

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

**REGULAR MEETING OF THE CITY COUNCIL  
VIA ZOOM CONFERENCE  
Wednesday, March 24, 2021  
6:30 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/94081633947?pwd=a2pQTytpWjNWL3VZMihoeHNOVjFJUT09>

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

Webinar ID: 940 8163 3947

Password: 440248

*[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. Acceptance with gratitude of the gift to the City by Carolyn Cunningham of an original City recycling poster.
3. Draft unapproved minutes of the Regular Meeting of the City Council held March 10, 2021.
4. Open the 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. All public hearing comments should be emailed to [publichearingcomments@ryeny.gov](mailto:publichearingcomments@ryeny.gov) with "Moratorium" 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. Open 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.
8. Purchase Plaza update with consideration to extend the cold weather plan by 45-days and authorize City staff to approve limited alterations to private property and non-street City-owned property.
9. Authorize the City Manager to execute a contract with the Carefree Boat Club.
10. Consideration of a request from Rye Sustainability Committee RSC to host a Compost Give Back Day on Saturday, April 24, 2021 from 7 am – 2 pm at Disbrow Park near the Food Scrap Recycling drop-off. Rye residents may collect free compost with their own shovel and container to coincide with spring planting.
11. Adjourn the public hearing to April 7, 2021 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](mailto:publichearingcomments@ryeny.gov) with "Osborn Zoning Change" as the subject no later than 3:00 pm on the day of the hearing.
12. Old Business/New Business.
13. Adjournment

\* \* \* \* \*

The next regular meeting of the City Council will be held on Wednesday, April 7, 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](http://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 March 10, 2021, at 6:00 P.M.

**PRESENT:**

JOSH COHN, Mayor  
SARA GODDARD  
CAROLINA JOHNSON  
RICHARD MECCA (Departure at 9:30pm)  
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. Councilwoman Souza made a motion, seconded by Councilwoman Goddard, to adjourn briefly into executive session to discuss litigation and personnel matters. The Council reconvened in a public videoconference at 6:00 P.M. The meeting was streamed live at [www.ryeny.gov](http://www.ryeny.gov) for public viewing and participation.

1. Roll Call.

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

3. Update on Rye Playland from County Executive George Latimer.

Mayor Cohn welcomed County Executive George Latimer, County Legislator Catherine Parker and the members that represent the County Administration. County Executive Latimer highlighted the points of discussion for this evening and stated that Councilman Mecca and Rye citizen Sabrina Bunn have been designated to represent the City of Rye in future discussions as Playland proceeds with their plans for renovation.

County Executive Latimer started by introducing Joan McDonald, Director of Operations, to speak on the plans for the 2021 Playland Operations. Ms. McDonald stated that the Playland Amusement Park will plan to be open this summer at 33% capacity, as recommended by the State Health Department, which equates to roughly 3,300 patrons, and will be following all safety and cleaning protocols. Playland is scheduled to open from Saturday, June 26, 2021 through Labor Day, Sept 6, 2021 on Wednesdays through Sundays, plus Monday, July 5 and Monday, Labor Day 2021. They plan to open in two sessions: 12pm-4pm and 5pm-9pm. The price has been established at \$20 per rider, \$15 per junior rider, \$10 per spectator and \$10 for parking. Tickets will sold online and must be purchased in advance.

**UNAPPROVED MINUTES** – Regular Meeting - City Council  
March 10, 2021 - Page 2

County Executive Latimer added that fireworks displays will not be occurring this season, with the exception of a possible Labor Day weekend fireworks display, depending on the state of the pandemic. He stated a topic of conversation still remains with the Rye Police Department on how to address any issues of exceeding capacity at the park and how that will affect Playland Parkway and the surrounding areas.

Hugh Greechan, Commissioner of Westchester County Department of Public Works, provided an update on the Playland rehabilitation of pool and bathhouse. He stated the pool will now be an activity pool, versus a competition pool, with zero entry and water features slowly reaching a final depth of 4.5 feet. The deck has increased in size from the former deck and the South and North Buildings will be renovated to accommodate vendors. The front area has opportunity for outdoor dining and finally has a great view of the Sound. Additionally, the bathhouse and store fronts will be air-conditioned. Construction will start this March 2021, hoping to open by the 2022 Season. In 2023, the parking area will be re-done to include energy efficient lights and new screen planting.

Councilwoman Tarlow asked who previously used the pool for competitive swim. Peter Tartaglia, Deputy Commissioner of Westchester County Dept. of Parks Recreation and Conservation, replied that one organization, the Westchester Swimming Association, previously used it for one week in August, but now uses the Sprain Ridge Pool Complex that was recently renovated. She also commended the County for the storm water treatment at the Boat Basin.

Mr. Tartaglia then spoke about the Ice Casino which will be renovated with a new HVAC and Ionization filtration system to be installed so the main rink can open by the upcoming fall season. He stated the entire building (bathrooms, cooling systems, studio rink) is currently in a design stage but they do not have a timeline for the future renovation. County Executive Latimer added there are many details involved for the future renovation and the rink may need to be closed for an entire future season, but at this time they are doing what is necessary to open the main rink for this 2021 Fall/2022 winter season.

County Executive Latimer then gave an overview on the agreement with Standard Amusements. He started by explaining when Standard filed for bankruptcy, they negotiated as best as they had leverage to negotiate. The agreements reads that Playland still needs to be managed and run as a County Park. Free access must be provided to the non-gated areas of the park in the off season and provide a schedule of fees to be approved by the Commissioner of Parks and Recreation during the on season. The agreement also contains language that the parties must consider the City of Rye and address any concerns the City may have during future decisions. They must also provide \$27.5 million dollars of new improvements and maintenance to the Park with County oversight in the planning process. He stated the projects would focus on rides, games, and on-site food establishments.

Councilwoman Goddard asked if there are landscaping requirements since it is so close to the Sound that would require natural landscaping practices. Mr. Tartaglia stated there is language regarding this issue in the agreement.

**UNAPPROVED MINUTES** – Regular Meeting - City Council  
March 10, 2021 - Page 3

Mayor Cohn asked about the plan some years ago that spoke of a row of restaurants as they drove in to Playland near the Pool frontage. John stated there is a plan for one external restaurant near the fountain plaza but not a row of restaurants.

Councilman Stacks asked if safety, as it relates to construction next to water, is considered. Mr. Tartaglia stated Standard is subject to County review of all environmental issues and must abide by all environmental laws and requirements in addition to a SEQRA review. County Executive Latimer added that the current footprint will remain for any future projects and they will not extend beyond the original footprint.

2. Draft unapproved minutes of the Regular Meeting of the City Council held February 24, 2021.

Councilman Stacks stated that he may have misspoken at the previous meeting, and asked to amend his comment regarding the Rye Golf Club course opening for 2021. Although the course is technically open to members to play, the greens and tees are closed and will open hopefully soon depending on the weather. An official date is to be forthcoming.

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the minutes as amended above of February 24, 2021.

3. 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](mailto: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 of Divney Tung Schwalbe on behalf of the applicant, and Michael Galante, traffic consultant.

Mr. Galante started by stating the firm he represents (F.P. Clark) has been established in Rye since 1950. They have worked on traffic conditions for the Rye Central School District, Rye Country Day, County Clubs and the YMCA. He addressed the concern that the traffic study was done during the pandemic but stated DOT did a traffic study in 2016 and used that as a comparison tool for this traffic evaluation. They adjusted the traffic count by increasing traffic on Theall Rd by 34% to account for the current situation. He detailed the process in which the traffic evaluation is calculated if they added 130 beds to the campus. The findings were that the Osborn would add 25-45 cars to traffic during its peak times.

Mayor Cohn asked how Osborn visitors were accounted for during the pandemic. Mr. Galante stated deliveries seemed to have increased while staff counts remained the same compared to pre-pandemic and increasing the traffic on Theall Rd by 34% would capture the visitor traffic rate.

**UNAPPROVED MINUTES** – Regular Meeting - City Council  
March 10, 2021 - Page 4

Councilwoman Souza asked how the full impact of the St. Regis was considered. Mr. Galante stated his firm also conducted the traffic study for that property and the increased percentage also included any construction-related traffic. He added from the St. Regis traffic study, they had already determined that the traffic impact on Theall Road would remain very low.

Councilman Stacks asked if during the traffic study for 120 Old Post Road they conducted the traffic impact as a business versus a senior living property. Mr. Galante confirmed that traffic evaluated a 70,000 square foot office building versus a 110 unit senior development and the outcome was traffic would be higher if the site remained as an office building.

Councilwoman Goddard asked if the Osborn would increase the frequency of their bussing to support the residents of the Osborn if they expand the campus. Mr. Anderson stated they do have a bus that drives to and from the Harrison train station all day as many of the staff takes public transportation to go to work. Councilwoman Goddard clarified if they would shuttle residents to town to reduce resident driving and additional traffic, which is what the St. Regis promoted. Mr. Anderson confirmed they would absolutely add to their current fleet if more residents joined the Campus.

Councilwoman Tarlow asked if they conducted numbers at the intersection of Osborn and Boston Post Road. Mr. Galante stated he did not but they did do a count Osborn Road by the School, as well as on Theall Road and Osborn Road. She then stated a resident was concerned that the Harrison project and St. Regis would both add traffic to the neighborhood. Mr. Galante stated that they did not perform the study for the Harrison Avalon development but looking at the study that was conducted, it did not seem to add traffic by great numbers.

Mayor Cohn asked when a full traffic study would be conducted. Mr. Galante stated he does not have a timeline but can confirm the Osborn has offered to assist in a future traffic study. Mr. Wrabel wanted to clarify that what is being asked at this current time is what impacts the zoning change will have on traffic. That number is based on the Osborn and would not change regardless of what other developments are made in nearby areas. Second, what is the larger traffic picture of this area and what can we do to mitigate that. Mr. Galante agreed that the first number would not change as it is based on adding 130 beds to the campus. Second, he stated that in the larger picture of traffic, most of the traffic for that area is generated from the school, specifically during drop off and pick up times. The Osborn generates traffic but the three driveways may divert the traffic congestion.

Councilwoman Souza asked if the 25-45 additional cars that would add to traffic were during peak times or over the duration of the day. Mr. Galante clarified that it was during the peak hours of the road which is pick-up and drop-off times for Osborn School. The peak hours are one hour in the morning and one hour in the afternoon and the additional 25-45 cars would be spread out over the entire area, where the impact on the Osborn School zone would be just five cars.

Councilwoman Tarlow added that this zoning change could potentially have a noticeable impact to the neighborhood. She added that the traffic is a big problem regardless of this

petition. Councilwoman Goddard agreed that the traffic is a terrible problem and needs to consider this petition and how it affects this already enormous problem.

Mayor Cohn stated he spoke with the school district and confirmed they are aware of this petition and intend to work with everyone to come up with this traffic solution. Councilwoman Souza asked if there was a timeline since the school is undergoing their own construction and how future Osborn construction would affect the traffic. Mr. Galante stated with the St. Regis, the traffic is mainly the eyesore of cars parked along the road, where in the case of the Osborn, the construction vehicles can all fit on the Osborn property. Mr. Wrabel stated there would be much discussion with the Planning Commission as it relates to traffic mitigation of the construction vehicles at that phase.

Councilman Stacks asked if the school conducted a traffic study for their own construction. City Planner Miller confirmed they did not and are exempt from the normal process of land use review or building permits from the City. Councilman Stacks pointed out that as a result, there could be an additional impact from the School that the City and immediate neighborhood are unaware of. Mr. Miller and City Manager Usry confirmed the Osborn School has stated they are aware of the traffic and will partake in further discussions on how to mitigate traffic with The City.

Councilman Mecca clarified that traffic will be addressed during the planning phase with the Planning Commission but should not be the focus of this zoning text amendment.

Mr. Tung addressed visual character of the neighborhood should they develop a four-story building at a 300 foot setback and 340 foot parking setback. He provided photos of location of proposed early plantings as well as current evergreen and deciduous trees they would add to keep in line with the landscaping of the property. Additionally, he displayed photos of current buildings detailing the landscaping, setbacks, and elevations. Specifically, he provided a street view of the current Sterling Park Center 4 story building which is set back 225 feet. Additionally, he added the elevation of this building is 21 feet where the area of concern would have a 300 foot setback at a 15 foot elevation.

Mr. Tung then displayed an aerial map to indicate the areas of the campus that they would be looking to expand. This included adding a specialties care unit, expanding the assisted living area of the current building, adding an independent living community space in an area adjacent to a current three-building area that forms a court yard, and updating the space of the current cottages.

Mr. Anderson clarified that these are all conceptual ideas on how the campus can function for the future. He understands that the neighbors are looking for renderings but stated it would be misleading to provide a sketch of what they can possibly build when that may not be the future plans for the campus.

Councilmembers stated that the neighbors are looking for renderings in the worst-case scenario. They stated that in order to move forward, residents and Council still need a better understanding of what the end result could look like and will require more of a conceptual plan.

Mayor Cohn invited the public to speak. (There were 91 attendees with 20 “hands” raised.)

Andrew Keller, 81 Osborn Rd, spoke in opposition of this petition. He stated he lives across the street from the green space and reiterated how important that space is. He asked the Council to consider how their decision will affect the overall big picture of the neighborhood and traffic in the area.

Councilwoman Souza clarified that the Council is not intending to vote this evening.

Nez Mustafic, 145 Osborn Rd, spoke in opposition of this petition. He stated that visuals would really help but they moved to this area because of the green space and open feel of the area.

Craig Haines, 2 Coolidge Ave, spoke in opposition of this petition. He felt it is detrimental to the neighborhood and property values if the Council were to approve this petition.

Kendra Moran, 190 Oakland Beach Ave, on behalf of herself and her parents, Jack & Pat Geoghegan, 155 Osborn Rd, spoke in opposition of this petition. She complimented all of the previous renovations of the Osborn but felt increasing the FAR by 50% will negatively affect the community.

Sean Plummer, 111 Osborn Rd, spoke in opposition of this petition. He felt it will negatively impact property values and change the character of the neighborhood and is concerned for the years of construction and how children are affected during construction.

Emily Powers, 23 Coolidge Ave, spoke in opposition of this petition. She echoed her neighbors’ concerns on protecting the green space and character of the neighborhood, concern of traffic, as well as preserving mature trees.

Sven Hansen, lifelong resident of Rye, spoke in support of this petition. He reminded the public that the green space does belong to the Osborn who has generously shared the space with the community. He stated he would be surprised if the Osborn would choose to build a building that far away from the main building. Lastly, he stated if the Osborn could not maintain their status and were forced to sell the property, new owners could easily take away the green space.

Rosalie Louw, 45 Osborn Rd, spoke in opposition of this petition. She asked the Council to consider how it will impact the children at school. Nicholas Louw added that they should consider the bigger picture and how the construction process will affect the neighborhood.

Linnea Piket, 18 Sonn Dr., spoke in opposition of this petition. She expressed the concern for children as it related to noise and dust. She also addressed pedestrian traffic safety in that area. She asked that the applicant clarify where the three entrances would be and suggested they add a duck pond or something else in good faith where the seniors and children can enjoy the space together.



Sabrina Tavi, 9 Osborn Rd, spoke in opposition of this petition. She ask that an updated Master Plan be established before considering a petition like this and reiterated how unsafe the current traffic is and has been for years.

Cole Mackay, 10 Heritage Ln., spoke in opposition of this petition. He expressed his concern of all of the recent development around the community and suggest the Osborn focus their development on the north end within the current allowable FAR.

Leslie Ebers, 138 Osborn Rd, spoke in concern of this petition. She expressed how many people do not have spatial awareness which is why the need for renderings are so important. She asked that if blasting were to occur, to not have it done during school hours.

Abe Sandberg, four-year Osborn resident, spoke in support of this petition. He said he moved because of the beautiful campus and stated the Campus needs to continue to grow and improve or it will not be a viable future institution.

Frank Kenny, 471 Park Ave, 40-year Rye resident, stated the Osborn needs to provide renderings in order for the petition to be considered. He stated that the Osborn is a very important and necessary member of the community but needs to provide more details for the public.

Amanda Timchak, 61 Osborn Rd, spoke in opposition of this petition. She reiterated that a visual of a worst case scenario is important and would address neighbor concerns. She suggested further discussion on restriction heights at certain areas of the campus.

Stacey Massey, 51 Soundview Ave, spoke in opposition of this petition. She expressed her concern with the environmental impact and how the construction will affect the children at school.

Don McHugh, 53 Coolidge Ave, spoke in support of this petition. He stated that the Osborn needs to continue to grow as it is in the Community's best interest to see the Osborn succeed. He stated they have always been good neighbors and makes reasonable considerations and responsible decisions.

Katie Sibson, 125 Osborn Rd, spoke in opposition of this petition. She felt removing cottages and possibly building multi-story buildings would be detrimental to the neighborhood.

Daniella Arredondo, 5 Osborn Rd, spoke in opposition of this petition. She reiterated that the neighbors really need more details and is very concerned about putting multi-story buildings where the cottages are.

Christine Cote, 1 Coolidge Ave, spoke in opposition of this petition.

Tom Lavin, 4302 Theall Rd, spoke in support of this petition. He added that there are 40 cottages that are occupied with residents and construction could not even start for possibly 40 years until they are all vacant. He stated while driving from the street, it was hard to see the multi-story buildings and the likelihood of demolishing the cottages are slim.

Sue Drouin, 57 Morehead Dr., spoke in opposition of this petition. She is concerned with traffic and pedestrian safety, the lack of plan for the Osborn and the need for an updated Master Plan.

Seam Plummer wanted to clarify that the Osborn is in fine financial standings stating that the bond rate for the Osborn is rated as an A- rating. He recognizes their interest in growth but wants to make it clear they are not in a financial situation where there is a dire need for growth in order to continue as an organization. He also added as it relates to being a large tax payer, they enjoyed 100% charitable tax exemption from 1908-1996. Since then, he said that they have been recognized with an 18.04% tax exempt status and filed for back taxes to be paid for the years 1997-2003.

Danielle Arredondo asked to bear in mind the visuals from a child's point of view from the school playground as the buildings would appear that much taller.

Rosalie Louw commented that if the cottages are to remain for many years, as commented by another supporter, she suggests amending the text to keep the cottages as they currently stand.

Frank Kenny pointed out how drawings can assist in making reasonable decisions, as it will allow the community to see the full scope of the project. He added that he supported this project.

Councilwoman Souza made a motion, seconded by Councilwoman Johnson and unanimously carried, to extend this public hearing to March 24, 2021.

\*\*\*\*10 minute recess\*\*\*\*  
Councilman Mecca left the meeting.

4. Presentation of Capital Projects Finance Plan

This item was deferred to the March 24, 2021 meeting.

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

Patti Yoon, 93 Oakland Beach Avenue, spoke on behalf of her and her neighbors about the overdevelopment for 95 and 97 Oakland Beach Avenue. She asked to re-visit the approval of the subdivision for those lots. She added that the developer failed to comply with going to the Planning Commission prior to the removal of the trees. Additionally, she stated that one of the homes was submitted to the Board of Architectural Review Board and felt that the Board could not request major adjustments to the plans. As such, she requests the City Council instruct the Board of Architectural Review to make major adjustments to the submitted plans.

**UNAPPROVED MINUTES** – Regular Meeting - City Council  
March 10, 2021 - Page 9

Frank Kenny, owner of real estate on Purchase Street, stated that he was a land use planner by profession. He stated that merchants have approached him to speak on their behalf as it relates to outdoor shopping for the summer. He suggests that a local architect re-design the streetscape and not just take the comments from groups like Rye Moms or the restaurants.

Martin Kehoe, 101 Oakland Beach Avenue, wanted to ask they re-consider the subdivision of 95 and 97 Oakland Beach Avenue. He also spoke about the trees and asked the Council protect their fellow residents by addressing their concerns.

Kathy Hobbins, 75 Oakland Beach Avenue, spoke about how the new homes will tower over the newly constructed large home on Thorne Place, as well as contribute to water drainage issues.

Nadine Waxenberg, 19 Thorne Place, also request the Council evaluate 95 and 97 Oakland Beach Avenue and the zoning of these properties which she believes is the real issue.

Leslie Ebers, 138 Osborn Road, said that the concern the callers are speaking about regarding the subdivision is the same concern her neighborhood has for the Osborn petition. She feels if it is not addressed now, they will not have a chance for input in the near future.

Carlos Peraza, 17 Thorne Place, wanted to echo his neighbors and feels violated about what has been going on with the recent re-development.

Patti Yoon added that three 40 foot trees fell down on her property on Christmas day as a result of the previous trees being taken down by the builder at 95-97 Oakland Beach Avenue. She wanted to express that there was an impact that has already resulted from this subdivision. She said there are cracks in her house as a result of the blasting. She also stated that her neighbor on Thorne Place spent \$40,000 in water pumps as a result of the water issues she now has due to the recent development.

Councilwoman Tarlow asked if anyone has looked into local laws or remedies to the concerns for 95 and 97 Oakland Beach Avenue. Mayor Cohn stated although the blasting, drainage and previously cut down trees have not been directly addressed by the Council, item 9 of this meeting was prompted as a direct result of the concerns above. He noted to the residents that the Council is keenly aware of the concerns as it relates to flag lots.

Councilwoman Johnson asked Corporation Counsel Wilson if there is any recourse if determined that violations existed on this site. Corporation Counsel stated building permit applications have been filed but does not believe they have been granted. She is unaware of any violations that exist with respect to removal of trees or any other process that has been violated.

Councilwoman Tarlow asked if trees were removed without Planning Commission approval, could action be taken. Corporation Counsel Wilson stated if any evidence is presented that warrants a violation took place, they would look into the matter.

Councilwoman Goddard asked what penalty would take place if there was a violation. City Planner Miller stated he would need to look into the issue, reference the code, and make a determination after that.

Martin Kehoe added the code states that a Certificate of Occupancy cannot be issued if trees were removed illegally.

6. Update on Rye Recreation improvements

Superintendent of Recreation, Sally Rogol, and Superintendent of Public Works, Ryan Coyne, provided an update on the improvements to Rye Recreation. Superintendent Rogol started by showing prior and current photos of the lower shelter of the South end, comfort station on the south end, upper shelter, comfort stations on the North end, and the pathways and plantings on the south end of the park. City Manager Usry added the Public Works crew is looking to complete a majority of the work by the start of summer camp and within the authorized budget.

Superintendent Coyne provided slides with areas of focus to be completed. This includes: lower level lounge patio, Girl Scout Room patio, rebuild of the Marion Kirby Friendship Garden, upper level big room covered patio, assorted signage and accessible pathways, and new tree and shrub plantings and turf establishment.

He spoke about the how they wanted to add STEM ideas during this renovation and decided to build the Girl Scout Room Patio to the Golden Ratio  $\Phi = 1.618$ . It is believed to be the most proportional and pleasing to the eye rectangle in ancient and modern architecture. Then, they took the Fibonacci sequence and used that as the layout for the bluestone patio. While it may not be identified immediately, the hope is to spark interest in math and science while the patio is being enjoyed by children.

Next, Superintendent Coyne spoke about the new initiative for Recreation which is to build an Amphitheater near the Girl Scout Room Patio and lower level lounge. He provided a sketch of the area with leveled tiers of seating area connected to the pathway which would make it ADA compliant. When doing research, they discovered concrete amphitheaters are extremely expensive with much precision work and ultimately decided that synthetic turf without infill would be used to construct 2 foot walls with platforms of crushed seashells. The sketch showed an amphitheater to accommodate 120 socially-distanced people.

The Council voiced their full support and appreciation to the Recreation and DPW departments. Councilwoman Goddard asked if the garden will be a pollinator garden and stated she could find some helpers if needed. Superintendent Coyne said he would welcome the helpers.

City Manager Usry added their only hesitation when thinking of this amphitheater would be the cost. As a result, they found remaining bond proceeds from the 2002 Recreation bond issue as well as additional funds that were slated for the Damiano Recreation Center so the estimate cost of \$60,000 for this project have been accounted for without hindering the current budget.

**UNAPPROVED MINUTES** – Regular Meeting - City Council  
March 10, 2021 - Page 11

Lisa Tannenbaum, 12 Roosevelt Ave, spoke in support of the amphitheater. She recognized that sports are a big part of this community but to add something for children that may not be sports involved but rather arts involved is such a wonderful addition to the community.

Corporation Counsel added that since there is a change in use for the property, a resolution needed to be adopted.

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

**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.

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

City Manager Usry explained that the Friends of the Rye Nature Center operate the Nature Center complex and provide maintenance and vision for the property. The City has been working on a new agreement which has been expired for several years. This new agreement is for 25 years with the option of two 5-year extensions beyond that.

Councilwoman Goddard thanked City Manager Usry and Corporation Counsel for their hard work.

Councilwoman Souza made a motion, seconded by Councilwoman Johnson, to authorize the City Manager to sign an agreement with the Friends of Rye Nature Center.

**ROLL CALL**

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

Liza Sandler spoke on behalf of the Friends of the Rye Nature Center to thank all those involved in completing this agreement. She said it mutually benefited all parties, but most importantly the community.

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.

By way of background, Mayor Cohn stated this was an issue brought to his attention by a member of the Planning Commission some time ago as frequent sources of concern in the planning process as they escape the zoning code, in particular flag lots.

Corporation Counsel added that the proposed text addresses four items: it prevents the processing of future subdivisions or lot line changes, prevents the issuance of building permits for a recently approved sub division (95 and 97 Oakland Beach Ave) triggered by the date a plot was filed with the Westchester County Land Records, prevents the processing of most applications by Boards and Staff where such properties have slopes in excess of 25%, and prevents the processing of applications by Boards and Staff of such properties where the front of the property does not face the street.

Councilwoman Souza made a motion, seconded by Councilwoman Johnson, to 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.

Nadine Waxenberg noted that the application of 95 and 97 Oakland Beach Avenue is scheduled to be heard at the Board of Architectural Review for March 22, 2021 and hoped it not be approved at that meeting. Mayor Cohn stated he would look into that.

10. Resolution to declare certain City equipment as surplus.

City Manager Usry specified that the subject of this resolution is an old dock that is not needed that will be going to a third part for auction. The estimated value is \$2,000.

Councilwoman Souza made a motion, seconded by Councilman Stacks to 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.

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Souza, Stacks, Tarlow

NAYS: None

ABSENT: Councilman Mecca

**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.

Councilwoman Johnson made a motion, seconded by Councilman Stacks and unanimously carried, to approve 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.

Mayor Cohn made the following appointment to the Boards, Commissions and Committees, which the Council approved:

**Sustainability Committee**

- Amanda Sackey, appointed for a term with no expiration

Mayor Cohn and Councilwoman Goddard thanked Amy Kesevan for her many years of service on the Sustainability Committee as she has decided to step down as a member.

13. Old Business/New Business.

There was nothing to report on this agenda item.

14. Adjournment

***UNAPPROVED MINUTES*** – Regular Meeting - City Council  
March 10, 2021 - Page 14

There being no further business to discuss, Mayor Cohn made a motion, seconded by Councilwoman Souza and unanimously carried, to adjourn the regular meeting of the City Council at 10:37 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:** Open a public hearing 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 24, 2021

**RYE CITY CODE,**

CHAPTER  
SECTION

**RECOMMENDATION:** That the Council open 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 filed<sup>1</sup> 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

---

<sup>1</sup> 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.: 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 24, 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 6<sup>th</sup> 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.



<b>Projects</b>	<b>Total Cost*</b>	<b>Useful Life</b>
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
	<b>\$ 21,732,040</b>	

*\*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.

<b>Grant-Qualified Projects</b>	<b>Total Cost</b>	<b>Grants</b>	<b>Net Cost</b>
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
	<b>\$ 10,632,040</b>	<b>\$ 6,193,135</b>	<b>\$ 4,438,905</b>

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:

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

## **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.

<b>Use of Funds by Project</b>	
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 <sup>1</sup>	3,511,095
	<b>\$ 26,923,135</b>

<b>Source of Funds<sup>2</sup></b>	
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>
	<b>\$ 26,923,135</b>

<sup>1</sup> 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.

<sup>2</sup> 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 24, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Open the public hearing for March 24, 2021 to review and adopt the Rye Police Department Review Committee's plan to enhance the department based upon findings the Committee has gathered through their review process of the Rye PD.

**FOR THE MEETING OF:**

March 24, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council open the public hearing and consider adopting the attached resolution.

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

**BACKGROUND:**

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. For more information, please see our [website](#).

See attached recommendations.

## **RESOLUTION ADOPTING RECOMMENDATIONS OF THE PD REVIEW COMMITTEE**

WHEREAS, on June 12, 2020, Governor Cuomo signed Executive Order No. 203 (“EO 203”) requiring, in part, each local government entity which has a police agency operating with police officers to perform a comprehensive review of current police force policies, procedures, and practices for the purposes of addressing the needs of the community served by such police agency and promote community engagement to foster trust, fairness and legitimacy.

WHEREAS, EO 203 requires the City to create a plan to adopt and implement recommendations resulting from said review and offer such plan for public comment to all citizens of the locality by no later than April 1, 2021;

WHEREAS, in accordance with EO 203, the City consulted with stakeholders, including but not limited to, membership and leadership of the local police force, members of the community, and other interested parties (the “Committee”), and made recommendations tailored to the specific needs of the community and intention of continuing to provide and, where necessary, to improve police services within the City of Rye; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Rye hereby adopts certain recommendations provided by the Committee.

## **City of Rye Police Department Review Committee Recommendations**

### **I. Introduction and Overview**

This document contains a set of recommendations concerning the City of Rye Police Department (RCPD) that are being proposed by the City of Rye Police Department Review Committee (Committee) that was established last year to carry out the comprehensive review of the RCPD mandated by Governor Andrew Cuomo’s Executive Order 203 (June 12, 2020) (Executive Order). The Executive Order requires each local government in New York which has a police force to conduct a public review of police “deployments, strategies, policies, procedures and practices” and identify ways in which those deployments, strategies, policies, procedures and practices can be improved to better meet the specific public safety needs of the relevant community, and foster trust, fairness and accountability in dealings between the community and the police.

### **II. City of Rye Police Department**

The RCPD, a police department consisting of 37 sworn officers and 10 peace officers, is responsible for maintaining law and order in a community of approximately 15,000 – 16,000 citizens. The RCPD is administered in accordance with, and guided in the performance of its duties by, several hundreds of pages of protocols, procedures, policies, and administrative requirements codified in dozens of “General Orders” (GOs). The GOs have traditionally been reviewed and approved by the Rye City Council prior to being implemented by RCPD.

The RCPD is accredited by the New York State Law Enforcement Accreditation Council. Accreditation results from an arduous process which involves a full accreditation review every five years and an annual re-certification in other years. The reviews are conducted by the New York State Department of Criminal Justice Services (DCJS), the agency tasked with accrediting police departments throughout New York State. RCPD first gained accreditation status in 1998 and the most recent full accreditation review of RCPD occurred in 2018. In order to maintain accreditation, RCPD has had to satisfy approximately 64 different standards of review.

### **III. City of Rye Police Department Review Committee Composition and Methodology.**

The Committee, whose membership was appointed by the City of Rye Mayor, includes RCPD leadership, representatives of Rye City government and community stakeholders (for full membership, see Police Review Committee webpage <https://www.ryeny.gov/services/remote-city-services-new/police-review>). The Committee has worked diligently to educate itself about the way the police in the City of Rye currently carry out their duties and how they might do so differently to better serve the community. As part of its information gathering process, the Committee solicited input from members of the community about their views on the subjects covered in the review. The primary sources of this input were public listening sessions held via Zoom on December 3, 2020 and January 7, 2021, and a widely publicized and distributed anonymous survey (in English and Spanish) seeking community views about the police. The survey also sought input from individuals who work or shop in the City of Rye, or visit the City of Rye. The public was also encouraged to submit written comments about the police

(anonymously or otherwise). RCPD leadership cooperated freely and fully in the work of the Committee.

The Committee formed two subcommittees to facilitate review of the topics to be covered as identified in the “Resources and Guide for Public Officials and Citizens” dated August 2020 that was distributed in connection with the Executive Order. The first subcommittee addressed “What Functions Should the Police Perform,” and “Fostering Community-Oriented Leadership, Culture and Accountability,” and the second addressed “Employing Smart and Effective Policing Standards and Strategies,” and “Recruiting and Supporting Excellent Personnel”. Beginning in September 2020, each subcommittee investigated, researched, and discussed their topics and identified possible recommendations for improvement. The full Committee then met over many sessions to discuss the subcommittee proposals and to agree a final set of recommendations to be distributed for public comment.

#### IV. Public Input

As noted, two public listening sessions were held via Zoom to solicit community input. Due to the need to use Zoom imposed by the Covid-19 pandemic, community members were required to register in advance, and could choose to speak by submitting their name in advance or inputting their name in the chat box of the Zoom session. Speakers were limited to three-minute statements to ensure that all community members were allowed the opportunity to present their input. Zoom meeting recordings are available on the City of Rye Police Review webpage.

The Committee, concerned that some residents might not feel comfortable discussing their issues in public, wanted to allow residents and visitors to the City of Rye the opportunity to communicate their concerns anonymously. The first mechanism for achieving this goal was the creation of internet and physical mailing addresses for communications to the Committee. Communications received were reviewed by the Committee chairpersons and distributed to Committee members.

The second mechanism for obtaining anonymous public input was a survey. The survey was designed to elicit information about interactions and satisfaction levels with the RCPD from Rye residents and from nonresidents who spend time in Rye.<sup>1</sup> The survey was circulated to the public via a printed post-card mailed to every postal patron, social media, a City-wide e-mail blast, in the Rye Record newspaper, and placement on the City’s website, plus additional targeted distribution efforts including physical distribution of cards to passersby on Rye streets. The survey results were analyzed by a third party professional and a subcommittee was formed to review the results and provide survey findings to the Committee and public. The survey and results can be found on the City of Rye Police Review webpage.

#### V. Recommendations

It is the consensus view of the Committee that the RCPD is an excellent organization that meets the public safety needs of the City of Rye and that there is currently a high degree of trust, fairness

---

<sup>1</sup> The survey was not designed as a research study, so the conclusions that can be drawn from it are limited.



and accountability in dealings between the community and the police. That view is supported by the evidence of the survey conducted by the Committee and by the fact that there have been no more than three civilian complaints against police officers in each of the last four years.

Despite this view, the Committee has nevertheless determined that there is room for improvement in some of the ways RCPD conducts its business and interacts with the community. Those improvements were initially framed as a draft set of recommendations that were presented for public comment in accordance with the requirements of the Executive Order. The eighteen final recommendations of the Committee (which reflect the public comments received) are as follow:

1. RCPD should revise its Mission Statement in light of the matters discussed in the deliberations of this Committee, the other recommendations in this report and recent events.
2. The Governor and our elected officials should review the New York State and Westchester County Civil Service rules and process to identify ways to give police departments more flexibility to hire qualified officers in accordance with their own diversity goals. Specific changes that should be considered are elimination of the Rule of 3, increasing the frequency of the Civil Service exams, and allowing police departments to access multiple civil service lists.
3. RCPD should request authority from Westchester County to hire from non-adjacent counties.
4. To the extent allowed by the existing County of Westchester and State of New York Civil Service Law, RCPD will consider a diverse slate of qualified potential candidates when filling open roles. This will include, to the extent possible, choosing interview slates that include women and minority candidates.
5. RCPD should increase opportunities for community members to get to know their local police officers, with a focus on young adults and school age children. RCPD's current active participation in RyeACT and the Adopt a School program should be supported and enhanced. We also recommend restarting *Coffee with a Cop*, a national community policing strategy supported by the US Department of Justice, as soon as pandemic circumstances permit.
6. RCPD should continue to follow all DCJS, Westchester County and NY State training and education requirements and seek to improve and enhance the education and training of officers in areas such as "Use of Deadly Physical Force," "Racial Sensitivity," "De-escalation Techniques," "Handling Emotionally Disturbed Person (EDP) Situations," "Detecting At Risk Youths," "Mental Health First Aid," and "Implicit Bias" by including best practices used by federal, state, and other local police authorities (as adapted for Rye community circumstances and needs).

7. RCPD should complete the scheduled and budgeted use of “Body Worn Cameras” (BWCs) as soon as practicable, including the creation of policies and procedures for the use of BWCs and the handling and retention of data collected, and relevant training. These policies, procedures and training should incorporate best practices used by federal, state, and other local police authorities (as adapted for Rye Community circumstances and needs).
8. RCPD should enhance its process for reviewing and updating policies and procedures to include best policing practices used by federal, state, and other local police authorities (as adapted for Rye community circumstances and needs). The enhancements should include a specific review schedule and confirmation and clarification of the process by which policy changes are approved by the Rye City Council.
9. The Rye City Council should direct the City Manager to arrange regular, periodic review of new and revised policies at public Council meetings.
10. RCPD should take the following actions with regard to its policies:
  - i. Review and update General Order 120.1 concerning Internal Affairs. In particular, the title of the General Order should be changed to something along the lines of “Professional Responsibility and Integrity.”
  - ii. Review and update General Order 114.1 on handling civil demonstrations/disorders.
11. RCPD should create and implement a policy of peer intervention that both encourages and requires the reporting of disproportionate treatment (or the perception thereof) of anyone on account of race, sex, national origin, sexual orientation, gender identity, religion, disability, or any other protected class (“Biased Policing”). Police officers shall be advised, as part of the policy, that the City of Rye acknowledges that reporting an incident of Biased Policing is a protected complaint under Civil Service Law § 75-b, and therefore any officer who makes a complaint of Biased Policing in accordance with terms of that law shall be shielded from retaliation.
12. RCPD should propose a policy for the collection and review of demographic information and other data concerning police interactions with the community for the purpose of confirming that policing in Rye complies with applicable laws, regulations and policies. The proposed policy should be submitted to the Commissioner for Public Safety, the Rye City Council, the City Manager, and the Community Police Advisory Committee for review and comment and, after consideration of such comments, RCPD should submit a final policy to the Commissioner, the City Manager and the Rye City Council for approval. Points to be considered in developing the proposed policy should include, but not be limited to, the following:
  - i. Differences between interactions initiated as a result of a citizen call, interactions initiated as a result of information from license plate readers and other police departments, and interactions initiated at the discretion of an officer.

ii. The legality, practicality and technological feasibility of collecting and retaining demographic information about individuals, particularly in each of the following categories, among others:

- a. persons who are stopped and/or detained based on a reasonable suspicion that a crime was committed;
- b. persons who are stopped for a minor violation who ended up being charged with a more serious crime;
- c. persons for whom a no-knock warrant is requested;
- d. persons for whom a no-knock warrant is obtained;
- e. persons upon whom weaponry, including firearms, tasers, and pepper spray, is used; and
- f. persons upon whom physical restraint is used.

iii. RCPD supervisory review and analysis of data collected and provision of periodic reports by RCPD to the Commissioner for Public Safety, the City Manager and the Rye City Council concerning such review and analysis.

iv. Whether there is a need for professional assistance in analyzing data collected.

13. The Rye City Council should create a Community Police Advisory Committee to increase community understanding and trust building between the police and community. The Committee should have the same type of membership, organization and administration as other City of Rye advisory committees. The membership may include, but should not be limited to, the Commissioner for Public Safety, other assigned police officers; members of local clergy; representatives from community youth organizations, local merchants, and a diverse set of local residents. The Committee will not be an oversight Committee. The activities of the Committee should include, but not be limited to, the following:

- i. Monitoring implementation by RCPD of the recommendations made by this Committee, as adopted by the Rye City Council.
- ii. Providing a forum to collaboratively address police and community issues, educate about police issues, and improve community-police communications and relations.
- iii. Creating a community publication/tool that highlights the rights and responsibilities of youth, parents, police, and merchants. This should educate the public and create a better understanding of police process and policy.

iv. Considering putting in place an outreach program for local youth interested in a career in public safety. This could be coordinated with police departments in adjoining communities.

v. Considering ways to increase involvement of RCPD officers as active participants in Rye community organizations and activities (including by offering resident pricing for fee-based activities if possible).

14. RCPD should make public the multi-year summary data collected regarding complaints against officers and their outcomes as well as any additional data permitted or required in the future by New York State law or regulation.

15. RCPD should create a form (in English and Spanish) to allow complaints and compliments to be easily submitted, either online or by mail.

16. RCPD should encourage officers to distribute business cards when doing so will promote improved community relations.

17. The City of Rye and RCPD should collaborate to increase the type and amount of information publicly available on its webpage in order to promote transparency about the nature of its work. In particular,

i. RCPD should post its policies on the website so that the public will be informed about the police approach to important community matters such as the use of force, de-escalation of confrontations, use of surveillance technology, the use of body cameras, protocols for interacting with the public and discipline for officer misconduct.

ii. RCPD should publicize the nature of the training required for police officers, which currently includes training concerning implicit bias, de-escalation tactics, responding to emotional disturbed individuals, and responding to sexual violence/domestic violence victims.

iii. All the information concerning the police that is contained in the City's Annual Report should be made available on the RCPD webpage.

iv. RCPD should publish summary information about community complaints against officers and their outcomes.

v. RCPD should improve the "Frequently Asked Questions" section to address current events and topics of particular interest to the community such as use of force. Webpages of similar police departments should be reviewed to confirm that RCPD FAQs cover a reasonable range of topics.

vi. RCPD should regularly review and update its webpage.

vii. RCPD should publish an organization chart and a list of personnel (with name, rank and division).

viii. RCPD should post evidence of its accreditation by the New York Law Accreditation Council.

18. To promote well-being of RCPD officers,

i. RCPD should consider providing Mental Health First Aid and Concern of Police Survivors training for officers.

ii. RCPD should promote officer awareness of the Peer Support available through Rye PBA and the Blue Foundation.



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 24, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Purchase Plaza update with consideration to extend the cold weather plan by 45-days and authorize City staff to approve limited alterations to private property and non-street City-owned property.

**FOR THE MEETING OF:**  
March 24, 2021

**RECOMMENDATION:** That the Council consider the future of Purchase Plaza and outdoor dining.

**IMPACT:** Environmental ☐ Fiscal ☒ Neighborhood ☐ Other: ☐

**BACKGROUND:** Due to COVID-19, the restaurants and other businesses in Rye cannot open their doors to allow for full capacity of patrons. This allows for greater foot traffic for our restaurants and merchants as dining can remain outdoors during the colder weather.

Greg Usry  
Interim City Manager  
1051 Boston Post Road  
Rye, New York 10580



Tel: (914) 967-7404  
E-mail: [gusry@ryeny.gov](mailto:gusry@ryeny.gov)  
<http://www.ryeny.gov>

**CITY OF RYE**  
**Office of the City Manager**

**Inter-Office Memorandum**

---

To: Mayor Cohn and City Council

From: Greg Usry, Interim City Manager

Date: March 19, 2021

Subject: Purchase Street Winter Set Up and Limited Staff Authorization

At the October 7, 2020 Council meeting the City Council authorized certain uses of City property for restaurants to utilize during the colder months. It further authorized staff to review and approve the specific requests in light of public safety, building codes, general public access etc. This authorization expires on April 1, 2020.

As the City Council considers future plans for Purchase Street Plaza, I am recommending that the currently authorized winter set up be extended to May 15<sup>th</sup>. This will allow for business and community-wide input and for the Council and City staff to do the work necessary to make a determination for this year. For your information I am attaching here the staff memo from October 2, 2020. This details the winter set up and the authorization.

Furthermore, in recent weeks the City has received requests from restaurants requesting permission to install or maintain existing outdoor facilities on private property. As part of the extension of the cold weather plan, I am asking for the Council to grant staff the authority to permit facilities on private property only, taking into account public safety and code requirements for any structures. The recommended authorization would last until the later of August 31, 2021 or the end of any 2021 Purchase Street Plaza authorization.



# CITY OF RYE

To: Mayor Cohn and City Council

From: Greg Usry, Interim City Manager

Re: Modifications to Purchase Street Plaza

Date: October 2, 2020

---

## Overview

On June 10, 2020 the City Council passed a resolution authorizing City staff to design and execute a series of street closures, parking modifications and safety measures to enable restaurants to expand their outdoor dining capacity. This was done in response to the COVID-19 pandemic, and the Governor's Phase 2 and Phase 3 orders, significantly limiting indoor dining. As part of this action, the Council further enabled staff to waive certain City permit requirements in order to expedite the process, thereby accelerating the various restaurant openings.

Over the following months the Council extended the closures two additional times (July 15 and August 17). During this period City staff worked with the Chamber of Commerce to make modifications in response to various requests or issues raised by downtown business owners and City residents. These modifications included the addition of diagonal parking spaces, the replication of the handicap parking spaces that were lost with the street closure, the extension of the street opening to Locust (and Smith), signage improvements, etc.

As we approach colder months, City staff has undertaken a further review of the downtown layout. This review was done in recognition of:

1. Restaurants remain subject to the State orders limiting indoor dining
2. Restaurants wishing to continue outdoor dining through the colder weather will need to make significant investments in tenting, heating systems, etc.
3. Seasonal winter tenting will need Building Department and Fire Safety review prior to use
4. The outdoor plaza "feel" of Purchase Street will diminish in the colder months
5. Certain merchants and downtown businesses have reported being negatively impacted by the temporary closure
6. The City will need to make provisions for snow removal and general winter maintenance.

**Tent Investment.** Installing a tent that meets relevant codes and fire safety requirements is expensive and time-consuming. If restaurants are going to make an investment in buying or renting a tent they will require a level of certainty from the City that they will be allowed to maintain that structure for a reasonable period of time. If the City intends to continue providing an outdoor space for restaurants, the City Council should provide more permanency and choose a start and end date for tent installation. A decision here should favor a much longer period of time, including through the winter and into spring 2021.



**Street Atmosphere.** One of the compelling arguments for the City Council's decision to close Purchase Street was that it not only allowed restaurants to remain economically viable consistent with Covid safety protocols, but that it also created an atmosphere within the City that many found desirable. Closing streets to traffic emphasized a pedestrian orientation. The restaurants capitalized on this opportunity, creating attractive outdoor dining spaces with colorful umbrellas and other visually pleasing amenities, even in spite of some less appealing traffic safety measures that were required to be installed such as concrete blocks and signage. The closure also availed merchants with the same opportunity to move out onto the sidewalk, or into designated parking spots.

If heated tents are used in these same outdoor spaces during the colder months, it is difficult to envision that they will contribute to a similar pedestrian-oriented, festival-like experience that was achieved during the warmer months. They will largely be inward facing serving the needs of their customer rather than outward facing enhancing the aesthetic.

**Sustaining Business.** The City wants a healthy business environment and is doing all it can to support the business community during Covid. The colder months present new challenges. Retail and personal service businesses in the colder months are challenged in a pedestrian-oriented environment like Purchase Street. The customer isn't strolling Purchase Street in frigid temperatures and enjoying it the same way. Customers would prefer less walking, more parking closer to their destination and generally less aggravation. Re-opening Purchase Street will help mitigate some of these concerns and appease those businesses that have expressed the adverse impact they believe the closure has had on their revenue.

**City Interests.** Colder weather also brings with it inclement conditions. Snow and ice removal from streets and sidewalks will be challenged in a closed and tented environment. The existing condition likely cannot remain as is without some modification, including a reduction in the outdoor dining footprint and the installation of Jersey barriers to protect dining areas from snow removal activities. It is also in the City's interest that there be a decision that does not require continuous and time-consuming re-examination of the closure. The amount of time devoted to the Purchase Street closure over the past few months has been a significant diversion of limited City staff time and resources from other priorities.

## **Recommendation**

In recent weeks, City staff has undertaken a comprehensive review of the downtown. The results of this review and extensive discussions with the restaurants have led to the recommendations below. Clearly it is impossible to meet 100% of each individual business' goals, but these recommendations are supported by all of the restaurants. This includes those whose outdoor space is being relocated and/or reduced. It is important to note that all the restaurants have requested a further extension of the current closure into late fall.

- The City Council should allow tents for restaurants and other businesses on private, and designated public property, through the winter months and into the spring of 2021 (i.e. April 1). The timing of the winter tenting should correspond with the opening of Purchase Street to regular traffic. Restaurants that wish to undertake the winter conversion may do so ahead of the opening of Purchase Street.
- Those businesses with tents on private property would generally not be permitted to have tents on public property in front of their business (tables would be permitted, subject to normal summer set up). In these cases, the City may offer the use of City property for refuse containers or merchant parking that required to be relocated by the installation of tents at the rear of their existing restaurants.

- Restaurants that do not have available property for tented use should be allowed to use public property, however the extent of that use would be significantly less than what is currently allowed. The extent of public use should be limited to the sidewalk area in front of their establishment or some alternative location on public property. The adjacent on-street parking spaces would be converted to a pedestrian by-pass (the details and cost of this require further input from DPW and would be installed using a City contractor). Traffic flow and on-street parking would return to pre-Covid conditions with the exception of parking spaces converted to walkways. *Candidates for this approach include Bare burger, Village Social, Ana Maria and Aurora (see attached figures).*
- Where neither of these options are practical nor available, tents will no longer be permitted on public property in their current location and configuration. *These include Sunrise (First St.) and Rafele (Carpark 3).* Rafele's existing tent (rear parking lot) can remain but will require City inspection for winter use.
- Under all scenarios, the location of tents must adhere to all necessary requirements and approvals from the NYS Liquor Authority.
- The current configuration/closure of Purchase Street is scheduled to end on October 12 (subject to further extension by City Council action). The new configuration, detailed above, would begin on the date of the Street reopening.
- Similar to previous Council action, the Council should delegate to staff the planning and execution of pedestrian and vehicle safety measures, permit approval for tents and related apparatus. In all cases (public or private property), tent permits must be secured from the City Building Department and Fire Inspector in accordance with all applicable City codes.
- The following table provides a summary of the anticipated plan for the installation of tents for those restaurants choosing to do so and the potential use of City property. City staff has been working with most of the restaurants and they've been receptive to the City's plan. This plan is subject to change as restaurants continue to secure tents and negotiate their plans with their landlords.

## Summary of Restaurant Planning

Establishment	Permitted Tent Location
Ruby's	Rear property only.
Rye Bar	Private parking lot only, but continue closure of Second Street.
Water Moon	Rear property only.
Frankie and Johnny's	Rear property only.
Oko/Poppy's	Rear property only.
Bareburger	Purchase St. sidewalk with pedestrian by-pass
Village Social	Purchase St. sidewalk with pedestrian by-pass
Aurora	Purchase St. sidewalk with pedestrian by-pass
Ana Maria	Purchase St. or Elm sidewalk with pedestrian by-pass
Rafele	Existing footprint in Carpark 3.
Sunrise Pizza	Existing Footprint on First Street
LPQ	No tent use
Town Dock	No tent use, but continue closure of Second Street
Al Dente	No tent use
Longford's	No tent use
Fogama	No tent use
Little Thai Kitchen	No tent use

## Next Steps

- Subject to Council action, City staff will fully authorize the use of City property consistent with the recommendations included in this memo.
- Each restaurant will provide the City Building Department and Fire Inspector with tenting plans, including lighting and heating details for approval.
- The City Engineer will begin plans for structural measures required to meet pedestrian and vehicle needs.

**RESOLUTION AUTHORIZING EXTENSION OF THE OUTDOOR DINING WINTER PLAN  
UNTIL MAY 15, 2021 AND AUTHORIZING THE CITY MANAGER AND CITY STAFF TO  
MAKE NECESSARY ACCOMMODATIONS TO ALLOW FOR OUTDOOR DINING  
FACILITIES ON PRIVATE PROPERTY**

WHEREAS, last summer, in response to Governor Cuomo’s “New York State on PAUSE” executive order and the public health emergency guidelines, the City authorized the use of outdoor public and private space to allow for a larger area to provide tables and chairs and other necessary amenities for customers; and

WHEREAS, as the winter season is ending and while the City continues to consider how Purchase Street and other streets within the Central Business District will operate this summer, the City would like provide some flexibility for eating establishments to provide outdoor dining facilities on private property without impacting any City street, sidewalk or otherwise impede or alter public access; and

NOW, THEREFORE, BE IT RESOLVED THAT:

The City Council extend the existing winter plan that is set to expire on April 1, 2021 until May 15, 2021 to allow for sufficient time to plan for any Purchase Street Plaza modifications for the summer and/or fall of 2021; and

BE IT FURTHER RESOLVED, that the City Council authorizes the City Manager and City staff to take any necessary steps to to allow for outdoor dining facilities on private property while maintaining sufficient emergency access and providing for pedestrian/cyclist safety; and

BE IT FURTHER RESOLVED, that the City Council hereby waives any outdoor dining permit fees or other similar fees for 2021; and

Where there is conflict between this Resolution and any other law, this Resolution shall control.

This Resolution shall take effect immediately and shall be in effect until the later of August 31, 2021 or the end of any 2021 Purchase Street Plaza authorization.

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 18, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Authorize the City Manager to execute a contract with the Carefree Boat Club.

**FOR THE MEETING OF:**

March 24, 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.

**COMMERCIAL BUSINESS OPERATION AND LICENSE AGREEMENT**

**THIS COMMERCIAL BUSINESS OPERATION AND LICENSE AGREEMENT (this "Agreement") dated this 1st day of April, 2021**

**BETWEEN:**

**City of Rye, New York  
attn: Greg Usry, Interim City Manager  
of 1051 Boston Post Road, Rye, New York 10580  
Telephone: 914-967-7411  
(the "Licensor")**

**OF THE FIRST PART**

**- AND -**

**HRTK-Southern Connecticut, LLC  
of 29A Essex Road, Old Saybrook, CT 06475  
Telephone: 860-316-7227  
(the "Licensee")**

**OF THE SECOND PART**

**IN CONSIDERATION OF** the Licensee receiving a license to access and use a portion of certain premises for commercial business operations from Licensor, the Licensee using those premises from the Licensor and the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties to this Agreement (the "Parties") agree as follows:

**1. Definitions**

- a. When used in this Agreement, the following expressions will have the meanings indicated:
  - i. "Commercial Business Operation Fee" is \$10,000.00 for 2021, payable annually in 5 (five) installments of \$2,000 each on or before the following dates of each year: May 1, June 1, July 1, August 1 and September 1 for a license to use the Premises for commercial business operations;

- ii. "Floating Office" shall mean a certain floating dock structure provided by Licensee to be placed in a certain slip as granted and designated by Licensors. Such Floating Office shall be the approximate size as depicted in Exhibit B and shall comply with all applicable sign regulations in the Rye City Code. Prior to placing the Floating Office in the water, the Boat Basin Commission shall approve the size and appearance of same. Licensee shall be allowed to operate its commercial business operations on the Premises out of the Floating Office. Such Floating Office shall be permitted to remain in the water until such time as this Agreement or any extension of this Agreement has been terminated;
- iii. "Permitted Parking Area" shall mean the parking spaces in the back of the Premises as designated on Exhibit A;
- iv. "Premises" means the property located at 650 Milton Road, Rye, New York, 10580.

## **2. Intent of Agreement**

- a. It is the intent of this Agreement and agreed to by the Parties to this Agreement that Licensee shall be allowed to conduct its business operations within its Floating Office, docks and slips on the Premises. The Licensee is restricted to business operations only within the floating office and slips rented by Licensee from Licensors. The use of the main dock to depart and return for Carefree members shall be permitted so long as the Boat Basin slip holders and their guests have adequate and reasonable access to the main dock. No business operations of Licensee may be conducted in the front area of the Premises, including, but not limited to, the parking lot or gazebo areas.

## **3. Licensed Premises**

- a. The Licensors agree to grant a license to access and use certain slips and docks as granted and designated by Licensors on the Premises and to conduct business operations out of the Floating Office. The Floating Office, docks, and slips allotted to the Licensee on the Premises will be used only for the operation of the Licensee (the Carefree Boat Club). The specific dock and slip locations will be determined by Licensors in conjunction with Licensee depending on the needs of both parties.
- b. Subject to the provisions of this Agreement, the Licensee is entitled to the use of Permitted Parking Area as specified and limited in Section 7 of this Agreement.

## **4. Term**

- a. The term of this Agreement shall commence at 12:00 noon on April 1, 2021, and shall terminate at 11:59 p.m. on October 31, 2026.

## **5. Payments**

- a. In full consideration of the privilege granted by this Agreement, Licensee shall pay to Licensor at the beginning of the Term:
  - i. All itemized fees for docks, slips, storage of trailer(s) and parking. For 2021, Licensee shall have the use of 8 nonresident slips, a boat slip for the Floating Office, and 5 finger docks and shall pay the fees as set forth in the Boat Basin's fees and charges. In years 2022 through 2026, Carefree will be required to pay an additional \$1,250 as part of its Commercial Business Operation Fee for each additional slip beyond the 8 slips provided in 2021. At no time during the Term of this Agreement shall the number of slips exceed 10.

## **6. Use of Premises**

- a. The Licensee will use and occupy the Premises only for the Permitted Use and for no other purpose whatsoever. The Licensee will carry on business under the name of Carefree Boat Club and will not change such name without the prior written consent of the Licensor, such consent not to be unreasonably withheld. The Licensee will open the whole of the Premises for business to the public fully fixtured, stocked and staffed on the date of commencement of the term and throughout the term, will continuously occupy and utilize the Premises in the active conduct of its business in a reputable manner on such days and during such hours of business as may be determined from time to time by the Licensor. Licensee shall have unlimited access to the boat ramps. Under no circumstances shall boats from other Carefree locations be serviced or docked on the Premises.
- b. The Licensee covenants that the Licensee will carry on and conduct its business upon the Premises in such manner as to comply with all statutes, bylaws, rules and regulations of any federal, provincial, municipal or other competent authority.

## **7. Parking**

- a. All individual slips purchased by Licensee include one (1) parking pass for the parking lot in the Permitted Parking Area, which may be used by Licensee's employees or vendors. In addition, one additional parking pass for the Floating Office is included in the Commercial Business Operation Fee.
- b. Included in the Commercial Business Operation Fee are twenty (20) additional parking passes for the Permitted Parking Area.
- c. Only properly insured motor vehicles may be parked in the parking lot on the Premises. Parking enforcement will issue a ticket if the parking pass is not properly displayed. Licensor is not responsible for any tickets issued.
- d. Any and all employees, customers, and vendees of Licensee must display a valid parking pass in order to park on the Premises.



- e. Employees and vendors of Licensee may only use the Permitted Parking Area (Exhibit A), leaving the front parking area available for customers.
- f. Additional parking passes may be purchased from the Licenser for Fifty Dollars (\$50.00).

#### **8. Right to Cure Period/Right to Cancel**

- a. Licenser shall provide Licensee written notice of any breach or failure on the part of the Licensee to fulfill its obligations under this Agreement and Licensee shall have five (5) days to cure (the "Cure Period"). If Licensee fails to cure within the Cure Period, Licenser shall have the right to cancel this Agreement. A cancellation upon breach by Licensee shall result in no refunds of any fees paid under this Agreement.

#### **9. Renewal of License**

- a. If Licensee wants to renew its license, the Licensee shall provide written notice to Licenser no later than sixty (60) days prior to the expiration of the term of this Agreement. If the Licenser decides, in its sole discretion, to renew the Agreement, Licenser shall provide Licensee with any new terms or amendments to this Agreement.

#### **10. Utilities and Other Costs**

- a. The Licensee may elect, at its sole cost and expense, to add electrical wiring to its Floating Office. If Licensee elects to install wiring for electricity service, the electricity will be metered and billed in accordance with the current fee/rate schedule.
- b. Any storage or boat trailers left on the Premises by Licensee, its employees, customers or vendees, shall be billed by the Licenser to the Licensee at the summer storage rate. Delivery of an itemized bill shall constitute notice. Licenser and Licensee shall determine the most appropriate location for its 8' x 8' storage trailer during the season.

#### **11. Insurance**

- a. The Licensee is hereby advised and understands that the personal property of the Licensee is not insured by the Licenser for either damage or loss, and the Licenser assumes no liability for any such loss.
- b. The Licensee is responsible for obtaining liability insurance for the benefit of the Licensee and Licenser. Licensee shall indemnify and hold harmless Licenser from and against any claims arising out of or based upon personal injuries, death or property damage resulting from any negligent act by Licensee or its employees, vendees or customers, as a result of Licensee's business operations.

- c. The Licensee will provide proof of such insurance to the Licensor upon signing this Agreement. Such proof of insurance shall name the City of Rye as an additional insured.

## **12. Attorney Fees**

- a. Licensee shall be responsible for all legal costs and expenses Licensor incurs as a result of any action necessary to recover any fee due under this Agreement, any breach by the Licensee, or as a result of any damage caused to the Premises by Licensee or its employees, vendees or customers.

## **13. Governing Law**

- a. It is the intention of the Parties to this Agreement that the performance under this Agreement and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of New York, without regard to the jurisdiction in which any action or special proceeding may be instituted.

## **14. Severability**

- a. If there is a conflict between any provision of this Agreement and the applicable laws of the State of New York, the laws of the State of New York will prevail and such provisions of the Agreement will be amended or deleted as necessary in order to comply with same.

## **15. Event of Order or Official Action**

- a. This Agreement is being entered into between the Parties with the full and mutual understanding that, as a result of orders or other official actions that are outside the control of the Licensor which may interfere with Licensee's operations on the Premises, such orders or other official actions shall not give rise to reconsideration of the obligations of the Parties to this Agreement, and Licensee shall be subject to all the terms and conditions of this Agreement.

## **16. Assignment and Sublicensing**

- a. The Licensee shall not assign this Agreement or grant a sub-license to use any part of the Premises. Any assignment, concession, or sub-license granted, whether by operation of law or otherwise, will be void and will, at Licensor's option, terminate this Agreement.

## **17. Care and Use of Premises**

- a. The Licensee will promptly notify the Licensor of any damage, or of any situation that may significantly interfere with the normal use and quiet enjoyment of the Premises.

- b. Vehicles which the Licensor reasonably considers unsightly, noisy, dangerous, improperly insured, inoperable or unlicensed are not permitted in the Licensee's parking stall(s), and such vehicles may be towed away at the Licensee's expense. Parking facilities are provided at the Licensee's own risk. The Licensee, its employees and vendors are required to park in only the space allotted to them.
- c. The Licensee will not make (or allow to be made) any noise or nuisance which, in the reasonable opinion of the Licensor, disturbs the comfort or convenience of other slip holders or the public at large.
- d. The Licensee will not engage in any illegal trade or activity on or about the Premises.
- e. The Licensor and Licensee will comply with standards of health, sanitation, fire, housing and safety as required by law.

#### **18. Surrender of Premises**

- a. At the expiration of the Term, or any subsequent license term granted, the Licensee will cease all commercial business operations conducted at the Premises.

#### **19. Hazardous Materials**

- a. The Licensee will not keep or have on the Premises any hazardous or flammable substances.

#### **20. Rules and Regulations**

- a. The Licensee shall obey all rules and regulations adopted by the City of Rye.
- b. The Licensor reserves its right to amend and update rules at any time during the Term.

#### **21. General Provisions**

- a. Any waiver by the Licensor of any failure by the Licensee to perform or observe the provisions of this Agreement will not operate as a waiver of the Licensor's rights under this Agreement with respect to any subsequent defaults, breaches or nonperformance and will not defeat or affect in any way the Licensor's rights with respect to any subsequent default or breach.
- b. This Agreement will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns, as the case may be, of each party to this Agreement. All covenants are to be construed as conditions of this Agreement.

**IN WITNESS WHEREOF** the Parties to this Agreement have duly affixed their signatures under hand and seal, or by a duly authorized officer under seal, on this \_\_\_\_ day of \_\_\_\_\_, 2021.

City of Rye, New York,  
attn: Greg Usry, Interim City Manager (Licensor)

\_\_\_\_\_  
(Witness)

Per: \_\_\_\_\_

HRTK-Southern Connecticut, LLC (Licensee)

Per: Mitchell Heffernan  
Managing Partner

\_\_\_\_\_  
(Witness)

\_\_\_\_\_



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 18, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Consideration of a request from Rye Sustainability Committee RSC to host a Compost Give Back Day on Saturday, April 24, 2021 from 7 am – 2 pm at Disbrow Park near the Food Scrap Recycling drop-off. Rye residents may collect free compost with their own shovel and container to coincide with spring planting.

**FOR THE MEETING OF:**

March 24, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council and Mayor consider the request.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:**

RSC is requesting a Compost Give Back Day in late April and that Rye follows the models used by Mamaroneck and Scarsdale.

This event allows any Rye resident to collect free compost at Disbrow Park on the scheduled day to coincide with spring planting. They bring their own shovel and container. Please see attached photos from Mamaroneck's Compost Give Back Day 2020. The event fosters a lot of goodwill in the community and appreciation from FSR dropoff participants.

Event promotion and signage at the event would include these instructions:

- Residents **MUST** bring their own shovels - no shovels are provided
- Maximum container size is 35 gallons
- Residents must wait in their car until it is their turn to pick up their compost.
- Engines must be off
- Masks must be worn and social distancing is required
- Limit time taking compost to accommodate others

**Quantity:**

Mamaroneck provides 20 yards of compost, for example. If compost is leftover, it can be offered a second day or DPW could use any leftover compost.

**Other requirements:**

Depending on the delivery date, tarp to cover the pile.

**FREE  
COMPOST**  
**SAT., MAY 30**  
**8:00AM-1:00 PM**

MAXWELL AVE. RECYCLING CENTER

Due to COVID-19 the process is:

- Residents must bring their own shovels - shovels will NOT be provided
- Maximum container size is 35 gallons
- You must wait in your car until it is your turn to pick up compost, please keep engines off
- You must practice social distancing and wear masks
- Please limit time taking compost to accommodate others









# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 24, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Adjourn the public hearing to April 7, 2021 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](mailto:publichearingcomments@ryeny.gov) with "Osborn Zoning Change" as the subject no later than 3:00 pm on the day of the hearing.

**FOR THE MEETING OF:**

March 24, 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.

The latest submission (February 19, 2021), which includes findings from a traffic and sewer evaluation is attached. For prior submissions and other related information, please visit: [Osborn Zoning](#) on our website.