

**CITY OF RYE
1051 BOSTON POST ROAD
RYE, NY 10580
AGENDA**

**REGULAR MEETING OF THE CITY COUNCIL
VIA ZOOM CONFERENCE
Wednesday, March 10, 2021
6:00 p.m.**

PURSUANT TO GOVERNOR CUOMO'S EXECUTIVE ORDER No. 202.1, REQUIREMENTS UNDER THE OPEN MEETINGS LAW HAVE BEEN SUSPENDED AND PUBLIC BODIES MAY MEET WITHOUT ALLOWING THE PUBLIC TO BE PHYSICALLY PRESENT. FOR THE HEALTH AND SAFETY OF ALL, CITY HALL WILL REMAIN CLOSED. THE MEETING WILL BE HELD VIA ZOOM VIDEO-CONFERENCING WITH NO IN-PERSON LOCATION AND WILL BE BROADCAST ON THE CITY WEBSITE. A FULL TRANSCRIPT OF THE MEETING WILL BE MADE AVAILABLE AT A FUTURE DATE.

City of Rye residents may participate in the public meeting via the zoom link below. A resident wishing to speak on a topic should raise his or her hand and, when admitted to speak, should provide name and home address, and limit comment to no more than three minutes.

Please click the link below to join the webinar:

<https://zoom.us/j/97324960314?pwd=MDVnTVNDak12K2F1ZUZRRzhIQzNZUT09>

Or phone: (646) 558-8656 or (301) 715-8592 or (312) 626-6799

Webinar ID: 973 2496 0314

Password: 576828

[The Council will convene via ZOOM CONFERENCE at 5:15 p.m. and it is expected they will adjourn into a teleconference Executive Session at 5:16 p.m. to discuss attorney-client privileged matters, personnel matters, and/or labor negotiations.]

1. Roll Call.
2. Draft unapproved minutes of the Regular Meeting of the City Council held February 24, 2021.
3. Update on Rye Playland from County Executive George Latimer.
4. Continue the public hearing for consideration of a petition from The Miriam Osborn Memorial Home to amend the text of the City of Rye Zoning Code Association to create new use and development standards for "Senior Living Facilities" in the R-2 Zoning District. All public hearing comments should be emailed to publichearingcomments@ryeny.gov with "Osborn Zoning Change" as the subject no later than 3:00 pm on the day of the hearing.
5. Presentation of Capital Projects Finance Plan

6. Residents may be heard on matters for Council consideration that do not appear on the agenda.
7. Update on Rye Recreation improvements.
8. Authorization for City Manager to sign an agreement with the Friends of Rye Nature Center.
9. Set a public hearing for March 24, 2021 to adopt a new local law to implement a six-month moratorium in the City of Rye temporarily prohibiting the review, processing or approval of any new or previously filed application related to a subdivision or re-subdivision of property, the development on steep slopes or the placement of a residential structure with its front not oriented towards a front yard for the duration of this moratorium.
10. Resolution to declare certain City equipment as surplus.

CONSENT AGENDA

11. Consideration of a request from the Rye Free Reading Room (RFRR) to use the Village Green for various events such as outdoor Storytime walks, Wiggle Giggle and classic music performance on days in May – October. Social distancing guidelines will be followed and the RFRR will coordinate with City Staff to ensure there is not interference with maintenance of the Village Green.
12. Appointments to Boards and Commissions by the Mayor with Council approval.
13. Old Business/New Business.
14. Adjournment

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The next regular meeting of the City Council will be held on Wednesday, March 24, 2021 at 6:30 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”.

UNAPPROVED MINUTES of the Regular
Meeting of the City Council of the City of Rye held via
Zoom Conference on February 24, 2021, at 6:30 P.M.

PRESENT:

JOSH COHN, Mayor
SARA GODDARD
CAROLINA JOHNSON
RICHARD MECCA
JULIE SOUZA
BENJAMIN STACKS
PAMELA TARLOW
Councilmembers

ABSENT:

None

The Council convened at 5:15 P.M. by videoconference pursuant to Governor Cuomo's Executive Order 202.1 waiving requirements of the Open Meetings Law. Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn briefly into executive session to discuss litigation and personnel matters. The Council reconvened in a public videoconference at 6:30 P.M. The meeting was streamed live at www.ryeny.gov for public viewing and participation.

1. Roll Call.

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

2. Presentation by the Mayor to Jack Zahringer of the 2020 John Carey Award for contribution to public life.

Mayor Cohn presented the 2020 John Carey Award for contribution to public life to Jack Zahringer, a longtime member (62 years) of the Rye community. Mayor Cohn identified many of the accomplishments of Mr. Zahringer, highlighting his great contributions to the Landmarks Advisory Committee for the City. Mr. Zahringer's hard work and advocacy has resulted in several landmarked properties throughout the City, including, most recently, Baird Square and the new proposed historic Rye welcome signs. He thanked Mr. Zahringer for his contributions to Rye.

Mr. Zahringer thanked the Mayor, Council, and City of Rye for this prestigious award. He talked about Historic Rye and how important it was to keep that in mind for years to come.

3. Draft unapproved minutes of the Regular Meeting of the City Council held February 3, 2021.

Councilman Stacks asked that it be reflected that he recused himself from the Rose Bedrock matter in the February 3, 2021 minutes.

Councilman Mecca made a motion, seconded by Councilman Stacks and unanimously carried, to adopt the minutes of February 3, 2021.

4. Open a public hearing to adopt a local law deferring, for this year only, collection of City tax payments for an additional 90-days.

Councilwoman Tarlow made a motion, seconded by Councilwoman Souza and unanimously carried, to open a public hearing to adopt a local law deferring, for this year only, collection of City tax payments for an additional 90-days.

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

Councilwoman Souza made a motion, seconded by Councilwoman Goddard, to adopt the following resolution:

RESOLVED, that the City Council adopt a local law deferring, for this year only, collection of City tax payments for an additional 90-days as follows:

**CITY OF RYE
LOCAL LAW NO. 2 OF 2021**

A Local Law adopting an extension to the City Tax collection deadline from March 31 to June 30, 2021 by using Certificate of Hardship Waiver.

WHEREAS, on March 7, 2020, the Governor of the State of New York declared a State of Emergency for the entire State of New York; and

WHEREAS, on March 13, 2020, the President of the United States declared a COVID-19 pandemic a national emergency; and

WHEREAS, on January 30, 2021, Governor Cuomo signed into law legislation new Article 19-A to the New York Real Property Tax Law, which authorizes municipalities, for the duration of the COVID-19 State of Emergency, to either defer property tax payments for a period not to exceed 120 days past the original tax payment due date, or permit as many installment payments as necessary for a period not to exceed 120 days past the original tax payment due date; and

WHEREAS, on January 15, 2021, the City Council of the City of Rye by Resolution extended City Tax collection deadline by one month from March 1 to March 31, 2021;

WHEREAS, based upon a finding that it is in the best interest of its residents, the City of Rye has elected to further extend City tax collection deadline from March 31 to June 30,

2021 for resident taxpayers that submit an Economic Hardship Certification provided by the Assessor's Office.

NOW, THEREFORE, BE IT RESOLVED, Be It Enacted by the City Council of the City of Rye as follows:

Section 1. Findings and Purpose.

Pursuant to Article 19-A to the New York Real Property Tax Law, the City of Rye enacts this extension of real property taxes based upon hardship waiver granted by the City of Rye Finance Department.

Section 2. Enactment of Extension. Waiver Required.

Individual taxpayers within the City of Rye shall have the opportunity to request a hardship waiver for deferral of real property taxes from March 31 to June 30, 2021. Upon receipt and acceptance of an Individual Taxpayer Certification of Hardship, the City of Rye Finance Department shall grant a hardship waiver and defer the scheduled tax collection deadline for all real property taxes and any special ad valorem levies from March 31 to June 30, 2021. For taxpayers who do not submit a valid Certification of Hardship, the deadline for tax payment is March 31, 2021. All Certifications of Hardship must be received no later than March 26, 2021 in order to provide sufficient time for processing and to avoid the accrual of late penalties.

Section 3. Effective Date.

This local law shall take effect immediately upon filing in the office of the Secretary of State. This law shall expire on December 31, 2021.

**INDIVIDUAL TAXPAYER
CERTIFICATION**

I,_, residing at_, in the City of Rye, tax block number_, tax lot number_, hereby certify that:

- 1) The residence located at the above listed address is my primary residence; **AND**
- 2) I pay property taxes for the above listed property address to the City and not through an escrow account; **AND**
- 3) One of the following applies to my situation:
 - a. The taxpayer residing in my household with the highest income has been laid off, furloughed, or lost employment as a result of the coronavirus state of emergency or orders issued by the federal, state, or local government in connection with the coronavirus state of emergency; **OR**
 - b. The taxpayer residing in my household with the highest-income is self-employed or the owner of a business which has suffered a loss of substantial income as a result of the coronavirus state of emergency or orders issued by the federal, state, or local government that have closed or restricted the operations of the business.

Based on the foregoing, I am requesting that the City of Rye grant a hardship waiver which will defer the payment of real property taxes and any special ad valorem levies due to the City of Rye to June 30, 2021 for the property identified above for the fiscal year 2021. I understand that if I have knowingly made false statements herein, I may be subject to prosecution under N.Y. Penal Law §210.45.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

5. Continue the public hearing for consideration of a petition from The Miriam Osborn Memorial Home to amend the text of the City of Rye Zoning Code Association to create new use and development standards for “Senior Living Facilities” in the R-2 Zoning District. All public hearing comments should be emailed to publichearingcomments@ryeny.gov with “Osborn Zoning Change” as the subject no later than 3:00 pm on the day of the hearing.

Mayor Cohn invited Steven Wrabel, of McCullough, Goldberger, & Staudt, to speak on behalf of the Osborn. Mr. Wrabel introduced Osborn President and CEO Matt Anderson, Andrew Tung, Civil Engineer and Planner, and Michael Galante, Traffic Engineer. He clarified that they are not requesting a change of use but rather zoning framework for a senior living facility. The petition was initially filed in 2018 and has been modified since through comments from the Planning department, public and traffic and sewer studies. He reported that the traffic study found it unlikely to affect peak hour traffic and the sewer study found the city sewer system had adequate capacity to accommodate additional residential and care units that would be possible under the proposed zoning.

Mr. Anderson reported he walked with neighbors on the property and answered questions specifically on Osborn Road where the neighbors are concerned about the much enjoyed green space. As a result, the applicant modified the 240 foot setback by 60 feet to 300 feet as well as moved the buffer further down Theall Road. He also addressed a suggestion of pre-planting the area of possible future development by stating that is something the Osborn would commit to. He added that he spoke with Emergency Medical Services and will continue to communicate that with them to possibly make an EMS satellite site.

Mayor Cohn asked about possible easements near Osborn School relating to easing traffic. Mr. Wrabel stated that the traffic study done in November answers that question and while the Osborn is not the main contributor of traffic at peak times, they are willing to fund an independent city traffic study to look at the larger issues and upon the final findings, the Osborn would be willing to make a portion of land available along the shared border for traffic mitigation.

Councilwoman Johnson asked about the increased 60 foot setback and asked to clarify if that area would be used for parking. Mr. Wrabel said the buildings were pushed back 60 feet to meet the 300 foot building setback however the parking setback of 240 feet will remain.

Councilwoman Goddard clarified that the possibility of parking within the 240 foot setback remains to which Mr. Wrabel agreed, but added that there would be proper screening and meet all of the criteria listed in the amendment.

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Councilwoman Tarlow asked what the process would be, should the applicant decide to add parking in the 240-foot setback. City Planner, Christian Miller, explained that a plan with of high level detail would be presented to the Rye City Planning Commission and available for public inspection and comment.

Councilwoman Johnson asked the density difference between the Osborn and the St. Regis. City Planner Miller explained the main difference is the Floor Area Ratio, .75 FAR for the St. Regis versus .45 for The Osborn, as well as the setbacks and encroachments.

Councilwoman Souza asked what the current setback is on the green space in question. Mr. Wrabel responded that it is 160 feet to which Councilwoman Souza clarified that the current 160 foot setback is being pushed back to 240 feet for the parking setback and 300 feet for the building setback. Mr. Tung explained the setback lines by showing the map on the screen for further clarification.

Councilwoman Goddard stated when walking the property, one can understand why the neighbors are concerned, because not only is it an area of enjoyment, there is also a change in topography. In a worst case scenario, you would have a four-story building on the crest which would change the visual impact of the neighborhood where currently it is a one-story area with mature trees, which is the main concern for the residents. She also suggested that perhaps they can sketch out what the worst case scenario would look like for the neighbors because perhaps it may not be an issue if there was a visual. Mr. Wrabel agreed and said he understood the importance of this space and hopes to preserve the vast majority of the green space but also needs to understand what they can build as they continue to look at the possibilities of their future.

Mayor Cohn asked about pre-planting and screening possibilities for the crest of the hill. Mr. Tung explained that The Osborn is quite proud of their 2019 Arboretum status which requires commitment to maintain a level of diversity, healthy and variety for the types of trees they have on campus. As such, if trees are taken down, they are committed to replanting new trees. They would not just plant a line of arborvitaes for screening but would rather plant a variety of species to keep in line with the rest of the campus. He added that screening the buildings would be a combination of evergreen and deciduous trees will provide for partial screening throughout the year since deciduous trees do lose their leaves in the winter. He added they can also grade the land if needed for impervious parking.

Councilwoman Goddard asked about green roofs and if that is a possibility to have climate smart buildings. City Planner confirmed that is an option. Councilwoman Souza clarified that it would most likely be considered during the planning phase. Mr. Anderson stated the residents and Board are very interested in green energy and have met with a firm already to see how they can be greener in their initiatives.

Mr. Anderson said the site plan was currently unclear in terms of specific improvements, but are here to see what the possibility can be to meet the needs of seniors and the people of Rye.

Councilwoman Tarlow spoke to the concern of a 10-year construction zone. Mr. Anderson clarified that it was never the intention for a 10-15 year construction but the original

question was answered with the thought that Mr. Anderson would be representing the Osborn for 10-15 years until he reached retirement age, not that construction would be planned to last 10-15 years.

Councilwoman Goddard commended Mr. Anderson on his outreach to the community and said that the Osborn is an important member of the community, but also clarified that the surrounding neighborhood is very worried about this request due to the uncertainty of the significant possible change.

With no further questions, Mayor Cohn invited the public to speak.

Tom Lavan, 4302 Theall Rd., 10 year resident of the Osborn Campus, spoke in support of this petition. He reminded the public that The Osborn community supports and is involved with the Rye community and the surrounding areas.

Randy Matlin, 5005 Theall Rd., 2.5 year resident with his wife, spoke in support stating there is a need for more meeting rooms, larger dining areas, and to stay competitive. He said the Osborn is dated and has a large campus that can accommodate new buildings without denigrating the campus. He also stated that the Osborn is the second largest taxpayer and needs to preserve their first rate status.

Craig Haines, 2 Coolidge Rd., spoke in opposition of the 160 ft. area in question and wondered why they could not build closer to Old Post Road or the northern corner of Theall Rd, where it is much less trafficked or residential. Maryann Haines then spoke about their concern as it relates to traffic. She stated that the traffic study in November 2020 was not indicative to the normal flow of traffic due to the following: a school delay on the day of the study, a road closure which diverted much of the normal morning traffic and that the study was done during a Pandemic.

Dorothy Lee, Glen Oaks Neighborhood resident, spoke in support of this petition. She grew up in Rye and came back as an adult. She noted that the Osborn conducts all of their renovations in a thoughtful and tasteful manner and needs to stay relevant.

Sven Hansen, resident of a cottage on Campus with his wife who he met in 5th grade at the Osborn School, spoke in support of this petition. They are lifelong Rye residents for over 60 years and spoke about how The Osborn works with the community and supports both the Osborn and the families in Rye. He stated without this petition, the Osborn will not be able to change with the times.

Leslie Ebers, 138 Osborn Rd., spoke in opposition of the petition. She recognized that the Osborn is willing to work with the community but expressed the overall apprehension of the unknown as it relates to increased traffic.

Ravi Mehta, 25 Sonn Dr., 2.5 year Rye resident, spoke in opposition specifically due to safety for the children that walk/ride bikes to school, the overall construction around the school while the school is also being renovated, and how it will affect property values in the surrounding neighborhoods.

Sue Drouin, 57 Morehead Dr., spoke in opposition of the petition. She felt the Community is not being considered when The Osborn has not been able to answer questions as it relates to why a proposed 5 story building, parking structures/lots and roads need to be located at the crest of a hill where most community members enjoy the green space.

David Ross, 5 year Osborn Resident, spoke in support of the petition. He emphasized that The Osborn conducts things such as lectures, movies, and Easter Hunts for the community and needs growth in order to survive.

Daniella Arredondo, 5 Osborn Rd., spoke in opposition of the petition. She stated the Harrison construction, St. Regis and the possibility of this project will dramatically affect the neighborhood traffic. Additionally, she is concerned that the location and construction would be right next to the playground of The Osborn School.

Amanda Timchak, 61 Osborn Rd., spoke in opposition of the petition because the community enjoys the green space of the property where they are considering development. Additionally, she commented that The Osborn has been a great neighbor to The Osborn School and hopes they continue to prioritize keeping the children safe as they travel to and from school.

Katie Sibson, 125 Osborn Rd., spoke in opposition of this petition. She recognized the importance of senior programming and additional needed space at The Osborn but is concerned why the end result needs to be a 5 story building with additional parking. She asked if they can further look into if there is an alternative where neighborhood views wouldn't be compromised by tall structures and traffic would remain safe.

George Burlstein, Vice President of the Osborn Residence Association for 2.5 years, spoke in support of this petition. He moved there because his family is local and has an interest in nature and trees. He enjoys over 1,000 trees of over 115 species of the 100+ year campus and wanted to assure the community that the goal is not to remove established trees or increase traffic. He stated the level of ask as it relates to plans are not part of the zoning petition phase and request it be approved so they can actually move to a planning phase where renderings can start to evolve.

Billy Childs, 14 Coolidge Ave., spoke in opposition of the petition. He supported those that already spoke in concern of this petition, specifically as it relates to traffic safety for the children and how it will affect the overall character of the neighborhood.

Christine Cote, 1 Coolidge Ave., spoke in opposition of the petition. She wanted to add that the traffic is very much a concern and is already dangerous.

Bob Magnus, 4402 Theall Rd., Rye resident with his wife for 5.5 years and President of the Osborn Residence Association, spoke in support of this petition. He moved here because his children are Rye Residents for 25 years and wanted to be close to family. He stated the Osborn must remain competitive in order to retain their Best of the Best status and feels approving this petition is necessary to maintain that status.

John (no surname given), Rye Resident, asked if rocking chipping or blasting would occur during the construction. Mr. Anderson stated it would be too early to know and would be evaluated during the planning stage.

Sean Plummer, 111 Osborn Rd., spoke in opposition of this petition. His main concern is the line of sight for the neighborhood. His residence is already below ground level and is concerned how his view will be comprised and affect property values as well as the overall quality of the neighborhood. He asked they consider lowering the stories of the building and consider how it affects property values.

Daniella Arredondo asked if the applicant would consider moving the buildings to a different location. Mr. Anderson replied that there is no actual plan but the focus of this area is to see what they could built as an option. Mr. Wrabel said he would elaborate more once the rest of the public had a chance to speak.

Robert November, 4314 Theall Rd. spoke in support of the petition. He asked that the Council consider the 425 residents of the Osborn and hopes the Council listens to their concern and how important this petition is.

Sally Lee, Rye resident since 1966, spoke in support of the petition. She added that her daughters grew up in Rye and her granddaughters are now in the school district. She wanted to clarify that this is the first step and need this in order to move to any planning stage and trusts that Mr. Anderson and staff will plan in the best interest of the Osborn and the Rye community.

Sue Drouin stated that this petition is unacceptable to the neighbors.

Daniella Arrendondo asked if they can build anything without this zoning change. Mayor Cohn stated that he believed they are maxed out on their FAR.

With no further public comment, Mayor Cohn invited Mr. Wrabel to speak to the concerns of the public.

Mr. Wrabel thanked everyone. He clarified that the applicant was asking for the framework that would allow them to ask the City for permission to build. There was no site plan at this time to present. He reviewed the changes that have been made over the last two years that the applicant has been before the Council to the proposed zoning amendment. He stated that there had been a shift away from Osborn Road in the proposed zoning. He discussed the differences between the allowances current as-of-right (five story buildings) and the proposed four-story building cap. He addressed concerns with traffic and construction parking. Unlike the St. Regis which is a much smaller property,

Councilwoman Tarlow asked about a prior traffic study that had been done and inquired about the volume of cars. City Planner Miller said that while he did not know specifics, he knew that pickup and drop-off with regard to Osborn School resulted in a larger volume of traffic.

Mr. Wrabel commented that the Osborn Home is not a significant contributor to the volume during peak times. He added that the Osborn would offer to help fund a larger traffic study, as it is a major area for traffic.

Mr. Tung commented that the FAR was not fully maxed out currently. Mr. Wrabel added that parking could be added currently without contributing to FAR.

Councilwoman Tarlow made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn the public hearing to March 10, 2021.

There was a five minute recess.

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

There was nothing to report on this agenda item.

7. Set the public hearing for March 24, 2021 to review and adopt the Rye Police Review Committee's plan to improve upon any findings the Committee has gathered through their review process of the Rye Police Department.

Mayor Cohn explained Governor Cuomo's Executive Order 203 instructs all local government entities in New York State with operating police agencies to perform a comprehensive and collaborative review of current police force deployments, strategies, policies, procedures and practices and develop a plan to improve the same in order to best serve its community. Pursuant to this Order, Mayor Josh Cohn created the City of Rye Police Review Committee which has been performing its review of the department since the fall.

Councilwoman Johnson made a motion, seconded by Councilman Mecca and unanimously carried, to set a public hearing for March 24, 2021 to review and adopt the Rye Police Review Committee's plan to improve upon any findings the Committee has gathered through their review process of the Rye Police Department.

Councilwoman Johnson announced that there was a listening session scheduled for the public on March 11, 2021 to learn about initial findings of the Police Review Committee and to offer public comment.

8. Resolution authorizing City Manager to enter into a Memorandum of Agreement with the Resurrection School to allow Rye Recreation to host Upper Camp in its facility for the summer of 2021.

City Manager Usry explained that because Rye Schools will be unavailable for Rye Rec camps during summer construction, Rye Rec Superintendent, Sally Rogol, worked with Resurrection School to accommodate Upper Camp for the summer of 2021.

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the following resolution:

RESOLVED, that the City Council authorizes the City Manager to enter into a Memorandum of Agreement with the Resurrection School to allow Rye Recreation to host Upper Camp in its facility for the summer of 2021.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

9. Resolution authorizing City Manager to enter into a Memorandum of Agreement with the Christ Church to allow Rye Recreation to host Kiddy Camp in its facility for the summer of 2021.

City Manager Usry explained that because Rye Schools will be unavailable for Rye Rec camps during summer construction, Rye Rec Superintendent, Sally Rogol, worked with Christ Church to accommodate Kiddy Camp for the summer of 2021.

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the following resolution:

RESOLVED, that the City Council authorizes the City Manager to enter into a Memorandum of Agreement with the Resurrection School to allow Rye Recreation to host Upper Camp in its facility for the summer of 2021.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

10. Authorization for City Manager to retroactively enter into an Inter-municipal Agreement with Westchester County for the providing a Positive Youth Development Program.

City Manager Usry explained that this is an annual agreement. In an effort to encourage Municipalities to provide Positive Youth Development Programs, the County shall reimburse the City of Rye in an amount not to exceed \$3,159 to provide Youth Council Programs as described in the attached agreement. The Agreement is for a one-year period commencing January 1, 2020 through December 31, 2020.

Councilwoman Souza made a motion, seconded by Councilman Stacks and unanimously carried, authorizing the City Manager to retroactively enter into an Inter-municipal Agreement with Westchester County for the providing a Positive Youth Development Program.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

CONSENT AGENDA

11. Consideration of a request by the Rye YMCA to extend the Purchase Street closure (already approved on October 7, 2020) for the 33rd Annual Rye Derby on Sunday, April 25, 2021 from 7:00 a.m. to 10 a.m. to accommodate a COVID-friendly staggered wave start.

Councilwoman Johnson made a motion, seconded by Councilman Stacks and unanimously carried, to approve the request by the Rye YMCA to extend the Purchase Street closure (already approved on October 7, 2020) for the 33rd Annual Rye Derby on Sunday, April 25, 2021 from 7:00 a.m. to 10 a.m. to accommodate a COVID-friendly staggered wave start.

12. Old Business/New Business.

Councilman Stacks announced that due to the incredible increase in rounds played last year at Rye Golf Club, there is currently a waiting list at the club. The staff and Commission is trying to sort out the numbers from last year and the anticipated demand this year. He added that March 15, 2021 will mark the early opening for the Golf Club's season. Staff has been communicating with members and the community on specifics.

Corporation Counsel Wilson asked that the Council entertain a motion to authorize Corporation Counsel to initiate any necessary litigation to preserve the City's rights as it relates to Port Chester's form-based zoning code.

Councilwoman Johnson made a motion, seconded by Councilman Mecca, to adopt the following resolution:

RESOLVED, that the Corporation Counsel is hereby authorized to initiate any necessary litigation to preserve the City's rights as it relates to Port Chester's form-based zoning code.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

13. Adjournment

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Souza and unanimously carried, to adjourn the regular meeting of the City Council at 9:19 P.M.

Respectfully submitted,

Carolyn D'Andrea
Rye City Clerk



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 10, 2021

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Continue the public hearing for consideration of a petition from The Miriam Osborn Memorial Home to amend the text of the City of Rye Zoning Code Association to create new use and development standards for "Senior Living Facilities" in the R-2 Zoning District.

FOR THE MEETING OF:

March 10, 2021

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the City Council continue the public hearing.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND:

The City Council has received a petition from Miriam Osborn Memorial Home Association ("The Osborn") to amend Chapter 197, *Zoning*, of the City Code to allow "Senior Living Facilities" ("SLF") in the City's R-2, *Single-Family Residence*, District. The petition submitted by The Osborn seeks to amend the text of the City Zoning Code to allow SLF in the City's R-2 District. The proposed amendment would allow SLF as a new permitted use in the R-2 Residence District on those properties with 50 or more contiguous acres. The proposed amendment also includes new restrictions and requirements regarding maximum floor area, building setbacks, lot coverage and other development standards.

As currently proposed, the amendment would only apply to property currently owned by The Osborn. This property is the only property currently located in the R-2 District that meets the proposed 50-acre minimum lot area requirement. Currently, The Osborn is regulated outside of the City Zoning Code by way of a Declaration of Covenants and Restrictions, dated October 15, 1993.

The proposed amendment would regulate land use at The Osborn to include new standards that would allow The Osborn to make improvements to its campus that the current Covenants and Restrictions do not allow.

For the February 19, 2021 submission which includes findings from a traffic and sewer evaluation along with prior submissions and other related information, please visit: [Osborn Zoning](#) on our website. A letter addressing concerns from the February 24, 2021 meeting is attached.

McGULLOUGH, GOLDBERGER & STAUDT, LLP

ATTORNEYS AT LAW

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STEVEN M. WRABEL

CHARLES A. GOLDBERGER
COUNSEL

March 4, 2021

Honorable Mayor Josh Cohn
and members of the City Council
City of Rye
1050 Boston Post Road
Rye, New York 10580

Re: The Osborn
101 Theall Road
Zoning Text Amendment

Dear Mayor Cohn and Members of the City Council:

This office represents the Miriam Osborn Memorial Home Association (“The Osborn”), the owner and operator of 101 Theall Road (the “Property”), which is the home of The Osborn’s senior living community, which includes memory care and assisted living, skilled nursing care, independent living apartments, health and wellness facilities, office space, dining and food preparation areas, and other support services for its residents.

The Osborn is proposing a Zoning Text Amendment (the “Amendment”) to the Rye Zoning Ordinance (the “Zoning Ordinance”) to provide some greater flexibility for future planning for The Osborn campus. This Amendment will not give The Osborn approval for any particular plan or proposed development. Such approvals can only be granted after a full Site Plan review process. Instead, the proposed Amendment will create a framework which will allow The Osborn to bring an application for Site Plan review to the City. As we have discussed at great length, the senior living market has changed significantly since the establishment of the current zoning regulations, imposed by the 1993 Declaration of Covenants and Restrictions (the “Declaration”). New zoning is critical to The Osborn’s ability to provide modern programming and standards of care, and to remain competitive.

At our latest public hearing, held on February 24th, there were some additional questions raised by members of the public, which we wish to further address. First, there were several comments on the validity of the traffic evaluation prepared by Hardesty & Hanover, LLC, dated February 17, 2021 (the “Traffic Study”), as it may not have accounted for lower traffic volumes on the street due to the ongoing COVID-19 pandemic.

In particular, it was argued that traffic relating to the Osborn School and daily commuters has been reduced by the pandemic. This condition was in fact noted in the Traffic Study, which recognized on-street traffic counts are not as high as pre-pandemic levels. However, this condition does not impact the findings of the Traffic Study, which considered whether an increase in senior residential and care units at The Osborn pursuant to the proposed Amendment would have any substantial impact on area traffic conditions. As described in the Traffic Study, The Osborn has continued to operate at near full capacity during the past year. As a result, the counts and findings relating to The Osborn provide an appropriate basis for projecting its future additional traffic volumes, which are anticipated to have a minimal, if any, impact on peak hour levels.

Additionally, The Osborn has offered to help fund an independent study of the neighborhood's larger traffic concerns and has further offered the use of Osborn property for traffic mitigation measures to be determined by the City and School. It is respectfully submitted that traffic impacts for the Amendment have been properly reviewed, and that The Osborn has acted in good faith to mitigate any potential impacts and to work with the School and the City towards improvements in the surrounding neighborhood.

Second, there was some apparent confusion as to existing and proposed parking setbacks from Osborn Road. Currently, the Property is subject to the provisions detailed in the Declaration, which include a 160-foot building setback. Parking is not subject to this requirement, and is required to be set back only 35 feet from a lot line fronting on a road, in accordance with the underlying R-2 District. In earlier iterations of the Amendment, The Osborn had offered to impose a 240-foot setback from Osborn Road for buildings and parking. After hearing comments from neighbors, The Osborn further extended the proposed building setback from Osborn Road to 300 feet to accommodate neighbors' concerns. The required parking setback from Osborn Road is proposed to remain at 240 feet, which is nearly seven times the currently applicable parking setback requirement.

Finally, we wish to clarify once again that The Osborn's time horizon for future development does not contemplate ten years of construction, which we understand is a worry of the neighbors. The Osborn's timeline considers the development of plans, working with the City and the public on review, studies, and possible approvals, and time for reflection and assessment after the completion of a potential project. Moreover, construction phasing and impacts are site plan issues that The Osborn will need to address with the Planning Commission at a later date.

We have spent more than two (2) years in this process with the City, and The Osborn has made tremendous revisions to the Amendment to address issues raised by Council, Planning Commission, staff, and the public. In making these compromises The Osborn has condensed areas for future development on the Property, and created more restrictive height, setback,¹ and landscaping standards than what is currently required.

It is respectfully submitted that the Amendment creates a well-thought out framework for future planning on The Osborn's campus, and creates clear, practical guidelines for the Planning Commission's review of a proposed development plan. It is further submitted that The Osborn has now studied in detail all relevant potential environmental impacts and has addressed each question raised by the Council and the public.

¹ The only lesser yard requirement is the limited "incursion" area with a 100' setback, which is heavily restricted.

As outlined in prior discussions, The Osborn has seen firsthand the difficulties of surviving a changing marketplace without proper zoning and planning. The Osborn is one of Rye's landmark institutions, and is now looking to ensure its future. Kindly place this matter on the agenda for the City Council's March 10, 2021 meeting, at which time we respectfully request the public hearing be closed for consideration of a Negative Declaration under SEQRA and approval of the proposed Petition. Thank you for your consideration.

Very truly yours,

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

Steven Wrabel

cc: Greg G. Usry
Kristen Wilson, Esq.
Matthew G. Anderson
Stephanie Larsen, Esq.
Divney Tung Schwalbe



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 10, 2021

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Presentation of Capital Projects
Finance Plan

FOR THE MEETING OF:

March 10, 2021

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council hear the presentation.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:

See attached.



CITY OF RYE

To: Mayor Cohn and City Council

**From: Greg Usry, Interim City Manager
Joe Fazzino, Deputy Comptroller**

Re: City of Rye CIP Financial Plan

Date: March 4, 2021

Overview

This year, the City will undertake the largest capital improvement program in recent memory. The projects, identified by the Council beginning in 2018 as being priority items for the City, were scoped and have been in design for some time. At the January 6th Council meeting, City staff reviewed the preliminary timeline for design, planning and construction. The costs reflected in the agenda materials are preliminary estimates that will be refined in the course of the year. Although we have estimated expenses based upon the best available information, final costs and exact timelines cannot be accurately determined until designs are complete and the projects bid.

As with engineering and construction, the City must also undertake a comprehensive financial plan for the CIP. The information presented here is an overview of that plan. It is intended to be a template, and will change as the project timelines and costs evolve. In the coming months, there will be regular updates of this material, incorporating changes to the capex plan and refinements to the CIP Financial Plan based upon guidance from bond counsel and our financial advisor.

Given the number of projects taking place simultaneously, the City must provide for a comprehensive approach to both cash liquidity needs, as well as the permanent funding. As with most projects, we anticipate the initial spending will largely be for soft costs (architectural renderings, design, studies etc.). As we finalize design plans and begin to engage individual project managers our spending will accelerate. We expect that most of these costs can be paid for with the Capex Reserve. For this year the City has sufficient cash reserves to pay for the related expenses. However, given the total expected costs and timing, the City will need to issue bonds by the first quarter of 2022 (or before depending upon costs and other variables).

The following table summarizes the various projects, including current estimated costs and the useful lives (as stipulated by the New York State Local Finance Law). The useful life calculation is important because it determines the term of any debt the City can issue to finance the projects.

Projects	Total Cost*	Useful Life
DPW Building 5	4,500,000	25
DPW Building 7	250,000	25
DPW Salt Shed	650,000	25
DPW Fuel Tank	250,000	15
Locust Avenue Sewer	443,480	30
Breevort Force Main	669,500	30
Central Avenue Pump Station	904,600	30
Midland Sewer	460,000	30
Highland Road Sewer lining	70,000	30
Sewer Manhole and Line Rehab	3,956,460	30
City Hall HVAC	2,400,000	25
Theodore Fremd Wall	1,300,000	15
Forest Avenue Sidewalks	2,178,000	15
Police/Court	3,100,000	25
Temporary Court@ CarPark 5	600,000	25
	\$ 21,732,040	

**Does not reflect grant reimbursements*

In addition to the projects above, the 2021 finance plan must address projects related to the 2012 bond referendum. In 2012, a referendum was approved to bond for several streetscape projects. Following the referendum the City spent the \$1.68mm of authorized monies to replace/improve streets and sidewalks in the Central Business District, sidewalk repairs City-wide and some costs related to Fireman's Circle. Although the referendum was passed and monies spent, bonds were never subsequently issued. As a result, the projects were funded out of the General Fund and there remains a fund receivable in the amount of \$1.68mm. This will need to be rolled into the bond financing. This additional amount does not count against the Council's authorized debt since it was already approved by voter referendum.

Funding Sources

In determining the City's ability to fund the various projects, the City will utilize:

- Capex Reserve Fund
- Grants
- Long term debt

Beginning in 2019, the City began reserving General Fund surplus monies (so long as the General Fund Reserve met its 10% fund balance requirement) and setting those aside in a Capex Reserve Fund. By Council action and City policy, any excess monies at year end, as well as one-time, extraordinary revenues, are set aside to offset the cost of the CIP. Currently, the Capex Reserve totals \$5.5mm (prior to any 2020 year-end adjustments).

As highlighted below, the City sought and received grants totaling \$6.19 mm to offset certain project costs. Most of these grants monies are related to our sewer projects.

Grant-Qualified Projects	Total Cost	Grants	Net Cost
DPW Salt Shed	650,000	400,000	250,000
Locust Avenue Sewer	443,480	177,610	265,870
Breevort Force Main	669,500	227,125	442,375
Central Avenue Pump Station	904,600	596,650	307,950
Midland Sewer	460,000	287,250	172,750
Highland Road Sewer lining	70,000	44,250	25,750
Sewer Manhole and Line Rehab	3,956,460	2,432,250	1,524,210
Theodore Fremd Wall	1,300,000	550,000	750,000
Forest Avenue Sidewalks	2,178,000	1,478,000	700,000
	\$ 10,632,040	\$ 6,193,135	\$ 4,438,905

Generally speaking, the grants awarded for the sewer projects will be paid in the course of project construction, and will not require the complete outlay before reimbursement. Although this helps in our liquidity planning (discussed below), most of this reimbursement will come after soft costs and therefore will occur later in the capex timeline. Similarly, the grant for the Forest Avenue sidewalk project will be paid over time once the project is underway. Given the timetable for the sewer projects, DPW improvements and City Hall HVAC, we expect to bond well before the sidewalk project.

The City will be relying on debt to finance most of the capital plan. Per the City Code, the Council has the authority to approve a specified amount of debt without public referendum (C21-9). This is limited to 30% of the average gross annual budget for the preceding three years. Based upon this limitation, the Council can currently approve an additional \$13.55 mm of bonds. In addition, the Council can authorize additional bonds without referendum for certain qualified projects (\$1.77 mm under a Public Safety Exemption and \$2.5 mm under a Disaster Rebuilding Exemption). At this early stage it is unclear if we will need this additional non-referendum bonding capacity, but it is available if necessary and subject to bond council approval (Police/Court facilities, Theodore Fremd wall etc.). The table below summarizes the possible sources of funding available for the CIP:

Source of Funds	
CapEx Reserve	5,500,000
Grants	6,193,135
City Coucil Authorized Debt	13,550,000
	\$ 25,243,135

Liquidity Planning

For most of capex-related costs in 2021, the City can rely on its accumulated Capex Reserve Fund to pay for the cost of design and early construction. Because we have additional cash resources (General Fund Reserve) we do have the ability to temporarily fund any unexpected costs with the anticipated reimbursement from bond proceeds. However, as we move into the latter half of the year we will need to plan on issuing debt. The timing of the debt will depend upon the spend-down of the Capex Reserve and our desire to take advantage of historically low interest rates. Based upon estimated costs, I anticipate we will utilize most if not all of the Capex Reserve Fund. *However, please note that ANY spending related to the CIP will be accompanied by a Council resolution stipulating the ability to pay the costs from a variety of funds, including bond proceeds. In so doing, we reserve the ability to reimburse the Capex Reserve out of bond proceeds if we are able and choose to do so.*

Bond Issuance and Debt Service Cost

Long term bonds will constitute the largest percentage of the permanent funding for the CIP. Although the Capex Reserve Fund is sufficient to fund the initial costs, we expect the need to borrow by the first the first quarter of 2022.

Currently, the City can borrow at an average interest cost of 1.1-1.4%; among the most attractive interest rates in 50 years. Although there is nothing to indicate that rates will be markedly higher in the course of this year, we should be prepared to enter the bond market as the year progresses. It will take approximately 60 days to prepare the legal documents, meet with the rating agencies and issue bonds. In the coming weeks, we will be engaging the City's financial advisor and bond counsel to begin the process. Once bond documents are prepared and the audit finalized we can dictate the timing of the borrowing.

One final consideration on timing is the debt service expense. Beginning on the borrowing date the City will incur debt service expense, regardless of when we actually spend the proceeds. Because it is unlikely that we will need the monies until early in 2022, by issuing debt early we will incur unnecessary costs. Based upon current interest rates, and assuming a borrowing of approximately \$15mm for 20 years, the City would incur approximately \$70k per month of debt service expense. Although it is important to lock in the attractive interest rates, we do not want to pay for unnecessary debt service cost. Based upon an assumed borrowing of \$15mm if rates rose by .50% from current levels it would cost approximately \$45k annually. It seems prudent and compelling to prepare documents but to wait until the end of the year to borrow (assuming interest rates or forecasts do not rise appreciatively.) Please note, we did include approximately six months of debt service cost in the 2021 budget.

One final note, to the extent the City wishes to replenish part/all of the Capex Reserve and assuming the City has the authorized debt capacity, a bond issue can reimburse the City for expenses incurred before issuance. However, given the size of the City's CIP, we anticipate that most/all of the Capex Reserve will be required, along with the bond issue.

In addition to the timing of any borrowing, we must consider the term of the bonds. Traditionally, tax exempt debt for infrastructure projects mature up to 20-30 years. Much like a conventional mortgage, the City's debt will amortize annually over the term, resulting in level annual payments. The maturity of the debt will be determined by the projects that are financed. The New York State Local Finance Law dictates the average life associated with a particular project. Because the City will be borrowing for a variety of projects, the maturity will be determined by the weighted average useful life of all of projects. As we further develop our debt plan, we will be strategically deciding which projects to include in the borrowing. Because interest rates are so low, and the interest rate difference is relatively small between a 20-year and 30-year borrowing cycle, we will seek to borrow for the longest term possible. Ultimately, the maximum term will be determined by the City's bond counsel, based upon NY State Local Finance Law. Based upon current interest rates the annual debt service expense of \$15mm of debt (Council authorized debt, including the 2012 referendum debt) would be \$850K for a 20 year amortization and \$625k for a 30 year amortization.

Summary

The financial undertaking over the next 12-36 months will be considerable, and will require modifications as projects are bid, and construction schedules are determined. Although the cumulative project costs are sizable, the City has put itself in a unique position to finance these critical infrastructure projects.

Use of Funds by Project	
Sewer Projects	6,504,040
DPW Improvements	5,650,000
City Hall HVAC	2,400,000
Theodore Fremd Wall	1,300,000
Forest Avenue Sidewalks	2,178,000
Police/Court Facilities	3,700,000
2012 Projects	1,680,000
Contingency ¹	3,511,095
	\$ 26,923,135

Source of Funds²	
CapEx Reserve Fund	5,500,000
Grants	6,193,135
City Council Authorized Debt	13,550,000
2012 Referendum Bonds	<u>1,680,000</u>
	\$ 26,923,135

¹ Contingency monies are available to offset expected higher project costs or other unforeseen expenses. This amount is expected to decline significantly as actual costs are updated/revised.

² In addition to Council authorized debt, the City can issue up to \$1.69 mm under a Public Safety bond authorization and up to \$2.5 mm under a Disaster Rebuilding bond authorization. Both require only City Council approval.



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 10, 2021

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Update on Rye Recreation improvements.

FOR THE MEETING OF:

March 10, 2021

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Council hear the update and adopt the resolution to create an . Amphitheater.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND: The Recreation Park Improvements (pavilions, comfort stations and site work) are nearing completion and will be available for Rye Rec summer camp. As a result of the significant work completed by DPW staff, the project will be within the Council authorized budget (not to exceed \$1mm). As part of the site work for the upper pavilion there is an additional opportunity to create an outdoor amphitheater adjacent to the Girl Scout Room. This performing arts area will enhance the Damiano Center and provide another valuable community resource. The additional funds required are available from remaining proceeds of a 2002 Recreation bond issue and other funds earmarked for Damiano.

See attached resolution.

**RESOLUTION ACKNOWLEDGING THE CONSTRUCTION OF AN AMPHITHEATER AT
DAMIANO RECREATION CENTER**

WHEREAS, over the last eighteen (18) months, the City of Rye has made numerous improvements to the recreation facilities and property located at Recreation Park and the Damiano Recreation Center; and

WHEREAS, while constructing these improvements, the City realized that the an area of Recreation Park would be well-suited for an amphitheater (the “Amphitheater”); and

NOW, THEREFORE, BE IT RESOLVED THAT:

The City Manager and City staff can take the steps necessary to transform an area of Recreation Park to create an Amphitheater for use and enjoyment by the public.

BE IT FURTHER RESOLVED, that the cost of materials, construction and labor related to the creation of the Amphitheater shall be substantially funded from accounts in the Buildings and Vehicle fund for recreation improvements.

On a motion by Councilperson _____, seconded by Councilperson _____, the foregoing Resolution was adopted on a vote of ____ ayes and ____ nays.



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 10, 2021

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Authorization for City Manager to sign an agreement with the Friends of Rye Nature Center.

FOR THE MEETING OF:

March 10, 2021

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council authorize the City Manager to sign the agreement.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND:

See attached agreement.

**LICENSE AGREEMENT BETWEEN THE CITY OF RYE &
THE FRIENDS OF RYE NATURE CENTER**
(2021-2046)

This Agreement is entered into as of March __, 2021 between Friends of Rye Nature Center, a New York not-for-profit corporation (FRNC), and the City of Rye (the City) for the use and operation of the Rye Nature Center (Center).

General Terms

1. **Purpose.** FRNC shall be entitled to use, operate and manage the Property as a licensee in accordance with the terms of this Agreement, continuing its exclusive use, operation and management of the Property that began in 2002, with the intent of having minimal expense to taxpayers. The City will not issue other licenses or agreements for the Property without consultation with FRNC and will use best efforts not to issue any that are inconsistent with the purposes of this Agreement. The City shall have the ability to use the Property for municipal park purposes that are not inconsistent with the mission of the FRNC, or in direct competition with services offered by the FRNC and will take all reasonable steps to coordinate the scheduling of such use with FRNC. The FRNC shall continue to provide education with a focus on conservation and the environment and support the Rye community's access to nature year-round. The City will continue its obligation in accordance with the Public Trust Doctrine to provide for the continued public use of the Property. In accordance with the character of the Property and to the extent permitted by law, the City will discourage the placement of any Wireless Telecommunications Facility, Tower, Site or Personal Wireless Facility (as defined in Chapter 196 of the City Code) on the Property at any time.
2. **Property.** The Property shall consist of all land and buildings known as Rye Nature Center with an address at 873 Boston Post Road (the "Property"). For purposes of this Agreement, the Property consists of three parts:
 - a. **Nature Center:** The Property includes the Nature Center, which is comprised of all the buildings existing on the date of this Agreement and any future buildings and improvements that may be constructed with the approval of the City as set forth in Section 14(a), the parking lot, and immediately surrounding landscaped, paved and garden areas.
 - b. **Ruins.** The Property includes the ruins of the Parson's Estate.
 - c. **Forest:** The Property includes the 47 acres of forested parkland surrounding the Nature Center, which includes forests, wetlands, trails, access roads, bridges and electrical power and telephone lines.

3. **Term.** The term of the Agreement will be 25 years, with an option for two additional 5-year terms that will automatically renew. The City Council may review the terms of this License at any time to confirm that the parties are complying with their obligations. At any time, the parties can mutually agree on amending the terms of the Agreement. Any amendments shall be in writing. Either party may terminate the Agreement on 3 years' written notice, with the exception of exigent circumstances in which case: (1) the City may temporarily suspend the license without notice or terminate license upon 60 days' written notice; and (2) FRNC may terminate on 120 days' notice. Upon such exigent termination, other than termination due to a material breach, the City will assist the FRNC in good faith to honor obligations that the FRNC made in reliance on the License Agreement.
4. **Rent.** FRNC shall pay the City an annual rent of \$1.00.
5. **Insurance.** FRNC agrees to procure insurance of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate for:
 - a. Tenant's insurance to cover the Nature Center.
 - b. General Liability Insurance to cover FRNC's operations at the Property, including third party claims made against the City.
 - c. The City shall be named as an additional insured on any liability insurance policies covering the Nature Center, Property and FRNC. Upon execution of this Agreement and as needed thereafter to reflect renewals or new policies, FRNC shall give the copy of the certificates of insurance showing the City named as an additional insured.
 - d. In the event of a capital project or renovation, FRNC shall secure additional insurance in the amounts reasonably required by the City to cover that project and name the City as an additional insured party or require its contractor(s) to do so.
 - e. The City, as the owner, shall be responsible for property insurance for the Property, including the Nature Center. In the event the City collects any insurance proceeds related to the Property or Nature Center for which FRNC has a duty of repair or for which the parties have come to agreement about repair, the City shall use such proceeds for the repair. In the event that the City deems repair or reconstruction is not feasible, the City shall (i) first use the proceeds to clear the site; (ii) then cover any capital costs expended by FRNC within the ten years for the cleared Property or Nature Center (amortized over the ten-year period); and then (iii) then keep the remaining proceeds to cover approved capital investment by the City in the Property.

Duties Relating to the Nature Center

6. Maintenance and Capital.

- a. Maintenance Costs. FRNC will (i) perform weekly cleaning of the Nature Center; (ii) pay for as-needed non-capital repairs or updates to the interior of the building (e.g., for light fixtures, paint, ceiling, floors, kitchen appliances); and (iii) provide lawn and garden care on a regular basis.
- b. Capital Costs of Nature Center. Any sheds or accessory buildings on the Property are the sole responsibility of FRNC. FRNC shall not be responsible, however, for the Nature Center foundations or other major structural repairs for which the City has insurance coverage. FRNC shall be responsible for keeping the following Nature Center building components in good repair including associated capital costs: (1) roof and roof shingles (including repair or replacement in whole or part); (2) leaders, gutters and other water shedding appurtenances; (3) heating, hot water and cooling systems (including furnace); (4) electrical systems; (5) windows (including repair or replacement); (6) plumbing; (7) painting of exterior siding; (8) interior finishings to keep safe and in a state of good repair (floors, walls, kitchens, bathrooms, stairs); and (9) exterior paving, patios, sidewalks and concrete. Nothing in this Agreement precludes the FRNC from seeking assistance from the City of Rye when needed. The parties will work in good faith together with the continued joint mission regarding stewardship of the Property and the Nature Center and in furtherance of the City's obligation to maintain the Property as public parkland consistent with the Public Trust Doctrine. For the avoidance of doubt, the capital costs or systems subject to this Section 6 shall not include the roads, bridges, water mains or other elements that are listed as the obligation of the City pursuant to Section 14(b).
- c. All capital projects at the Nature Center under a cost of \$25,000 shall not be subject to prior City Council approval. However, prior to performing any work, FRNC shall secure any necessary permits, authorizations, or approvals in consultation with the City Engineer.
- d. Consistent with the terms above, FRNC shall maintain the Nature Center sufficient to protect the health and safety of persons on or about the premises and to maintain the good order of the Nature Center, and in accordance with all applicable laws, codes and regulations. The City shall perform an annual fire inspection.
- e. The City will provide services to the Property and Nature Center consistent with its other public parks including: (1) regular trash and recycling pick-up; (2) snow plowing of the access road and parking lot; (3) maintenance of the access road and bridge, including the gravel lot; (4) police, fire and emergency services; (5)

maintenance of the water main. Unless specified in this Agreement, FRNC will provide other maintenance and services.

7. **Utilities.** FRNC will pay the costs of utilities including, but not limited to, propane, oil, electric and water.

Duties Relating to the Ruins

8. FRNC shall maintain an approximately three-foot high fence around the Ruins to prevent access.
9. The City shall otherwise maintain and be responsible for the Ruins.
10. Notwithstanding the foregoing, the parties may agree in writing to other maintenance arrangements for the Ruins, capital improvements, uses and landscaping.

Duties Relating to the Forest

11. **Conservation.** FRNC will manage the Forest as outlined in the Habitat Management Plan (HMP) prepared by FRNC, which is current through 2025. FRNC shall present to the City an update to such plan every five years, to address current needs and changes within the Forest. The HMP, updates and revisions are subject to City approval carried out by Conservation Commission Advisory Council, which shall not be unreasonably withheld.
12. **Planting & Erosion Control.** FRNC will perform annual tree and shrub plantings throughout the Forest to manage storm water and decrease erosion and shall otherwise maintain the Forest as wooded parkland for the benefit of the community.
13. **Maintenance.** FRNC will perform trail care on a regular basis. City will perform tree removal and pruning duties on the Property as necessary for safety reasons along the perimeter of the Property and within 20 feet of a private property lines. The City shall provide FRNC 15 days' notice of any plan to remove trees of six-inch caliper or more. Otherwise, FRNC will perform tree removal and pruning duties for other reasons, including habitat management within the perimeter fences. The City will provide a chipper and crew twice a year to assist FRNC with forestry work. FRNC shall provide the City 15 days' notice of any plan to remove trees of six—inch caliper or more on the Property within 20 feet of other City property, a right-of-way or other private property.
14. **Capital Improvements & Infrastructure.**
 - a. FRNC shall submit plans for major forest improvements to the City Manager's Office for review and dissemination. If City Council approval is necessary, the Council may refer such plans to a City board or commission for an advisory opinion. Routine maintenance of the property/trail system shall not be considered a major forest improvement that must be submitted to the City for approval.

- b. The City shall be responsible for maintenance and repair of the access road, the current entry bridge leading from Boston Post Road to the Nature Center, and the water main, such that the public and FRNC are able to continue to access the Property. The City shall provide FRNC any inspection report prepared by the New York State Department of Transportation to FRNC.
- c. If/when the new driveway is constructed (see Section 16), the City shall be solely responsible for its maintenance.
- d. The City shall be responsible for maintaining the telephone and power lines and telephone line easement (the "Telephone Trail") on the Forest portion of the Property. The City shall also be responsible to maintain the oil tank; however, FRNC shall be responsible for providing sufficient heating oil.
- e. FRNC must obtain all necessary permits for any electrical work performed on the Property.

Other Considerations.

- 15. **Funding.** FRNC shall be permitted to pursue funding for its operations under this Agreement. Funding may include federal and state funds, private donations and sponsorships. Any capital campaign or public fund-raising efforts that relate to major capital projects on the Property or the issuance of a contract guaranteeing long-term signage, naming rights, etc. shall be subject to the City's review and approval, which shall not be unreasonably withheld. FRNC shall notify the City of its intentions to apply for any capital project-related grants of \$25,000 or greater or receipt/award of same.
- 16. **New Driveway Construction.** The City will support FRNC's efforts and provide necessary authorization/consent as the property owner to secure funding for design, permitting and construction of a new access driveway leading from the area on Boston Post Road known as the "snowfield" to the Nature Center, utilizing in part the existing access road. In the event this access driveway is constructed, the City shall maintain it per Section 14 of this Agreement.
- 17. **Other.** On an annual basis on or before March 1 each year, FRNC shall present a report of the Nature Center's programming, financials, maintenance and capital expenditures and annual and long-term plans to the City Council. The report shall include key performance indicators such as number of children served in education programs, number of program participants, event attendance and forestry projects completed.
- 18. **Notices.** All notices, communications and submissions referred to in this Agreement shall mean sending a copy by regular mail with a copy by e-mail:

- a. If to FRNC: _____

b. If to the City: _____

c. If to the City Council: _____

19. **Entire Agreement.** This Agreement constitutes the entire Agreement of the parties and all prior agreements or understandings of the parties regarding the subject matter of this Agreement, whether written or oral, are fully incorporated and superseded by this Agreement.

Signature Page Follows

Signatories

_____ Greg Usry Interim City Manager, City of Rye	_____ Date
---	---------------

_____ Lisa Sandler Director, Friends of Rye Nature Center	_____ Date
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_____ Robert O'Connor President, Board of Directors, Friends of Rye Nature Center	_____ Date
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_____ Todd Smith Director, Friends of Rye Nature Center	_____ Date
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CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 10, 2021

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Set a public hearing for March 24, 2021 to adopt a new local law to implement a six-month moratorium in the City of Rye temporarily prohibiting the review, processing or approval of any new or previously filed application related to a subdivision or re-subdivision of property, the development on steep slopes or the placement of a residential structure with its front not oriented towards a front yard for the duration of this moratorium.

FOR THE MEETING OF:

March 10, 2021

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council set the public hearing.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND:

See attached Local Law.

CITY OF RYE

LOCAL LAW NO. __ OF 2021

A Local Law adopting a six-month moratorium in the City of Rye temporarily prohibiting the review, processing or approval of any new or previously filed¹ application related to a subdivision or re-subdivision of property, the development on steep slopes or the placement of a residential structure with its front not oriented towards a front yard for the duration of this moratorium.

WHEREAS, in recent years, the City of Rye's land use boards have become increasingly concerned with the configuration of properties proposed within subdivisions; and

WHEREAS, the City Council would like to address the gerrymandering of lot lines and the creation of flag lots that may meet the dimensional requirements but not the intent of the City Zoning Code and land use regulations; and

WHEREAS, the City Council would also like to address the impact that development has on property that is environmentally constrained with steep slopes; and

WHEREAS, the subdivision and re-subdivision of property with minimum street frontage can impact neighborhood character, can result in streetscape and traffic circulation impacts, and can limit flexibility to choose alternative driveway curb-cut locations; and

WHEREAS, properties that have remained undeveloped for many years because they are constrained by topographic features, such as the presence of rock outcroppings, steep slopes, wetlands or high groundwater can now be improved because of new technologies (rock removal techniques and sump and sewer pumps); and

WHEREAS, the City Council finds that residential structures that are not sited on property in proper relationship to an improved right-of-way or street can negatively impact the character and the harmony of a neighborhood; and

WHEREAS, the City Council has determined that it is appropriate to review the City's existing Zoning Code and other land use regulations relating to the above observations to ensure that the character of the neighborhoods are preserved and that any subdivision or re-subdivision of property is appropriate and addresses any environmental, visual or other relevant considerations; and

¹ This moratorium would apply to any subdivision plat filed after June 1, 2020.

WHEREAS, the City expects that it may require up to six months to consider the aforementioned issues and prepare any necessary legislative amendments.

NOW, THEREFORE, Be It Enacted by the City Council of the City of Rye as follows:

Section 1. Findings and Purpose.

The City Council wishes to review the existing zoning and land use regulations permitting the subdivision or re-subdivision of property, the development on steep slopes and the siting of residential structures on lots. The goals of the City Council include, but are not limited to, the overall development of the City, protecting sensitive environmental features of property, ensuring that the appropriate land use mechanisms are in place to allow for flexibility in design and placement of residential structures, and that the health, welfare and safety of its residents can be maintained while allowing for reasonable and appropriate development.

Section 2. Enactment of Moratorium. Prohibited Actions.

For any plat filed in the Westchester County Clerk's Office with a file date after June 1, 2020 through a period of six months from the effective date of this local law, the City Council hereby declares a moratorium prohibiting all of the following actions in the City, regardless of the submittal or receipt of any application prior to the effective date of this local law:

- A. Acceptance, consideration, preliminary approval or final approval by the City Planning Commission of any: 1) application for subdivision or re-subdivision of residential property in the City of Rye; 2) any building permit or special permit for a new residential structure on property that has slopes greater than 25% (i.e. 1:4); and 3) any building permit application for any new residential structure that does not have its front facing a front yard.
- B. Acceptance, consideration, preliminary approval or final approvals by the City Board of Architectural review of any: 1) any site plan for a new residential structure on property that has slopes greater than 25% (i.e. 1:4); and 2) any site plan application for any new residential structure that does not have its front facing a front yard.
- C. Acceptance, consideration, preliminary approval or final approvals by the City Planner for any administrative lot line adjustments on which at least one of the parcels contains a residential structure.

- D. The issuance of any exterior building permits by the City of Rye Building Department or City Engineer in connection with any activity prohibited above. This section D specifically excludes fence permits, permits for generators, oil/gas heating permits, building permits for decks, plumbing and drainage permits, stormwater permits, and surface water and erosion control permits.

Section 3. Appeals/waiver.

- A. An aggrieved property owner may petition the City Council for a waiver and the City Council shall have the discretion to grant such waiver, or as much relief as said Council may determine to be necessary and appropriate. In determining the suitability of a waiver under this section, the City Council shall consider the following factors:
1. Unnecessary hardship to the petitioner, which hardship is substantially greater than any harm to the general public welfare that would result from the granting of the waiver. The property owner shall have the burden of demonstrating to the City Council that a waiver is warranted due to substantial hardship and that such substantial hardship was not the result of an act or omission by the applicant or property owner. In considering this factor, the City Council may request information regarding alternatives that the Applicant has considered or whether there are additional long-term plans; and
 2. The project's harmony (or lack thereof) with the existing character of the community as a whole and the area of the community in which the property is located; and
 3. Whether the application for which the relief is requested is consistent with any recommendations, or conclusions which may be drawn at the time of the public hearing from the aforementioned City Council review and study; and
 4. Whether the applicant is in compliance with all other City Code requirements with respect to its City's operations; and
 5. Whether the application for which the relief is requested is consistent with any proposed regulations, if and as such may exist at the time of the public hearing.
- B. Waiver procedure. Such petition shall be the subject of a public hearing before the City Council. Upon submittal of a written petition to the City Clerk by the property owner or applicant seeking a waiver of this moratorium, and supported by such documentation as the applicant deems relevant, the City Council shall, within sixty (60) days of receipt of such petition, conduct a public hearing on said petition upon five (5) days public notification in the official newspaper of the City. The City Council shall, within thirty (30) days of the close of the hearing, render its decision in writing, either granting or denying the petition.

C. It shall be within the discretion of the City Council to grant, in whole or in part, grant with conditions, or deny, the petition for relief from the terms of this moratorium. In granting a waiver, in whole or in part, the City Council must find that the waiver will not adversely affect the purpose of this Local Law.

Section 4. Early Termination or Extension of this Local Law

In the event any new Local Law which addresses the substantive issues set forth herein, should be enacted and adopted by the City Council prior to the date that the moratorium imposed by this Local Law expires, then in that event, the moratorium imposed by this Local Law shall expire on the date such new Local Law takes effect in accordance with § 27 of the Municipal Home Rule Law.

In like manner, if more than 6 months have passed since the implementation of this Local Law, and it shall be determined by a finding of the City Council that an extension of this moratorium is required, then the City Council by resolution, may extend this moratorium for such a period of time as it deems necessary in order to further the purposes of this law up to and including an additional 180 days from the date of the original expiration of this Local Law.

Section 5. Conflicts with State Statutes and Authority to Supersede

A. To the extent any provisions of this Local Law are in conflict with or are construed as inconsistent with the provisions of New York State Law, this Local Law shall control. The City Council adopts this local law pursuant to authority in the New York State Constitution, Article IX, Section 2; Section 10 of the New York State Municipal Home Rule Law; Section 10 of the Statute of Local Governments; the relevant provisions of the General City Law of the State of New York; and the general police power vested with the City of Rye to promote the health, safety and welfare of all residents and property owners in the City.

B. During the time that this law is in effect, it shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions. It is the intent of the City Council, pursuant to its authority under section 10, subdivision 1(ii)(d)(3), and section 22 of the Municipal Home Rule Law, to supersede inconsistent provision of the New York State General City Law and the City of Rye Zoning Code.

- a. In particular, it is the intent of the City Council, pursuant to authority under Sections 10 and 22 of the Municipal Home Rule Law, to supersede inconsistent provisions of the New York State General City Law and the City of Rye City Code relating to the time limits in connection with zoning and planning determinations and with respect to the jurisdiction and

authority of the Board of Appeals with respect to hearing variances or waivers related to this local law.

Section 6. Severability

If any part of this Local Law is deemed by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Local Law.

Section 7. Effective Date

This Local Law shall take effect immediately upon filing with the New York Secretary of State.



CITY COUNCIL AGENDA

DEPT.: Boat Basin

DATE: March 4, 2021

CONTACT: Rodrigo Paulino, Boat Basin Supervisor

AGENDA ITEM: Resolution to declare certain City equipment as surplus.

FOR THE MEETING OF:

March 10, 2021

2021 RYE CITY CODE,

CHAPTER
SECTION

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, the City has been provided with a list of City equipment identified as being obsolete or has become obsolete during 2021, and,

WHEREAS, the Boat Basin Supervisor has recommended that said equipment be declared surplus, now, therefore, be it

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

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

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other

BACKGROUND: Please see attached memo regarding a floating dock that is no longer being used.



CITY OF RYE

Boat Basin Memorandum

DATE: March 3rd, 2021

TO: Greg Usry, Interim City Manager

FROM: Rodrigo Paulino, Boat Basin Supervisor

RE: Floating Dock Surplus

The Boat Basin would like to surplus a 20ft x 10ft floating dock as it is no longer being utilized by the marina. The mooring and tackle will be included. The dock will be listed for sale with a professional auction service company (Auctions International) as per the city's surplus policy and procedures and has an estimated minimum value of \$2,000.





CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 10, 2021

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Consideration of a request from the Rye Free Reading Room (RFRR) to use the Village Green for various events such as outdoor Storytime walks, Wiggle Giggle and classic music performance on various days from May – October. Social distancing guidelines will be followed and the RFRR will coordinate with City Staff to ensure there is not interference with maintenance of the Village Green.

FOR THE MEETING OF:

March 10, 2021

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Council authorize use of the Village Green requests for the library.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND: The RFRR has requested use of the Village Green on various days between May – October for various programs such as Storytime walks, Wiggle Giggle and classic music performances.

The classical music events will take place on:

May 1st, June 12th, June 17th 5:00 - 6:00 pm (rain dates May 2nd, June 13th, June 18th)

Wiggly Diggle with Dawny Dew run Wednesdays May 5th – October 27th at 9:30am, 10:15am and 11:00 am.

Storytime Walks run July 6th – August 31st .

See attached requests for more detail.



March 3, 2021

Honorable Joshua Cohn, Mayor
Rye City Council

Dear Mayor Cohn:

The Rye Free Reading Room respectfully requests the use of the Village Green to offer three musical events this spring and summer with flautist Dr. Caroline Sonett-Assor and violinist Dr. Soo Yeon Kim.

Duo partners Dr. Soo Yeon Kim, violin, and Dr. Caroline Sonett-Assor, flute, are performing musicians, educators, and administrators in the NYC Metropolitan Area. Dr. Kim and Dr. Sonett-Assor met during their doctoral degrees at the Eastman School of Music and have been collaborating ever since. They are strong advocates for creative and inclusive musical programming and for innovations in music education. Both women have performed internationally, spoken at industry conferences, and have held university teaching positions. They seek to infuse every musical performance with an educational aspect, sharing with their audiences the historical significance and technical considerations of each musical selection.

The dates for the performances are:

- Saturday, May 1, 5:00 - 6:00 pm, Rain date Sunday May 2, 5:00-6:00 pm
- Saturday, June 12, 5:00 - 6:00 pm. Rain date Sunday, June 13 5:00 - 6:00 pm
- Saturday, July 17, 5:00 - 6:00 pm. Rain date Sunday, July 18, 5:00 - 6:00 pm

The library will be setting out socially distanced seating for participants and capping the number of registrants according to federal, state, and local guidelines.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Shoemaker', with a long horizontal flourish extending to the right.

Chris Shoemaker
Library Director



March 1, 2021

Honorable Joshua Cohn, Mayor
Rye City Council

Dear Mayor Cohn:

The Rye Free Reading Room respectfully requests the use of the Village Green to offer Wiggle Giggle with Dawny Dew, a popular children's program. The library would like to move the programs outdoors every Wednesday from May 5th through October 27th, 2021. The program begins at 9:30, and repeats at 10:15 and 11 am. Each of the three sessions runs for 20 minutes. The program is available for free to participants.

Dawny Dew is a well-loved music performer in the Rye community, and she uses a small portable sound system to amplify her autoharp and voice.

The library will be using designated seating areas to indicate social distancing guidelines, and library staff will be on hand to help enforce appropriate behaviors. Participants will be limited to one session to discourage crowding. The library will observe New York State public gathering restrictions and other health and safety guidelines from the federal, state, and local governments.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Shoemaker', with a long horizontal flourish extending to the right.

Chris Shoemaker
Library Director



March 3, 2021

Honorable Joshua Cohn, Mayor
Rye City Council

Dear Mayor Cohn:

The Rye Free Reading Room respectfully requests the use of the Village Green to offer Summer Storytime walks for children and families. Storytime walks consist of 15 to 20 double-sided signs that are placed in public areas for children to view while spending time outside. The Storytime walk would be changed out each week, with the first one posted on July 6th and the final one being posted August 31st. The walks are free to enjoy for all participants.

Please see the images below for the layout and sample of the sign.

The signs would be removed in the evening, so that no signage is left posted on the property overnight.

Storytime walks are engaging ways for families to spend time together, but are also adaptable for social distancing guidelines.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Shoemaker', with a long horizontal flourish extending to the right.

Chris Shoemaker
Director

