a permit for the usual periodical removal of small branches to allow the free passage of wires, but any such work will be subject to inspection by the Tree Foreman. Utilities, or their agents, responsible for maintaining rights of way in the City shall follow the tree maintenance practices established by the International Society of Arboriculture (ISA) and American National Standards Institute (ANSI), which have been approved and recommended by the National Arbor Day Foundation. Trimming of habitat shall be in a reasonable manner to protect the health and appearance of the tree. Utilities performing work at street level or below shall take reasonable precautions against inflicting injury to any tree and/or its roots. If a utility proposes to remove any tree, advance permission must be obtained from the Department of Public Works, except in the event of an emergency when a tree has fallen on a distribution line. W, and where such work is not up to standard, any expense incurred by the City in repairing the same will be charged to the public utility responsible.

ARTICLE IV Trees on Private Property

[Amended 12-20-2000 by L.L. No. 18-2000; 11-30-2005 by L.L. No. 4-2005]

§ 187-10 Prohibited trees.

Property owners and other persons are prohibited from planting silver maples and allied species, ailanthus and poplars of any variety within a distance of 20 feet from any public street, right-of-way, sidewalk or other public place. In addition, the following trees are considered invasive species and not permitted to be planted on any property: Amur maple, Norway maple, Sycamore maple, Planetree maple, Princess Tree, White poplar, Silver poplar, Black locust, Yellow locust, False acacia, Tree of heaven, Copal tree and European black alder.

§ 187-11 Removal of trees: permit required.

Any property owner applying for subdivision approval whose plans would require the removal of any trees is subject to regulations outlined in Chapter 170, Article IV, § 170-15D. In addition, no person shall remove a tree greater than eight (8) inches DBH or greater in diameter measured 54 inches from the base of said tree in a required yard adjoining public property or any tree in an

~~historic district~~ without first obtaining a tree removal permit from the Department of Public Works and approved by the Tree Foreman. Dimensions for required yards are established in Chapter 197, Article VIII, § 197-86. In cases pertaining to required side yards, the one-side minimum yard dimension shall apply. The removal of more than three (3) trees eight (8) inches DBH or greater within one (1) year shall not be permitted unless approved by the Board of Architectural Review. The Board of Architectural Review shall only approve tree removals where such removals are consistent with the tree removal criteria provided in §187-12.B.

§ 187-12 Granting of permit; stop orders.

- A. Application for permits must be made by the owner and other person, firm or corporation, if any, actually performing the work, in writing, to the Department of Public Works ~~upon forms prescribed by the City Naturalist, The City Naturalist may adopt rules for obtaining and processing of permits subject to approval by the City Council.~~ The fee for each application shall be set annually by resolution of the City Council before adoption of the budget for the following year, payable upon submission of the application. Approval of permits shall be made by the ~~City Naturalist~~ Tree Foreman. Denial of permits by the ~~City Naturalist~~ Tree Foreman or Board of Architectural Review may be appealed to the ~~Board of Architectural Review~~ Planning Commission pursuant to the review procedures under this Code. The ~~Board of Architectural Review~~ Planning Commission is authorized and empowered to obtain the assistance, when necessary, of persons especially qualified by reason of training or experience in tree planting, preservation and landscaping.
- B. Permits for the removal, cutting or destruction of trees may be granted under the following circumstances:
- (1) If the presence of the tree would cause hardship or endanger the public or the person or the property of the owner or of an adjoining owner.
 - (2) If a tree is diseased or threatens the health of other trees.
 - (3) If a tree substantially interferes with a permitted use of the property.
 - (4) If the tree was authorized to be removed as part of an approval granted by the Board of Architectural Review, Planning Commission or Board of Appeals.
- C. Stop order. If the City Naturalist or Tree Foreman determines the removal, cutting or destruction of trees for which a permit has been granted is not proceeding according to the permit, the City Naturalist or Tree Foreman may issue a stop order. Work will not resume until approved corrective measures are undertaken.
- D. After an extreme weather event, and at the discretion of the City Manager, removal of damaged trees may be allowed without a permit for a reasonable period of time.

§ 187-13 Removal of branches overhanging highways.

Where privately owned trees encroach upon any street, right-of-way, park or other public place, the Tree Foreman is authorized to remove branches overhanging any public street, right-of-way, park or other public place, or if, in his or her judgment, such trees are dangerous to the public, he or she is authorized to remove them.

§ 187-14 Removal of dead trees.

Where any dead tree or trees located on private property adjacent to a public street, right-of-way, park or other public place constitute a danger or are potentially dangerous to the traveling public, the Tree Foreman may serve personally or by mail upon the owner of said property a written notice to remove the dead tree or trees, and upon failure to do so within 20 days after the service of said notice, the City, through its contractors, agents or employees, may remove the same and assess the cost thereof against the property affected by said assessment, to be levied, collected and enforced in the same manner as taxes upon said property for City purposes are levied, collected and enforced.

~~§ 187-15 Prohibited use of City transfer station for trunks and stumps.~~

~~It shall be unlawful for any person to place, deposit or dump on the City's transfer station any trunks, limbs or branches of trees in excess of six inches in diameter, and, further, it shall be unlawful to use said transfer station for the deposit of tree stumps.~~

ARTICLE V Protected Trees

§ 187-16 Protected trees.

Trees designated as protected may not be removed unless the City Naturalist or Tree Foreman determines, because of their condition, they are a danger to persons or property or that they are diseased and cannot be saved. A tree may be designated as protected by the Board of Architectural Review after a public hearing. Such designation may be made because of the tree's age, history, uniqueness or special beauty. No protected tree designation may be made without the written consent of the tree's owner.

ARTICLE VI Penalties for Offenses

§ 187-17 Penalties for offenses.

A. Any person, firm or corporation violating any of the provisions of this chapter will be required to replace, in kind, each and every tree removed, cut down or destroyed. If the tree was so large and mature that it cannot be replaced, the City Naturalist or Tree Foreman may require the planting of multiple trees having a minimum size of three (3) inches in diameter

measured 54 inches from the base of said tree. If multiple trees cannot be planted on the site of the violation, other available planting spaces on public property ~~will~~may be used to accommodate the balance of the penalty or an equivalent monetary value for required replacement trees may be deposited into a City tree replacement fund. No certificate of occupancy shall be issued for any new construction on property on which occurred any violation of this chapter unless and until the provisions of this subsection have been complied with.

- B. In addition to any other penalty, any person, firm or corporation or individual hired by such firm or corporation violating any provision of this chapter shall be subject to a civil penalty enforceable and collectible by the City in the amount of ~~\$250-500~~ for each and every tree removed, cut down or destroyed in violation of this chapter.
- C. In addition to the foregoing, any person, firm or corporation engaged in the business of tree removal or care who or which shall aid, assist or abet in the violation of this chapter may be denied the status of a permittee under § 187-12 for a reasonable period of time to ensure future compliance, in the discretion of the City Naturalist, subject to appeal to the City Manager.

ARTICLE VII Enforcement

§ 187-18 Enforcement.

The City Naturalist, ~~tree~~Tree ~~f~~Foreman and Building Inspector, with the assistance of the police, shall enforce this chapter.

Section 2. Severability

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

Section 3. Effective Date

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.



CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager's Office

DATE: April 4, 2012

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Discussion of proposed changes to amend local law Chapter 180, "Taxicabs", Section 14, Payment of Fares, of the Code of the City of Rye to increase taxi fares.

FOR THE MEETING OF:

April 4, 2012

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The taxi owners in Rye have petitioned the City Council for a raise in fares as rates have not been raised since 2002. The owners cite rising expenses including gas prices, insurance, vehicle maintenance, and taxicab license fees, as the need for the fare increase. At a meeting with the City Clerk and Deputy City Clerk the owners requested:

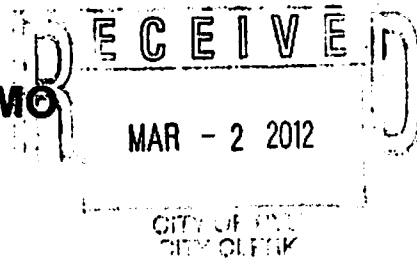
- an increase of \$3.00 of the minimum fare in each of the three taxi zones
- an additional increase of \$2.00 between the hours of 12:00 a.m. and 6:00 a.m.
- an increase of \$1.00 (from \$2.00 to \$3.00) for each additional passenger coming from the same location to the same destination
- an increase of \$15.00 (from \$30 to \$45) in the waiting time for shopping and touring in the City
- a limit to the number of licenses permitted to operate in the City to the current six licenses

The taxi owners agreed to a reduced rate by \$1 for Seniors through the existing income-based voucher system overseen by the Rye Interfaith Housing Corporation.

See attached information.

PURCHASE STREET TAXI & LIMO

51 Purchase Street
Rye, NY 10580
(914) 967-500



City of Rye, March 02/2012

Mayor, City Counsel, and City Clerk
3rd Floor, City Hall
1051 Boston Post Road
Rye, NY 10580

Mayor, Members of City Counsel, and City Clerk:

This Letter is written as a formal request for an increase in minimum Cab fare in the City or Rye from \$ 4 to \$ 7. We deemed this increase is needed and long overdue based upon the following reasons:

- 1) The last increase we were granted took place 10 years ago on March 21 of 2002
- 2) The gas prices have more than triple in 10 years. The average gas price in 2002 was \$ 1.36. It is \$ 4.05 at the present time and continues to go up.
- 3) Insurance premiums for taxies have more than double in this period, being the average amount we now have to pay \$ 4,500.00
- 4) Maintenance and parts for the vehicles have considerably increased
- 5) All other branches of the transportation industry (Trains, buses, planes) have increased their prices several times due to the inflation and to be able to stay in business. Even the City of Rye was in need to double the parking permits fees last year(which don't required any maintenance or spending in order to function) to make them profitable.

We feel the fares we are presently charging are disproportioned to the realities of the financial situation the country is going through, and is making it very difficult to our drivers to make a living and render an adequate and efficient service.

Thank you for your time and consideration on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Kabdebo".

Frank Kabdebo
Owner
Purchase Street Taxi & Limo

CITY OF RYE

PROPOSED LOCAL LAW NO. 2012

A local law to amend Chapter 180, Taxicabs, §180-6, “Form of License; Badge”, §180-7, “Renewal of driver’s license”, and §180-14, “Payment of fares” of the Code of the City of Rye

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

Section 1: Chapter 180, Taxicabs

§180-1. Definitions.

Unless otherwise expressly stated, whenever used in this chapter the following words shall have the meaning given to them by this section:

DRIVER'S LICENSE

Any permission granted to any person to drive a licensed taxicab upon the streets of the city.

OPERATOR

Any person owning or having control of the use of one or more taxicabs used for hire upon the streets of the City or engaged in the business of operating a taxicab.

TAXICAB

Any motor vehicle engaged in the business of carrying persons for hire, whether the same be operated from a street stand or subject to calls from a garage or otherwise operated for hire, except vehicles subject to the provisions of the Transportation Corporations Law or used by undertakers in carrying on their business.

TAXICAB DRIVER

Any person who drives a taxicab, whether such person be the owner of such taxicab or employed by a taxicab owner or operator.

TAXICAB LICENSE

Any permission granted to any person to operate or keep for hire any taxicab in the city.

TAXICAB STAND

Any place alongside the curb of a street or elsewhere which is exclusively reserved for the use of taxicabs.

§180-2. General license requirements.

It shall be unlawful for any person to drive, operate or keep for hire or pay within the City any taxicab without first having obtained and paid for a license to drive or a license for operating or keeping for pay or hire, or both.

§180-3. Driver's license required.

No person shall drive a taxicab and no person shall permit anyone to drive a taxicab within the City without a driver's license.

§180-4. Application for driver's license.

[Amended 10-14-1981 by L.L. No. 5-1981]

An application for a driver's license must be made on a blank form furnished by the Police Department. The original application, which must have the approval of the Commissioner of Police endorsed thereon, shall be filed with the Clerk, who shall issue a license as provided herein. The applicant must file a copy of said application with the Commissioner of Police and comply with the following to the satisfaction of the Commissioner of Police:

- A.** First have obtained a chauffeur's license.
- B.** Be of sound physique with good eyesight and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him or her unfit for the safe operation of a public vehicle.
- C.** Be clean in dress and person and not addicted to the use of intoxicating liquors or drugs.
- D.** Be familiar with the provisions of this chapter, the vehicle and traffic and highway laws of the state and the traffic regulations and geography of the city.
- E.** Produce on forms to be provided by the Police Department:
 - (1)** A testimonial affidavit from his or her employer.
 - (2)** Affidavits of good character from two responsible persons who have known him or her personally and have observed his or her conduct for at least one year next preceding the date of his or her application.
 - (3)** An affidavit by the applicant, giving such additional information as may be required.

§180-5. Photograph of driver.

[Amended 10-14-1981 by L.L. No. 5-1981]

Each applicant for a driver's license must file with his or her application three unmounted, unretouched photographs of himself or herself, in such position and in such size as the Commissioner of Police may direct, taken within the 30 days preceding the filing of his or her application; photographs shall be of a size which may be easily attached to his or her license, one of which shall be attached to the license when issued, one shall be filed with the Clerk and one shall be filed with the copy of the application filed with the Commissioner of Police.

§180-6. Form of license [badge].

Upon satisfactory fulfillment of the foregoing requirements, the Clerk shall issue to the applicant a license, which shall be in such form as to contain the photograph and signature of the licensee,

[~~and a metal badge,~~] with his or her license number thereon, which must be constantly and conspicuously displayed on the outside of the driver's outer garment when he or she is engaged in his or her employment. All licenses shall be displayed in a conspicuous place in the taxicab which is in the charge of the licensee.

§180-7. Renewal of driver's license.

[Amended 10-14-1981 by L.L. No. 5-1981]

A driver, in applying for a renewal of his or her license, shall make such application not less than [30] 60 days next preceding its expiration upon a blank form to be furnished by the Police Department. A copy of said application for renewal must be filed with the Commissioner of Police. The original renewal application, which must have the approval of the Commissioner of Police endorsed thereon, shall be filed with the Clerk, who shall thereupon issue a license as provided herein.

§180-8. Fee for driver's license.

[Amended 12-4-1985 by L.L. No. 16-1985; 12-18-1991 by L.L. No. 31-1991; 12-21-1994 by L.L. No. 4-1994; 12-20-2000 by L.L. No. 17-2000; 2-1-2006 by L.L. No. 3-2006]

An annual license fee shall be set annually by resolution of the City Council before adoption of the budget for the following year for a driver's license or renewal thereof; no allowance shall be made for any part of a year.

§180-9. Record of driver's license.

[Amended 10-14-1981 by L.L. No. 5-1981]

The Commissioner of Police shall keep a complete record of each license issued to a driver and of all renewals, suspensions and revocations thereof.

§180-10. Application for license for vehicle.

[Amended 10-14-1981 by L.L. No. 5-1981]

A. It shall be unlawful for any person to operate or permit to be operated a taxicab upon the streets of the City without first having obtained therefor a taxicab license. An application for a taxicab license shall be made by the owner on a blank form to be furnished by the Police Department, and a copy of said application shall be filed with the Commissioner of Police. The original application, which must have the approval of the Commissioner of Police endorsed thereon, shall be filed with the Clerk, who shall issue a license as provided herein.

B. It appearing that there are insufficient places to put taxi stands to provide parking in the core areas of the City, including the train station area, and that, as a result, there are arguments and disturbances and the streets are congested by the dispatching of taxicabs and the pickup and dropoff of passengers and that the number of taxi companies bears a direct relationship to the amount of congestion and to the disturbances that arise; it appearing, in addition, that the pressure for more and more drivers as more companies are created results in danger to the public health, welfare and the good relationships necessary

to living in a densely populated community, for these reasons, the number of companies which may be licensed at any one time is six.

§180-11. Inspection of vehicles before licensing.

[Amended 10-14-1981 by L.L. No. 5-1981]

No vehicle shall be licensed until it has been thoroughly and carefully inspected and examined by the Commissioner of Police and found to be in a thoroughly safe condition for the transportation of passengers. If, upon inspection, a taxicab is found to be of lawful construction and in proper condition in accordance with the provisions of this chapter, the Commissioner of Police shall endorse his or her approval on the application to be filed with the Clerk. Each vehicle shall be inspected each year by the Commissioner of Police.

§180-12. Vehicle license fees.

[Amended 12-4-1985 by L.L. No. 16-1985; 12-18-1991 by L.L. No. 31-1991; 12-21-1994 by L.L. No. 4-1994; 12-20-2000 by L.L. No. 17-2000; 2-1-2006 by L.L. No. 3-2006]

Each taxicab licensed under this chapter shall pay an annual license fee set annually by resolution of the City Council before adoption of the budget for the following year as follows:

- A. Taxicabs seating up to seven passengers.
- B. Coach or bus seating over seven passengers.

§180-13. Register of licensed taxicabs.

[Amended 10-14-1981 by L.L. No. 5-1981]

The Commissioner of Police shall keep a register of the name of each person owning or operating a taxicab licensed under this chapter, together with the license number and the description and make of such vehicle, with the date and complete record of inspections made of it. Such record shall be open to the inspection of the public at all reasonable times. If a taxicab shall be disabled, disqualified for service or sold, the Commissioner of Police may, in his or her discretion, permit the license granted for such taxicab to be used in connection with the taxicab purchased in its place. Should the state license number of a taxicab be changed during the term of the taxicab license, such change and number shall be immediately reported by the licensee to the Commissioner of Police and the Clerk.

§180-14. Payment of fares.

[Amended 5-6-1964 by Ord. No. 8-1964; 6-16-1970 by Ord. No. 6-1970; 5-1-1974 by Ord. No. 1-1974; 5-18-1977 by Ord. No. 4-1977; 8-15-1979 by Ord. No. 6-1979; 3-5-1986 by L.L. No. 2-1986; 4-21-1993 by L.L. No. 2-1993; 2-6-2002 by L.L. No. 2-2002]

- A.** Taxicab zones. The following taxicab Zones A to C are hereby established as shown on the annexed map which is made a part hereof: *Editor's Note: The Taxi Fare Zones Map is included at the end of this chapter.*

Zone	Fare
A	[\$4.00] <u>\$7.00</u>
B	[\$5.00] <u>\$8.00</u>
C	[\$5.50] <u>\$8.50</u>

B. Maximum fares to or from railroad station. The maximum fares for taxicabs between the railroad station and points within the taxicab zones shall be as follows:

Route	Maximum Fare
Between railroad station and points in Zone A	[\$4.00] <u>\$7.00</u>
Between railroad station and points in Zone B	[\$5.00] <u>\$8.00</u>
Between railroad station and points in Zone C	[\$5.50] <u>\$8.50</u>

C. Maximum fares between points other than to or from railroad station. The maximum fare between points within Zone A other than the railroad station shall be the regular fare of Zone A, plus \$0.50, and between points within other zones or between other zones shall be the regular fare of the highest zone involved, plus \$0.50.

D. Minimum fare. The minimum fare on Saturdays, Sundays and holidays shall be ~~[\$4.00]~~ \$7.00, and on other days between 12:00 midnight and 6:00 a.m. it shall be ~~[5.00]~~ \$9.00

E. Additional passengers. Each additional passenger coming from the same location as the passenger first engaging the taxicab and going to the same destination shall pay ~~[\$2]~~ \$3.00

F. Single passengers. Any single passenger who shall insist upon riding alone to the exclusion of other passengers waiting at the point of origin may be charged two whole fares.

G. Children. Children under six years, when accompanied by an adult, shall not be charged.

H. Rates per hour shall be as follows:

Service	Fee
Waiting time, shopping within the city, touring	[\$30] <u>\$45</u>

I. Rate card and Taxi Fare Zone Map. A card on which the above taxi fare rates are plainly printed and a copy of the Taxi Fare Zone Map shall be fastened and maintained in a conspicuous place in the taxicab so as to be conveniently read by passengers.

§180-15. Prepayment of fare.

Every driver of a taxicab shall have the right to demand payment of the legal fare in advance and may refuse employment unless so prepaid, but no driver of a taxicab shall otherwise refuse or neglect to convey any orderly person or persons upon request anywhere in the City unless previously engaged or unable to do so.

§180-16. Disputed fares.

All disputes as to fares shall be determined by the officer in charge at the police station, and failure to comply with such determination shall be a violation of this chapter and punishable as hereinafter provided. Whenever a passenger asks for a receipt, it shall be given to him by the driver. Such receipt shall state the name of the driver, the name of the owner of the taxicab, the number of the taxicab, the time when the trip began and ended and the amount of fare collected.

§180-17. Overcharging.

No person shall charge or attempt to charge any person a greater rate of fare than that to which the taxicab is entitled under the provisions of this chapter.

§180-18. Cruising and soliciting.

No vehicle offered to the public for hire, while waiting employment by passengers, shall stand on any public street or place other than a taxicab stand designated in accordance with the rules and ordinances of the city; nor shall any driver of such vehicle seek employment by repeatedly and persistently driving his vehicle to and from in a short space before, or by otherwise interfering with the proper and orderly access to or egress from, any theater, hall, hotel, public resort, railway or ferry station or other place of public gathering; but any such driver may solicit employment by driving through any public street or place without stops, other than those due to obstruction of traffic, and at such speed as not to interfere with or impede traffic, and may pass and repass before any theater, hall, hotel, public resort, railway or ferry station or other place of public gathering; provided that after passing such public places he shall not turn and repass until he shall have gone a distance of at least 500 feet upon the streets and highways of the city; and no person shall solicit passengers for a public vehicle as aforesaid, upon the public streets of the city, except the driver thereof, when sitting upon the driver's seat of his vehicle.

§180-19. Articles found in taxicabs.

Every driver of a taxicab, immediately after the termination of any hiring or employment, must carefully search such taxicab for any property lost or left therein, and any property, unless sooner claimed or delivered to the owner, must be taken to the police station and deposited with the officer in charge within 24 hours after the finding thereof.

Section 2: This local law will take effect immediately upon filing with the Secretary of State

TAXI FARES

Municipality	Fare	Late Night Charges	Additional Passenger Fee	Senior Rate	Date Adopted
Bronxville	\$4.50	\$5.50 (10:00 pm to 5:00 am)	\$1.00 for each additional passenger in same party	\$2.75 between 10:00 am and 3:00 pm	1990
Dobbs Ferry	\$6.00	\$1.00 for pickup after 10:00 pm	\$1.00 for additional passengers to or from same address		2008
Larchmont	\$4.25	\$6.00 (11:00 pm to 6:00 am)	\$1.00 for additional passenger to same stop		9/15/2005
Mamaroneck Village	\$4.50	\$2.50 additional (12:00 am to 4:30 am)	\$1.50 for each additional passenger	\$4.00	3/5/2007
New Rochelle	\$3.50 first 2/8 of a mile - \$.25 for each additional 1/8 of a mile	1 ½ times day rate (11:00 pm to 6:00 am)		\$.35 off the initial fare of \$3.50	2008
Port Chester	\$4.00		\$1.25 for each additional passenger	\$2.00	12/1/2003
Scarsdale	\$4.50 to \$9.00 based on zone		\$2.00 for each additional passenger		6/30/2008
Tarrytown	\$4.00		\$1.00 each additional passenger to same stop	\$3.00	
Tuckahoe	\$4.75		\$1.00 for each additional passenger	\$.75 with coupon 9:00 am to 3:00 pm	5/2008



CITY COUNCIL AGENDA

NO. 10

DEPT.: City Manager's Office

DATE: April 4, 2012

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Discussion of parking permit procedures in the City lots located at the Rye Arts Center and Highland Hall.

FOR THE MEETING OF:

April 4, 2012

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The City of Rye issues parking permits for lots owned by the City including those at the Rye Arts Center and Highland Hall. The demand for space in these lots has increased due to City restrictions, such as the snow ordinance, as well as the removal of alternate parking options at the Rye United Methodist church. Allowing for additional spots in these City lots impacts existing needs such as commuter parking and events held at the Arts Center. Potential solutions will need to be analyzed and discussed.

See attached breakdown of parking permits and associated costs.

**City Parking Permits
available for
Highland Hall and Rye Arts Center**

Lot	Type of Permit	Cost of Permit per year	# of Permits Sold
Highland Hall	All Day/All Night Note: 45 permits are held per year for Highland Hall residents	\$684	22
	Commuter Parking	\$720	239
	Merchant Parking	\$410	0
Rye Arts Center	All Day/All Night Note: these permits have all been purchased by residents of Blind Brook Lodge	\$684	18
	All Night	\$342	2

** Rebates are given for returned permits. They are prorated on a monthly basis and include a \$30 processing fee.



CITY COUNCIL AGENDA

NO. 11

DEPT.: City Manager

DATE: April 4, 2012

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Discussion of the position of City Engineer and Public Works Superintendent and the upgrade of an existing staff position to Assistant Civil Engineer.

FOR THE MEETING OF:
April 4, 2012

RECOMMENDATION:

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The position of City Engineer and Public Works Superintendent has remained vacant and the City has been relying on the former City Engineer, working part-time on a contract basis, and outside Engineering firms. The Assistant City Engineer has coupled the outstanding project management with his existing responsibilities of reviewing storm water management plans, compliance with MS-4, sidewalk bid for maintenance and repair, street repaving bid, sight distance and engineering support to the Traffic and Pedestrian Safety Committee and assisting Public Works in daily operations. The upcoming major capital projects scheduled mandate additional staff and expanded duties for the existing staff position. These changes will facilitate the timely completion of current and proposed projects.

Capital Projects include:

Bowman Avenue Sluice gate
Old Post Road Drainage
Hewlett Avenue Pump Station
Central Avenue Bridge
Theodore Fremd Avenue
FEMA grant LPDM generator
(Re-submission) for stimulus projects
EFC grant (Nursery) re-design



CITY COUNCIL AGENDA

NO. 12

DEPT.: Finance

DATE: April 4, 2012

CONTACT: Jean Gribbins, City Comptroller

AGENDA ITEM: Resolution to transfer funds from the Contingency account and the Building and Vehicles fund, to fund the position of City Engineer/Public Works Superintendent and upgrade the existing staff position to Assistant Civil Engineer.

FOR THE MEETING OF:
April 4, 2012

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, City staff has determined that the amounts required for the positions of City Engineer/Public Works Superintendent and Assistant Civil Engineer require a change in the adopted 2012 budget by \$105,000, and,

WHEREAS, the General Fund Contingent Account has a balance of \$300,000, now therefore be it

RESOLVED, that the City Comptroller is authorized to transfer \$70,000 from the General Fund Contingent Account to the Engineering Department, and

WHEREAS, \$35,000 of the \$602,000 transferred from the General Fund to the Building and Vehicle fund for 2009 DPW Vehicle & Equipment Projects has not been spent due to vehicles and equipment costing less than budgeted,

RESOLVED, that the City Comptroller is authorized to transfer \$35,000 from the Building & Vehicle Fund to the General Fund Engineering Department.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Use and status of the Contingent Account:

01/01/2012 Beginning balance	\$300,000
04/04/2012 Transfer to Engineering for staff positions	<u>(70,000)</u>
04/04/2012 Balance	<u>\$230,000</u>



CITY COUNCIL AGENDA

NO. 13

DEPT.: City Council

DATE: April 4, 2012

CONTACT: Councilwoman Catherine Parker

AGENDA ITEM: Consideration to amend local law Chapter 31, "Police Pension Fund", Section 9, Accrual and Payment of Pensions, to increase the payment amount for the sole recipient of the fund.

FOR THE MEETING OF:

April 4, 2012

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the City Council amend Chapter 31 to allow for a cost of living increase in payment to the sole recipient of the Police Pension Fund.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Police Pension Fund provides payments to one recipient that are paid in equal semimonthly installments. A proposal has been put forward to provide a cost of living increase for this recipient.

See attached Draft Local Law.

**CITY OF RYE
LOCAL LAW NO. __ OF 2012**

A Local Law to amend Chapter 31 “Police Pension Fund”, Section 31-7 “Payments from fund” of the City Code of the City of Rye to increase the annual sum to a widow by the cost of living adjustment

Be it enacted by the Rye City Council as follows:

Section 1. Chapter 31 “Payments from fund”

§ 31-7. Payments from fund.

A.

(2) To the widow of any member who has died or who shall hereafter die after 10 years of service in the Police Department of the village/city, which a member of such force, or who shall have died having retired upon a pension, if there be no child or children under 18 years of age of any such member, a sum of \$2,841 **plus the cost of living adjustment per year beginning in the year 2012** per annum, but if there be such child or children of such member under the age aforesaid, then such sum may be divided between such widow, child or children in such proportions and in such manner as the Trustees may direct; provided, however, that if such widow did not become the lawful wedded wife of such member prior to the attainment of his 50th birthday and was not cohabiting with him at the time of his death, said pension shall be payable in the discretion of the Trustees of the fund. **Any widow who shall qualify for this payment after January 1, 2012 shall be paid the sum of \$2,841 plus the annual cost of living adjustments each year after January 1, 2012.**

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



CITY COUNCIL AGENDA

NO. 14 DEPT.: FINANCE

DATE: April 4, 2012

CONTACT: JOSEPH S. FAZZINO, Deputy Comptroller

AGENDA ITEM: Adoption of the 2012 County property tax rates.

FOR THE MEETING OF:

April 4, 2012

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the City Council adopt the 2012 County tax rates.

IMPACT: Environmental Fiscal Neighborhood Other

BACKGROUND:

The City must by law collect the County taxes and remit the collected amount of the tax warrant to the County in two installments: 60% on May 25th and the balance of 40% on October 15th.

The County tax rates must be adopted by the City Council in order to provide sufficient lead time for the preparation and mailing of the County tax bills, and to allow sufficient time for property owners to remit their payment within the penalty-free period (the month of May).

Failure to adopt this resolution does not relieve the City of its legal responsibility to remit to the County the amount of the tax warrant due on the dates noted above, and, by State law, the City cannot waive penalties for late payment of property taxes, even if the property owner(s) did not receive a bill or received a bill after the penalty-free period.

RESOLVED, that the tax rates for the amounts of Westchester County, Blind Brook Sewer District, Mamaroneck Valley Sewer District and Refuse Disposal District charges for the fiscal year beginning January 1, 2012, shall be as follows:

<u>Westchester County</u>	
Levy	\$22,292,710
Taxable Assessed Value	137,504,707
Taxable Rate per \$1,000 Assessed Value	162.123
<u>Blind Brook Sewer District</u>	
Levy	\$3,139,266
Taxable Assessed Value	140,639,672
Taxable Rate per \$1,000 Assessed Value	22.321
<u>Mamaroneck Valley Sewer District</u>	
Levy	\$548,756
Taxable Assessed Value	19,076,781
Taxable Rate per \$1,000 Assessed Value	28.766
<u>Refuse Disposal District No. 1</u>	
Levy	\$2,217,086
Taxable Assessed Value	140,114,853
Taxable Rate per \$1,000 Assessed Value	15.823

And be it further

RESOLVED, that the Council does hereby certify to the City Comptroller the above stated levies and tax rates for Westchester County, Blind Brook Sewer District, Mamaroneck Valley Sewer District and Refuse Disposal District No. 1 charges, and the City Comptroller is hereby directed to apportion and extend against each taxable property listed upon the assessment roll of the City of Rye for 2012 at the rates specified, the amount of taxes required to produce the total sums certified and to render tax notices for, and receive and collect, the several sums computed and determined, and, it is further

RESOLVED, that the tax warrant of Westchester County be signed by the Mayor and directed to the City Comptroller to collect the amount of said taxes with interest as provided by law and any special assessment heretofore authorized and approved.



CITY COUNCIL AGENDA

NO. 15

DEPT.: City Manager

DATE: April 4, 2012

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Authorization for the City Manager to enter into an agreement with FPM Group, Ltd. to perform hydrology and environmental engineering services regarding the impact on flood storage analysis at the Project Home Run site.

FOR THE MEETING OF:

April 4, 2012

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Council authorize FPM Group, Ltd. to assist the City with the analysis of the Project Home Run site.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: FPM Group, Ltd. participated in a meeting with the town of Harrison regarding the Project Home Run site. They were retained to review the City's objectives and review the flooding analysis done by the engineering firm of Leonard Jackson. The expense for engineering fees will not exceed \$5,000.