

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, November 19, 2014, at 8:00 p.m. in Council Chambers at City Hall. The meeting will be preceded by a Budget Workshop beginning at 7:00 p.m.

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meeting of the City Council held November 5, 2014 and the Budget Workshop held November 12, 2014.
5. Issues Update/Old Business.
6. Continuation of the Public Hearing to change the zoning designation of County-owned property located on Theodore Fremd Avenue and North Street to the RA-5 District to provide for the construction of affordable senior housing.
7. Resolution adopting a conditional negative declaration of environmental significance pursuant to the New York State Environmental Quality Review Act for the zoning petition submitted by Lazz Development/Pawling Holdings to rezone the property at 150 North Street to a RA-5 Senior Citizen Apartment District.
8. Resolution adopting a Local Law to amend the “Zoning Map of the City for Rye, New York” to Change the Zoning Designation of a Property Known on the City of Rye Tax Map as Section 146.10, Block 1, Lot 66 from B-6, General Business, District and B-1, Neighborhood Business, District to RA-5, Senior Citizens Apartment, District.
9. Continuation of Public Hearing to amend local law Chapter 165 , “Signs”, of the Rye City Code by adding Section §165-10, “Regulation of banners”, to establish regulations for banners on City owned ball field fences and utility poles on City property.
10. Public Hearing to add a proposed Local Law amending the Code of the City of Rye by creating a new chapter, Chapter 176, “Energy Conservation”, to establish a Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law.
11. Consideration to set a Public Hearing for December 3, 2014 to amend local law Chapter 191, “Vehicles and Traffic”, of the Rye City Code by amending Section §191-20, “Parking time limited”, Subsection (E) “Fifteen-minute limit” to designate three parking spaces on the west side of First Street as fifteen minute parking spaces.
12. Consideration of request from the Ceres Garden Club of Rye to install a Blue Star Memorial By-Way Marker in the City of Rye.

13. Residents may be heard on matters for Council consideration that do not appear on the agenda.
14. Appeal of denial of FOIL requests by Timothy Chittenden.
15. Miscellaneous communications and reports.
16. New Business.
17. Adjournment.

The next regular meeting of the City Council will be held on Wednesday, December 3, 2014 at 7:30 p.m.

** City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at www.ryeny.gov under "RyeTV Live".

* Office Hours of the Mayor by appointment by emailing jsack@ryeny.gov or contacting the City Manager's Office at (914) 967-7404.



CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: November 19, 2014

CONTACT: Dawn Nodarse

AGENDA ITEM Draft unapproved minutes of the regular meeting of the City Council held November 5, 2014 and the Budget Workshop held November 12, 2014, as attached.

FOR THE MEETING OF:

November 19, 2014

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 November 5, 2014 and the Budget Workshop held November 12, 2014, as attached.

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on November 5, 2014 at 7:30
P.M.

PRESENT:

JOSEPH A. SACK Mayor
KIRSTIN BUCCI
JULIE KILLIAN
TERRENCE McCARTNEY
RICHARD MECCA
RICHARD SLACK
Councilmembers

ABSENT: LAURA BRETT, Councilwoman

1. Pledge of Allegiance

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

2. Roll Call

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

3. General Announcements by the Council

Announcements were made regarding upcoming events that may be of interest to members of the community.

There was a brief discussion regarding recent filming in the downtown. Sally Wright representing the Chamber of Commerce suggested a Task Force be set up regarding filming in the downtown.

Mayor Sack referred to a discussion on rock chipping that had taken place at the last meeting and said it might be time for the formation of a study group to review the issue and possibly suggest changes to the existing law. The Mayor said he had spoken with Mel Durkee, Andrew Dabonet, Jim Hedges, Al Vitiello and Sue O'Brien about serving on the group and asked Councilmen Slack and Mecca to be the Council representatives and co-chairs. It is hoped that the group can present options to the Council by the end of the year.

Councilwoman Killian congratulated Councilmen Mecca and Slack on their election.

Councilman Slack read the entire letter that had been sent to the Rye Record from the City Council in response to an article the paper had printed about the recent change to the City Charter regarding the hiring of the Police Commissioner. Mr. Slack noted that the paper had edited the letter before printing it, even though they had been requested not to. The Council's original letter will be posted on the City website.

4. Draft unapproved minutes of the regular meetings of the City Council held October 8, 2014 and October 22, 2014 and the informal minutes of the Joint Meeting of the City Council and Board of Education held October 8, 2014

Councilman Slack made a motion, seconded by Councilwoman Killian and unanimously carried, to approve the minutes of the regular meeting of the City Council held on October 8, 2013.

Councilman McCartney made a motion, seconded by Councilwoman Killian and unanimously carried, to approve the informal minutes of the joint meeting of the City Council and Board of Education held on October 8, 2014.

Councilman Mecca made a motion, seconded by Councilman McCartney and unanimously carried, to approve the minutes of the regular meeting of the City Council held on October 22, 2014.

5. Issues Update/Old Business

Bond Projects: City Manager Culross reported on the following capital projects that were approved in the 2012 Bond:

- Locust Avenue Sewer: This project is more complicated than originally estimated due to a large amount of rock. Staff is looking at alternative designs and hope to have an idea of the costs by the first quarter of 2015.
- Central Business District Street Scope Improvements: Staff is working with the consulting engineer on the design and a final cost estimate which should be ready by the end of the year. The project should be ready for public review and a comment period in the first half of 2015.
- Boston Post Road Retaining Wall: A large part of the wall is on private property. City Engineer Coyne has worked on an alternative design with a consulting engineer that will be within the design budget and should be bid next summer.
- Safe Streets Projects: Many of the projects have been completed. The Grace Church Street Five Corners project has been withdrawn. City Engineer Coyne has come up with a better solution and the redesigned project is included in the proposed 2015 budget.
- Boston Post Road Roundabout: This project is being designed but is not funded.
- Library Projects: The bids for the projects came in over budget. They are being divided up into pieces in order to meet the budget.

Rocks: Mayor Sack said that letters had been sent to residents in the "loop" area where the 25 mph speed limit pilot is being conducted asking them to remove rocks in the City right-of-ways.

DPW workers have picked up the rocks that were not removed by the residents. Mayor Sack and Councilman Mecca have met with some of the homeowners.

Deer: Mayor Sack summarized the discussion about the deer problem that had taken place at a previous Council meeting. *Anne Dooley* of Greenhaven said she believed it was a good idea to reach out to the County and added that she had spoken to Kathleen O'Connor, the Parks Commissioner, about the Deer Management Program. She suggested that the City should gather information regarding what types of Deer Management programs have been successful, the number of deer hit by cars in the City and the number of deer that are found dead on the roadside and provide that information to the County to spur them into action. *Clark Neuringer* suggested that the City work with Mamaroneck on dealing with the issue.

6. Presentation of the FY 2015 Budget by the City Manager

City Manager Culross said that the proposed 2015 Budget is \$50.8 million and is tax cap compliant. The City maintains nine separate funds. The budget includes proposals to rebuild the organizational capacity to meet community service needs by proposing the addition of six positions, and an expansion of capital reinvestment with a total of \$3.2 million of additional capital investment. Before presenting the budget Deputy City Comptroller Joseph Fazzino provided a summary of where the City will be at the end of 2014, and projected that the City will be around \$900,000 better than originally budgeted for last year as a result of City revenues, primarily building permit revenues, outperforming their budget. The presentation of the 2015 Budget focused on the General Fund. General Fund expenditures are \$35,600,000, or \$2,071,665 over what was originally budgeted for 2014. One component is General Fund transfers to the Capital Project Fund and Building & Vehicle Fund of \$1.5 million compared to \$1 million in 2014. This does not affect the tax levy. Budgeted salaries are up \$913,000 over 2014; benefits and taxes have increased \$65,000; pension expenses went down \$112,000; the City's insurance broker negotiated a decrease in health insurance rates of \$81,000; and Workers' Compensation costs increase by \$197,000. The budget is balanced by use of Fund Balance and increase in the property tax levy. For 2015 the proposal is to use Fund Balance for capital projects, miscellaneous equipment purchases and to fund the contingency account. \$333,500 of Building & Vehicle Fund balance is proposed to cover the cost of the new positions. The budget proposed generates 65% of total revenues through tax levy. The 2015 property tax levy is \$21,531,492 for an increase of \$718,046 over the 2014 levy, which equals a 3.14% tax rate increase. This is an increase of \$132 to the average home in Rye. The proposed budget is \$77,000 under the Property Tax Cap. Although not included in the budget, there was a brief discussion of the City undertaking a Property Revaluation, which has not been done since the 1970's. Councilmembers were asked to submit any questions to the Finance Department.

7. Consideration to set a Public Hearing on the 2015 Budget for December 3, 2014

Councilwoman Killian made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the following Resolution to set the public hearing on the 2014 Preliminary Budget for December 3, 2014:

WHEREAS, it is now desired to call a public hearing on the proposed 2014 budget, now, therefore, be it

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

Section 1. Pursuant to Section 20 of the Municipal Home Rule law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on December 4, 2014 at 7:30 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such budget.

**CITY OF RYE
PUBLIC NOTICE**

PLEASE TAKE NOTICE that a public hearing will be held by the Council of the City of Rye on Wednesday, the 3rd day of December, 2014 at 7:30 p.m. at City Hall, 1051 Boston Post Road, in said City, on the Proposed Budgets of the General Fund, Cable TV Special Revenue Fund, K.T. Woods Permanent Fund, Debt Service Fund, Capital Projects Fund, Boat Basin Enterprise Fund, Golf Club Enterprise Fund, Risk Retention Internal Service Fund, and Building and Vehicle Maintenance Internal Service Fund of the City of Rye for the ensuing fiscal year, January 1, 2015 through December 31, 2015, and at such time and place any person interested in said Proposed Budgets will be given an opportunity to provide written and oral comments on any and all of the aforementioned budgets.

CITY OF RYE SUMMARY OF PROPOSED BUDGETS

<u>Fund/Program</u>	<u>Proposed Budgets</u>
General Fund	\$35,661,014
Rye Cable TV Special Revenue Fund	429,910
K.T. Woods Permanent Fund	-0-
Debt Service Fund	402,179
Capital Projects Fund	1,900,000
Boat Basin Enterprise Fund	1,015,510
Rye Golf Club Enterprise Fund	4,444,555
Risk Retention Internal Service Fund	699,760
Building and Vehicle Maintenance Internal Service Fund	<u>6,212,413</u>
TOTAL - All Funds	<u>\$50,765,341</u>

Dawn F. Nodarse
City Clerk
Dated: November 21, 2014

8. Continuation of the Public Hearing to change the zoning designation of County-owned property located on Theodore Fremd Avenue and North Street to the RA-5 District to provide for the construction of affordable senior housing

Councilman McCartney, a member of the Council subcommittee working on this issue, said they have requested that the Corporation Counsel and City Planner draft the conditional Negative Declaration. The subcommittee has held meetings with the developer and his architect to address the density and height restriction issues. A report has been received from the City's wetland's expert. The subcommittee will have a recommendation for the full Council soon. Clark Neuringer, the architect for the developer reported on the changes that have been made to the proposal based on the Council's concerns regarding density and height. The developer has reduced the proposal by 30% and is now proposing one building including 40 units not to exceed 40-feet in height. There will be 28 one bedroom units and 12 two bedroom units, 27 of which will count toward the HUD Settlement. They developer will agree not to add additional units in the future. Mayor Sack said he has requested that the County allocate funds to move the sewer line that is located under the property and asked the developer to nudge the County to do so

Councilman McCartney made a motion, seconded by Councilwoman Killian and unanimously carried, to continue the public hearing to the November 19, 2014 Council meeting.

9. Consideration to set a Public Hearing to add a proposed Local Law to the Rye City Code to establish a Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law

Mayor Sack said the proposed local law would establish a Sustainable Energy Loan Program. The Mayor said that he, Councilwoman Killian and City Manager Culross met with people advocating for the program over the summer. Mark Thielking, Chairman of the Energy Improvement Corporation, made a presentation regarding the Energize New York Finance Program which allows municipalities to provide capital for building owners who wish to make their buildings more energy efficient. The money is paid back through property taxes. He summarized the benefits of the financing; the criteria for receiving funds; the actions the City must take to enact the program as well as their role; and the requirements of the corporation. Two members of the public spoke about the proposal. *Peggy Hill*, Director of the Wainwright House spoke in favor of the program and outlined what Wainwright House would like to do at their site and encouraged the City to adopt the local law. *Joseph Latwin*, City Court Judge, questioned the program and asked why the City should advance money and be responsible for the payments of people who want to improve their property. Questions were raised by the Council regarding costs associated with defaults in payment; how the reserve fund works; the history of delinquencies in other municipalities who have enacted the program; and the ability of the City to make language changes to the draft local law.

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

WHEREAS, the Council wishes to consider adding a new Chapter 176, “Energy Conservation” to the Code of the City of Rye to establish a Sustainable Energy Loan Program; and

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

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

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on November 19, 2014 at 7:30 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

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

**PUBLIC NOTICE
CITY OF RYE**

A Local Law to add a new Chapter 176 “Energy Conservation” of the Code of the City of Rye to create a program to assist property owners in financing clean energy systems

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 19th day of November 2014 at 7:30 P.M. at City Hall, Boston Post Road, in said City, at which time interested persons will be afforded an opportunity to be heard concerning a proposed local law to add a new Chapter 176 “Energy Conservation” of the Code of the City of Rye to create a program to assist property owners in financing clean energy systems.

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

Dawn F. Nodarse
City Clerk

Dated: November 12, 2014

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

No one spoke under this Agenda item.

11. Miscellaneous Communications and Reports

Mayor Sack asked about a FOIL appeal submitted by Timothy Chittenden. Corporation Counsel Wilson said that a clarification of the original response was sent out earlier in the day and there are no others pending to her knowledge.

12. New Business

There was nothing discussed under this Agenda item.

13. Adjournment

There being no further business to discuss Mayor Sack made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn into executive session to discuss personnel matters and not return to the regular meeting at 10:00 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk

DRAFT UNAPPROVED MINUTES of the
Budget Workshop of the City Council of the City of
Rye held in City Hall on November 12, 2014 at 7:30
P.M.

PRESENT:

JOSEPH A. SACK Mayor
LAURA BRETT
KIRSTIN BUCCI
JULIE KILLIAN
TERRENCE McCARTNEY
RICHARD MECCA
RICHARD SLACK
Councilmembers

ABSENT: None

1. Pledge of Allegiance

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

2. Roll Call

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

3. Discussion of the FY 2015 Budget

- Building and Vehicle Fund Review

There were three major proposed projects discussed under this section:

Hire an architect to design the Police/Court improvement (\$75,000): City Manager Culross said that if the Council wishes to proceed with making improvements to the Police/Court facility the money will be used to contract for an actual design for the building. This would be done by RFQ (Request for Qualifications). Mr. Culross summarized some of the improvements that need to be made to the facility to address deficiencies identified by the Office of Court Administration and by the Police Department. Many of the deficiencies are related to security. He added that he did not think the cost would be less than the \$1.2 million previously discussed and could be more. City Planner Miller said that the cost of a major renovation would be in the \$20 million range.

City Hall Generator: (\$375,000): City Engineer Coyne said that a generator previously purchased for City Hall was determined to be the wrong size for the building and was installed at

Public Works. Last year the City received a FEMA grant for \$125,000 (a 75/25 match) for the 2007 storms to install a generator that will cost over \$200,000 to purchase. The project suggested has FEMA grant funding but requires additional funding from the City in order to install a properly sized generator outside the building. The option proposed calls for more site work to be done so that parking will not be lost and the aesthetics of the building will not be affected.

Rye TV Studio in City Hall (\$850,000): Stephen Fairchild, Chair of the Rye Cable and Communications Committee, explained the request to build studio space on the third floor of City Hall. The idea is to make studio access time available to the public all day, which is currently not available at the studio located at the High School. \$600,000 will come from the funds that Rye TV collects from Verizon and Cablevision and an additional \$250,000 is requested from the City for the project. Designs have been completed. \$500,000 of the project amount would be allocated for equipment and wiring. City Manager Culross said that the area proposed for the studio is essentially unused space. Questions raised by the Council in regard to the proposed project dealt with how long it would take for Rye TV to save the money to pay for the project outright; how they will meet their costs if their Fund Balance is depleted; how can Rye TV be a self-sustaining operation; the ability to maintain two studios; what staffing levels are required to maintain the services that residents want; and what is the School District's opinion about the new studio proposal. It was noted that the fees that are received from Cablevision and Verizon are set every ten years and the City is required to provide certain access under the Cable Franchise Agreements. The City Manager was asked to provide a multi-year forecast for Rye TV.

- Capital Projects Fund Review

City Manager Culross said that the capital projects included in the budget are mainly continuations of ongoing annual programs and programs that have been identified in the Capital Improvement Program (CIP). The Annual Street Resurfacing Program has been increased to \$1 million, almost \$400,000 of which comes from the CHIPS program. The Pavement Management Program (PMS) indicated that the City needs to spend at least this amount of money for the next ten years. Programs for Annual Pedestrian Safety Improvements and Sewer and Drainage Improvements have been created to recognize that the City needs to spend a certain level of money annually in order to sustain critical infrastructure. Major projects referred to included: the Brevoort Lane Sewer Pump Station Automation System; Hix Park Drainage study; and the Five Point Intersection Improvements which is a spin off from the Safe Streets project.

City Planner Miller and City Engineer Coyne made a presentation regarding the proposed Five Points Intersection project, which they said is a better project than the Safe Streets Project originally proposed and would not be subject to the Department of Transportation design and review process. The project will include turning the Midland Avenue/Grace Church Street/Manursing Avenue intersection into a four-way stop, and removal of the traffic signal. Returning the intersection to a standard four-way stop will calm traffic and create shorter crossing distances for the cross-walks. The proposed project is a comprehensive solution that eliminates unnecessary signals; creates pedestrian safety enhancements in all movements; and, eliminates delay. There was a discussion about the impacts of the proposed change on traffic during rush hour and the effects of taking away the right turn lane on Grace Church Street. Mr. Miller said that traffic counts related to the peak hours will be double checked. There was also a suggestion made about having a community meeting to discuss the proposed changes to the intersection.

- Public Works Department Budget Review

City Manager Culross said that the operational budget for DPW is included in the transportation program; home and community environment program; and the operations portion of the Building and Vehicle Fund. The budget is pretty flat. The staffing levels are maintained with some positions being reallocated. The capital project to make changes at Disbrow is not included in the 2015 budget because it is still in the planning and development phase. Deputy Comptroller Fazzino noted that the \$40,000 increase in the materials and supplies budget is due to an increase in credit card fees which will result from installation of credit card acceptors at the pay stations. There was a discussion about whether it makes sense to go forward with this proposal or change to another parking system.

Mayor Sack asked that the Council be provided information on any line in the budget that goes up or down by more than 10%.

4. Adjournment

There being no further business to discuss Councilwoman Brett made a motion, seconded by Councilwoman Killian and unanimously carried, to adjourn into executive session to discuss labor negotiations and not return to the workshop at 9:40 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: November 19, 2014

CONTACT: Mayor Joseph Sack

AGENDA ITEM: Issues Update/Old Business

FOR THE MEETING OF:

November 19, 2014

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That an update be provided on outstanding issues or Old Business.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

Additional information has been provided by the petitioner; these documents are available on the City website* and include the following:

- 1 – Proposed Conceptual Site Plan
 - 2 – Letter from Westchester County Department of Planning / Department of Health
 - 3 – Aerial photos of site: 1925 through 2013
 - 4 – Soil testing results: Ralph G. Mastromonaco, P.E., P.C.
 - 5 – Soil test Technical Report: York Analytical Laboratories, Inc.
 - 6 – Full Environmental Assessment Form
 - 7 – Traffic Analysis and Commentary: Ralph G. Mastromonaco, P.E., P.C.
 - 8 – City of Rye Police Department Incident Reports
 - 9 – Team Environmental Consultants, Inc.: Phase 1 Environmental Site Assessment Report
- Theodore Fremd Property Taxes

Documents obtained from Westchester County through a FOIL request

- 08/04/14 – memo from Matthew Carroll, P.E. / Tenen Environmental providing a Review of Environmental Conditions
- 08/04/14 – memo from Matthew Carroll, P.E. / Tenen Environmental providing a Review of the Environmental Assessment Form
- 08/28/14 – memo from Ralph G. Mastromonaco, P.E., P.C. providing a revised Environmental Assessment Form and responses to questions posed by City Planner Christian K. Miller, AICP and consultant Matthew Carroll, P.E.

Presentation at September 10, 2014 City Council meeting by Matthew Carroll, P.E.

DRAFT Remedial Investigation Report of Former Rye Gas Works Site by AECOM July 2013

DRAFT Remedial Investigation Report – Addendum by AECOM March 2014

Theodore Fremd Groundwater Sampling Results by Tenen Environmental

Theodore Fremd Monitoring Well Sampling Results by Tenen Environmental

Theodore Fremd Wetland Report by Tim Miller Associates, Inc.

** Documents are available at www.ryeny.gov under Digital Documents in folder “Theodore Fremd Senior Housing Zoning District Change”



CITY COUNCIL AGENDA

NO. 7

DEPT.: Planning

DATE: November 19, 2014

CONTACT: Christian K. Miller, AICP, City Planner

AGENDA ITEM: Resolution adopting a conditional negative declaration of environmental significance pursuant to the New York State Environmental Quality Review Act for the zoning petition submitted by Lazz Development/Pawling Holdings to rezone the property at 150 North Street to a RA-5 Senior Citizen Apartment District.

FOR THE MEETING OF:

November 19, 2014

RYE CITY CODE,

CHAPTER 197

SECTION 3

RECOMMENDATION: That the Council adopt the resolution adopting a SEQRA conditional Negative Declaration.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The petitioner, Lazz Development/Pawling Holdings, seeks an amendment to the City Zoning Map to change the zoning district designation of an approximately 2.0-acre property located on Theodore Fremd Avenue and North Street. The request would change the zoning of the Westchester County-owned property from the B-6, *General Business*, District and the B-1, *Neighborhood Business*, District to the RA-5, *Senior Citizen's Apartment*, District. The petitioner is seeking to construct forty (40) units of age-restricted housing located in two buildings. The proposal would be limited to those over age 55 and consist of 28 one-bedroom units and 12 two-bedroom units. The proposed units would also be affordable and 27 of these units would count towards Rye's contribution to the 750 units of fair and affordable housing Westchester County is obligated to provide as part of a stipulation of settlement with the U.S. Department of Housing and Urban Development (HUD). The matter has been reviewed by the City Planning Commission and Westchester County has provided advisory comments on the matter. The City Council is asked to adopt the resolution adopting a SEQRA conditional Negative Declaration for the zoning petition submitted by Lazz Development/Pawling Holdings to rezone the property at 150 North Street to a RA-5 Senior Citizen Apartment District.

See attached draft SEQR Conditioned Negative Declaration (CND)

State Environmental Quality Review
NEGATIVE DECLARATION
 Notice of Determination of Non-Significance

Project Number:

Date: Nov. 5¹⁹, 2014

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The **Rye City Council** as lead agency, has determined that the proposed action described below will not have a significant adverse environmental impact and a Draft Environmental Impact Statement will not be prepared.

Name of Action: **Petition of Lazz Development/Pawling Holdings to Change the Zoning Designation of County-Owned Property Located on Theodore Fremd Avenue and North Street to the RA-5, Senior Citizens Apartment, District to Provide for the Construction of Affordable Senior Housing.**

SEQR Status:

Type I
 Unlisted

Conditioned Negative Declaration:

Yes (see attachment)
 No

Description of Action:

The proposed action involves the adoption of a local law to change the zoning of a property located at 150 North Street. The approximately 2.080-acre property has frontage on North Street, but is commonly referred to by its accessible frontage on Theodore Fremd Avenue rather than its legal address of 150 North Street. The request would change the zoning of the Westchester County-owned property from the B-6, *General Business*, District and the B-1, *Neighborhood Business*, District to the RA-5, *Senior Citizen's Apartment*, District. The existing zoning districts applicable to the property do not permit multi-family housing. The proposed zoning change to the RA-5 District would permit (and limit) future construction on the property to affordable senior housing. The petitioner has represented that if the zoning change is granted, he would seek subsequent approvals from the Rye City Planning Commission to construct affordable age-restricted housing. See attached.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

150 North Street, City of Rye, Westchester County, New York

Reasons Supporting This Determination:

(See 617.7(a)-(c) for requirements of this determination; see 617.7 (d) for Conditioned Negative Declaration)

Based on the review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the Lead Agency finds that the proposed action will not have a significant adverse environmental impact due to the extent of the proposed improvements, the modest nature of reasonably expected impacts, modifications in the project design to reduce anticipated impacts and implementation of mitigation measures. More specifically, the Lead Agency finds that the proposed action will not have an adverse impact on any of the indicators of potential environmental impact listed in Sections 617.7(c)(1)(i) through (xii).

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

For Further Information:

Contact Person: Christian K. Miller, AICP, City Planner
 Address: 1051 Boston Post Road, Rye, New York 10580
 Telephone: (914) 967-7167 Fax: (914) 967-7185 email: cmiller@ryeny.gov

A Copy of this Notice is sent to:

Lead Agency (For All Actions):

Rye City Council

Involved Agencies (For Type I Actions and Conditioned Negative Declarations only):

- Rye City Planning Commission
- City of Rye Zoning Board of Appeals, c/o Rye City Clerk
- City of Rye Board of Architectural Review, c/o Rye City Building Inspector
- Westchester County Department of Health
- Westchester County Department of Planning
- Westchester County Department of Public Works/Environmental Facilities
- New York State Department of State, Division of Coastal Resources
- New York State Department of Environmental Conservation Regional Office
- New York State _____
- _____
- _____

For All Type I Actions and Conditioned Negative Declarations:

- Mayor of Rye, c/o Rye City Clerk
- ENB
- Applicant/Petitioner
- Person(s) requesting a copy:

ATTACHMENT

Conditioned Negative Declaration

Petition of Lazz Development/Pawling Holdings to Change the Zoning Designation of County-Owned Property Located on Theodore Fremd Avenue and North Street to the RA-5, *Senior Citizens Apartment*, District to Provide for the Construction of Affordable Senior Housing.

Background

On or about December 10, 2013, the City Council received a petition from Lazz Development/Pawling Holdings to change the zoning of a property located at 150 North Street. The approximately 2.080-acre property has frontage on North Street, but is commonly referred to by its accessible frontage on Theodore Fremd Avenue rather than its legal address of 150 North Street. The request would change the zoning of the Westchester County-owned property from the B-6, *General Business*, District and the B-1, *Neighborhood Business*, District to the RA-5, *Senior Citizen's Apartment*, District.

The existing zoning districts applicable to the property do not permit multi-family housing. The proposed zoning change to the RA-5 District would permit (and limit) future construction on the property to affordable senior housing. The petitioner has represented that if the zoning change is granted, he would seek subsequent approvals from the Rye City Planning Commission to construct affordable age-restricted multi-family housing. The proposal would be limited to those over age 55 and consist of a mix of one-bedroom units and two-bedroom units.

The proposed RA-5 District for the property is the same district adopted by the City Council in the mid-1980s to accommodate the nearly 100 units of affordable senior housing on an approximately 2-acre site at 300 Theall Road, also known as Rye Manor. The proposed age-restricted units would be affordable and a minimum of 27 of the units would count towards the 750 units of fair and affordable housing that Westchester County is obligated to provide within 31 eligible municipalities as part of a stipulation of settlement with the U.S. Department of Housing and Urban Development (HUD). Though not part of the lawsuit or settlement, Rye has been identified in the housing settlement as one of the 31 eligible Westchester County communities.

The subject property has long been considered for affordable housing by the City of Rye. In the early 1990s a local not-for-profit in partnership with the City of Rye sought to change the zoning of the property to construct 12 two-family units (i.e. 24 total units). That proposal and the required zoning change were never advanced due to the identification of sub-surface contamination on the property in 1993. Since that time the property has been subject to an environmental clean-up, but the City continued to periodically advocate for its use as an affordable housing site.

Unlike the affordable housing proposal twenty years ago the City of Rye is not a partner in the construction, property ownership or administration of the affordable housing units.

Westchester County is the property owner and the petitioner is the County's preferred developer for the property. In an August 9, 2013 letter the Petitioner received authorization from Westchester County "to seek all necessary approvals from the City of Rye...". This letter was provided to the City and forwarded to the City Council on August 16, 2013. The City of Rye's role is typical of any other land use application, which is to review and consider the land use policy implications of the request.

~~Westchester County's interest is to advance its obligation under the housing settlement.~~ The property in Rye is unique because there are few (if any) undeveloped County-owned properties within one of the 31 eligible housing settlement communities. It's also unique because the City has a 20-year history of advocating for the development of affordable housing. Rye's historic advocacy for affordable housing does not constitute a commitment or obligation to approve the petitioner's request, but is relevant in terms of the planning context and the City's affordable housing policy.

The petitioner's interest is to develop affordable housing. The petitioner has constructed a number of affordable housing communities in the Sound Shore area, including 27 units in two separate projects on Cottage Street in Rye. Both of those projects required the City's Council's legislative authority to either amend the City Zoning Code or de-map an unused road right-of-way. ~~In an August 9, 2013 letter the Petitioner received authorization from Westchester County "to seek all necessary approvals from the City of Rye...". This letter was provided to the City and forwarded to the City Council on August 16, 2013.~~

The City's interest is to potentially advance identified affordable housing needs in the area consistent with its land use planning and other policies. The County has only a limited allocation of housing that it can designate as age-restricted towards the 750-unit obligation under the settlement. If that age-restricted allocation is lost to another community, there will continue to be pressure to develop the County-owned property in Rye for affordable housing without the age restriction. Age-restricted housing eliminates the potential for the generation of school-age children and the potential for a land use outcome in which potential municipal and school district service costs from the proposed development exceed anticipated property tax revenue.

Environmental Review

Upon receipt of the petition the Rye City Council declared its intent to be Lead Agency for the environmental review of the application. The petition, draft local law and Environmental Assessment Form (EAF) were circulated to all involved agencies. There was no objection to the City Council serving as Lead Agency.

Since its submission last December, the Full EAF was reviewed by the City Council, the Rye City Planning Commission, the public, City staff and professional consultants retained by the City to review technical elements of the petitioner's submission. The public hearing on the proposed local law was opened on February 26, 2014 and has remained open at multiple City Council meetings until it was closed on November 5¹⁹,

2014. During the public hearing, numerous public comments were heard and additional environmental information was submitted to address deficiencies in the EAF or concerns raised by the public. All information is part of the public record and incorporated by reference into this determination.

Conditions

Based on the review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the Lead Agency finds that the proposed action will not have a significant adverse environmental impact on any of the indicators of potential environmental impact listed in Sections 617.7(c)(1)(i) through (xii) due to the extent of the proposed improvements, the modest nature of reasonably expected impacts, modifications in the project design to reduce anticipated impacts and implementation of mitigation measures and the following required conditions:

- *Impacts to Human Health.* The City Council retained the services of Tenen Environmental to assist with the review of the EAF and former and current sub-surface soil and groundwater conditions at the subject property and the potential impacts to human health. An August 4, 2014 memorandum from Tenen Environmental to the City Council concludes that the property can be developed for the intended residential use, but recommends that ~~the following~~ several remedial design considerations be incorporated into any future development at the site. The conditions are consistent with the development requirements included in a May 7, 2014, letter from the County Department of Health to the Applicant. The following design considerations shall be incorporated in the development:
 - **Condition:** Design and installation of a soil vapor intrusion mitigation system beneath occupied spaces in accordance with the New York State Department of Health (NYSDOH) *Final Guidance for Evaluating Soil Vapor Intrusion in New York State* (October 2006, or the most current version) and typical industry standards.
 - **Condition:** Design and installation of a ~~remedial cap~~ cover system consistent in accordance with the New York State Department of Environmental Conservation (NYSDEC) *CP-51 Soil Cleanup Guidance* (October 21, 2010, or the most current version) and typical industry standards.
 - **Condition:** Prior to any final approval granted by the Rye City Planning Commission the site plan shall be reviewed by Tenen Environmental or other qualified professional environmental consultant to insure that the proposed development and related site work is in compliance with the conditions cited immediately above.
 - **Condition:** ~~In addition, t~~The Lead Agency requires that future residential development shall include at-grade parking under the building and no

residential units shall be located on the ground floor or below grade of any future residential building.

- Condition: There shall be no vegetable gardens or farming permitted on the property.
 - Condition: The building shall be connected to a regulated water supply system and underlying groundwater shall not be used.
 - Condition: The existing groundwater monitoring wells shall be decommissioned in accordance with NYSDEC Groundwater Monitoring Well Decommissioning Policy (CP-43), dated November 3, 2009.
- *Impacts to Community Character and Aesthetics.* The petitioner's site plan accompanying his request proposes initially proposed two four-story buildings, where the lowest story is unenclosed parking. The plan submitted shows approximately 75,600 square feet of total development, 90 parking spaces for an estimated 54 units and compliant with all other bulk and dimensional restrictions of the RA-5 District. This plan represents about 83% of the maximum development potential permitted under the proposed zoning. The proposed FAR of 1.0 is slightly higher than the 0.75 FAR permitted in the current B-6 District located on the rear portion of the site and the 0.50 FAR permitted in the B-1 District located on the front of the site. The RA-5 District allows four stories within a maximum building height of 40 feet. The B-6 District allows just two stories, but the same building height of 40 feet. The B-1 District limits maximum building height to 2½ stories and 35 feet. The front yard setback for the proposed RA-5 District is 25 feet, which is greater than the 10-foot requirement for the B-1 and B-6 District. Side yard setback dimensions are also greater for the RA-5 District than the existing districts applicable to the site and the rear yard requirement is generally the same.

The Lead Agency ~~supports the requested zoning district change,~~ but recognizes the unique characteristics of the surrounding uses and topographic conditions. To address concerns regarding the potential aesthetic and community character impacts associated with the bulk and scale of proposed future development the Lead Agency requires the following conditions:

- Condition: Future development shall be limited to no more than 40 affordable age-restricted dwelling units, consisting of a mix of only one- and two-bedroom units. No more than one additional dwelling unit shall be permitted for an on-site building superintendent.
- Condition: Building height shall be limited to no more than [40] [32] (pick one) feet.

- **Condition:** There shall be no more than [three] [three-and-a-half] [four] (pick one) stories for any future building development. The at-grade, unenclosed parking under the building is considered a story for the purposes of this condition.
- **Condition:** The setback of the principal building from the property boundary on the North Street frontage shall be no less than 40 feet.
- **Condition:** The setback of the principal building from the property boundary on the Theodore Fremd Avenue frontage shall be no less than 170 feet.
- **Condition:** To the maximum extent practical there shall be the preservation of existing healthy trees having a 8-inch caliper or greater diameter measured at breast height (i.e. DBH), with particular emphasis on the preservation of trees on the perimeter of the property.
- **Condition:** Existing on-site wetlands shall be preserved to the maximum extent practical or their function replaced with alternative measures as determined appropriate by the Rye City Planning Commission, which is responsible for the issuance of wetland permits pursuant to Chapter 195 of the Rye City Code.
- *Impacts on School-age Children Costs.* The RA-5 District allows only one use – “Apartments for Senior Citizens and Handicapped. A detached residence for three or more families or housekeeping units or a group of buildings housing three or more families on one lot, undertaken by private nonprofit sponsors with public financial assistance, subject to the requirements of § 197-7.” During the public hearing there was a concern that “senior” should include a more specific definition and that such additional assurances should be implemented to insure that the use could not be converted in the future to allow school-age children. There is limited capacity to accommodate additional enrollment at Rye City Schools. To address this concern the Lead Agency requires the following condition:
 - **Condition:** that pPrior to any future development the property owner shall implement an agreement or covenant to the satisfaction of the City Council prohibiting school-age children. Said covenant and agreement shall be filed in the office of the Westchester County Clerk and shall run with the land.
- *Impacts on Municipal Infrastructure.* There is an existing sanitary sewer line that extends from Nursery Lane under I-95 and MNRR tracks through the site to an existing connection in Theodore Fremd Avenue. The existing line is compromised and difficult to service and maintain due to the high volume, high speed vehicular and rail traffic on a major regional transportation corridor. Future development on the subject parcel will make maintaining this existing sewer line through the site

even more challenging and potentially difficult to accommodate the additional sewage flow from the petitioner's development.

To address this concern the Lead Agency requires that the portion of the existing public sewer line on the subject parcel and under I-95 be abandoned and that the petitioner construct a new sewer connection from Nursery Lane to an existing sewer connection in North Street. The Lead Agency understands that the proposed sewer project would require legislative action by the County Board of Legislature and City Council. Some residents within the Nursery Lane, High Street and Maple Avenue area will be switched from the Blind Brook Sewer District to the Mamaroneck Valley Sewer District, which has a slightly higher (albeit nominal) sewer tax¹.

The Lead Agency requires the following conditions as agreed to by Westchester County:

- o **Condition:** Westchester County shall fund the design, construction, construction inspection and other related costs associated with the implementation of a new approximately 950-foot sewer line from Nursery Lane to existing manhole in North Street.
- o **Condition:** Sidewalks and curbing abutting the property on Theodore Fremd Avenue shall be replaced to preserve and enhance the pedestrian network in the area.

There shall be no deviation from the conditions in this Negative Declaration unless approved by the Rye City Council.

¹ To put the increase sewer tax in perspective the City Assessor estimates that a property valued at \$1.0 million would see an increase in their annual sewer bill of less than \$3.

RESOLUTION ADOPTING A CONDITIONAL NEGATIVE DECLARATION FOR THE ZONING PETITION SUBMITTED BY LAZZ DEVELOPMENT/PAWLING HOLDINGS TO REZONE PROPERTY AT 150 NORTH STREET TO RA-5 SENIOR CITIZEN APARTMENT DISTRICT

WHEREAS, Lazz Development/Pawling Holdings (hereinafter “Applicant”) petitioned the City Council to rezone property located at 150 North Street (the “Property”) to the RA-5 Senior Citizen Apartment district (the “Zoning Petition”); and

WHEREAS, the City Council reviewed the proposed Zoning Petition and referred same to the Rye Planning Commission pursuant to the Rye City Code; and

WHEREAS, the City Council declared its intent to be Lead Agency and circulated the Zoning Petition to other involved and interested agencies; and

WHEREAS, no other agency objected to the City Council declaring its intent to be the Lead Agency; and

WHEREAS, the proposed RA-5 zone permits the Property to be used for affordable senior housing units; and

WHEREAS, the proposed RA-5 zone is consistent with the City’s Master Plan and has been vetted by the City as a potential site for affordable housing for decades; and

WHEREAS, a duly noticed public hearing was opened in February 2014 and all members of the public wishing to be heard were given the opportunity to be heard; and

WHEREAS, the public hearing was continued from month to month while providing the public the opportunity to be heard; and

WHEREAS, the City Council retained experts to address potential environmental concerns including, but not limited to, water quality and wetlands; and

WHEREAS, the City Council had Tenen Environmental present their findings regarding water quality during a public hearing and allowed the public to ask questions regarding same; and

WHEREAS, the City Council reviewed the Applicant’s wetland report as well as its own expert’s report addressing impacts to the wetlands; and

WHEREAS, the public hearing was closed on November 5, 2014; and

WHEREAS, the City Council reviewed the Short Environmental Assessment Form at its November 5, 2014 City Council meeting and finds that a Conditional Negative Declaration is appropriate given the nature of the proposed mitigation measures; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council considered the criteria listed in Section 617.7(c) of the State Environmental Quality Review Act and the complete record, and finds that the proposed conditions made part of the attached Conditional Negative Declaration will mitigate any significant adverse environmental impacts;

AND, BE IT FURTHER RESOLVED, that the Rye City Council hereby adopts the attached Conditional Negative Declaration and any subsequent changes must be approved by the City Council.

Yay:

Nay:

DRAFT

RESOLUTION ADOPTING LOCAL LAW # __ OF 2014

WHEREAS, Lazz Development/Pawling Holdings (hereinafter “Applicant”) petitioned the City Council to rezone property located at 150 North Street (the “Property”) to the RA-5 Senior Citizen Apartment district (the “Zoning Petition”); and

WHEREAS, the City Council reviewed the proposed Zoning Petition, declared its intent to be Lead Agency pursuant to the State Environmental Quality Review Act (“SEQRA”) and referred same to the Rye Planning Commission pursuant to the Rye City Code; and

WHEREAS, the City Council circulated the Zoning Petition to other Involved and Interested agencies; and

WHEREAS, no other agency objected to the City Council declaring its intent to be the Lead Agency; and

WHEREAS, the proposed RA-5 zone permits the Property to be used for affordable senior housing units; and

WHEREAS, the proposed RA-5 zone is consistent with the City’s Master Plan and has been vetted by the City as a potential site for affordable housing for decades; and

WHEREAS, the Zoning Petition furthers the intent of the City Council to provide affordable housing stock within the City of Rye; and

WHEREAS, the Planning Commission provided a memo to the City Council with a positive recommendation regarding the proposed zoning change and advised the City Council to take a closer look at some of the identified areas of concern; and

WHEREAS, some members of the City Council conducted a site walk of the Property with the Applicant; and

WHEREAS, a duly noticed public hearing was opened in February 2014 and all members of the public wishing to be heard were given the opportunity to be heard; and

WHEREAS, the public hearing was continued from month to month while providing the public the opportunity to be heard; and

WHEREAS, the City Council retained experts to address potential environmental concerns including, but not limited to, water quality and wetlands; and

WHEREAS, the public hearing was closed on November 5, 2014; and

WHEREAS, the City Council adopted a Conditional Negative Declaration pursuant to the New York State Environmental Quality Review Act (SEQRA); and

NOW, THEREFORE, BE IT RESOLVED, that the City Council finds that the Zoning Petition is consistent with the City's Master Plan and furthers the City's intent to provide a wide range of housing stock; and

AND, BE IT FURTHER RESOLVED, that the Rye City Council hereby approves Local Law # ___ of 2014, subject to the following condition(s):

1. Each condition of the Conditional Negative Declaration is incorporated herein and each and every condition is made an explicit condition of this approval.

AND, BE IT FURTHER RESOLVED, that the local law shall have an effective date of December 15, 2014.

DRAFT



CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager's Office

DATE: November 19, 2014

CONTACT: Frank J. Culross, City Manager

AGENDA ITEM: Continuation of Public Hearing to amend local law Chapter 165 , "Signs", of the Rye City Code by adding Section §165-10, "Regulation of banners", to establish regulations for banners on City owned ball field fences and utility poles on City property.

FOR THE MEETING OF:

November 19, 2014

RYE CITY CODE,

CHAPTER 165

SECTION 10

RECOMMENDATION: That the City Council hold a Public Hearing to amend Chapter 165, "Signs".

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Council is asked to consider amendments to Chapter 165, "Signs" of the Rye City Code to allow for the display of banners at City of Rye ball fields and utility poles on City property.

See attached Draft Local Law.

**CITY OF RYE
LOCAL LAW NO. 2014**

A local law to amend Chapter 165 “Signs” of the Code of the City of Rye by adding a new §165-10 to establish regulations for banners on City owned field fences and utility poles located on City property and to renumber the remaining section of the Chapter as follows:

Section 1: Chapter 165, Signs.

§ 165-10. Banners on City owned field fences and utility poles.

A. Banners are permitted on City owned field fences upon approval from the Board of Architectural Review. All permits will be issued by the City Clerk’s office and are seasonal and will be approved for the spring, summer and/or fall season. No banners shall be displayed during the winter season.

- (1) When reviewing applications for the display of banners on field fences, the Board of Architectural Review shall take into consideration the size of the banner, the design, and the colors to ensure that such are in harmony are appropriate for the placement on the field fences.**
- (2) In no event shall banners on field fences be larger than 32 square feet.**
- (3) The Board of Architectural Review will consider applications for banners on a first come/first serve basis and has the authority to limit the number of banners at any given time depending on the availability of fence space.**
- (4) The Board of Architectural Review may consult with the Recreation Commission to determine whether a particular banner is consistent with the type of activities performed on a given field area.**
- (5) Applications for the spring season must be received on or before February 1, for the summer season by May 1, and the fall season by August 1.**
- (6) The City reserves discretion as to the exact placement of the banners on the field fences.**

B. Banners are permitted on City utility poles in the Central Business District upon receipt of a permit from the Board of Architectural Review.

- (1) All banners to be placed on the utility poles shall be 30” by 60”.**
- (2) Only banners supporting or advertising not-for-profit organizations shall be considered by the Board of Architectural Review.**
- (3) When reviewing applications, the Board of Architectural Review shall take into consideration the design and colors of the banners to ensure that such are appropriate for display in the Central Business District.**
- (4) The Board of Architectural Review will consider applications for banners on a first come/first serve basis.**
- (5) The maximum permitted time for display is twenty-one (21) days.**

- C. Once a permit is issued, the permittee is required to provide the banner(s) to the Building Department for display. The City shall display and remove all banners.**
- D. If an application for a banner is disapproved, the applicant may appeal the decision pursuant to Chapter 53, § 53-10 as set forth in § 165-2(D) of this Chapter.**
- E. The permit fees shall be set annually by resolution of the City Council.**

§ 165-101. Severability.

If any phrase, sentence, part, section, subsection, or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, an all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

Section 2: This local law will take effect immediately on filing in the office of the Secretary of State.



CITY COUNCIL AGENDA

NO. 10

DEPT.: City Council

DATE: November 19, 2014

CONTACT: Mayor Joseph A. Sack

AGENDA ITEM: Public Hearing to add a proposed Local Law amending the Code of the City of Rye by creating a new chapter, Chapter 176, "Energy Conservation", to establish a Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law.

FOR THE MEETING OF:

November 19, 2014

RYE CITY CODE,

CHARTER

SECTION 176

RECOMMENDATION: That the City Council hold a Public Hearing to consider adding a new Chapter to the Rye City Code as outlined.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Sustainability Committee has made a request for the City to join the Energy Improvement Corporation (EIC) which provides financing for energy efficiency improvements under the Energize NY program. EIC is a local development corporation and a New York State non-profit which was established specifically to assist municipalities and property owners achieve long-term energy savings. In order to join the EIC the City must adopt a local law as specified, fill out the EIC agreement, and notify EIC of the City's intent by letter. Local non-profit organizations, such as the Wainwright House, have expressed interest in participating in the program.

Information on the Energy Improvement Corporation is attached; additional information is available at: www.energizeny.org/energy-improvement-corporation

See attached: Draft Local Law
EIC Agreement
Letter to EIC
Background information on EIC

(cont.)

Energy Improvement Corporation (EIC)

Why Join?

The EIC enables property owners within participating municipalities to access Energize NY financing, an alternative to traditional equity or unsecured loans. The Program uses a form of financing called Property Assessed Clean Energy (PACE) financing. Under the PACE mode, a property owner opts to pay for energy improvements by authorizing the municipality to add a special tax charge to the property (a "Financing Charge") for that purpose.

Who is Eligible?

Commercially-owned existing buildings (*) within a municipality that is a member of EIC within three categories:

- (1) non-residential commercial, industrial, institutional, and not-for-profit non-residential facilities
- (2) small multifamily (1 to 4 unit) buildings
- (3) large multifamily (5+ unit) buildings

Commercially-owned buildings include: offices, retail, multifamily buildings, industrial, schools, Hospitality, medical, healthcare facilities, houses of worship, nonprofit -owned buildings, commercially-owned single family (1-4 units)

* New construction is not eligible

What Types of Projects are Eligible?

Financing is available for energy efficiency and renewable energy projects that install permanent improvements to reduce energy costs, in existing buildings that participate in a NYSERDA or utility upgrade program. Eligible measures include:

- High Efficiency lighting
- Heating, ventilation & air conditioning (HVAC) upgrades
- High efficiency chillers, boilers, furnaces, heat pumps, water heating systems and pumps
- Building enclosure/envelope improvements
- Building automation (energy management) systems/smart controls
- Renewable energy systems such as on-site solar PV, solar thermal or geothermal installations

What are the Project Requirements?

- The estimated annual energy savings/energy generation must be greater than the annual finance payments
- The improvements must have a savings-to-investment ratio (SIR) > 1

What are the Financial Requirements for Participants?

- The property's loan-to-value ratio must not exceed 80%-20%
- Financing is available for up to 10% of the appraised value of the building
- No history of bankruptcy within the last 7 years
- 3+ year history of timely property tax payments
- Existing lenders must complete a Lender Consent Form.
- There is a maximum term of 15-20 years
- The building must have a certified appraisal completed within the last year

(cont.)

What is the process are the Financial Requirements for Participants?

- The Building owners apply through EIC
- The scope of work eligible for that property is determined by NYSERDA through an energy audit
- Once the approvals are in place, the City collects the special assessment as part of the regular tax collection process and transfers payment to the EIC

Note: the City would have the final sign-off before a loan program is put into place

What Municipalities are current EIC Members?

- Bedford, Town
- Croton-on-Hudson, Village
- Cortlandt, Town
- Greenburgh, Town
- Lewisboro, Town
- New Rochelle, City
- North Salem, Town
- Orange County (excludes: cities of Middletown, Port Jervis & Newburgh)
- Ossining, Town
- Peekskill, City
- Pound Ridge, Town
- Somers, Town
- White Plains, City
- Yorktown, Town

Additional Funding under The Westchester Project

Buildings in Westchester County that meet affordable housing guidelines or are owned by a not for profit corporation may qualify for reduced cost financing under a Energize NY Finance program called *The Westchester Project*. Under this program, the County utilizes its federally allocated Qualified Energy Conservation Bond (QECB) authority to align with Energize NY's goal to promote energy efficiency and renewable energy projects. This program is only available until January 16, 2015.

**CITY OF RYE
LOCAL LAW NO. 2014**

A local law to add a new Chapter 176 “Energy Conservation” of the Code of the City of Rye to create a program to assist property owners in financing clean energy systems as follows:

Section 1: Chapter 176, Energy Conservation

§ 176-1. Legislative findings; intent and purpose; statutory authority.

- A. It is the policy of both the City of Rye and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The City finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This article establishes a program that will allow the Energy Improvement Corporation (EIC), a local development corporation, acting on behalf of the City, to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this article and fulfilling an important public purpose.
- B. The City of Rye is authorized to implement this Energize NY Benefit Financing Program pursuant to Article 5-L of the New York General Municipal Law.
- C. This article shall be known and may be cited as the "Energize NY Benefit Financing Program Law of the City of Rye."

§ 176-2. Definitions.

For purposes of this article, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

AUTHORITY

The New York State Energy Research and Development authority, as defined by Subdivision 2 of § 1851 of the Public Authorities Law, or its successor.

EIC

The Energy Improvement Corporation, a local development corporation, duly organized under § 1411 of the Not-for-Profit Corporation Law, authorized hereby on behalf of the City of Rye to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this article) and providing for repayment of such funds from monies collected by the City Comptroller as a charge to be levied on the real property and collected in the

same manner and same form as the City taxes.

ENERGY AUDIT

A formal evaluation or "assessment" of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the authority, or certified by a certifying entity approved by the authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

ENERGY EFFICIENCY IMPROVEMENT

Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost effective pursuant to criteria established by the authority, not including lighting measures or household appliances that are not permanently fixed to real property.

QUALIFIED PROPERTY OWNER

An owner of residential or commercial real property located within the boundaries of the City of Rye that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this article.

RENEWABLE ENERGY SYSTEM

An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the authority, not including the combustion or pyrolysis of solid waste.

RENEWABLE ENERGY SYSTEM FEASIBILITY STUDY

A written study, conducted by a contractor certified by the authority, or certified by a certifying entity approved by the authority, for the purpose of determining the feasibility of installing a renewable energy system.

§ 176-3. Establishment of program.

- A. An Energize NY Benefit Financing Program is hereby established by the City of Rye, whereby EIC, acting on its behalf, may provide funds to qualified property owners in accordance with the procedures set forth under this article, to finance the acquisition, construction and installation of renewable energy systems and energy efficiency improvements and the verification of the installation of such systems and improvements.
- B. The funds provided shall not exceed the lesser of 10% of the appraised value of the real property where the renewable energy systems and/or energy efficiency improvements will be located, or the actual cost of installing the renewable

energy systems and/or energy efficiency improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

§ 176-4. Procedures for eligibility.

- A. Any property owner in the City may submit application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the City Clerk's office.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the City, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in Subsection A of § 176-5 of this article. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC acting on behalf of the City, the property owner shall be deemed a qualified property owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under § 176-6 of this article, provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of energy efficiency improvements and/or renewable energy systems be deemed a qualified property owner.
- D. At no one time shall the total of all payments being collected for this program by the City exceed \$50,000 per annum.

§ 176-5. Application criteria.

- A. Upon the submission of an application, EIC, acting on behalf of the City, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:
 - (1) The proposed energy efficiency improvements and/or renewable energy systems are determined to be cost effective by the authority;
 - (2) The proposed energy efficiency improvements and/or renewable energy systems will generate an estimated annual cost savings greater than the annual charge payments;
 - (3) Sufficient funds are available to provide to the property owner;
 - (4) The property owner is current in payments on any existing mortgage;

(5) The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and

(6) Such additional criteria, not inconsistent with the criteria set forth above, as the City, or EIC acting on its behalf, may set from time to time.

§ 176-6. Energize finance agreement.

- A. A qualified property owner may participate in the Energize NY Benefit Financing Program through the execution of an energize finance agreement made by and between the qualified property owner and EIC, acting on the behalf of the City.
- B. Upon execution of the energize finance agreement, the qualified property owner shall be eligible to receive funds from EIC, acting on behalf of the City, for the acquisition, construction, and installation of qualifying renewable energy systems and energy efficiency improvements, provided that the requirements of § 176-7 of this article have been met.
- C. The energize finance agreement shall include the terms and conditions of repayment set forth under § 176-8 of this article.

§ 176-7. Energy audit; renewable energy system feasibility study.

- A. No funds shall be made available for energy efficiency improvements unless determined to be appropriate through an energy audit as defined in § 176-2.
- B. No funds shall be made available for a renewable energy system unless determined to be feasible through a renewable energy system feasibility study as defined in § 176-2.
- C. The cost of such energy audit and/or renewable energy system feasibility study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

§ 176-8. Terms and conditions of repayment.

The energize finance agreement between the qualified property owner and EIC, acting on behalf of the City, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the qualified property owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on his or her property tax bill and shall be levied and collected at the same time and in the same manner as City property taxes, provided that such charge shall be separately listed on the tax bill. The City shall make payment to EIC or its

designee, in the amount of all such separately listed charges within 30 days of the City property tax due date.

- B. The term of such repayment shall be determined at the time the energize finance agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the City.
- C. The rate of interest for the charge shall be fixed by EIC, acting on behalf of the City, at the time the energize finance agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§ 176-9. Verification and report.

- A. EIC shall be responsible for verifying and reporting to the City on the installation and performance of renewable energy systems and energy efficiency improvements financed by such program.
- B. The City shall verify and report on the installation and performance of renewable energy systems and energy efficiency improvements financed by the Energize NY Benefit Financing Program in such form and manner as the authority may establish.

Section 2: This local law will take effect immediately on filing in the office of the Secretary of State.

ENERGY IMPROVEMENT CORPORATION
MUNICIPAL AGREEMENT

This Agreement made as of this ___ day of _____, 20__ (the “Agreement”), by and between the _____ (the “Municipality”) and the Energy Improvement Corporation (“EIC”) (both the Municipality and EIC may hereinafter be referred to individually as a “Party” and collectively as the “Parties”), sets forth the duties and obligations of each Party in connection with the Municipality’s participation in the Energize New York Benefit Finance Program (the “Program”).

WHEREAS, EIC is a local development corporation duly formed under Section 1411 of the Not-For-Profit Corporation Law of the State of New York, for the purpose of promoting, facilitating and financing energy audits and renewable energy system feasibility studies, energy efficiency improvements and alternative or renewable energy generating systems (as such terms are defined in Section 119-ff of the General Municipal Law of the State of New York) (collectively, the “Energy Improvements”) on properties within its Participating Municipalities (as defined below), thereby promoting the public good by reducing greenhouse gas emissions, mitigating the effect of global climate change and lessening the burdens of government; and

WHEREAS, Participating Municipalities are those municipalities within the State of New York that have established by local law, pursuant to Article 5-L of the General Municipal Law of the State of New York, a sustainable energy loan program for the issuance of financing to the owners of real property located within the Participating Municipality to finance Energy Improvements, and have authorized EIC to act on behalf of the Participating Municipality to carry out the Program through, among other things, the issuance of financing to property owners within such Participating Municipality, and have met the minimum criteria established by EIC to admit new Participating Municipalities; and

WHEREAS, the Municipality adopted Local Law _____ on _____, 20__, pursuant to Article 5-L of the General Municipal Law of the State of New York, which Local Law also authorized EIC to act on its behalf in carrying out its Program;

Now, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

1. Duties of EIC

It is understood by the Parties that EIC will be responsible for the performance of the following duties:

- a) Receive and review applications submitted by property owners within the Municipality for financing of Energy Improvements (“Property Owner(s)”), and approve or disapprove such applications in accordance with underwriting procedures and requirements established by EIC.
- b) Review the applications, energy assessments and scopes of work prepared for and by the Property Owners to establish the amount of financings to be approved pursuant to the requirements of the Program.
- c) Execute finance agreements (the “Finance Agreement”) by and between EIC (on behalf of the Municipality) and the Property Owners for financing of Energy Improvements, which shall set forth the terms and conditions for the disbursement and repayment of financing and the duties and obligations of each Property Owner and EIC with respect to the acquisition, construction and installation of Energy Improvements (upon execution of the Finance Agreement by the Property Owner and EIC, the property that is the subject of the Finance Agreement shall be deemed a “Benefited Property”). Copies of all executed Finance Agreements for all Benefited Properties within the Municipality shall be provided to the Municipality by EIC upon execution.
- d) Receive and review the certificates of completion submitted by the Property Owners of Benefited Properties (or the contractor hired by the owner of a Benefited Property) following installation or construction of Energy Improvements on such Benefited Property, and disburse funds to the Property Owner of the Benefited Property or his/her/its agent upon approval of such certificate in accordance with the terms of the Finance Agreement and the Program.
- e) Deliver to the Municipality an annual report (the “Annual Report”) three months prior to when Municipal Taxes are due which shall contain information related to each Benefited Property within the Municipality through the end of the immediately preceding calendar year, including:
 - i. A list of each newly approved Benefited Property for which the Property Owner or previous Property Owner of the Benefited Property executed a Finance Agreement within the annual time period covered by such report (for which a charge shall be added by the Municipality to its tax rolls in accordance with Paragraph 2b below). All Benefited Properties shall be identified in the Annual Report by address and Tax Map Identification (i.e. section, block and lot);
 - ii. A list of each existing Benefited Property for which the Property Owner or previous Property Owner of such Benefited Property executed a Finance Agreement. All Benefited Properties shall be

identified in the Annual Report by address and Tax Map Identification (i.e. section, block and lot);

- iii. A list of each Benefited Property within the Municipality where all obligations under the Finance Agreement have been satisfied or paid in full during the calendar year including the satisfaction date and a copy of the notice of satisfaction;
 - iv. For each non-satisfied Benefited Property (including each newly approved Benefited Property):
 - a. the date of the Financing Agreement,
 - b. the notional amount of the financing,
 - c. the total principal balance and accrued interest outstanding,
 - d. the annual payment due to EIC (which shall include principal and accrued interest) associated with such Benefited Property (including the amount of accrued interest on the initial payment, if different);
 - v. the total annual payment due to EIC from all Benefited Properties in the Participating Municipality (which shall include principal and accrued interest), which shall be paid by the Municipality within thirty (30) days of the date upon which payment is due to the Municipality as part of the municipal tax bill in accordance with Paragraph 2(c) and the balance of any delinquent charge payment reported by the Municipality during the term of the Financing Agreement pursuant to Paragraph 2(d) and;
 - vi. All other information EIC may deem to be relevant to each Benefited Property within the Municipality.
- f) Create an account (the “EIC Trust Account”) held by a trustee that will accept payments from the Municipality made in accordance with Paragraph 2(d) below, and create a separate account (the “EIC Administrative Fee Account”) to receive the transfer of those funds deposited within the EIC Trust Account that constitute payment of EIC administrative fees;
 - g) Provide customer service by telephone to the Municipality during the hours of 9:00 a.m. through 5:00 p.m. Monday through Friday, Eastern Standard Time, excluding state and federal holidays;
 - h) Upon EIC’s receipt of payment in full under a particular Finance Agreement, send a letter of satisfaction by email to the Municipality notifying it that such Property Owner or subsequent owner of the Benefited Property has satisfied his/her/its obligations under the terms of the Financing Agreement;

2. Duties of the Municipality

It is understood by the Parties that the Municipality will be responsible for the performance of the following duties:

- a) Maintain copies received from EIC of each Finance Agreement for a Benefited Property throughout the term of the Finance Agreement relating to such Benefited Property, which shall be maintained until all obligations of the owner of such Benefited Property that are set forth in the Finance Agreement have been satisfied.
- b) Within thirty (30) days of receipt of the Annual Report, add a charge to its tax rolls for each newly approved Benefited Property listed therein, and include such charge in the next ensuing tax levy so that such charge shall be included on and due in the same manner and at the same time and in the same installments as the municipal taxes on real property are due within the Municipality and shall become delinquent at the same times, shall bear the same penalties and interest after delinquency, and shall be subject to the same provisions for redemption and sale as the general municipal taxes on real property of the Municipality.
- c) Within thirty (30) days of the due date of the municipal taxes, including the charge pursuant to a Finance Agreement, remit payment to the EIC Trust Account in the amount equaling the total annual payments due to EIC from each Benefited Property within the Municipality, regardless of whether the Municipality actually has received such payments from the owner of the Benefited Property. Failure to deliver payments to EIC would be considered an event of default hereunder.
- d) Deliver to EIC an annual delinquency report (the "Delinquency Report") no later than (90) days after the due date for the municipal taxes, including the charge, which shall: (i) list each Benefited Property that is delinquent in charge payments owed for such Benefited Property, (ii) provide the amount owed to the Municipality by the owner of such Benefited Property (including penalties and interest on delinquent charge payments), and (iii) outline the steps taken or to be taken and progress made in recovering delinquent charge payments from the owner of such Benefited Property.
- e) Make all reasonable efforts to assist EIC in carrying out the Program within the Municipality.

3. Program Modification

The Municipality may modify the Program by limiting the types of properties which may receive financing for Energy Improvements and/or the amount of financing available within the Municipality. The Municipality shall provide written notice to

EIC of such proposed modification. The proposed modification shall only become effective upon written approval from EIC provided to the Municipality, which shall not be unreasonably withheld. Such approval shall have no effect on the duties and obligations owed by each Party hereto in connection with this Agreement and any Benefited Property for which a Finance Agreement was executed prior thereto.

4. Non – Payment

- a) Failure of a Participating Municipality to deliver payments to EIC within thirty (30) days of when due shall be considered an event of default and EIC shall be entitled to pursue any one or more of the remedies set forth below.
- b) No Participating Municipality shall be responsible for the deficient payment of another Participating Municipality.

5. Terms of Membership

The Municipality understands and agrees that membership in EIC is at the discretion of the Board of Directors of EIC and is conditional upon satisfying the membership criteria established by the EIC Board, as may be amended from time to time at the sole discretion of the Board, as well as compliance with the terms of the By-Laws of EIC. If a Participating Municipality’s bond credit rating drops below “A” as rated by Standard and Poors and/or “A2” as rated by Moodys and/or “A” by Fitch Ratings Service, EIC will no longer provide financings to Properties within such Municipality.

6.

Reserve Funds and Permanent Loss

- (a) EIC shall maintain one or more reserve funds (each a “Reserve Fund”, collectively, the “Reserve Funds”) to protect and compensate EIC, Participating Municipalities, lenders of funds to EIC, and other third parties approved by EIC against potential losses, including without limitation losses suffered by a Participating Municipality resulting from defaulted charge payments only in the event of a Permanent Loss (defined below) with respect to a Benefited Property. Certain Reserve Funds may be restricted in that they may only be used in conjunction with financings made to properties located within one or more designated Participating Municipalities. All Reserve Funds will be held at a bank or trust company located and authorized to do business in NYS. Reserve Funds will be invested in accordance with the investment guidelines approved by EIC (the “Investment Guidelines”) as may be amended from time to time.
- (b) EIC reserves the right to refuse to make a financing to a property located within a Member Municipality in the event EIC determines, in its sole discretion, that there are inadequate reserve funds.
- (c) A loss shall not be deemed a permanent loss until the Participating Municipality has exhausted all remedies at law in an effort to collect the defaulted charge payments, including but not limited to the redemption and sale of the Benefited

Property where the proceeds are not sufficient to recover all amounts paid by the Municipality to EIC after the proceeds of such sale have been proportionately applied to all amounts owed to the Municipality at the time of such sale as a result of the non-payment of taxes ("Permanent Loss"). In order to collect from the Reserve Fund in the event of a Permanent Loss, the Municipality must provide EIC with all documentation as may be reasonably requested by EIC to document such Permanent Loss and must not be in default to EIC, including having made all payments to EIC when due.

7. Remedies Upon Default

Should the Municipality default in any of its obligations hereunder, including but not limited to failure to make payments to EIC as required hereunder, EIC shall be entitled to any remedy it may have at law and as set forth below. EIC may utilize any one or all of these remedies at EIC's sole discretion.

- a) If the Municipality fails to make a required payment to EIC and the Municipality collects penalties or interest from the Property Owner for late payment, the Municipality shall pay to EIC all such penalties or interest attributable to the charge collected by the Municipality on behalf of EIC.
- b) EIC shall have the right to discontinue providing any new financings to Properties located within the Municipality.
- c) EIC may suspend the Municipality's membership in EIC.

8. Formation; Authority

Each Party represents and warrants to the other that it has complied with all laws and regulations concerning its organization, its existence and the transaction of its business and that all necessary steps have been taken to authorize it to execute, deliver and perform its respective obligations under this Agreement, and no consent or approval of any third party is required for either Party's execution of this Agreement or the performance of its obligations contained herein. The individual executing this Agreement on behalf of each Party has been and is duly authorized to bind his/her respective Party.

9 No Violation or Litigation

The performance by each Party of its respective obligations contained in this Agreement will not and do not conflict with or result in a breach of or a default under any of the terms or provisions of any other agreement, contract, covenant or security instrument or any law, regulation or ordinance by which the Party is bound. There is no litigation, action, proceeding, investigation or other dispute pending or threatened against either Party which may impair its ability to perform its respective

duties and obligations hereunder.

10. Notices

Any and all notices, demands, or other communications required or desired to be given hereunder by either Party shall be delivered electronically and in writing by certified mail, return receipt requested as follows:

EIC:
Thomas Bregman
Energy Improvement Corporation
321 Bedford Rd,
Bedford Hills, NY 10536

Joseph Del Sindaco
Energy Improvement Corporation
321 Bedford Rd,
Bedford Hills, NY 10536

Attention: Tom Bregman
Joseph Del Sindaco

E-mail: tom@energizeny.org
Treasurer@energizeny.org

With a copy to:

James Staudt, Esq.
McCullough, Goldberger & Staudt, LLP
1311 Mamaroneck Avenue, Suite 340
White Plains, N.Y. 10605
E-mail: jstaudt@mgslawyers.com

MUNICIPALITY: _____

With a copy to:

Either Party hereto may change its address for purposes of this paragraph by providing written notice to the other party in the manner provided above.

11. Governing Law.

This Agreement shall be construed and governed in accordance with the laws of the State of New York. Any legal action to be brought under this Agreement must be instituted in State or Federal Courts having jurisdiction located in Westchester County, New York.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first written above. The Parties hereto agree that facsimile signatures shall be as effective as if originals.

Date: _____, 20__

Energy Improvement Corporation

By: _____

PRINT NAME:

Date: _____, 20__

Municipality Name: _____

By: _____

PRINT NAME:



**ENERGIZE
NEW YORK™**

ENERGIZE NY FINANCE PROGRAM

Energize NY Finance is a program developed by The Energy Improvement Corporation (EIC), a New York State Not-for-Profit Local Development Corporation, to offer financing for energy improvements in commercially owned properties within Member Municipalities*.

Energize NY Finance brings many benefits to local communities

- Lower energy expenses for local businesses mean more dollars go into the local economy
- More projects with deeper upgrades improve economic competitiveness that attracts new employers
- Energy improvements create local skilled construction jobs
- Quality control requirements increase the integrity and value of the building stock
- Reduced greenhouse gas emissions improve air quality and create a healthier environment

Energize NY Finance features low interest rates, long repayment terms, and automatic transferability to succeeding property owners, enabling positive cash flow and extensive energy improvements.

Energize NY Finance is available to owners of the following types of existing buildings

- ◆ Commercial Office ◆ Retail ◆ Medical ◆ Industrial ◆ Multifamily ◆
- ◆ Non-Profit Owned Buildings ◆ Commercially Owned Residential ◆

Energize NY Finance advantages include

- Long repayment terms up to 15 years and low interest costs facilitate robust energy improvements
- Property Owners have access to financing for energy improvements that preserves existing credit lines
- Repayment is made through a charge on the real estate tax bill that remains with the property if sold

Energize NY Finance qualifications are based on property value, not credit. Lending criteria include

- ☑ Estimated energy cost savings from improvements must be greater than annual finance payments
- ☑ Improvements must have a Savings-to-Investment ratio >1
- ☑ Property's existing Loan-to-Value no greater than 80%
- ☑ Financing up to 10% of the value of the benefitted property
- ☑ No bankruptcy within last 7 years
- ☑ At least 3 year history of timely property tax payments
- ☑ Existing lender consent required
- ☑ Maximum 15 year financing terms

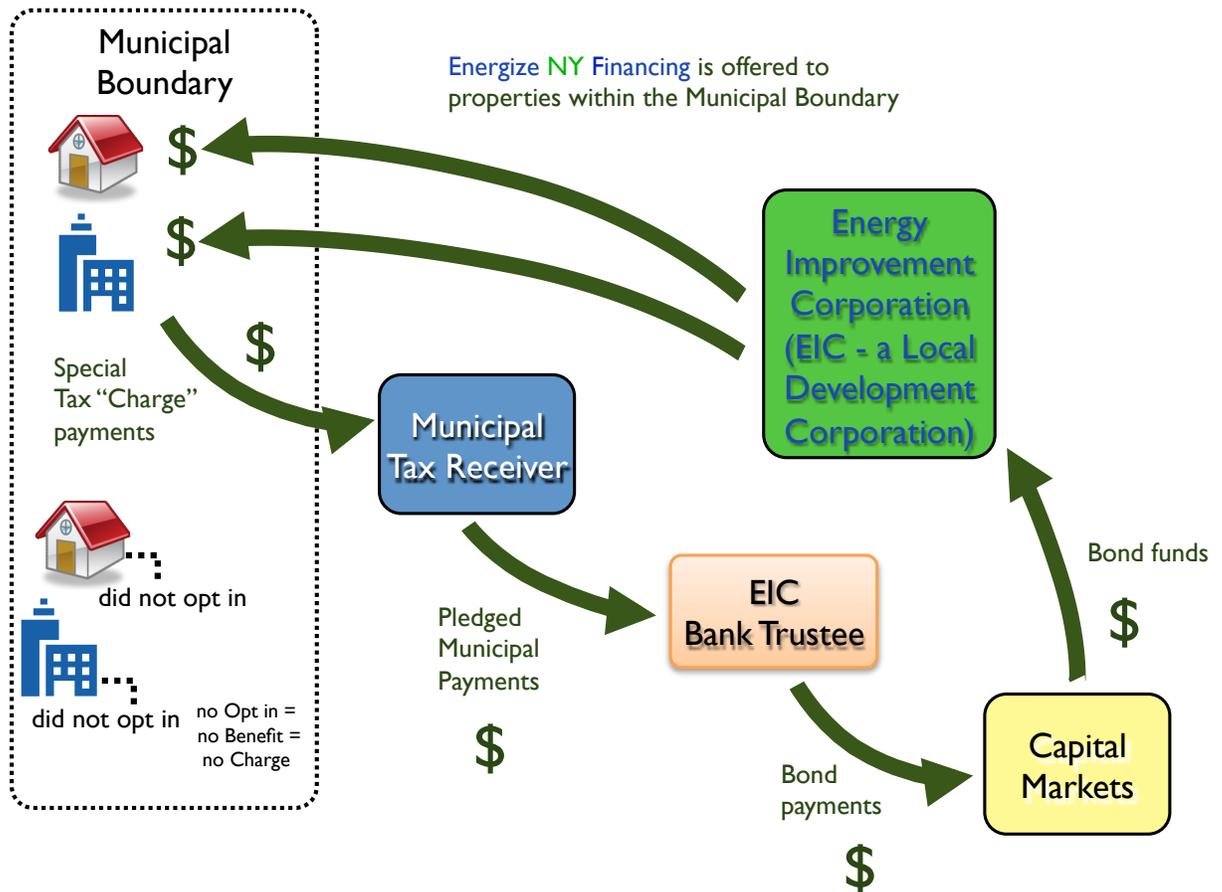
Energize NY Finance Program Handbooks outline the steps to securing financing for energy improvements

Visit www.energyimprovementcorp.org to access the **Energize NY Finance** Program Handbooks
or call (914) 302-7300 to speak with

Joe Del Sindaco, Managing Director of Energize NY Commercial Programs
Robert Fischman, Director of Energize NY Commercial Programs



How does *Energize NY Finance* Work?



Visit www.energyimprovementcorp.org to access the **Energize NY Finance** Program Handbooks or call (914) 302-7300 to speak with
 Joe Del Sindaco, Managing Director of Energize NY Commercial Programs
 Robert Fischman, Director of Energize NY Commercial Programs

**The Energy Improvement Corporation (EIC), a New York State Not for Profit Local Development Corporation, offers a range of services under the brand "Energize NY" including the promotion, facilitation and financing of qualifying energy efficiency improvements among property owners in participating Counties and Cities in the State of New York and Cities, Towns and Villages in Westchester County (the "Members"). EIC was formed to save money, energy and reduce greenhouse gas emissions by maximizing the number of buildings that undergo efficiency and renewable energy improvements as offered by NYSERDA through innovative community based outreach and marketing efforts and alternative forms of financing.*



CITY COUNCIL AGENDA

NO. 11

DEPT.: City Manager's Office

DATE: November 19, 2014

CONTACT: Frank J. Culross, City Manager

AGENDA ITEM: Consideration to set a Public Hearing for December 3, 2014 to amend local law Chapter 191, "Vehicles and Traffic", of the Rye City Code by amending Section §191-20, "Parking time limited", Subsection (E) "Fifteen-minute limit" to designate three parking spaces on the west side of First Street as fifteen minute parking spaces.

FOR THE MEETING OF:

November 19, 2014

RYE CITY CODE,

CHAPTER 191

SECTION 20

RECOMMENDATION: That the City Council hold a Public Hearing to approve the changes on First Street as outlined by the Traffic and Pedestrian Safety Committee.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Traffic and Pedestrian Safety Committee has made the recommendation to make the following change regarding parking on First Street to assist merchants and residents:

- Amend Section §191-20, "Parking time limited", Subsection (E) "Fifteen-minute limit" to designate the three parking spots on the west side of First Street that are parallel to the building and the curb into 15 minute spaces.

See attached Draft Local Law.

**CITY OF RYE
LOCAL LAW NO. 2014**

**A local law to amend the City Code of the City of Rye Chapter 191 “Vehicles and Traffic”
Part 1, Article III “Parking Regulations” Section 191-20 “Parking time limited” to
establish a 15 minute parking limit along the west side of First Street as follows:**

Section 1:

Article III, Parking Regulations, of the Code of the City of Rye is hereby amended:

§ 191-20. Parking time limited.

E. Fifteen-minute limit. The parking of vehicles is hereby prohibited in the following locations for a period longer than 15 minutes between the hours of 7:00 a.m. and 7:00 p.m., except on Sundays:

Name of Street	Side	Location
Boston Post Road	East	From Central Avenue to Rectory Street
Elm Place	North	3 spaces on the north side closes to Theodore Fremd Avenue
First Street	West	3 spaces along the west side of First Street parallel to the building and the curb
Forest Avenue	West	From the southwest driveway of the service station to Elmwood Avenue
Purchase Street	East	From Elizabeth Street southerly for 140 feet
Purdy Avenue	North	From the east side of the post office property to Third Street
Sylvan Avenue	South	2 spaces on the south side closest to Midland Avenue
Third Street	East	From Purdy Avenue to the post office driveway
Third Street	West	From Purdy Avenue to a point 100 feet north thereof

Section 2.

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 3: This local law will take effect immediately upon filing of with the Secretary of State.

NOTE: Proposed additions are shown in **underline and bold** and proposed deletions are shown in ~~strikethrough~~.



CITY COUNCIL AGENDA

NO. 12

DEPT.: City Manager

DATE: November 19, 2014

CONTACT: Frank J. Culross, City Manager

AGENDA ITEM: Consideration of request from the Ceres Garden Club of Rye to install a Blue Star Memorial By-Way Marker in the City of Rye.

FOR THE MEETING OF:

November 19, 2014

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider granting the request.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Ceres Garden Club of Rye has made a request to install a Blue Star Memorial By-Way Marker in the City of Rye. The Blue Star Memorial Program honors service men and women who have served, are serving or will be serving in the armed services with the placement of a marker. The program originated in 1944 as a living memorial to veterans of World War II and is run by the National Garden Clubs, Inc. The members of the Ceres Garden Club will conduct fundraising to cover the cost of the plaque. The City Council is asked to consider the request and the placement of the marker. Additional information about the Blue Star Memorial program can be found at:

<http://www.gardenclub.org/projects/ongoing-projects/blue-star-memorials.aspx>

See attached request from the Ceres Garden Club of Rye.

Mr. Frank Culross, City Manager
City Hall
1051 Boston Post Road
Rye, NY 10580
October 6, 2014

Dear Mr. Culross:

The Ceres Garden Club of Rye is interested in installing a Blue Star Memorial By-Way Marker within the City of Rye. The Blue Star markers are sponsored by the National Garden Clubs, Inc. to honor ALL members of ALL branches of the Armed Services. Attached you will find the history of the marker, which has been in existence for over 70 years. Also attached are photos of some of the markers in various communities in Westchester.

We are suggesting the corner of the small park on Central Avenue and the Boston Post Road (photo enclosed) as possible site for the Blue Star marker in Rye, since it would be on the Boston Post Road - both a historical and appropriately visual memorial to all who travel through our beautiful city. Should the Council approve this request, the Ceres Garden Club members are committed to maintaining plantings around the marker.

The members of the Ceres Garden Club would conduct the fundraising for the purchase of the plaque.

If this project does indeed move forward, we would require the assistance of the Department of Public Work for the installation of the plaque.

We, the members of the Ceres Garden Club of Rye appreciate your consideration of this request.

If you require additional information, the President of the Ceres Garden Club, Ann Moller, and I would be happy to meet with you. I can be reached at 967-5481.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth A. Northshield". The signature is written in a cursive style with a large, prominent initial 'E'.

Elizabeth A. Northshield
Blue Star Committee Chair
Ceres Garden Club.

Blue Star Memorial and Historic Markers

Blue Star Memorial Markers and By-Way Markers The Blue Star Memorial Program honors service men and women who have served, are serving or will be serving in the armed services of the United States. In 1945, the National Council of State Garden Clubs (now National Garden Clubs, Inc.) adopted the program started in New Jersey and began a Blue Star Highway system, which covers thousands of miles across the Continental United States, Alaska and Hawaii. A large metal Blue Star Memorial Highway Marker was placed at appropriate locations along the way. Memorial Markers and By-Way Markers are placed at locations such as national cemeteries, parks, veteran's facilities and gardens. The Blue Star became an icon in World War II and was seen on flags and banners in homes for sons and daughters away at war, as well as in churches and businesses.

Georgia garden clubs have been especially active in recent years, raising money to erect Blue Star Markers throughout our state to honor our military personnel.

Blue Star Memorial Prices

Prices effective May 1, 2014 through May 1, 2016

Memorial/Highway Markers are \$1,410.00 and are delivered with a 7' post. Cost includes shipping.

* **By-Way Marker Plaques** are \$470.00. Cost includes shipping. It is up to the club to have the plaque mounted.

Replacement Post is \$325.00 per post.

Refurbishment/Restoration cost is \$800.00 to restore a Large Blue Star Memorial or a Blue Star Highway Marker (No Post or Cap). Cost includes round trip freight.

Cap Repair/Refurbish/Restoration cost is \$900.00 to restore a Large Blue Star Memorial or a Blue Star Highway Marker (No Post). Cost includes round trip freight.

For more details, contact:

Janice Thiese

GCG Blue Star Marker State Chairman

128 Weatherly Drive

Macon, GA 31210

478-477-6507

janicemariemaconga@cox.net



September 12, 2014 at 9:21:38 AM



September 12, 2014 at 9:21:47 AM



September 12, 2014 at 9:21:55 AM



September 12, 2014 at 10:28:17 AM



September 12, 2014 at 10:28:26 AM



September 12, 2014 at 10:28:49 AM



September 12, 2014 at 11:22:28 AM



September 12, 2014 at 11:22:38 AM



September 12, 2014 at 11:22:46 AM



September 12, 2014 at 12:37:43 PM



September 12, 2014 at 12:37:57 PM



September 12, 2014 at 12:38:11 PM



September 12, 2014 at 1:30:17 PM



September 12, 2014 at 1:30:28 PM



September 12, 2014 at 1:30:39 PM



October 7, 2014 at 12:51:00 PM



October 7, 2014 at 12:51:42 PM



October 7, 2014 at 12:52:00 PM



CITY COUNCIL AGENDA

NO. 14 DEPT.: City Manager DATE: November 19, 2014
CONTACT: Frank J. Culross, City Manager

AGENDA ITEM: Appeal of denial of sixteen FOIL requests by Timothy Chittenden.

FOR THE MEETING OF:
November 19, 2014
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council make a decision on the sixteen FOIL appeals.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The following FOIL Requests were appealed by the requestor:

- 1) **7888181124:** Copy of Robbie Falk's High School diploma or a copy of a GED.
FOIL Status: Response sent to requestor: "The City does not have any documents responsive to this request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 2) **7894660912:** All communications between Robby Falk and Kristen Wilson including but not limited to all text messages, all phone calls, all phone calls and text messages made with any City of Rye provided cell phone, all e-mails and all other communications since 1/1/2009.
FOIL Status: Responsive records sent to requestor with the notation, "Redactions on these records were made pursuant to POL 87(2)(b) and (e) (iii). The City only has information regarding the number of text messages, not the messages, and this information is on the bill. Emails are exempt under POL 87(2)(a) and (g). Phone records through 6/2014 were already provided under FOIL #7457361057"
FOIL Appeal Reason: Requestor feels additional records exist and were not provided and objects to the redactions made to the records received.
- 3) **7939011733** - All requests for secondary employment submitted by Robbie Falk from 1981-1986
FOIL Status: Response sent to requestor: "After a diligent search no responsive records were found that are responsive to this request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 4) **7939021736** - All requests for secondary employment submitted by Robbie Falk from 1987-1991
FOIL Status: Response sent to requestor: "After a diligent search no responsive records were found that are responsive to this request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.

- 5) **7939031738** - All requests for secondary employment submitted by Robbie Falk from 1992-1996
FOIL Status: Response sent to requestor: "After a diligent search no responsive records were found that are responsive to this request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 6) **7939041740** - All requests for secondary employment submitted by Robbie Falk from 1997-2001
FOIL Status: Response sent to requestor: "After a diligent search no responsive records were found that are responsive to this request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 7) **7939051746** - All requests for secondary employment submitted by Robbie Falk from 2002-2006
FOIL Status: Responsive records were sent to requestor.
FOIL Appeal Reason: Requestor feels additional records exist and were not provided.
- 8) **7939071748** - All requests for secondary employment submitted by Robbie Falk from 2007-2011
FOIL Status: Response sent to requestor: "After a diligent search no responsive records were found that are responsive to this request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 9) **7939101750** - All requests for secondary employment submitted by Robbie Falk from 2012-2014
FOIL Status: Response sent to requestor: "After a diligent search no responsive records were found that are responsive to this request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 10) **7939121752** - all reports submitted by Robby Falk for all of his off duty and on duty firearm discharges from 1981-1986
FOIL Status: Response sent to requestor: "The Police Officer's firearms were only discharged at training sessions; there are no responsive records to the FOIL request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 11) **7939131753** - all reports submitted by Robby Falk for all of his off duty and on duty firearm discharges from 1987-1991
FOIL Status: Response sent to requestor: "The Police Officer's firearms were only discharged at training sessions; there are no responsive records to the FOIL request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 12) **7939141755** - all reports submitted by Robby Falk for all of his off duty and on duty firearm discharges from 1992-1996
FOIL Status: Response sent to requestor: "The Police Officer's firearms were only discharged at training sessions; there are no responsive records to the FOIL request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 13) **7939151757** - all reports submitted by Robby Falk for all of his off duty and on duty firearm discharges from 1997-2001
FOIL Status: Response sent to requestor: "The Police Officer's firearms were only discharged at training sessions; there are no responsive records to the FOIL request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.

- 14) **7939161758** - all reports submitted by Robby Falk for all of his off duty and on duty firearm discharges from 2002-2006
FOIL Status: Response sent to requestor: "The Police Officer's firearms were only discharged at training sessions; there are no responsive records to the FOIL request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 15) **7939181800** - all reports submitted by Robby Falk for all of his off duty and on duty firearm discharges from 2007-2011
FOIL Status: Response sent to requestor: "The Police Officer's firearms were only discharged at training sessions; there are no responsive records to the FOIL request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.
- 16) **7939201802** - all reports submitted by Robby Falk for all of his off duty and on duty firearm discharges from 2012-2014
FOIL Status: Response sent to requestor: "The Police Officer's firearms were only discharged at training sessions; there are no responsive records to the FOIL request." (No records were found)
FOIL Appeal Reason: Requestor feels records exist and were not provided.