

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

**REGULAR MEETING OF THE CITY COUNCIL
VIA ZOOM
Wednesday, March 2, 2022
6:30 p.m.**

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.

Residents may email comments regarding the public hearing to:
publichearingcomments@ryeny.gov. All comments must be received by 4:15 pm on the day of the meeting. The subject of the email should reference the hearing topic. Please include your name and address.

TO PARTICIPATE IN THE PUBLIC HEARING, PLEASE ATTEND THE MEETING VIA ZOOM VIA THIS LINK:

<https://zoom.us/j/94402663308?pwd=eTIHWIRPbERBdGpyenMwSnZFc0ZlQT09>

Or Telephone:

US: (646) 558-8656 or (312) 626-6799 or (301) 715-8592 or (253) 215-8782

Press *9 to raise your hand to speak during the public hearing

Webinar ID: 944 0266 3308

Password: 380293

[The Council will convene via ZOOM CONFERENCE at 5:45 p.m. and it is expected they will adjourn into a teleconference Executive Session at 5:46 p.m. to discuss pending litigation, personnel matters and pending contracts.]

1. Roll Call.
2. Draft unapproved minutes of the Regular Meeting of the City Council held February 16, 2022.
3. Post Ida Storm Update.
4. Update on the City's Capital Projects Program.
5. Capital Projects Finance Plan.

- a. Resolution adopting a negative declaration under the State Environmental Quality Review Act for various capital improvements classified as unlisted actions.
 - b. Resolution classifying various capital improvements as Type II actions under the State Environmental Quality Review Act.
 - c. Resolution to issue \$4,200,000 of bonds to finance the costs of various City projects related to sewer improvements.
 - d. Resolution to issue \$9,350,000 of bonds to finance the costs of construction of an addition to or reconstruction of various Class “A” buildings or systems related thereto in the City.
6. Adjourn until March 16, 2022 the public hearing to create a new local law, Chapter 122, “Landscapers and Leaf Blower Regulations” requiring all landscapers to obtain an annual permit in order to operate as a landscaper and restrict the use of leaf blowers.
 7. Residents may be heard on matters for Council consideration that do not appear on the agenda.

CONSENT AGENDA

8. Consideration of a request by the Rye Chamber of Commerce for the use of City Car Park #2 on Sundays from May 8, 2022 through December 4, 2022 from 6:30 a.m. to 2:30 p.m. for the Rye Farmers Market.
9. Consideration of a request by the Rye Free Reading Room for the use of the Village Green and City Hall Parking lot to host the Annual Vehicle Fair Sunday, May 22, 2022 from 11:00 a.m. to 3:00 p.m.
10. Consideration of a request by the Rye Free Reading Room to have three food trucks at the Annual Vehicle Fair on Sunday, May 22, 2022 from 11:00 a.m. to 3:00 p.m. The City Council will have to waive § 144-8D and G of the City Code.
11. Old Business/New Business.
12. Adjournment

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The next regular meeting of the City Council will be held on Wednesday, March 16, 2022 at 6:30 p.m.

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

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on February 16, 2022, at 6:30
P.M.

PRESENT:

JOSH COHN, Mayor
BILL HENDERSON
EMILY HURD
CAROLINA JOHNSON
JOSHUA NATHAN
JULIE SOUZA
BENJAMIN STACKS
Councilmembers

ABSENT: NONE

The Council convened at 5:30 P.M. by videoconference pursuant to the NYS Legislature waiving requirements of the Open Meetings Law. Councilman Stacks made a motion, seconded by Councilwoman Souza, to adjourn briefly into executive session to discuss litigation and personnel matters. The Council reconvened in a public videoconference at 6:37 P.M. The meeting was streamed live at www.ryeny.gov for public viewing.

1. Roll Call.

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

2. Draft unapproved minutes of the Regular Meeting of the City Council held February 2, 2022.

Mayor Cohn recommended a change to the minutes; he stated that he be included in the list of City representatives who had met with the Army Corps and DEC. The City Clerk made the appropriate changes.

Councilwoman Souza made a motion, seconded by Councilwoman Johnson to approve the minutes of the Regular Meeting of the City Council held February 2, 2022.

3. Acknowledgement of Jim Buonaiuto's service to the City of Rye.

Mayor Cohn took a moment to appreciate Jim Buonaiuto's eight years as golf club manager as he moves to a position closer to home. He stated that Mr. Buonaiuto was a calm and steady hand in rebuilding the golf club. Councilman Stacks added that the City will be losing a consummate professional and overall great person who was a pleasure to work with. City Manager Usry spoke about the current state of the golf club; Jim left the club in a great position to continue the operations he established.

4. Post-Ida Storm Update.

Mayor Cohn gave an update. He reported that before the meeting, a letter was received by New York State DEC from the Army Corps of Engineers stating that the DEC will cooperate in the initial scoping study. The City will look to the Corps to understand the acceptability of the letter, but it appears the DEC is onboard and eager to get the Corps process moving.

Mayor Cohn shared notes with the Council from the first all-hands meeting for DEC's resilient stream study of the Blind Brook Watershed which was a kickoff review of the study coming in the next six months. A parallel Ramboll study of the watershed has begun, and Mr. Usry explained that Ramboll is anxious to get started and will deliver what was promised. Two of four stakeholder meetings have been held wherein various residents, businesses, and nonprofits weighed in with their ideas and concerns. The goal is to develop definitive projects with an appropriate cost-benefit return that are ready for implementation.

Councilwoman Johnson added that Ramboll was going to keep an eye on the funding sources; when they become available, they should be built into Ramboll's presentation to the City. It will be important to receive updates, so the City is ready when the funds are available. Mayor Cohn confirmed that disaster remediation consultants are being interviewed to assist in finding funds, and it may be appropriate to RFP.

3a. Opposition of Governor's Budget Bill with regarding to zoning.

Mayor Cohn added an agenda item. Recently the City received notice of the addition of troublesome provisions in the Governor's Budget Bill that will impact zoning in the City of Rye. The "transit-oriented dwellings" provision focuses on zoning in the half-mile radius around railroad stations in Westchester and states any residential lot within the area would be subject to development as part of a 25-unit-per-acre residential development. Another inclusion is any residential lot in the City would be subject to a provision made for "accessory dwelling units," defined as independent dwelling units on the same lot as an existing property.

The added provisions of the budget bill substantially dilute the home rule zoning power of the City and will result in unplanned development burdens on infrastructure, flooding implications, and population density increases. Both state representatives oppose these provisions. The mayor encouraged the Council to pass a resolution of opposition to the proposals and forward it to the representatives and the governor.

Councilwoman Souza shared her concerns that bigger buildings that need not comply with the City's zoning standards will affect the impervious surface after experiencing the most disastrous flooding ever seen in the region. Clauses have been added to support why these provisions of the budget bill would negatively impact the City.

Mayor Cohn asked Corporation Council Wilson to read the resolution to the Council, including the "whereas" clause that Councilwoman Souza referenced:

"WHEREAS, the City has historically experienced severe flooding events with the most significant impact felt after Hurricane Ida, and the City needs to contain local control over the increase in impervious surface and lot coverage in and around the Blind Brook Watershed;

WHEREAS, it is through home rule and discrete community actions that complex issues relating to planning, zoning, and housing are best resolved; and

WHEREAS, the New York State Conference of Mayors and Municipal Officials have opposed the legislation on similar grounds, and be it further

RESOLVED, that the City of Rye opposes the proposal within the 2023 Executive Budget dealing with the accessory drilling unit proposal, and the transportation-oriented development proposal; therefore, be it

RESOLVED, that the City Council urges its partners in the state legislature, as well as the governor, to reject the accessory drilling unit proposal and the transportation-oriented development proposal, and to preserve and protect local home rule and local zoning powers."

Mayor Cohn asked for a motion to accept the resolution. Councilwoman Souza made the motion, seconded by Councilman Stacks and unanimously carried by the Council, to adopt the resolution as set forth above by Corporation Counsel.

5. Approve the application of Luke Henry Goldszer for the position of Volunteer Firefighter for the City of Rye Fire Department.

Commissioner Mike Kopy spoke of his support for Luke Goldszer's application for volunteer firefighter. Luke is an 18-year-old senior at Rye High School and will be attending a local college in the fall. He is CPR-certified and has life rescue experience as a lifeguard. The department is excited to have Luke, the first new member in some time, and he was encouraged to recruit his friends. A program is in development to have fire department internships for graduating seniors who may be interested in the career. The Council formally accepted the application in support of Luke in his pursuit to be a volunteer firefighter.

6. Continue the public hearing to create a new local law amending Chapter 197 "Zoning" of the Code of the City of Rye setting new restrictions on lot width and configurations of properties in new subdivision Rye to amend authority and scope considered by the Architectural Review Board in reviewing applications.

Mayor Cohn stated that the Council's review of three new laws should be performed with protective intent and care. Ms. Wilson shared the draft currently before the Council including a change to a minimum lot width of 75 feet.

Councilman Nathan thanked Councilwoman Johnson for her countless hours of volunteer work on this and other proposals. Mayor Cohn shared his appreciation for Councilwoman Johnson and the other volunteers on the committee who created the draft and guided its revisions.

The public was invited to speak on the matter, but there was no one present to speak.

Before voting on the new law, Councilwoman Johnson made a motion to close the public hearing, and Councilwoman Hurd seconded the motion.

Mayor Cohn asked for a motion for a vote on the new local law amending Chapter 197 "Zoning." Councilman Henderson made the motion, and Councilwoman Johnson seconded the motion to adopt the law as written below. The moratorium will automatically expire upon the filing of the new laws. The amendments approved are as follows:

LOCAL LAW NO. 2 2022

**A LOCAL LAW TO AMEND CHAPTER 197 (ZONING) OF THE
CODE OF THE CITY OF RYE, NEW YORK
REGARDING THE LOT WIDTH AND CONFIGURATION
OF PROPERTIES IN NEW SUBDIVISIONS**

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

Section 1. ***Section 197-36, Zoning, Article V, Lot, Floor Area, Height, Yard and Court Regulations, of the Code of the City of Rye is hereby amended as follows:***

§ 197-36 Lot width required.

- A. Within any residence district no part of any dwelling, house or other structure housing a main use, and within any business district no part of any residence structure shall be erected on any part of the lot which has a width of less than the distances specified in the table incorporated as Article VIII, except as hereinafter provided. In addition, for any lot created after January 1, 2022 in the R1 through R-6 District, no part of the lot that lies between the street line and the minimum required rear yard setback for the district in which the lot is located shall be narrower in width than seventy-five (75) feet or narrower in width than fifty (50) feet in any other residence district in which a single-family dwelling is proposed.

- B. For any lot created after January 1, 2022, that has frontage on a turn-around or cul-de-sac, the required lot width between the street line and the principal building shall not be narrower in width than thirty-five (35) feet and the lot width shall not be less than the distances specified in the table incorporated as Article VIII between the front of the principal building and the minimum required rear yard setback.

Section 2. **Severability.**

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

Section 3. **Effective Date.**

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

ROLL CALL

Ayes: Mayor Cohn, Councilmembers Henderson, Hurd, Johnson, Nathan, Souza, Stacks
Nays: None
Absent: None

7. **Continue the public hearing to create a new local law, Chapter 166 “Steep Slope Protection” regulating development on steep slopes.**

Mayor Cohn asked Ms. Wilson to briefly review the substantive changes to the new local law regarding steep slope protection. Councilman Stacks recused himself on the matter and temporarily removed himself from the meeting.

Since the last public hearing there were three substantive changes which were bolded in the most recent circulated version. A verbiage change in Section 166-6 B2 allows the Planning Commission to consider issuing a steep slope permit for development on slopes greater than 35%. The second and third change are both in Section 166-14 regarding the \$1,000 daily fee per violation, and the denial of construction-related permits and a three-year suspension of the entity's ability to obtain other construction-related permits in the City of Rye.

Councilman Nathan asked how the \$1,000 daily fine works if a steep slope has been destroyed without a permit. Ms. Wilson explained that the fee continues to accrue until there is legal resolution. Depending on the severity, the judge would be asked to black-list the entity that performed the work as a deterrent for future violations. Mayor Cohn added that there is a restitution provision which allows the court to construct a remedy.

Councilman Nathan commented about the need for clarification about the adjustments made for "exigent circumstances." His interpretation is the state of emergency wherein a structure or surface will imminently fall. Ms. Wilson replied that the Planning Commission should be given latitude in determining what is exigent or what is next to impossible but for development on the steep slope. Councilwoman Souza argued that stronger language is needed to strongly discourage the disruption of steep slopes. The mayor's interpretation of exigent is "a great urgency of need." Considering the lengthy debate around the issue, Councilman Henderson believes the Planning Commission should proceed with current language which can be revised. Councilwoman Hurd underscored that there is a policy discouraging any application for steep slope work at 35% or greater.

Comments from the public were heard. Steve Wrabel, McCullough Goldberger & Staudt, agreed that the Planning Commission should be allowed to define exigent; his comments were also shared in a letter to the Council. He emphasized concern over an emergency-only interpretation and shared his client's experience with a steep slope on their property.

Councilwoman Souza stated concern that giving the Planning Commission the power of discretion was like a child asking the other parent for permission when the first says no. Mayor Cohn reiterated that the goal of changing the language was a higher degree of scrutiny about exigent circumstances when disturbing steep slopes.

Hearing no further public comment, Mayor Cohn asked for a motion to close the public hearing. Councilwoman Johnson made a motion, seconded by Councilwoman Hurd, to close the public hearing.

Councilman Henderson made a motion, seconded by Councilwoman Johnson, to create a new local law, Chapter 166 “Steep Slope Protection” regulating development on steep slopes as follows:

LOCAL LAW
CITY OF RYE NO. 3 2022
A local law to add a new Chapter 166 “Steep Slope Protection”
to the Code of the City of Rye, New York

Section 1. The following new Chapter 166, titled “Steep Slope Protection” is hereby added to the Rye City Code:

Chapter 166
STEEP SLOPE PROTECTION

ARTICLE I
General Provisions

§ 166-1. Title; findings and policy.

- A. Title. This chapter shall be known as the "Steep Slope Protection Law of the City of Rye." It is a chapter regulating the disturbance of steep slopes in the City of Rye.
- B. Findings and policy. The City Council of the City of Rye finds and declares it to be the public policy of the City to regulate, preserve, protect and conserve its steep slopes so as to maintain and protect the natural terrain and its vegetative features, preserve wetlands, water bodies and watercourses, prevent flooding, protect views, vistas, and open areas that contribute to a sense of space in our suburban environment, preserve areas of wildlife habitat, provide safe building sites, protect the subject property and the

adjoining properties by preventing erosion, creep and sudden slope failure. In this connection the City Council finds as follows:

- (1) Protection of steep slopes is a matter of concern to the entire City. Once a steep slope is disturbed, that disturbance may well be irreversible. The establishment of regulatory and conservation practices to prevent disturbance of steep slopes is needed to protect the public health, safety and general welfare.
- (2) The disturbance of steep slopes can aggravate erosion and sedimentation beyond rates experienced in natural geomorphologic processes. Erosion and sedimentation often include the loss of topsoil, the disturbance of habitats, degradation of the quality of surface water and wetlands, alteration of drainage patterns, the gulying of land, the obstruction of drainage structures, the intensification of flooding both on and off the subject site, the failure of slopes and the mass movement of earth and danger to the natural environment, man-made structures and the safety of persons.
- (3) Steep slopes, including vegetation and rock outcroppings located thereon, are important environmental features that contribute significantly to the visual impression one forms while traveling through the City. Overdevelopment of or improperly managed disturbance to these steep slopes is detrimental to the visual character of the City.
- (4) Regulation can allow the reasonable use of private property by encouraging flexibility in development design to avoid disturbance of steep slopes. Regulation can also permit environmentally sound disturbance of steep slopes conducted in accordance with acceptable site design practices.
- (5) To minimize the potential adverse impacts of development on steep slopes, the City should seek the preservation of such areas by the use of flexibility in site design, (including the application of § 37 “Subdivision review; approval of cluster development” of the General City Law), the establishment of conservation easements and other land preservation techniques.
- (6) These regulations are enacted with the intent of providing a reasonable balance between the rights of the individual property owners and the public interest in preserving the valuable functions of steep slopes.

§ 166-2. Definitions.

- A. For the purpose of this chapter, certain words and terms used herein are defined as follows.
- B. All words used in the present tense include the future tense; all words in the plural number include the singular number; and all words in the singular number include the plural number, unless the natural construction of the wording indicated otherwise. The word "lot" includes the word "plat"; the word "building" includes the word "structure";

and the word "shall" is mandatory and not directory. The word "use" is deemed also to include "designed, intended, or arranged to be used." Unless otherwise specified, all distances shall be measured horizontally.

ANGLE OF REPOSE — The maximum angle at which the exposed face of various soil and rock materials can deviate from the horizontal without incurring the likelihood of a slope failure.

APPLICANT — Any individual, firm, partnership, association, corporation, company, organization or other legal entity of any kind, excluding the City of Rye and its governmental agencies, who requests the approval authority to approve disturbance to a steep slope, or to whom a steep slope approval or a steep slope work permit has been granted under the provisions of this chapter.

APPROVAL AUTHORITY — The Planning Commission of the City of Rye.

BUILDING INSPECTOR — The Building Inspector of the City of Rye.

CITY — The City of Rye.

CITY COUNCIL — The City of Rye City Council.

CITY ENGINEER — The Engineer for the City of Rye.

DISTURBANCE — The removal of vegetation, or the filling, excavation, regrading or removal of soil, rock or retaining structures in areas of steep slope, whether by manual labor, machine or explosive. The condition of disturbance will be deemed to continue until the area of disturbance is revegetated and/or permanently stabilized.

DISTURBED AREA — Any steep slope area for which a disturbance is proposed or is ongoing.

EXCAVATION — Any activity which removes or significantly disturbs rock, gravel, sand, soil, or other natural deposits.

FILL — Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by man to a new location and shall include the conditions resulting therefrom.

GRADING — Adjusting the degree of inclination of the natural contours of the land, including leveling, smoothing and other modification of the natural land surface.

MATERIAL — All liquid, solid or gaseous substances.

PERSON — Any person, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including public agencies and municipal corporations.

PLANNING COMMISSION — The Planning Commission of the City of Rye.

PROJECT — Any proposed or ongoing action that may result in direct or indirect physical impact on a steep slope, including, but not limited to, any regulated activity.

STATE ENVIRONMENTAL QUALITY REVIEW ACT — The law, pursuant to Article 8 of the New York Environmental Conservation Law, providing for the environmental review of actions.

STEEP SLOPE — Any contiguous land area greater than 500 square feet having a topographical gradient of 25% or greater (ratio of vertical distance to horizontal distance) and a minimum horizontal distance of 10 feet measured along a horizontal plane. If the slope extends onto adjacent property and would result in the land area being greater than 500 square feet having a topographical gradient of 25% or greater, then the applicant shall be required to obtain Steep Slope Work Approval from the Planning Commission.

STEEP SLOPE AREA – The area defined in accordance with Section 166-3.

STEEP SLOPE, EXTREME — Any contiguous land area greater than 500 square feet having a topographical gradient of 35% or greater (ratio of vertical distance to horizontal distance) and a minimum horizontal distance of 10 feet measured along a horizontal plane.

STEEP SLOPE WORK APPROVAL — The written form of authorization issued by the Planning Commission and required by this chapter prior to the issuance of a steep slope work permit by the Building Inspector and commencement of work within a steep slope area.

STEEP SLOPE WORK PERMIT — The written form of permission to commence work within, or otherwise disturb, a steep slope area issued by the Building Inspector, which permit shall be issued only where such regulated activity has been approved and authorized by the Planning Commission.

STRUCTURE — Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

§ 166-3. Rules for establishing steep slope areas.

The applicant shall be responsible for having the boundaries of each steep slope area determined by field investigation, flagging and subsequent survey by a licensed land surveyor. The Planning Commission may also consult, at the expense of the applicant, and/or

may also require the applicant to consult with a landscape architect, architect, professional engineer, soil scientist or other experts and professionals as deemed necessary to make this determination.

§ 166-4. Applicability.

The provisions of this chapter shall apply to all lands defined and/or designated as an area containing one or more steep slopes as determined in accordance with §166-3.

ARTICLE II
Regulated Activities and Review Standards

§ 166-5. Allowable and regulated activities.

- A. Allowable activities. The following activities within a steep slope area shall be allowed without a steep slope work permit:
- (1) Normal ground maintenance which does not require disturbance of existing terrain, including mowing, trimming of vegetation and removal of dead or diseased vegetation, provided that such activity does not involve regrading, and further provided that such activity conforms with all other applicable laws and regulations.
 - (2) Routine and minimally invasive landscaping activities including adding new plants or removing existing plants.
 - (3) The disturbance to steep slopes under temporary emergency conditions, as determined by the City Engineer, where such disturbance is necessary to protect persons or property from present and imminent danger.
 - (4) Repair or replacement in-kind of existing walkways, walls, decks, stairways and docks.
 - (5) Any new structure or addition to an existing structure involving not more than 100 square feet.
 - (6) Public health activities and emergency uses pursuant to orders of the Westchester County Department of Health and/or the New York State Department of Health.
 - (7) Alteration of the interior of a building.
 - (8) The demolition of a part or all of the exterior of an existing building.

- B. Regulated activities. It shall be unlawful to create a new steep slope area or to create any disturbance, other than an allowable activity as defined above, on any existing or proposed steep slope in the absence of a steep slope work permit.

§ 166-6. Review standards.

- A. Considerations. During its review of the application, the Planning Commission shall evaluate, as necessary and appropriate, the extent to which the application accomplishes the following:

- (1) The alignment of roads and driveways shall follow the natural topography to the maximum extent practicable, shall minimize regrading and shall comply with design standards for maximum grades set forth in the City Code.
- (2) All regrading shall blend in with the natural contours of the land.
- (3) Cuts and fills shall be shaped to eliminate sharp angles at the top, bottom and sides of regraded slopes.
- (4) The angle of cut and fill slopes shall not exceed the natural angle of repose of the soil or rock materials in the cut or fill, except where retaining walls or other structural stabilization is used; generally, for soils, cut and fill slopes shall be not steeper than two horizontal to one vertical.
- (5) Natural slopes of two horizontal to one vertical, or steeper, shall not be altered by fill slopes. The toe of a fill slope shall not be located within 12 feet horizontally of the top of an existing or proposed cut slope.
- (6) Tops and bottoms of cut and fill slopes shall be set back from existing and proposed property lines a distance at least equal to the lesser of three feet plus $\frac{1}{5}$ of the height of the cut or fill, or 10 feet.
- (7) Tops and bottoms of cut and fill slopes shall be set back from structures a distance that will ensure the safety of the structure in the event of the collapse of the cut or fill slopes; generally, such distance will be considered to be six feet plus $\frac{1}{5}$ the height of the cut or fill, but need not exceed 10 feet. Nevertheless, the Planning Commission may allow a structure to be built on a slope or at the toe of a slope if it is designed to retain the slope and to withstand the forces exerted on it by the retained slope, subject to subsection B below.

- B. Decision.

1. In granting, denying or conditioning any steep slope permit under this chapter, the Planning Commission shall consider all relevant facts and circumstances and determine that each of the following is true:

- (A) That the proposed activity and the manner in which it is to be accomplished are in accordance with the findings and policy set forth in § 166-1 of this chapter.
- (B) That the proposed activity and the manner in which it is to be accomplished can be completed without increasing the possibility of creep or sudden slope failure and will minimize the potential for erosion to the maximum extent practicable.
- (C) That the proposed activity and the manner in which it is to be accomplished will not adversely affect the preservation and protection of existing wetlands, water bodies, watercourses and floodplains.
- (D) That the proposed regulated activity is compatible with the public health and welfare.

2. The foregoing paragraph notwithstanding, the Planning Commission shall not allow activity that:

- (A) Can be relocated or modified so as to eliminate or reduce the disturbance of the steep slope area to the maximum extent deemed reasonable and appropriate by the Planning Commission.
 - (B) Would disturb a slope in excess of 35% provided that, the Planning Commission may allow the activity only in rare and exigent circumstances, and then only in accord with all other provisions of this Subsection B (Decision).
- C. Burden of proof. The applicant shall have the burden of proof to demonstrate compliance with this chapter by clear and convincing evidence, that is, highly and substantially more likely to be true than untrue.

ARTICLE III **Application Procedure**

§ 166-7. Approval authority.

The approval authority for all applications for steep slope permits shall be the Planning Commission.

§ 166-8. Procedures for application.

- A. Application contents. The application and an application review shall be submitted to the City Planner. The application shall contain the following information:

- (1) Name and address of owner and applicant.
- (2) Street address and Tax Map designation of property to which the application pertains.
- (3) Statement of consent from the owner for any agent making application.
- (4) A written narrative explaining the nature of the proposal, including the proposed work and purpose thereof, any future development proposals for the property and whether alternative locations exist for the proposed activity.
- (5) A site plan, which shall be drawn at a scale no less detailed than one inch equals 50 feet and prepared by a landscape architect, architect or professional engineer licensed in the State of New York and showing the following information for all areas on the subject site that contain steep slopes:
 - (a) The location of proposed structures, septic systems, wells and driveways.
 - (b) The location of the proposed area of disturbance and its relation to neighboring properties, together with structures, roads and affected wetlands as defined in Chapter 245, Freshwater Wetlands, of the City Code, if any, within 50 feet of the boundaries of the proposed disturbed area
 - (c) The existing topography in the proposed area of disturbance at a contour interval of not more than two feet. Contours at this interval shall be shown for a distance of 50 feet or greater beyond the limits of the proposed area of disturbance. If, however, the 50 foot radius is not on property controlled by the applicant and the applicant is unable to gain access to such property, the contours must be shown at least to the boundary of the property under applicant's control. The contour map shall be prepared, signed and sealed by a professional land surveyor licensed to practice in New York State. The elevations and contours on said map shall be in United States Geological Survey (USGS) datum, latest revision.
 - (d) The location and size of areas of steep slope and extremely steep slope, under existing and proposed conditions, in the area of proposed disturbance and within a distance of 50 feet thereof. If, however, the 50-foot radius is not on property controlled by the applicant and the applicant is unable to gain access to such property, the location and size of such slopes must be shown at least to the boundary of the property under applicant's control. The Planning Commission shall make a site visit to observe neighboring topography and shall in its decision-making take notice of any slope and other relevant conditions on the property beyond the applicant's control.
 - (e) The proposed final contours at a maximum of two-foot contour intervals in the proposed disturbed area and to a distance of 50 feet beyond; elevations of

the site and adjacent lands within 200 feet of the proposed work site at contour intervals of no greater than 10 feet; and proposed surface materials or treatment. If, however, the 50- or 200-foot radius is not on property controlled by the applicant and the applicant is unable to gain access to such property, the contours must be shown at least to the boundary of the property under applicant's control. The Planning Commission shall make a site visit to observe neighboring topography and shall in its decision-making take notice of any slope and other relevant conditions on the property beyond the applicant's control.

- (f) An erosion and sediment control plan in accordance with Chapter 174, Stormwater Management, of the Rye City Code.
 - (g) The details of any surface or subsurface drainage system proposed to be installed, including special erosion control measures designed to provide for proper surface or subsurface drainage, both during the performance of the work and after its completion.
 - (h) A description of the existing and proposed vegetative cover of the regulated area.
 - (i) Location of the construction area and the area proposed to be disturbed and their relation to property lines, roads, buildings and watercourses within 250 feet thereof.
 - (j) The exact locations, specifications and amount of all proposed excavating, draining, filling, grading, dredging and vegetation removal or displacement and the procedures to be used to do the work.
 - (k) Location of all wells and depths thereof and all sewage disposal systems.
 - (l) A completed environmental assessment form in accordance with the New York State Environmental Quality Review Act.
- (6) A list of all applicable City, county, state and federal permits that are required for such work or improvement.
- (7) A list of names of owners of record of lands adjacent to the steep slope area in which the project is proposed to be undertaken.
- (8) Payment of all applicable fees.
- B. Additional information. The following information and materials shall be supplied if requested by the City Planning Commission:

- (1) A site plan or site plans drawn at a scale of not less than one inch equals 50 feet, prepared by a landscape architect, architect, or professional engineer licensed in the State of New York showing:
 - (a) Cross sections of all disturbed steep slope areas.
 - (b) Existing soils within 50 feet of the proposed disturbed area, taken from field investigations by a soils scientist and classified into hydrologic soil groups. The depth to bedrock and depth to water table, K-factors, and soil and rock strata in all areas of proposed disturbance shall be identified.
 - (c) A cut/fill map delineating proposed areas of disturbance at affected depths in increments of zero to three feet, three to six feet, six to 10 feet, and 10 feet and over, and the estimated material quantities of cut/fill.
 - (d) A slope map showing existing and proposed slopes within the proposed disturbed area for each of the soil types described in Subsection B(1)(b) above.
 - (e) A stabilization and revegetation plan.
 - (f) Other information, including specific reports by qualified professionals regarding soils, geology and hydrology, as may be determined to be necessary by the Planning Commission.
- (2) A plan with the existing topography of the watershed tributary to the disturbed area presented at a scale of not more than one inch equals 100 feet. This map shall show existing and, if required by the Planning Commission, proposed controls and diversions of upland water.
- (3) Estimates for the proposed site improvements, which shall be certified by a professional engineer, architect, or landscape architect licensed in the State of New York.
- (5) Any additional information as needed. Such additional information may include, but is not limited to, the study of flood, erosion or other hazards at the site; the effect of any protective measures that might be taken to reduce such hazards; and any other information deemed necessary to evaluate the proposed use in terms of the goals and standards hereof.

§ 166-9. Fees.

- A. An application fee and inspection fee in amounts set forth in a fee schedule established from time to time by the City Council shall be submitted with the application.
- B. In addition to the fees required in Subsection A of this section, the Planning Commission shall require the applicant to place in escrow with the City a fee sufficient to reimburse

the City for the cost of professional consultation fees and other expenditures attributable to the proposal. The Planning Commission may establish an escrow account funded by the applicant prior to the Commission authorizing the performance of consulting services regarding the proposal.

§ 166-10. Approval procedures; public hearing.

- A. It is the intent of this chapter to incorporate the consideration of steep slope protection into the City's existing land use and development approval procedures in conjunction with the procedures of the New York State Environmental Quality Review Act. To the maximum extent possible, the review, hearings and decisions upon any application processed under this chapter will run concurrently with similar procedures that the Planning Commission may undertake in connection with other applications that are directly related.
- B. A public hearing shall be required on all steep slopes applications. Notice of such hearing shall be delivered by the applicant to all property owners within 300 feet of the subject property at least seven (7) days prior to the hearing. To facilitate notification of the public, a public notification list shall be prepared by the applicant, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owner's name and owner's mailing address for each property. If a property within the notification area is a multifamily dwelling, apartment building, cooperative or similar-type residential structure, the applicant shall send the notice to the property owner of record. Such notices shall be mailed by first-class mail posted within Westchester County at a post office or official depository of the Postal Service. The applicant must obtain a certificate of mailing for every notice mailed. All notices mailed must be sent via certified mail (no return receipt). All certificates of mailing must be provided to the Planning Department at least five days prior to the public hearing.

§ 166-11. Approval.

- A. In approving a steep slope work application, the Planning Commission may impose such conditions or limitations as are determined necessary to ensure compliance with the intent, purposes, and standards of pursuant to § 166-6 of this chapter. A determination shall be made to approve, approve with modifications, or disapprove the issuance of such permit simultaneously with the determination by the Planning Commission of the other permit or approval for which the application was made.

ARTICLE IV
Steep Slope Work Permits

§ 166-12. Conditions and expiration.

- A. Steep slope work permits issued pursuant to this chapter shall contain conditions including the following:
- (1) The work permit shall expire on a specified date, no later than one year from the date of issuance.
 - (2) The permit holder shall notify the Building Inspector at least five days in advance of the date on which the work is to begin.
 - (3) The work permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.
- B. Conditions may include, but shall not be limited to, the following:
- (1) Limitation on the total portion of any lot or the portion of the steep slope on the lot that may be disturbed.
 - (2) Setbacks for structures, fill and other activities from the steep slope.
 - (3) The disturbance of existing vegetative ground cover shall not take place more than seven days prior to commencing grading and construction.
 - (4) Permanent vegetative cover shall be planted within three days after completion of final grading. Notwithstanding the sentence above, where final grading and permanent planting cannot be established within a short period of time, temporary seeding or mulching shall be applied. Upon good cause shown and based upon consideration of the time of year, slopes, soils and environmental sensitivity of the area involved, the City Engineer may modify these specified time periods.
 - (5) Measures for the control of erosion and sedimentation shall be undertaken in accordance with the Chapter 174, Stormwater Management, of the Rye City Code.
 - (6) Topsoil that will be stripped from all areas of disturbance shall be stockpiled in a manner so as to prevent erosion and sedimentation and shall be replaced on the site as a component of final grading.
 - (7) Fill material shall be composed only of nonorganic material, including rock with a diameter that will allow for appropriate compaction and cover by topsoil. No voids are to be created or left remaining in the fill material that will allow further settlement of the fill or habitat for rodents, vermin or other unwanted species.

- (8) Compaction of fill materials in fill areas shall be such that it ensures support of proposed structures and stabilization for intended uses.

C. Expiration of steep slope work permit; extensions.

- (1) All steep slope work permits shall expire on completion of the acts specified therein and, unless otherwise indicated, shall be valid for a period of one year from the date of issue. Upon written request by the original permit holder or his/her successor, the Planning Commission may extend the time in which the acts specified in the permit must be completed for additional periods of up to one year each if the Planning Commission, in its discretion, finds that such extension is warranted by the particular circumstances involved, provided that in the case of a permit where no work on the steep slope(s) has been accomplished, extensions shall not exceed two additional periods of 90 days each, in which case, should a permittee fail to complete the acts specified in the permit prior to the expiration of the second ninety-day extension, at the discretion of the Planning Commission, the original permit may become null and void, and an application would then need to be made for a new permit. The request for a new permit shall follow the same form and procedure as the original application, except that the Planning Commission shall have the option of not holding a public hearing if the original intent of the permit is not altered or extended in any significant way.
- (2) In the case of a permit where the work on the steep slope(s) is partially completed, the number and length of extensions shall be at the sole discretion of the Planning Commission.
- (3) A request for an extension of an original permit shall be made in writing to the Planning Commission at least 30 days prior to the expiration date of the original permit and each extension. The time period for requesting an extension may be waived for good cause shown.

§ 166-13. Period of validity; completion of work; revisions.

- A. A steep slope work permit will be valid for a period of one year. Work Permits, including all of their conditions, shall be binding on successors and assignees of the applicant.
- B. Following completion of the work, the applicant shall submit certification by the designer of record that the completed work meets the requirements of the steep slope work approval. The Building Inspector will verify that the work has been completed in accordance with such approval. Submission of an as-built survey may be required by the Planning Commission.
- C. The Building Inspector shall not issue a certificate of completion until the Building Inspector has verified that all work has been completed in accordance with the steep slope work permit.

- D. Any proposed revision to work covered by a steep slope work permit shall be reviewed by the City Engineer. Where the City Engineer determines that a substantial revision is proposed, the submission of a new application shall be required.

ARTICLE V
Enforcement

§ 166-14. Inspections, violations and fines.

- A. Inspection. Any site for which an application has been submitted shall be subject to inspection at any reasonable time, including weekends and holidays, by the Planning Commission or its designated representatives.
- B. Administrative sanctions.
- (1) Damages. Any person who undertakes any activity regulated by this chapter without a permit issued hereunder, or who violates, disobeys or disregards any provision of this chapter, shall be liable to the City for civil damages caused by such a violation for every such violation. Each consecutive day of the violation will be considered a separate offense. Such civil damages may be recovered in an action brought by the City on behalf of the Planning Commission in any court of competent jurisdiction.
- (2) Restitution. The Planning Commission shall have the authority to direct the violator to restore the steep slope area to its condition prior to the violation, ~~insofar as that is possible~~, within a reasonable time. Further, the Planning Commission shall have the authority to require an adequate performance guaranty in a form and amount deemed necessary by the Planning Commission to insure the restoration of the affected steep slope area.
- (3) Stop-work order; revocation of permit. In the event that any person, firm or corporation is performing work without a permit, the Building Inspector shall issue a stop-work order. Such stop work order shall remain in effect until such time that the Building Inspector determines that all appropriate permits are granted. In the event that any person holding a permit issued pursuant to this chapter violates the terms of the permit, fails to comply with any of the conditions or limitations set forth in the permit, exceeds the scope of the activity as set forth in the application or operates so as to be materially detrimental to the public welfare or injurious to a steep slope area, the Planning Commission may suspend or revoke the permit, as follows.
- (a) Suspension of a permit shall be by a written stop-work order. The stop-work order shall remain in effect until the Building Inspector is satisfied that the permittee has complied with all terms of the subject permit or until a final determination is made by the Planning Commission as provided in Subsection B(3)(b) immediately below.

- (b) No steep slope work permit shall be permanently suspended or revoked until a public hearing is held by the Planning Commission. Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state the grounds for complaint or reasons for suspension or revocation and the time and place of the hearing to be held. Such notice shall be served on the permittee at least one week before the next regularly scheduled public meeting of the Planning Commission. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion the hearing, the Planning Commission shall determine whether the permit shall be reinstated, suspended or revoked. If revoked, all other construction related permits for the property shall also be revoked unless, in the interests of the general welfare, public health and safety, the work needs to continue.
- C. Fines. Any person deemed to have violated or disobeyed any provision hereof, any order of the Building Inspector or any condition duly imposed by the Planning Commission in an approval or work permit granted pursuant to this chapter, shall be liable for a fine of up to-\$1,000 per violation with each consecutive day of the violation being considered a separate offense.
- D. Denial of Construction Related Permits. Any person, firm or corporation, or any principal of the firm or corporation (or any successor or assign of any of them) who violates this Chapter shall be subject to a three year suspension of his or its privilege to obtain any construction related permits in the City of Rye, including, but not limited to, blasting permits, demolition permits, building permits, wetland permits, and steep slope permits.

§ 166-15. Injunctive relief.

The City is specifically empowered to seek injunctive relief restraining any violation or threatened violation of any provisions hereof and/or to compel the restoration of the affected steep slope area to its condition prior to the violation of the provisions of this chapter.

Section 2. Severability

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

Section 3. Effective Date

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

ROLL CALL

Ayes: Mayor Cohn, Councilmembers Henderson, Hurd, Johnson, Nathan, Souza
Nays: None
Absent: None
Recused: Councilman Stacks

8. Continue the public hearing to create a new local law amending Chapter 53 “Architectural Review” of the Code of the City of Rye to amend authority and scope considered by the Architectural Review Board in reviewing applications.

Ms. Wilson highlighted two changes to the new local law. The first change under Section 53-56(D) addresses temporary ice hockey rinks. The initial permit period will be two years from the date of issuance. The permitting process is similar for swimming pools and other outdoor courts with the exception of the length of permit. The final language in Chapter 53 now reads that "it must be by clear and convincing evidence that is highly and substantially more likely to be true than untrue."

Councilman Stacks asked if the changes reflect the middle ground; he disagreed with the watered-down language. Changes were made to reflect the feeling that the City's zoning rules were too permissive. Mayor Cohn replied that within the four levels of legal review this language falls in the two-to-three range and might never be truly middle-ground. Councilwoman Souza said the purpose of rewriting the language was to give the Zoning Board of Appeals a basis upon which to uphold application rejections. Mayor Cohn clarified that the "beyond a reasonable doubt" standard was removed from the language and replaced with "clear and convincing evidence," a substantially lesser standard.

Councilwoman Hurd appreciated the dedication of the subcommittees in the development of the proposal. She understood Councilman Stacks' concerns and will continue to monitor the situation as the Board of Architectural Review liaison. Councilwoman Johnson pointed out that this is what compromise looks like. The BAR in the City of Rye is the only one in the area with such standards of proof.

The meeting was opened to comments from the public, but there were no comments.

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

Mayor Cohn asked for a motion to vote on the legislation. Councilman Henderson made a motion, seconded by Councilman Nathan, to adopt the following amendments the City legislation:

A Local Law amending Chapter 53 “Architectural Review” to change membership requirements, timing of decisions, elements to consider during decision making process and standard of review and Chapter 197-86 Table A, Column 3, to include seasonal courts and rinks.

Section 1.

§ 53-1 Legislative findings; definitions.

- A. The Council hereby finds that excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of structures erected, reconstructed or altered in any residential, business and other areas in the City of Rye adversely affects the desirability of the immediate area and neighboring areas within the community and by so doing impairs the benefits of occupancy or use of real property in such areas, impairs the stability and value of both improved and unimproved real property in such areas, prevents the most appropriate development of such areas, produces degeneration of the property in such areas, with attendant deterioration of conditions affecting the health, safety, morals and general welfare of the inhabitants of the community, and/or destroys a proper relationship between the taxable value of real property in the community and the cost of municipal services provided therefor. It is the purpose of this chapter to prevent these and other harmful effects and thus to promote and protect the health, safety, morals and general welfare of the community.
- B. As used in this chapter, the following terms shall have the meanings indicated:
[Amended 5-31-1995 by L.L. No. 6-1995]

ERECTED, RECONSTRUCTED or ALTERED

As defined in Chapter 68, Building Construction, of the Code of the City of Rye and in the approved regulations of the Building Inspector.

ORDINARY MAINTENANCE AND REPAIR

As defined in Chapter 68, Building Construction, of the Code of the City of Rye and in the approved regulations of the Building Inspector.

SMALL PROJECT

Any addition to or alteration or modification of an existing single- or two-family residence structure:

[Amended 10-24-2013 by L.L. No. 3-2013]

- (1) For which a valid certificate of occupancy exists for all structures on the property;
- (2) Upon which property there are no open building permits and no building permit or certificate of occupancy was issued within the immediate past 12 months;
- (3) That does not change the appearance visible from the street of any front or side facade or roof.

STRUCTURE

Includes all buildings, accessory buildings, decks, signs and satellite earth station dish antennas as defined by Chapter **108**, Housing Standards, and Chapter **197**, Zoning, of the Code of the City of Rye.

§ 53-2 Membership of Architectural Review Board.

[Amended 2-1-2006 by L.L. No. 2-2006; 3-16-2011 by L.L. No. 1-2011]

In accordance with Article 19 of the Rye City Charter, there is hereby created a Board of Architectural Review which shall consist of seven members who shall serve without compensation. All members of the Board shall be lawful residents of the City and shall be specially qualified by reason of training or experience in architecture, land development, community planning, real estate, landscape architecture, architectural history, engineering, law, building construction or other relevant business or profession, or by reason of civic interest and sound judgment to judge the effect of a proposed erection, reconstruction or alteration of a structure upon the desirability, property values and development or preservation of surrounding areas and to understand and carry out the legislative findings and policy statements of the Council set forth in § **53-1**. There shall be no requirement that a member of the Board be a citizen of the United States. At least one member shall be a licensed architect in the State of New York. The Chair and other members of the Board shall be appointed by the Mayor, with the approval of the Council, for terms of three years, with staggered terms, such terms to be subject to renewals at the discretion of the Mayor, subject to the approval of the Council, except that one new appointment made in 2006 shall be for a two-year term, and one new appointment made in 2006 shall be for a one-year term so that term, and thereafter their successors, shall be appointed for terms of three years from and after the expiration of the term of their predecessors in office. In the same manner, vacancies shall be filled for the unexpired term of any member whose place has become vacant.

§ 53-3 Meetings and procedures of Board.

[Amended 2-1-2006 by L.L. No. 2-2006]

- A. Meetings of the Board of Architectural Review shall be held at the call of the Chair and at such other times as the Board may determine but shall be held within 31 days of the date of referral to the Board of any application for building permit as required in § **53-4** of this chapter. The Chair or, in his/her absence, the Acting Chair may administer oaths and compel the attendance of witnesses. A majority of the appointed members of said Board shall constitute a quorum for the transaction of business. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. The Building Inspector shall act as the Secretary of the Board and shall keep in the City Hall a comprehensive record of all meetings and transactions by the Board. The Board shall have power from time to time to adopt, amend and repeal rules and regulations, not inconsistent with law or the provisions of this chapter and subject to review and approval of the Council, governing its procedure and the transaction of its business and for the purpose of carrying into effect the standards outlined in § **53-5** of this chapter.
- B. Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed with

the Building Department and shall be a public record.

- C. Notice. An applicant for a building permit needing Board of Architectural Review approval for any project, except small projects as defined in Chapter **53**, shall notify abutting property owners and property owners across the street of the application upon its filing and at least 14 days before the date of any Board of Architectural Review meeting. To facilitate notification of the public, a public notification list shall be prepared by the applicant, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owner's name and owner's mailing address for each property as described by the rules and Schedule B of the Building Department. If a property within the notification area is a multifamily dwelling, apartment building, cooperative or similar-type residential structure, the applicant shall send the notice to the property owner of record. Such notices shall be mailed by first-class mail and the notice shall substantially conform to the model notice in Schedule A. The applicant must obtain a certificate of mailing for every notice mailed. All notices mailed must be sent via certified mail (no return receipt required). All certificates of mailing must be provided to the Building Department at least five days prior to the public hearing. **[Added 3-10- 2010 by L.L. No. 3-2010]**

§ 53-4 Referrals of applications for building permits.

- A. Every application for a building permit for the construction of any structure within the City of Rye or for the reconstruction or alteration of any structure, including any addition thereto, within the City of Rye that would affect the exterior appearance of such structure shall be referred by the Building Inspector to the Board of Architectural review within 31 ~~24~~ days of the date of the application, provided that it conforms in all respects to all other applicable laws and ordinances. The term "structure" shall be construed in accordance with the legislative findings and definitions set forth in § **53-1** of this chapter. The requirements of this section do not apply to "small projects" as defined in § **53-1** of this chapter and § A201-1 of the Rules of the Building Inspector, except for small projects that require or have been granted a variance by the Zoning Board of Appeals; or that involve a recreational or accessory structure or facility; or when the Building Inspector refers the small project to the Board of Architectural Review upon finding that the small project may meet one or more of the guidelines for such referral as prepared by the Board of Architectural Review, thereby having a substantial aesthetic impact upon immediately neighboring properties. The requirements of this section do not apply to additions or alterations that meet the requirements of § 68-5F or 197-84C(5) of this Code. **[Amended 5-31-1995 by L.L. No. 6- 1995]**
- B. Applications must be accompanied by plans showing all elevations of new structures and all affected elevations in the case of reconstructions or alterations. When required by the Building Inspector or by the Board of Architectural Review, a site plan shall be submitted showing both existing and proposed contours at two-foot intervals, all existing trees with a trunk diameter of four inches or more at a point three feet above the ground level and whether such

trees shall remain or be removed and/or other topographical features.

§ 53-5 Standards and considerations for approval.

- A. Approval or disapproval of any building permit shall be by a vote of a majority of the members of the Board of Architectural Review. In considering an application for a permit, the Board shall take into account natural features of the site and surroundings, exterior design and appearances of existing structures in the area and the character of the area and its peculiar suitability for particular purposes, with a view to conserving the values of property, encouraging the most appropriate use of property and preventing the harmful effects referred to in § **53-1** of this chapter.
- B. Findings for approval; conditions.
 - (1) The Board shall, subject to the provisions of Subsection B(2) of § **53-5**, approve any application referred to it upon finding that the structure for which the permit was requested if erected, reconstructed or altered in accordance with the submitted plan would be in harmony with the purpose of this chapter, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or striking visual discord in relation to the site or surroundings, would not mar the appearance of the area, would not impair the user enjoyment and desirability or reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent the most appropriate development or preservation and/or utilization of the site or of adjacent lands or would not adversely affect the economic stability, health, safety and general welfare of the community.
 - (2) In approving any application, the Board may impose appropriate conditions and safeguards designed to prevent the harmful effects set forth in § **53-1** of this chapter. The Board may also suggest interior change(s) that would improve the exterior appearance.
- C. The Board may disapprove any application for a permit, provided that the Board has afforded the applicant an opportunity to confer upon suggestions for change of the plan, or provided that the Board finds and states that the structure for which the permit was requested would, if erected, reconstructed or altered as indicated, cause one or more of the harmful effects set forth in § **53-1** of this chapter by reason of:
 - (1) Excessive similarity to any other structure or structures existing or for which a permit has been issued or to any other structure included in the same permit application, within 1,000 feet of the proposed site, in respect to one or more of the following features of exterior design and appearance: apparently identical facade; substantially identical size and arrangement of either doors, windows, porticoes or other openings or breaks in the facade facing the street, including reverse arrangements; or other significant identical features, such as but not limited to material, roofline and height or other design elements, provided that a finding of excessive similarity shall state not only that such similarity exists, but further that it is of such a nature as to be expected to cause **by** clear and convincing evidence, that

is, highly and substantially more likely to be true than untrue one or more of the harmful effects set forth in § **53-1** of this chapter.

- (2) Excessive dissimilarity or inappropriateness in relation to any other structure or structures existing or for which a permit has been issued or to any other structure included in the same permit application, within 1,000 feet of the proposed site, in respect to one or more of the following features: cubical contents; gross floor area; height of building or height of roof; inappropriate relationship to the site, its contours, shape or natural characteristics; inappropriate relationship to immediately adjacent properties; dissimilarity related to the orientation of the front of the house in relationship to streets; inappropriate location of features incorporated into the structure, including but not limited to windows, doors, chimneys, stairs, porches, air conditioners or air-conditioning equipment, or of features ancillary to the structure, including but not limited to antennas, toolsheds, greenhouses, patios, decks, balconies, garages or refuse storage areas; or other significant design features, such as material or quality or architectural design, provided that a finding of excessive dissimilarity or inappropriateness exists, but further that it is of such nature as to be expected to cause by clear and convincing evidence, that is, highly and substantially more likely to be true than untrue one or more of the harmful effects set forth in § **53-1** of this chapter and that the finding is not based on personal preference as to taste or choice of architectural style.
- D. The Board of Architectural Review shall examine, review, approve or disapprove applications for permits for the following exterior facilities: swimming pools (in ground and above ground), jacuzzis, hot tubs, tennis courts, paddle tennis courts and other permanent or seasonal courts or rinks (hereinafter collectively referred to as "recreational facility" or "recreational facilities") as to the necessary screening required by § **197-86** of the Code of the City of Rye, Table A, Column 3, Subsections (9)(a) and (9)(b). Approval or disapproval must be by majority vote of the total Board. A ten-foot wide landscape strip planted and maintained with at least a double row of alternately spaced evergreens, with an actual height of at least six feet above the natural grade when installed, is the preferred screening method for recreational facilities and must be approved by the Board. However, the Board may approve alternate screening under the following conditions:
- (1) There is existing landscaping on the lot between the recreational facility and the property line equal in effectiveness, height and density to the required evergreen screening.
 - (2) There is an existing six-foot-high opaque fence or wall on the lot between the recreational facility and the property line, which is totally owned and controlled by the lot owner and in conformity with the fence height regulations of this chapter, provided that the Board further finds that the increased height of matured evergreen screening is not necessary to screen the recreational facility from the view of the abutting property and that the fence was installed at least two years prior to the application for the waiver.

- (3) The existing topography of the lot where the recreational facility is to be located, relative to the topography of the abutting property, is such that the recreational facility will not be within the view of the abutting property, provided that the Board further finds that it is reasonable to expect that this topographic relationship will not be adversely altered in order to facilitate future development of either property.
- (4) The soil conditions where the landscaping strip would be required to be installed are such that the evergreens cannot be expected to survive or to properly mature, provided that the Board further finds the recreational facility cannot be reasonably placed in another location with suitable soil conditions, and further provided that a six-foot-high opaque fence or wall which conforms to the fence height regulations of this chapter will be installed between the property line and the recreational facility in place of the landscaping strip.
- (5) Conditions do exist which are not specifically covered in Subsection C(1) through (4) above, but which are of a similar nature, provided that the Board further finds that approval of the waiver will not be inconsistent with the spirit and intent of this section or less protective of the view from the abutting properties.
- (6) The approval of any alternate screening as described in Subsection C(1) through (5) above and the acceptance of it by the owner shall also be subject to the following limitations and conditions:
 - (a) A variance has not been granted by the Board of Appeals permitting a reduction of the minimum property line setbacks required by this chapter.
 - (b) The recreational facility was not constructed prior to the application for approval, except that this limitation shall not apply to recreational facilities constructed prior to the effective date of the screening requirements for which an owner wishes to seek compliance.
 - (c) After construction of the recreational facility, the owners of the lot shall thereafter be required to maintain, repair and replace such existing landscaping, fencing, walls or topographical features which served as the basis for approval as if they were required by this chapter in the first instance and enforced in the same manner.
 - (d) The approval shall become null and void one year after its approval by the Board of Architectural Review unless the recreational facility has been substantially completed. For temporary ice hockey rinks, the initial permit shall be for two years from the date of issuance. Any subsequent permit application(s) shall be reviewed by this Board to determine if any additional screening or other mitigation measures are necessary.
 - (e) The approval shall become null and void if the permanent recreational facility is removed.

§ 53-6 Applications for sign; awning, marquee-type awning and canopy permits. [Amended 5-1-1991 by L.L. No. 6-1991; 1-20-1999 by L.L. No. 1-1999]

The Board of Architectural Review shall have the power to examine, review and, by majority vote of the total Board, approve or disapprove applications for permits for signs, awnings, marquee-type awnings and canopies affixed to any structure or erected in connection with any structure, pursuant to § 165-2 of the Code of the City of Rye.

§ 53-7 Applications for dish antennas. [Amended 9-18-1996 by L.L. No. 7-1996]

The Board of Architectural Review shall have the power to examine, review and, by majority vote of the total Board, approve or disapprove applications for the installation of satellite earth station dish antennas, subject to the provisions of § 197-9D of the Code of the City of Rye. Satellite earth station dish antennas which measure one meter or less in diameter are permitted as of right in residential zones and are not subject to the provisions of this section or § 197-9D. Such antennas, which measure two meters or less in diameter, are permitted as of right in non-residentially zoned areas.

§ 53-8 Advisory powers.

The Board of Architectural Review shall advise with respect to public buildings and such other matters as the Council, the Planning Commission, the Landmarks Advisory Committee (NOTE: or Landmarks Preservation Commission, if so changed by City Council) and/or any other public agency, Board or Commission may refer to it.

§ 53-9 Effect of disapproval or failure to act.

The Building Inspector shall refuse any building permit application disapproved as provided in § 53-5 of this chapter. If the Board of Architectural Review shall fail to approve or disapprove any building permit application referred to it under § 53-4 of this chapter within 21 ~~31~~ days of the date of referral of such application to it, the application shall be considered to have been approved, and the Building Inspector shall forthwith issue the permit unless the applicant shall have agreed to an extension of time.

§ 53-10 Appeals.

Any applicant aggrieved by the action of the Board of Architectural Review in disapproving a building permit application and of the Building Inspector in denying such permit because of such disapproval may request the Board to make formal findings of fact. In the event of such a request, the Board shall make findings of fact within 30 days after the request is filed in the office of the City Clerk, shall thereafter provide the applicant with an opportunity to answer the findings by the submission of formal proof and shall reconsider the application on the basis of such answer. If the application is disapproved after such reconsideration, the applicant may take an appeal therefrom to the duly constituted Board of Appeals of the City of Rye. The standard of review shall be whether the decision of the Board of Architectural Review was arbitrary, capricious and/or unsupported by substantial evidence of record. The Board of Appeals may reverse or affirm the action of the Board of Architectural Review and reverse or affirm any action taken by the Building Inspector pursuant to that action of the Board of Architectural Review.

§ 53-11 Powers of Board under Chapter 117.

Chapter 117, Landmarks Preservation, of the Code of the City of Rye ascribes certain

responsibilities and powers to the Board of Architectural Review, and these are hereby included in this Chapter **53**.

Section. 6. Section 197-86 Table A, Column 3.

(9)(b) Outdoor swimming pools, seasonal courts and rinks, including accessory equipment shall:

[1]

Not be located in a required front yard.

[2]

Be set back, including accessory equipment, from side and rear property lines at least 20 feet in R.1 Districts and 15 feet in all other districts.

[3]

Be screened, including accessory equipment, from the view of the street and abutting residentially zoned properties along the side and rear property lines. Such screening shall be reviewed and approved by the Board of Architectural Review pursuant to §§ **53-3** and **53-4** and the standards contained therein before a permit may be issued. [Amended 12-1-1982 by L.L. No. 12-1982]

[4] Be completely surrounded by fences, freestanding walls and/or the walls of a building containing no doors, at least four feet high above grade at all points, and each gate or door opening through the fence or freestanding wall shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times and shall be locked when the pool is not in actual use.

[5] Have no floodlighting, directly or indirectly, and all other lighting shall be arranged and shaded as to reflect light away from adjoining premises or a public street.

[6] Be located at least 25 feet away from any septic tank and its fields.

Section 7. 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 8. Effective Date

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

ROLL CALL

Ayes: Mayor Cohn, Councilmembers Henderson, Hurd, Johnson, Nathan, Souza

Nays: Stacks

Absent: None

Mayor Cohn thanked the Council and staff for writing and passing new laws that are more protective of the City of Rye. Councilman Henderson thanks Councilmembers Johnson and Stacks and the Planning Commission for taking important steps to ensure Rye develops according to its residents and not outside parties. Councilwoman Hurd also appreciated the fantastic work, and Councilman Nathan congratulated the team on responsive work to density and overdevelopment concerns in the community.

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

There were no comments from residents.

10. Transfer \$180,000 from general fund to BV fund for technology upgrades to City Hall and to amend the prior authorization of an amount not to exceed from \$150,000 to \$156,000 for Council Chamber upgrades.

City Manager Usry explained that this measure will upgrade the audio visual recording and transmission capabilities in the Council chamber to match what is typical of other municipalities. Lighting improvements are included so the public will be able to see speakers on the dais, and speakers will be able to see the public.

Councilwoman Souza asked why there was a difference between the transferred amount of \$180,000 and the amount not to exceed \$156,000, and if the upgrades include hybrid meeting capability. City Manager Usry explained that \$180,000 was received in settlement of a long-standing dispute with Altice about franchise fees. The settlement resides in the general fund and will be transferred into building and vehicle maintenance. Most of the settlement will be used for Council chamber upgrades, and there is an additional buffer of around \$20,000 for other technology upgrades.

The quote for services increased due to supply chain issues and increased cost of goods. The projects should be able to be completed for \$160,000 or less. Certain components of the technology upgrade will not be available until June, but the City will move as quickly as possible. Features like hybrid meetings and a smart podium will improve the experience for people at home who are participating in the meetings. City Manager Usry hoped everyone will be back in June with the new features installed.

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

RESOLUTION

Authorizing the City Manager to Transfer Monies from the General Fund to the Building and Vehicle Maintenance Fund for improvements to the Council Chambers

WHEREAS, the City settled with Altice for an amount of One Hundred Eighty Thousand Dollars (\$180,000.00) (the “Settlement Amount”) to satisfy outstanding franchise fee payments; and

WHEREAS, the City previously authorized the City to spend an amount not to exceed One Hundred and Fifty Thousand Dollars (\$150,000.00) to upgrade Council Chambers; and

WHEREAS, the estimated cost of the upgrades has increased slightly.

NOW, THEREFORE, BE IT RESOLVED, that the City Council authorizes the City Manager to

transfer the Settlement Amount from the General Fund to the Buildings and Vehicle Maintenance Fund; and

BE IT FURTHER RESOLVED, that the City authorizes the City to spend an amount not to exceed (\$160,000) for improvements to Council Chambers.

ROLL CALL

Ayes: Mayor Cohn, Councilmembers Henderson, Hurd, Johnson, Nathan, Souza, Stacks
Nays: None
Absent: None

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

11. Adjourn until March 2, 2022 the public hearing to create a new local law, Chapter 122, “Landscapers and Leaf Blower Regulations” requiring all landscapers to obtain an annual permit in order to operate as a landscaper and restrict the use of leaf blowers.

Mayor Cohn explained that this item had been postponed because the Council's priority was passing the three laws approved in today's meeting. There was an appropriate request from the public to come out with a new draft of the Leafblower law before adding another public session. The Council will make every effort to do that and not adjourn again.

Mayor Cohn asked for a motion to adjourn the issue. Councilwoman Souza made the motion to adjourn, and Councilman Henderson seconded the motion. All councilmembers were in favor of adjournment.

12. Appointments to Boards and Commissions by the Mayor with Council approval.

The mayor appointed to the Human Rights Commission Ingraham Taylor. For the Recreation Commission, the City renews Bart DiNardo, , Lisa Dempsey, Rick McCabe, and Shelly Wolfson. The mayor thanked Steve Verille for his past work as he exits, and new to the Commission is Tom Walsh.

The staggering of terms is off with the REC Commission, so instead of three-year renewals, Mr. DiNardo and Ms. Dempsey will have two-year terms. The Council concurred with the decision.

13. Old Business/New Business.

Councilwoman Souza thanked Tony Coash and Liz Woods for serving as the presidents of the Chamber of Commerce; she reported that Brian Jackson has taken over the role. Tony, Liz, and Brian and other members of the Executive Committee worked tirelessly and cooperatively with the Council to keep downtown Rye afloat during the height of the pandemic. Mayor Cohn agreed the three presidents deserved gratitude for their hard work.

14. Adjournment.

There being no further business to discuss, Councilwoman Souza made a motion, seconded by Councilman Henderson and unanimously carried, to adjourn the meeting.

Respectfully submitted,

Carolyn D'Andrea
City Clerk



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 2, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Update on the City's Capital Projects Program.

FOR THE MEETING OF:

March 2, 2022

RECOMMENDATION: That the Council hear the update.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND:

Priority Capital Improvement Projects

(February 2022)

Department of Public Works

DPW Building 5

\$6.3M

<i>Project Description:</i> This project involves replacing the existing DPW Garage building.	
Tasks	Status
30% Design	Completed
60% Design	Completed
City Council Review/BAR Referral	Completed (7/22/21)
BAR Review	March 2022
SEQR Determination by City Council	May 2022 <i>[CC Action Required]</i>
Bid Specifications/Construction Docs.	Summer 2022
Bid	Fall 2022 <i>[CC Action Required]</i>
Build	Winter 2022/Spring 2023
<i>Comments:</i>	

DPW Building 7

\$400K

<i>Project Description:</i> This project involves repair and renovation of Building 7. Plans and bid specifications are nearing completion. Bidding and construction is anticipated to start in the first half of 2021.	
Tasks	Status
90%Design	Completed
Hazardous Materials and Abatement	Completed
City Council Review/BAR Referral/SEQR	Completed
100% Design	Completed
Bid	Completed
Build	Summer/Fall 2022
<i>Comments:</i> The contractor encountered supply chain issues related to the delivery of roof trusses. Construction is anticipated to begin this summer.	

DPW Salt Shed**\$1.2MM(City Share: \$800K)**

<i>Project Description:</i> This project involves constructing a new salt shed at DPW. The design would also incorporate area for a relocated City recycling center. The City was successful in securing a \$400,000 SAM grant.	
Tasks	Status
SAM Grant Authorization	January 2022
City Council Referral to Planning Commission and SEQRA	November 2021
Review of wetland permit application and EAF by City Planning Commission	April/May 2022
City Council selection of preferred alternative (i.e. fabric or wood structure)/BAR Referral	May 2022 [CC Action Required]
Review by BAR	May/June 2022
State Agency Review/SAM Grant Compliance	Summer
Bid Specs./Construction documents	Summer/Fall 2022
Award Bid	Fall 2022
<i>Comments:</i> This revised cost estimate assumes the construction of a wood (not fabric) structure.	

DPW Fuel Tank**\$350K**

<i>Project Description:</i> This project involves the replacement of the existing fuel tanks at DPW. Based on current estimates this project may be ready for bid in the fall/winter of 2021.	
Tasks	Status
Design	In-progress
Bid	On-contract
Build	Fall 2022

Sewer Projects

Locust Avenue Sewer

\$1.149MM (City Share: \$331K)

<i>Project Description:</i> The project involves the installation of a new sewer line across Blind Brook at Locust Avenue. This will replace the existing sewer siphon in this location.	
Tasks	Status
Survey and private easement acquisition	Complete
Design	Complete
Regulatory Review	Complete
Bidding	Complete
Construction	Underway (January 2022 – June 2022)
<i>Comments:</i> Revised cost reflects actual bid amount and construction inspection services.	

Brevoort Force Main

\$1.165MM (City Share: \$381K)

<i>Project Description:</i> The project involves the replacement of an existing sewer force main from the Brevoort Lane Pump Station.	
Tasks	Status
Survey	Complete
Design	Complete
Regulatory Review	Complete
Bidding	Complete
Construction	Underway (January 2022 – June 2022)
<i>Comments:</i> Revised cost reflects actual bid amount and construction inspection services.	

Central Avenue Pump Station

\$1.39MM (City Share: \$470K)

<i>Project Description:</i> Construction of a new pump station and related sewer line on City property at the corner of Clinton and Central Avenues.	
Tasks	Status
Survey	Complete
Design	Complete
Regulatory Review	Complete
Bidding	Complete
Construction	Underway (January 2022 – June 2022)
<i>Comments:</i> Revised cost reflects actual bid amount and construction inspection services.	

Midland Avenue Sewer Replacement

\$560K (City Share: \$204K)

<i>Project Description:</i> This project involves the replacement of 370 linear feet of 8- and 12-inch sewer along Midland Avenue at the intersection of Grace Church Street and Manursing Avenue.	
Tasks	Status
Survey	Complete
Design Complete	Complete
Regulatory Review	Complete
Bidding	Complete
Construction	Underway (January 2022 – June 2022)
<i>Comments:</i> Revised cost reflects actual bid amount and construction inspection services.	

Sewer Manhole and Line Rehab

\$4.07MM (City Share: \$2.98MM)

<i>Project Description:</i> Rehabilitation and lining of sewer lines and manholes in the City. This project also includes the lining of 350 feet of existing sewer located in Highland Road.	
Tasks	Status
Survey	Complete
Design	Complete and on-going
Regulatory Review	Complete and on-going
Bidding	Complete and on-going
Construction (start)	January 2022
Construction (end)	January 2024

Miscellaneous Projects

City Hall HVAC

\$2.4M (Potential SAM Grant)

Project Description: This project involves replacing the existing HVAC system in City Hall. Existing ceiling tiles and lighting within the building will also be replaced.	
Tasks	Status
Schematic Design	Completed
Design Development/Client Approval	Completed
BAR and Landmarks Review	Underway
Completion of Construction Documents	Spring 2022
Bid	Summer 2022 <i>[CC Action Required]*</i>
Build	Fall 2022
Comments: City Hall and surrounding property is landmarked as a protected structure pursuant to Chapter 117 of the Rye City Code and will require BAR and advisory Landmarks review. The project design has been modified so that smaller ground mounted HVAC units will be used rather than the previously proposed larger roof-top mounted units. * Note: The City is pursuing a SAM grant for this project, which may delay this schedule.	

Temporary Court

\$600K

Project Description: The proposed improvements to the Police/Court building require the relocation of the Court staff and operations during the estimated 18-month construction process. The City continues to investigate alternative locations for a temporary court facility, however in the event the City is unable to secure a suitable alternative location, temporary trailers and related ADA and security improvements will be installed at Car Park 5 to serve as a temporary court at an estimated cost of \$600,000.	
Tasks	Status
Alternative Temp. Court Site Assessment	On-going
Preparation of Car Park 5 Plans	30% Complete
Review by Court Staff and OCA	Summer 2022
60% Design	Dec. 2022
OCA Review and approval	Unknown
100% Design	Spring 2023
Bid	<i>Same as Police/Court Improvements)</i>
Construction	<i>Same as Police/Court Improvements)</i>
Comments:	

Police/Court Improvements**\$3.1M**

Project Description: The Office of Court Administration (OCA) has identified needed upgrades to the Rye City Court in a 2010 Report. The project includes construction of new secured sally port, elevators, interior stairwell, expanded court clerk facilities, judges' chamber, court officer facilities and prisoner holding facility. Plans and bid specifications are approximately 90% complete. Work is suspended on this project until completion of the Temporary Court bid specifications and plans.

Tasks	Status
Design	90% Complete
City Council Review/BAR Referral/SEQR	Spring 2023 <i>[CC Action Required]</i>
Bid	Fall 2023 <i>[CC Action Required]</i>
Construction	Winter 2024/Spring 2024
<i>Comments:</i>	

Forest Avenue Sidewalks**\$2.8M (City Share: \$700K)**

Project Description: This project involves construction of new sidewalks on Forest Avenue between Apawamis and Manursing Avenues and on Manursing between Forest and Davis Avenues. This project is partially funded by the NYSDOT.

Tasks	Status
Receipt of PE Consultant RFQs	Complete
Consultant selection Committee	Complete
Select Consultant	March 2022
Design	Spring/Summer 2022
Regulatory Review	Fall/Winter 2023
Bid	March 2023 <i>[CC Action Required]</i>
Build	Spring/Summer 2023
<i>Comments:</i> This schedule is likely aggressive. NYSDOT Regulatory Review may take longer than indicated above.	

Theodore Fremd Wall*\$2.0 M (City Share: \$1.5M)*

Project Description: Replacement of damaged wall on Blind Brook at Theodore Fremd.

Tasks	Status
Design	Complete
Regulatory Review	Complete
Bid	Summer 2022 <i>[CC Action Required]</i>
Construction	Fall 2022
<i>Comments:</i> The City is seeking additional funding for this project from non-City sources, which may delay this schedule.	

Car Park 1 Stormwater Quality Improvements*\$150K*

Project Description: Stormwater quality improvements to Car Park 1 pursuant to Save the Sound settlement agreement.

Tasks	Status
Preparation of Plans	Underway
Regulatory Review	Underway
Bid	Summer 2022 <i>[CC Action Required]</i>
Construction	Fall 2022
<i>Comments:</i> This project was delayed due to the on-going construction related to Locust Avenue Sewer project.	

Rev. February 28, 2022

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CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: February 25, 2022

CONTACT: Greg Usry, City Manager

ACTION: Capital Projects Finance Plan.

FOR THE MEETING OF:

March 2, 2022

RECOMMENDATION: That the Council hear the recommended Capital Projects Finance Plan.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: Please see attached memos.

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



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E-mail: gusry@ryeny.gov
<http://www.ryeny.gov>

CITY OF RYE
Office of the City Manager

To: Mayor Cohn and Rye City Council

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

Date: February 25, 2022

Re: Bonding for Capital Project

For the last several years, City Staff, at the direction of the Council, has been working on a prioritized capital projects plan. The identified infrastructure needs now total in excess of \$25 million. As described in the Council update last year (and attached here), the City will utilize a combination of bond proceeds, grants and accumulated cash to meet the financial requirements of the plan.

Although much of the expense to date has related to soft costs, we are now underway with the construction of the four main sewer projects identified and committed to as part of the Save the Sound Stipulated Order and expect other construction projects to begin shortly. This activity, combined with rising interest rates, causes us to recommend that the Council authorize the issuance of \$13.55 million of bonds. The City Council can authorize this bonding by simple majority vote and does not require voter referendum.

Secondly, by voter referendum in 2012, the City resolved to issue \$1.68 million of bonds to fund certain projects City-wide. These monies were spent but the bonds were never issued. The recommended Council action includes the issuance of these bonds to reimburse the general fund for prior expenditures. The total new issuance will be \$15.23 million.

Last year, the Deputy Comptroller engaged our financial advisor and bond counsel to prepare bond documents to allow us to expedite the process once the decision was made to proceed. This week, we updated this paperwork and believe that we will be able to close on bonds within 30-45 days, following your authorization. The bonds will amortize over 30 years (as permitted by New York State Local Finance Law) with the resulting annual debt service of approximately \$650,000 (subject to interest rates at the time of the borrowing).



CITY OF RYE

To: Mayor Cohn and City Council

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

Re: City of Rye CIP Financial Plan

Date: March 4, 2021

Overview

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

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

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

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

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

**Does not reflect grant reimbursements*

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

Funding Sources

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

- Capex Reserve Fund
- Grants
- Long term debt

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

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

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

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

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

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

Liquidity Planning

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

Bond Issuance and Debt Service Cost

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

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

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

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

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

Summary

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

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

Source of Funds ²	
CapEx Reserve Fund	5,500,000
Grants	6,193,135
City Council Authorized Debt	13,550,000
2012 Referendum Bonds	<u>1,680,000</u>
	\$ 26,923,135

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

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



CITY OF RYE

To: Mayor Cohn and City Council
From: Greg Usry, City Manager
Re: Channel and Boat Basin Dredge Update
Date: September 17, 2021

Background

The City of Rye Boat Basin dates back to the 1950's when the City purchased the land to build the marina. Because of factors related to tidal changes and the run off from the Blind Brook, the Channel and Basin require regular removal of silt (dredging) to remain navigable. Following the initial dredge by the City in the late 1950s, regular dredging took place every 5-7 years, with the Federal Government (Army Corps of Engineers) taking responsibility for the channel dredge. The last regular dredge completed by the ACOE was in 1992. In 2013 FEMA funded the channel dredge as part of the SANDY storm reimbursement

Until recently, all dredged silt was removed and deposited off shore in the Long Island Sound. However, as a result of statutory and regulatory changes regarding environmental issues, off-shore disposal is now extremely restrictive. For silt that is deemed chemically and/or physically unsuitable for off shore disposal, the options are quite limited and significantly more expensive.

Under current regulations, the New England Army Corps of Engineers reviews sediment data for proposed dredge projects and makes a determination if the material is suitable for off shore disposal. The Army Corps and New York State have taken a more rigorous view of sediment, based upon requirements of the Clean Water Act, Marine Protection Research and Sanctuaries Act, 2016 Dredged Material Management Plan, Regional Implementation Manual (RIM), and the New York State Coastal Management Program. All of this contributes to the significantly higher cost of dredging and disposal while, at the same time, the Federal government has become particularly selective about which channels it dredges.

Current Scope

For the last several years, Coastline Consulting has been retained by the City to analyze conditions in Milton Harbor and the Boat Basin. Over this time, there have been numerous analysis of sediment toxicity, rates of silting and review of disposal options. Coastline has also been charged with administering the permitting process with the US Army Corps of Engineers and the respective environmental departments of New York and Connecticut. Based upon current facts, a proposed dredge is comprised of two distinct (but related) plans:

- Channel dredge with offshore deposit
- Basin dredge with upland disposal

For additional information concerning the permit process, summary of upland disposal facilities, silting survey information, including silting frequency and related information, please see the attached material.

Channel Dredge

In order to make the Channel navigable for most boats, it will need to be dredged to a depth of five feet and width of 75 feet from the area just south of the Boat Basin to the mouth of Milton Harbor. Historically, the channel has been dredged to its full width of 100 feet and a depth of 8 feet. However, due to permit limitations for open water disposal (25,000cy max) the proposed dredge narrowed the channel. Based upon Coastline's most recent survey, this would require the removal of approximately 21,000 cubic yards of silt. The ACOE and relevant state agencies have deemed the Channel silt to be clean enough to dispose offshore. Based upon this finding, and the current estimated cost of dredging and transporting, the estimated total cost is approximately \$1.5mm (\$60 per cubic yard plus a 20% contingency).

Basin Dredge

Although there was early hope that a biological test of the Basin silt could allow for open water disposal, this is not an option. As a result, the cost of disposing of the Basin silt to an upland facility is approximately \$160/cubic yard. Initially, the Basin Commission requested a dredge of up to six feet, with a foot of over-dredge. This would require a total dredge of approximately 43,000 cubic yards. Based upon disposal cost, this would likely exceed \$7.7 mm (including contingency). This amount far outstrips the current and future financial resources of the Basin Enterprise.

Alternatively the Commission and Basin Supervisor are examining scenarios which meet slip-holder and mooring needs, while providing the financial resources for necessary future dredges. Under these scenarios the initial dredge would total 20-25,000 cubic yards with additional dredges every five years. This plan and the financial impact are discussed in greater detail below.

Timeline

The Channel and Basin are on slightly different timelines and are currently under regulatory review, however, assuming no extraordinary review comments we anticipate having everything in hand to go to bid by early fall of next year (2022). Assuming the City and Commission identify the funding sources and the Council decides to proceed, it is hopeful that the dredges can be completed by the 2023 season. It is important to note that once the permits are granted, they may be used for five to ten years (in whole or in part).

Channel Estimated Timeline:

Sept '21 – obtain update suitability determination from NE USACE
Oct '21 – submit update suitability determination to NYDEC/USACE
Oct '21 – file CT-DEEP disposal permit application (3+ month review)
June '22 – dredging/disposal permit decisions (x3): DEC, USACE, CT-DEEP
Summer '22 - City SEQRA
August '22 - Bid/receipt process
October '22 – January '23 - Dredge underway/complete

Basin Estimated Timeline:

Aug '21 - obtain preliminary acceptance letters from disposal facilities
Sept'21- file permit application with the NY agencies (DEC, USACE, DOS, OGS)
Spring '22 – conduct sample/testing for disposal facilities to accept material
June '22 – dredging permit decisions
Summer '22 – City SEQRA
August '22 - Bid/receipt process
October '22 – January '23 Dredge underway/complete

The items noted above are in process and will be completed over the remainder of the year and into 2022. To the extent the Council wishes to advance the dredge project(s), they will be integrated into the City's priority capital projects finance plan.

Financial Impact and Planning***Channel***

Similar to City streets and general infrastructure, regular reinvestment will be required to assure the sustainability of the Channel. Based upon surveys over the last five years, Coastline estimates that the silting of the Channel amounts to approximately 2,225 cubic yards annually. With this silting rate, and further assuming that a target depth/width of 5ft./75ft., it will be necessary to dredge approximately every five – ten years at a cost of \$800k-1.6mm (at current cost estimates). Should the Council wish to make this part of the priority capex program, it will be integrated in the current financial plan.

Similar to the Basin dredge discussed below, the submissions and analysis required for the Channel permits are in process and will be unaffected by the developing financial plan. In the coming months, as the capital projects financial model is refined further, we can integrate the Channel dredge into our cost estimates and financial impact.

Boat Basin

As originally scoped, the Basin would require a dredge of approximately 43k cubic yards. This amount was based upon a goal of achieving a depth of approximately six feet throughout the Marina, with an additional foot of over-dredge. The cost to achieve that dredge amount is estimated to be in excess of \$7.7mm, based upon the upland disposal cost of \$150/cubic yard and 20% contingency. Assuming current Basin Commission financial resources and an ongoing net income amount of \$430k, that dredge is not realistic nor sustainable. Summarized in the chart below are various dredge amount options, including cost scenarios, resulting annual net income and potential future dredges.

Basin Dredge Scenarios				
	<i>Base Case(100%)</i>	<i>30K</i>	<i>25k</i>	<i>20k</i>
Silt Removed (cubic yards)	43,000	30,000	25,000	20,000
\$ Cost / cubic yard	150	150	150	150
\$ Contingency (20%)	30	30	30	30
Estimated Basin Dredge Cost	\$ 7,740,000	\$ 5,400,000	\$ 4,500,000	\$3,600,000
Basin Cap Reserve (Dec '22)¹	<u>(3,320,000)</u>	<u>(3,320,000)</u>	<u>(3,320,000)</u>	<u>(3,320,000)</u>
Dredge cost to be financed	\$ 4,420,000	\$ 2,080,000	\$ 1,180,000	\$ 280,000
Annual Debt Service (5 yrs)	\$ 884,000	\$ 416,000	\$ 236,000	\$ 56,000
Basin Annual Net Income	\$ 430,000	\$ 430,000	\$ 430,000	\$ 430,000
Pro forma NI (after D/S)	\$ (454,000)	\$ 14,000	\$ 194,000	\$ 374,000
Fund Balance (5 yr)²	\$ -	\$ 70,000	\$ 970,000	\$1,870,000
Estimated y3 Dredge in 5 yrs³		<u>389</u>	<u>5,389</u>	<u>10,389</u>
¹ Current reserve of \$2.46mm + assumed \$430k net income for 2021 and 2022 ² Fund balance after 5 years, assuming \$430k of annual net income, less annual debt cost of 2022 dredge. ³ Estimated dredge in 5 years, assuming accumulated fund balance above and dredge cost of \$160 per cubic yard and 20% contingency				

As of the end of 2020, the Basin enterprise fund had an accumulated fund balance of \$2.46mm. Last year, the Basin produced \$430k of net income and it is reasonable to assume the same result for 2021 and 2022. Based upon this assumption, the expected/assumed accumulated fund balance is approximately \$3.32mm for a dredge in late 2022. The scenarios above lay out potential dredge options based upon the use of fund balance, and possible borrowings for the additional funds needed to complete the requisite amount. Because any borrowing would be done so via the City, consideration must be given to the City Code and the resulting impact on Council Authorized debt. Per the City Code, for an enterprise fund to borrow, it is required to meet certain financial tests, including a pro forma fund balance and debt service coverage test. As plans evolve, the Basin's financial situation will have to be evaluated in the context of this test. Otherwise, any borrowing will reduce the Council's authorized debt amount for City projects.

Alternatively, were the Basin to undertake a dredge of 20,000 cubic yards or less, it could do so solely utilizing its existing fund balance and a minimal loan from the City. Further, assuming the same financial performance in future years, it could complete a second dredge in five years totaling approximately 10k cubic yards (based upon current cost estimates). Based upon surveys over the last five years, the annual silting of the Basin is estimated to be 2,347 per year. This would allow for maintenance of the target depths, as well as, additional dredged silt. Although the silting is not uniform across the marina, it does provide a sense of the sustainability.

The financial plan for the Basin will be an ongoing development. Because the requisite permits and operational process are underway, and will not be completed until late summer/early fall 2022, we will have the remainder of the year to finalize the plan. Once permits are in hand, a choice can be made to dredge any amount up to the expected 43,000 cubic yard permit. This would be determined prior to the bid documents.



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: February 25, 2022

CONTACT: Greg Usry, City Manager

ACTION: Resolution adopting a negative declaration under the State Environmental Quality Review Act for various capital improvements classified as unlisted actions.

FOR THE MEETING OF:

March 2, 2022

RECOMMENDATION: That the Council adopt a negative declaration.

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: Please see attached resolution.

**Extracts From Minutes of Meeting of the City Council
of the City of Rye, New York**

(SEQRA Resolution)

A regular meeting of the City Council of the City of Rye, located in the County of Westchester, New York, was held at _____, Rye, New York, on March 2, 2022 at ____ pm o'clock, P.M., at which meeting a quorum was at all times present and acting.

There were:

PRESENT:

ABSENT:

ALSO PRESENT:

Councilperson _____ submitted the following resolution and moved for its adoption. The motion was seconded by Councilperson _____. The City Council of the City was polled. The motion was adopted by a vote of ____ affirmative votes (being at least two-thirds of the voting strength of the City Council of the City) with ____ negative votes and ____ votes absent.

**ENVIRONMENTAL COMPLIANCE RESOLUTION TO MAKE FINDINGS
AND DETERMINATIONS**

WHEREAS, the City Council of the City of Rye, New York (the “City Council” and the “City”, respectively), intends to construct various improvements as indicated below:

DPW Building 5 – preliminary determination based on EAF

Locust Avenue Sewer Main

Salt Shed - preliminary determination based on EAF

(collectively, the “Proposed Action”);

WHEREAS, the Proposed Action is an Unlisted Action pursuant to Article 8 of the New York Environmental Conservation Law and Title 6 of the New York Code of Rules and Regulations, Part 617, known as the New York State Environmental Quality Review (SEQR) Act (collectively, the “Regulations”); and

WHEREAS, the City has prepared a Short Environmental Assessment Form, (the “EAF”) in compliance with the regulations; and

WHEREAS, said review has resulted in a reasoned determination that the Proposed Action will NOT result in any large and important impact(s) and, therefore, is one which will not have a significant negative impact on the environment; and

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Rye, as lead agency, that a NEGATIVE DECLARATION for the Proposed Action, be issued in full compliance with the New York State Environmental Conservation Law and the New York State Environmental Quality Review Act; and

BE IT FURTHER RESOLVED that the City shall maintain a file, readily accessible to the public, in the office of the City Clerk, containing this resolution, and the EAF.

This resolution shall take effect immediately upon its adoption.

I, **CAROLYN E. D'ANDREA, ESQ.** City Clerk of the City of Rye (the "City"), a municipal corporation of the State of New York, located in the County of Westchester, **HEREBY CERTIFY** as follows:

1. A regular meeting of the City Council of the City of Rye was duly held on March 2, 2022, and minutes of such meeting have been duly recorded in the Minute Book kept by me in accordance with law for the purposes of recording the minutes of meetings of the City Council of the City.

2. I have compared the attached extract with such minutes so recorded and such extract is a true and correct copy of such minutes and of the whole thereof insofar as such minutes relate to matters referred to in such extract.

3. Such minutes correctly state the time when such meeting was convened and the place where such meeting was held and the members of the City Council of the City who attended such meeting.

4. Notice of such meeting was given as prescribed by law and such meeting was open to all persons who were entitled by law to attend such meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the seal of the City, this day of _____, 2022.

(SEAL)

CAROLYN E. D'ANDREA, ESQ.
City Clerk
City of Rye, New York



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: February 25, 2022

CONTACT: Greg Usry, City Manager

ACTION: Resolution classifying various capital improvements as Type II actions under the State Environmental Quality Review Act.

FOR THE MEETING OF:

March 2, 2022

RECOMMENDATION: That the Council adopt the resolution.

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: Please see attached resolution.

**Extracts From Minutes of Meeting of the City Council
of the City of Rye, New York**

(SEQRA Resolution)

A regular meeting of the City Council of the City of Rye, located in the County of Westchester, New York, was held at _____, Rye, New York, on March 2, 2022 at ____ pm o'clock, P.M., at which meeting a quorum was at all times present and acting.

There were:

PRESENT:

ABSENT:

ALSO PRESENT:

Councilperson _____ submitted the following resolution and moved for its adoption. The motion was seconded by Councilperson _____. The City Council of the City was polled. The motion was adopted by a vote of ____ affirmative votes (being at least two-thirds of the voting strength of the City Council of the City) with ____ negative votes and ____ votes absent.

**ENVIRONMENTAL COMPLIANCE RESOLUTION TO MAKE FINDINGS
AND DETERMINATIONS**

WHEREAS, the City Council of the City of Rye, New York (the “City Council” and the “City”, respectively), intends to construct various improvements as indicated below:

HVAC replacement at Rye City Hall
Fuel Tank replacement
Brevoort Force Main
Central Avenue
Midland Avenue
DPW Building 7

(collectively, the “Proposed Action”);

WHEREAS, the Proposed Action is a Type II Action pursuant to Article 8 of the New York Environmental Conservation Law and Title 6 of the New York Code of Rules and Regulations, Part 617, known as the New York State Environmental Quality Review (SEQR) Act (collectively, the “Regulations”); and

WHEREAS, the City has prepared a Short Environmental Assessment Form, (the “EAF”) in compliance with the regulations; and

WHEREAS, said review has resulted in a reasoned determination that the Proposed Action will NOT result in any large and important impact(s) and, therefore, is one which will not have a significant negative impact on the environment; and

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Rye, as lead agency, that a NEGATIVE DECLARATION for the Proposed Action, be issued in full compliance with the New York State Environmental Conservation Law and the New York State Environmental Quality Review Act; and

BE IT FURTHER RESOLVED that the City shall maintain a file, readily accessible to the public, in the office of the City Clerk, containing this resolution, and the EAF.

This resolution shall take effect immediately upon its adoption.

I, **CAROLYN E. D'ANDREA, ESQ.** City Clerk of the City of Rye (the "City"), a municipal corporation of the State of New York, located in the County of Westchester, **HEREBY CERTIFY** as follows:

1. A regular meeting of the City Council of the City of Rye was duly held on March 2, 2022, and minutes of such meeting have been duly recorded in the Minute Book kept by me in accordance with law for the purposes of recording the minutes of meetings of the City Council of the City.

2. I have compared the attached extract with such minutes so recorded and such extract is a true and correct copy of such minutes and of the whole thereof insofar as such minutes relate to matters referred to in such extract.

3. Such minutes correctly state the time when such meeting was convened and the place where such meeting was held and the members of the City Council of the City who attended such meeting.

4. Notice of such meeting was given as prescribed by law and such meeting was open to all persons who were entitled by law to attend such meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the seal of the City, this day of _____, 2022.

(SEAL)

CAROLYN E. D'ANDREA, ESQ.

City Clerk
City of Rye, New York



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: February 25, 2022

CONTACT: Greg Usry, City Manager

ACTION: Resolution to issue \$4,200,000 of bonds to finance the costs of various City projects related to sewer improvements.

FOR THE MEETING OF:

March 2, 2022

RECOMMENDATION: That the Council authorize the City Manager to issue the bonds.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: Please see attached resolution.



February 28, 2022

VIA E-MAIL

Mr. Joseph S. Fazzino
Deputy Comptroller
City of Rye
1051 Boston Post Road
Rye, NY 10580

Re: City of Rye, \$4,200,000 New York - Serial Bond Resolution – Sewers

Dear Joe:

Attached please find extracts of minutes of a meeting of the City Council of the City of Rye, New York (the "City") containing a serial bond resolution authorizing the issuance of serial bonds to finance the costs of the acquisition, construction or reconstruction of or addition to a sewer system. Following adoption of the bond resolution by at least two-thirds of the entire voting strength of the City Council of the City, please have the City Clerk complete the extract page and Clerk's Certificate and return a copy to us for our transcript file. **The bond resolution with the enclosed estoppel notice must then be published in the City's official newspaper and, upon receipt, please send us the newspaper affidavit of publication of said bond resolution and estoppel notice.**

Also enclosed, please find an environmental compliance resolution. This resolution must be adopted at the same meeting as the bond resolution and is effective immediately upon adoption by the City Council. There is no publication requirement for the environmental resolution.

Should you have any questions, please feel free to call me at the number above.

Very truly yours,

Lauren Trialonas

**EXTRACTS FROM MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF RYE,
COUNTY OF WESTCHESTER, STATE OF NEW YORK**

(\$4,200,000 – Acquisition, Construction or Reconstruction of or Addition to a Sewer System)

A regular meeting of the City Council of the City of Rye (the “City”), located in the County of Westchester, State of New York, was held at City Hall, _____New York, on March 2, 2022 at ____ o’clock, ____M. (EST), at which meeting a quorum was at all times present and acting. There were:

PRESENT:

ABSENT:

ALSO PRESENT:

* * * * *

Councilperson _____ submitted the following resolution and moved for its adoption. The motion was seconded by Councilperson _____. The City Council of the City was polled. The motion was adopted by a vote of ____ affirmative votes (being at least two-thirds of the voting strength of the City Council of the City) with ____ negative votes and ____ votes absent.

**BOND RESOLUTION, DATED MARCH 2, 2022 AUTHORIZING THE
ISSUANCE OF UP TO \$4,200,000 AGGREGATE PRINCIPAL AMOUNT
SERIAL BONDS OF THE CITY OF RYE, COUNTY OF WESTCHESTER,
STATE OF NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW,
TO FINANCE THE COSTS OF THE ACQUISITION, CONSTRUCTION OR
RECONSTRUCTION OF OR ADDITION TO A SEWER SYSTEM IN AND
FOR THE CITY.**

WHEREAS, the City Council of the City of Rye (the “City”), a municipal corporation of the State of New York, located in the County of Westchester, hereby determines that it is in the public interest of the City to authorize, in accordance with the Local Finance Law, the financing of the acquisition, construction or reconstruction of or addition to a sewer system in and for the City, including any preliminary and incidental costs related thereto, at a total estimated cost not to exceed \$4,200,000, for which no funds have heretofore been borrowed, all in accordance with the Local Finance Law (the “Project”); and

WHEREAS, the City Council of the City has not taken any action or adopted any local law which would require the effectiveness of this bond resolution be subjected to a permissive or mandatory referendum.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rye, located in the County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the City, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, in the aggregate principal amount not to exceed \$4,200,000, pursuant to the Local Finance Law, in order to finance the costs of the Project.

Section 2. The City Council has ascertained and hereby states that (a) the estimated maximum cost of the Project is not to exceed \$8,336,625, (b) no money has heretofore been

authorized to be applied to the payment of the costs of the Project, (c) the City Council of the City plans to finance the costs of the Project from (i) grants-in-aid anticipated to be received by the City in an estimated amount of \$3,964,500 and available funds of the City in the amount of \$172,125 and (ii) the proceeds of the serial bonds authorized herein, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, in the principal amount of \$4,200,000, (d) the maturity of the obligations authorized herein will not be in excess of thirty (30) years, and (e) on or before the expenditure of moneys to pay any costs for the Project, for which proceeds of any obligations authorized herein are to be applied to reimburse the City, the City Council of the City took "official action" for federal income tax purposes to authorize capital financing of such expenditure.

Section 3. It is hereby determined that the Project is a specific object or purpose, or of a class of object or purpose, described in subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law and that the period of probable usefulness of the Project is thirty (30) years. The serial bonds authorized herein shall have a maximum maturity of thirty (30) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize the issuance of the serial bonds authorized herein, and bond anticipation notes issued in anticipation of the issuance of such serial bonds, including renewals thereof, the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes, including whether to issue such obligations on the basis of substantially level or declining annual

debt service, are hereby delegated to the City Comptroller, as the chief fiscal officer of the City. The City Comptroller is hereby authorized to execute by manual or facsimile signature on behalf of the City, all serial bonds authorized herein and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the City Clerk, or the Deputy City Clerk in the absence of the City Clerk, is hereby authorized to impress the seal of the City (or to have imprinted a facsimile thereof) on all such serial bonds and all such bond anticipation notes and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the manual or facsimile signature of the City Comptroller. In the absence of the City Comptroller, the Deputy or Acting City Comptroller is hereby authorized to exercise all of the powers delegated to the City Comptroller by this bond resolution.

Section 5. The faith and credit of the City is hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized herein as the same shall become due.

Section 6. When this bond resolution takes effect, the City Clerk or the Deputy City Clerk shall cause the same to be published, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in The Journal News, a newspaper having a general circulation in the City. The validity of the serial bonds authorized herein, and of bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be contested only if such obligations are authorized for an object or purpose, or class of object or purpose, for which the City is not authorized to expend money, or the provisions of law, which should have been complied with at the date of publication of this bond resolution, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days

after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 7. Prior to the issuance of the serial bonds authorized herein, or of bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City Council of the City shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the “environmental compliance proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the City Council of the City covenants that it will re-adopt, amend or modify this bond resolution upon the advice of bond counsel. It is hereby determined by the City Council of the City that the Project will not have a significant effect on the environment.

Section 8. The City hereby declares its intention to issue the serial bonds authorized herein, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds (collectively, the “obligations”) to finance costs of the Project. The City covenants for the benefit of the holders of such obligations that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations or any other funds of the City, and will not make any use of the Project which would cause the interest on such obligations to become subject to Federal income taxation under the Internal Revenue Code of 1986, as amended (the “Code”) (except for the federal alternative minimum tax imposed on corporations by section 55 of the Code), or subject the City to any penalties under section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations,

the proceeds thereof or the Project financed thereby, if such action or omission would cause the interest on such obligations to become subject to Federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by section 55 of the Code), or subject the City to any penalties under section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the serial bonds or any other provisions hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of such obligations may be applied to reimburse expenditures or commitments of the City made with respect to the Project on or after a date which is not more than sixty (60) days prior to the date of adoption of this bond resolution by the City.

Section 9. For the benefit of the holders and beneficial owners from time to time of the serial bonds authorized herein, and of bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City agrees, in accordance with and as an obligated person with respect to the obligations under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner as may be required for purposes of the Rule. In order to describe and specify certain terms of the City’s continuing disclosure agreement for that purpose, and thereby implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller is hereby authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”), to be placed on file with the City Clerk, and which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of such obligations in accordance with the Rule, with any changes or amendments that are not inconsistent with this bond resolution and not substantially adverse to the

City and that are approved by the City Comptroller on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed collectively by this paragraph and the Commitment shall be the City's continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The City Comptroller is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Comptroller shall consult with, as appropriate, the Corporation Counsel of the City and bond counsel or other qualified independent special counsel to the City and shall be entitled to rely upon any legal advice provided by the Corporation Counsel of the City or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This bond resolution will take effect immediately upon its adoption by the City Council of the City.

I, **CAROLYN E. D'ANDREA, ESQ.** City Clerk of the City of Rye (the "City"), a municipal corporation of the State of New York, located in the County of Westchester, **HEREBY CERTIFY** as follows:

1. A regular meeting of the City Council of the City of Rye was duly held on March 2, 2022, and minutes of such meeting have been duly recorded in the Minute Book kept by me in accordance with law for the purposes of recording the minutes of meetings of the City Council of the City.

2. I have compared the attached extract with such minutes so recorded and such extract is a true and correct copy of such minutes and of the whole thereof insofar as such minutes relate to matters referred to in such extract.

3. Such minutes correctly state the time when such meeting was convened and the place where such meeting was held and the members of the City Council of the City who attended such meeting.

4. Notice of such meeting was given as prescribed by law and such meeting was open to all persons who were entitled by law to attend such meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the seal of the City, this ____ day of _____, 2022.

(SEAL)

CAROLYN E. D'ANDREA, ESQ.
City Clerk
City of Rye, New York

**CITY OF RYE
COUNTY OF WESTCHESTER, NEW YORK**

ESTOPPEL NOTICE

The bond resolution published herewith was adopted by the City Council of the City of Rye (the “City”), a municipal corporation of the State of New York, located in the County of Westchester, on March 2, 2022. The validity of the obligations authorized by such bond resolution may be hereafter contested only if such obligations were authorized for an object or purpose, or class of object or purpose, for which the City is not authorized to expend money, or the provisions of law which should have been complied with at the date of publication of this notice, were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of publication of this notice, or if such obligations were authorized in violation of the provisions of the Constitution of the State of New York.

Date: _____, 2022

CAROLYN E. D’ANDREA, ESQ.
City Clerk
City of Rye, New York



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: February 25, 2022

CONTACT: Greg Usry, City Manager

ACTION: Resolution to issue \$9,350,000 bonds to finance the costs of construction of an addition to or reconstruction of various Class "A" buildings or systems related thereto in the City.

FOR THE MEETING OF:

March 2, 2022

RECOMMENDATION: That the Council adopt the resolution to issue the bonds.

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: Please see attached resolution.



February 28, 2022

VIA E-MAIL

Mr. Joseph S. Fazzino
Deputy Comptroller
City of Rye
1051 Boston Post Road
Rye, NY 10580

Re: City of Rye, \$9,350,000 New York - Serial Bond Resolution – Buildings

Dear Joe:

Attached please find extracts of minutes of a meeting of the City Council of the City of Rye, New York (the "City") containing a serial bond resolution authorizing the issuance of serial bonds to finance the costs of the construction or reconstruction of buildings in and for the City. Following adoption of the bond resolution by at least two-thirds of the entire voting strength of the City Council of the City, please have the City Clerk complete the extract page and Clerk's Certificate and return a copy to us for our transcript file. **The bond resolution with the enclosed estoppel notice must then be published in the City's official newspaper and, upon receipt, please send us the newspaper affidavit of publication of said bond resolution and estoppel notice.**

Also enclosed, please find an environmental compliance resolution. This resolution must be adopted at the same meeting as the bond resolution and is effective immediately upon adoption by the City Council. There is no publication requirement for the environmental resolution.

Should you have any questions, please feel free to call me at the number above.

Very truly yours,

Lauren Trialonas

**EXTRACTS FROM MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF RYE,
COUNTY OF WESTCHESTER, STATE OF NEW YORK**

(\$9,350,000 –Construction or Reconstruction of Buildings)

A regular meeting of the City Council of the City of Rye (the “City”), located in the County of Westchester, State of New York, was held at City Hall, _____New York, on March 2, 2022 at ___ o’clock, ___.M. (EST), at which meeting a quorum was at all times present and acting. There were:

PRESENT:

ABSENT:

ALSO PRESENT:

* * * * *

Councilperson _____ submitted the following resolution and moved for its adoption. The motion was seconded by Councilperson _____. The City Council of the City was polled. The motion was adopted by a vote of ___ affirmative votes (being at least two-thirds of the voting strength of the City Council of the City) with _____ negative votes and _____ votes absent.

**BOND RESOLUTION, DATED MARCH 2, 2022 AUTHORIZING THE
ISSUANCE OF UP TO \$9,350,000 AGGREGATE PRINCIPAL AMOUNT
SERIAL BONDS OF THE CITY OF RYE, COUNTY OF WESTCHESTER,
STATE OF NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, TO
FINANCE THE COSTS OF THE CONSTRUCTION OF AN ADDITION TO
OR RECONSTRUCTION OF VARIOUS CLASS “A” BUILDINGS IN AND
FOR THE CITY.**

WHEREAS, the City Council of the City of Rye (the “City”), a municipal corporation of the State of New York, located in the County of Westchester, hereby determines that it is in the public interest of the City to authorize, in accordance with the Local Finance Law, the financing of the costs of the construction of an addition to or reconstruction of various Class “A” buildings in and for the City, including any preliminary and incidental costs related thereto, at a total estimated cost not to exceed \$9,350,000, for which no funds have heretofore been borrowed, all in accordance with the Local Finance Law (the “Project”); and

WHEREAS, the City Council of the City has not taken any action or adopted any local law which would require the effectiveness of this bond resolution be subjected to a permissive or mandatory referendum.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rye, located in the County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the City, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, in the aggregate principal amount not to exceed \$9,350,000, pursuant to the Local Finance Law, in order to finance the costs of the Project.

Section 2. The City Council has ascertained and hereby states that (a) the estimated maximum cost of the Project is not to exceed \$11,350,000, (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project, (c) the City Council of the City plans to finance the costs of the Project from (i) grants-in-aid anticipated to be received by the City in an estimated amount of \$2,000,000 and (ii) the proceeds of the serial bonds authorized herein, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, in the principal amount of \$9,350,000, (d) the maturity of the obligations authorized herein will not be in excess of twenty-five (25) years, and (e) on or before the expenditure of moneys to pay any costs for the Project, for which proceeds of any obligations authorized herein are to be applied to reimburse the City, the City Council of the City took “official action” for federal income tax purposes to authorize capital financing of such expenditure.

Section 3. It is hereby determined that the Project is a specific object or purpose, or of a class of object or purpose, described in subdivision 12(a)(1) of paragraph a of Section 11.00 of the Local Finance Law (such buildings being of “Class A” construction as that term is defined in Section 11.00 of the Local Finance Law) and that the period of probable usefulness of the Project is twenty-five (25) years. The serial bonds authorized herein shall have a maximum maturity of twenty-five (25) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize the issuance of the serial bonds authorized herein, and bond anticipation notes issued in anticipation of the issuance of such serial bonds, including renewals thereof, the power to

prescribe the terms, form and contents of such serial bonds and such bond anticipation notes, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes, including whether to issue such obligations on the basis of substantially level or declining annual debt service, are hereby delegated to the City Comptroller, as the chief fiscal officer of the City. The City Comptroller is hereby authorized to execute by manual or facsimile signature on behalf of the City, all serial bonds authorized herein and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the City Clerk, or the Deputy City Clerk in the absence of the City Clerk, is hereby authorized to impress the seal of the City (or to have imprinted a facsimile thereof) on all such serial bonds and all such bond anticipation notes and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the manual or facsimile signature of the City Comptroller. In the absence of the City Comptroller, the Deputy or Acting City Comptroller is hereby authorized to exercise all of the powers delegated to the City Comptroller by this bond resolution.

Section 5. The faith and credit of the City is hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized herein as the same shall become due.

Section 6. When this bond resolution takes effect, the City Clerk or the Deputy City Clerk shall cause the same to be published, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in the Journal News a newspaper having a general circulation in the City. The validity of the serial bonds authorized herein, and of bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be contested only if such obligations are authorized for an object or purpose, or class of object or purpose, for which the City is not authorized to expend money, or the provisions of law, which should have been complied with

at the date of publication of this bond resolution, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 7. Prior to the issuance of the serial bonds authorized herein, or of bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City Council of the City shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the “environmental compliance proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the City Council of the City covenants that it will re-adopt, amend or modify this bond resolution upon the advice of bond counsel. It is hereby determined by the City Council of the City that the Project will not have a significant effect on the environment.

Section 8. The City hereby declares its intention to issue the serial bonds authorized herein, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds (collectively, the “obligations”) to finance costs of the Project. The City covenants for the benefit of the holders of such obligations that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations or any other funds of the City, and will not make any use of the Project which would cause the interest on such obligations to become subject to Federal income taxation under the Internal Revenue Code of 1986, as amended (the “Code”) (except for the federal alternative minimum tax imposed on

corporations by section 55 of the Code), or subject the City to any penalties under section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or the Project financed thereby, if such action or omission would cause the interest on such obligations to become subject to Federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by section 55 of the Code), or subject the City to any penalties under section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the serial bonds or any other provisions hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of such obligations may be applied to reimburse expenditures or commitments of the City made with respect to the Project on or after a date which is not more than sixty (60) days prior to the date of adoption of this bond resolution by the City.

Section 9. For the benefit of the holders and beneficial owners from time to time of the serial bonds authorized herein, and of bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City agrees, in accordance with and as an obligated person with respect to the obligations under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner as may be required for purposes of the Rule. In order to describe and specify certain terms of the City’s continuing disclosure agreement for that purpose, and thereby implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller is hereby authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”), to be placed on file with the City Clerk, and which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and

beneficial owners of such obligations in accordance with the Rule, with any changes or amendments that are not inconsistent with this bond resolution and not substantially adverse to the City and that are approved by the City Comptroller on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed collectively by this paragraph and the Commitment shall be the City's continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The City Comptroller is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Comptroller shall consult with, as appropriate, the Corporation Counsel of the City and bond counsel or other qualified independent special counsel to the City and shall be entitled to rely upon any legal advice provided by the Corporation Counsel of the City or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This bond resolution will take effect immediately upon its adoption by the City Council of the City.

I, **CAROLYN E. D'ANDREA, ESQ.** City Clerk of the City of Rye (the "City"), a municipal corporation of the State of New York, located in the County of Westchester, **HEREBY CERTIFY** as follows:

1. A regular meeting of the City Council of the City of Rye was duly held on March 2, 2022, and minutes of such meeting have been duly recorded in the Minute Book kept by me in accordance with law for the purposes of recording the minutes of meetings of the City Council of the City.

2. I have compared the attached extract with such minutes so recorded and such extract is a true and correct copy of such minutes and of the whole thereof insofar as such minutes relate to matters referred to in such extract.

3. Such minutes correctly state the time when such meeting was convened and the place where such meeting was held and the members of the City Council of the City who attended such meeting.

4. Notice of such meeting was given as prescribed by law and such meeting was open to all persons who were entitled by law to attend such meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the seal of the City, this ____ day of _____, 2022.

(SEAL)

CAROLYN E. D'ANDREA, ESQ.
City Clerk
City of Rye, New York

**CITY OF RYE
COUNTY OF WESTCHESTER, NEW YORK**

ESTOPPEL NOTICE

The bond resolution published herewith was adopted by the City Council of the City of Rye (the “City”), a municipal corporation of the State of New York, located in the County of Westchester, on March 2, 2022. The validity of the obligations authorized by such bond resolution may be hereafter contested only if such obligations were authorized for an object or purpose, or class of object or purpose, for which the City is not authorized to expend money, or the provisions of law which should have been complied with at the date of publication of this notice, were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of publication of this notice, or if such obligations were authorized in violation of the provisions of the Constitution of the State of New York.

Date: _____, 2022

CAROLYN E. D’ANDREA, ESQ.
City Clerk
City of Rye, New York



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: February 16, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Adjourn until March 16, 2022 the public hearing to create a new local law, Chapter 122, "Landscapers and Leaf Blower Regulations" requiring all landscapers to obtain an annual permit in order to operate as a landscaper and restrict the use of leaf blowers.

FOR THE MEETING OF:
March 2, 2022

RECOMMENDATION: That the Council adjourn the public hearing.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND: See attached law and proposed changes.

Summary of Differences: Leaf Blowers/Landscapers

	Previous Law	Proposed Changes
Permit	Landscaping permit not required	Landscapers must register ANNUALLY to operate within the City limits. <ul style="list-style-type: none"> • Proof of a valid and current Westchester County Home Improvement License and insurance information required • Stated and signed agreement that leaf blower laws are understood and will be followed • Landscaper Registration Tag issued and must be visible in vehicle
Permissible Dates to Operate Leaf Blowers and Other Lawn Equipment	October 1 and April 30 Weekdays 8 am – 8 pm Weekends 10 am – 6 pm	October 1 and April 30 Weekdays 8 am – 6 pm Weekends 10 am – 4 pm
Storm Exemption	Rye Department of Public Works may permit the use of leaf blowers from May 1 to September 30 for a period of time not to exceed seven days after significant storm events or during other emergency situations circumstances.	Rye Department of Public Works may permit the use of leaf blowers from May 1 to September 30 for a period of time not to exceed fourteen days after significant storm events or during other emergency situations circumstances.
Leaf Blower Noise	Gas and Electric leaf blower 85 db(A)	Gas and Electric leaf blowers 85 db(A) Effective January 2023, electric leaf blowers ONLY with maximum permitted intensity of 65 db(A)
Penalties	Owner of the property OR the person performing such violation shall be notified to suspend all work and be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.	The party operating the leaf blower AND the party who employed the person to operate the leaf blower at the time of violation AND the party who owns the property where the violation occurs will be subject to a fine of \$250 for the first offense, a fine not to exceed the sum of \$350 for the second offense and revocation of the Landscaper's permit for the next 6 (six) months upon the third offense. Any Landscaper found operating without a permit or after the permit has been revoked, or a property owner on the third offense, shall be punished by a fine of up to \$1,500.

CITY OF RYE

LOCAL LAW NO. __ 2021

A local law to add a new Chapter 122 “Landscapers and Leaf Blower Regulations” of the Code of the City of Rye to set forth permit requirements for Landscaping Companies and to regulate the use of gas and electric powered leaf blowers as follows:

Section 1: Chapter 122, Landscapers and Leaf Blower Regulations

§ 122-1 Purpose.

The City Council finds that landscaping activities generate noise, disseminate dust particles and other airborne pollutants into the air and onto other nearby properties and that the use of leaf blowers specifically can increase environmental pollution. In addition, there are numerous landscaping companies providing services to properties in the City and the City Council finds that it is in the City’s interest to ensure that such companies are properly licensed and are aware of the applicable regulations in the City. It is the intent and purpose of this Chapter to preserve and improve air quality, decrease the high and low-frequency noise pollution and decrease carbon and non-carbon emissions and dust particulate. It is the policy of the City to regulate the use of all leaf blowers and minimize and mitigate the harmful impacts of their use.

§ 122-2 Definitions.

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

LANDSCAPER – Any person, corporation, partnership or business entity of any form who tends, plants, installs, maintains, or repairs lawns, or performs general yard maintenance work or leaf collection of any kind on real property which such person or business entity does not own or at which s/he does not reside. A Landscaper shall not include landscape designers or landscape architects.

LEAF BLOWER – a portable, handheld or backpack-style device powered by fuel or electricity and used for the purpose of blowing, moving, removing, dispersing, vacuuming or redistributing leaves, dust, dirt, grass clippings, cuttings, and trimmings from trees and shrubs or any other type of litter or debris.

§ 122-3 Registration required; requirements; fee; exemption

- A. No Landscaper shall operate or provide services within the City of Rye unless the Landscaper is registered annually pursuant to this Chapter.
- B. Registration requirements.
 - 1. All Landscapers shall submit a completed registration form provided by the City Clerk and pay a nonrefundable fee in an amount to be determined by the City Council.
 - 2. The registration form, at a minimum, shall state that the landscaper has read, understands and agrees to comply with the City’s leaf blower regulations and other relevant City laws and policies.

3. In addition, the Landscaper shall submit proof of a valid and current Westchester County Home Improvement License and such other insurance information that the City deems relevant.
- C. When the City Clerk determines that all requirements have been met, s/he shall issue a Landscaper Registration Tag, which must be placed on the rear view mirror of each vehicle the landscaper uses in the City. The Tag is not transferable.
- D. The Landscaper Registration Tag shall be valid from January 1 through December 31 each year, unless revoked.

§ 122-4 Use of Gas Powered Leaf Blowers Prohibited.

Effective January 2023, during the time that leaf blower use is permitted, only electric blowers shall be permitted. Gas powered leaf blowers are prohibited at all times.

§ 122-5 Maximum Sound Pressure [db(A)] and hours of operation of leaf blowers

- A. Effective January 2023, leaf blowers (electric only) shall have a maximum permitted intensity of 65 db(A). Effective immediately, all other lawn equipment, including, but not limited to, outdoor vacuum cleaners shall have a maximum permitted intensity of 85 db(A).
- B. Use of lawn equipment, including, but not limited to, leaf blowers and outdoor vacuum cleaners is permitted only between 8:00 a.m. and 6:00 p.m. weekdays and 10:00 a.m. and 4:00 p.m. on weekends and holiday. The permitted intensity and hours described in this subsection will apply to leaf blowers during months when the use of leaf blowers is permitted.
- C. The use of leaf blowers shall be prohibited between May 1 and September 30 every year.
- D. The head of the Rye Department of Public Works may permit the use of leaf blowers from May 1 to September 30 for a period of time not to exceed fourteen (14) days after significant storm events or during other emergency situations.
- E. Additional rules for any person operating a leaf blower between the dates of October 1 and April 30 are as follows:
 1. No leaf blower shall be operated simultaneously on the same lot with any other type of machine-powered lawn equipment.
 2. Two or more leaf blowers shall not be operated simultaneously except in R-1 Residence Districts as indicated on the City of Rye Zoning Map.

- F. This section shall not apply to the following entities and activities: municipal, schools, religious institutions, membership clubs, golf courses, hospital and retirement communities, cemeteries, and driveway/road paving and sealing activities, except that any leaf blower use shall be minimized to the maximum extent practicable in proximity to residences.
- G. Moving leaves or yard debris to City streets, public property, storm drains or abutting lots is prohibited at all times.

§ 122-6 Enforcement.

The provisions of this chapter shall be enforced by the City of Rye Police Department or the City of Rye Building Department.

§ 122-7 Penalties for offenses.

- A. The following parties shall have committed a violation of this laws if it is not complied with:
 - (1) The party operating the leaf blower; and
 - (2) The party who employed the person to operate the leaf blower at the time of violation; and
 - (3) The party who owns the property where the violation occurs.
- B. Any party violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not to exceed the sum of \$250 for the first offense. A second offense shall be punishable by a fine not to exceed the sum of \$350 and a third offense shall result in the revocation of the Landscaper's permit for the next 6 (six) months, or, if you are the property owner, a fine not to exceed the sum of \$1,500. Any Landscaper found operating without a permit or after the permit has been revoked shall be punished by a fine of up to \$1,500.

Section 2. Severability.

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

Section 3: Effective Date.

This local law will take effect on January 1, 2022.



POLICE DEPARTMENT

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



Michael A. Kopy
Public Safety

Commissioner

December 8, 2021

To: Greg Usry, City Manager
From: Michael A. Kopy, Public Safety Commissioner
Subject: Leaf Blower Violations

During the month of November 2021, the Police Department responded to or observed 70 possible violations of Section 133-7 of the city code. These responses resulted in 36 summons being issued. No summons were issued for the remaining calls due to a variety of factors including:

- 1) the violators may have been gone prior to the arrival of the patrol, or
- 2) that a violation of the code ceased prior to the arrival of the patrol.

During the month of November 2020, there were 14 calls for potential violations of Section 133-7 with one summons issued.

I expect that enforcement levels will drop significantly during the month of December as the fall leaf clean up season ends.



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 2, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Consideration of a request by the Rye Chamber of Commerce for the use of City Car Park #2 on Sundays from May 8, 2022 through December 4, 2022 from 6:30 a.m. to 2:30 p.m. for the Rye Farmers Market.

FOR THE MEETING OF:

March 2, 2022

RECOMMENDATION: That the Council approve the request.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND:

The Chamber of Commerce requests the use of the southern end of Car Park #2 on Sundays May 8, 2022 through December 4, 2022 from 6:30 a.m. to 2:30 p.m. for the Rye Farmers Market. The City Council is asked to approve the request.

See attached request.



February 22, 2022

Noga Ruttenberg
Assistant to the City Manager
City of Rye
1051 Boston Post Road
Rye, New York 10580

RE: Rye Farmers Market

Dear Mrs. Ruttenberg:

On behalf of the Rye Chamber of Commerce, I am writing to request permission from the City for use of Parking Lot # 2 southern end on Sundays from 6:30 am – 2:30 pm from May 8, 2022 - December 4, 2022 for the Rye Farmers Market. Market hours are from 8:30 am – 1:00 pm.

Please find attached both the 2022 agreement and site plan.

On the City's approval, I will contact the Rye City Police Department to make sure the village safety officer is aware of this seasonal activity. An insurance certificate will be provided upon approval.

Thank you in advance for your consideration.

Sincerely,

Brian Jackson
President Rye Chamber of Commerce

RYE FARMERS MARKET
SITE MAP – 2021 SEASON

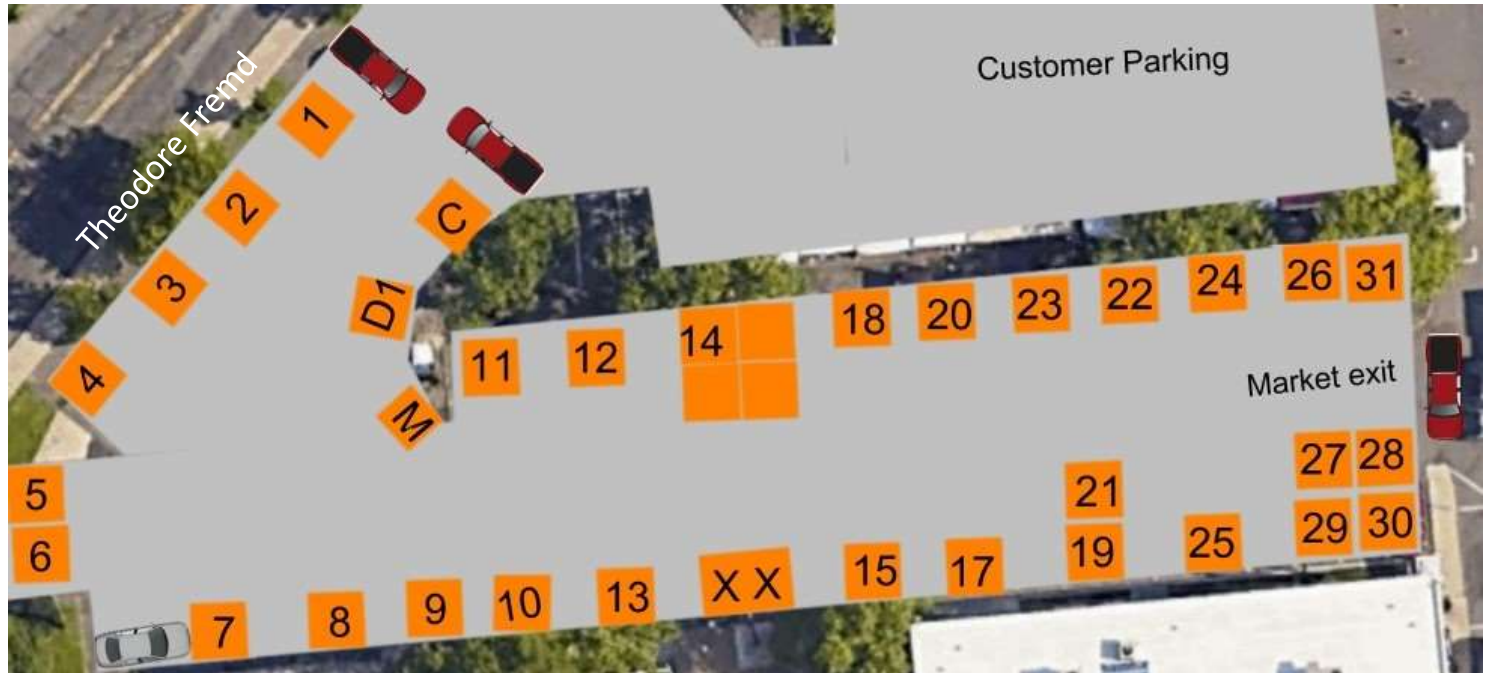


Exhibit A
2022 Operating Plan
Down to Earth Rye Farmers Market

The Rye Chamber of Commerce (the “Chamber”) agrees to sponsor Zeltsman Associates, Inc, dba Down to Earth Market (“Down to Earth”) to operate a seasonal outdoor farmers market (“the Market”) at the location identified below according to the operating plan set forth in this document. This document is an Exhibit to the Agreement dated March 15, 2018 and replaces the Exhibit A, 2021 Operating Plan dated January 22, 2021.

Farmers Markets serve an important purpose by providing a community with access to farm products that are locally grown and truly fresh while creating a place for friends and neighbors to meet. Additionally, farmer’s markets stimulate shopping at nearby stores by providing an attraction to people from outside the immediate community. The goals of this farmer’s market are:

- To give Rye area residents and visitors a place where they can purchase fresh farm products from local farms and the opportunity to interact with the people who grow, raise or make the food.
- To create a relaxed and friendly setting where people can meet their neighbors in a traditional open-air market setting.

Successful farmer’s markets are a partnership between the market developer and the community. Each organization has its role and responsibilities and these are outlined below:

General Conditions

Season:	May 8, 2022 - December 4, 2022
Days & hours:	Sundays, 6:30AM-2:30PM, inclusive of set-up and break down time. Market is open to the public 8:30AM-1PM.
Market Location:	The City of Rye (the “City”) will make available Parking Lot 2 off Theodore Fremd Avenue, behind the Purchase Street stores, for the famers market. The Market will set up in the tier of parking spaces that runs parallel to Elm Street, between W. Purdy Avenue and Theodore Fremd Avenue (see Exhibit B, Site Plan).
Traffic Control:	Temporary barricades will be set up on market day to prevent vehicles from entering the market area while the market is operating. Barricades may include sawhorses, traffic cones, and/or vendor or Down to Earth staff vehicles.
Storage & bathroom:	The City will permit Down to Earth to place a portable toilet unit and two storage sheds to hold market equipment, tents, signs, etc. for the length of the market season. Both will be locked and secured to be used by Down to Earth Markets personnel and vendors only.

Down to Earth Responsibilities

Market management & administration:	Down to Earth will operate the Market according to the General Policies and Rules it has established to guide the Market's operations. Down to Earth will hire a manager to be their agent at the Market site during operating hours to make sure the General Policies and Rules are followed and the market site is kept clean and orderly.
Vendor selection:	Down to Earth will determine the vendor mix and target number of vendors to be recruited for the Market. We seek to recruit eighteen to twenty-five vendors for this market. While a reasonable effort will be made to incorporate the wishes of the community, Down to Earth reserves the exclusive right to determine the vendor mix according to its best judgment and to decide how many and which vendors to invite into the Market.
Market activity planning:	Within the parameters of what is safe and possible during the Covid-19 crisis, Down to Earth will work with the Chamber and the community to plan and schedule special programming at the farmers market. In addition, Chamber members may reserve a free space in the market once each season to conduct an information table (no sales). Sponsor and community input on farmers market planning is welcome, but final decisions regarding market activities and events will be made by Down to Earth.
Vending fees:	Down to Earth will, at its sole discretion, establish vending fees that it charges the market vendors. These fees will be retained by Down to Earth as compensation for running the Market.
Insurance:	<p>Down to Earth will maintain a general business liability insurance policy naming the Rye Chamber of Commerce and the City of Rye as an additional insured. The policy limits will be \$1,000,000 per incident, \$2,000,000 aggregate and will be in effect for the market season.</p> <p>Down to Earth will assure that all vendors selling in the Market maintain general and product liability insurance policies naming Down to Earth and the Rye Chamber of Commerce and the City of Rye as additional insured. These policies will be \$1,000,000 per incident, \$2,000,000 aggregate and will be in effect for the market season.</p>
Vendor permitting:	Market vendors will be responsible for securing any licenses or permits required by county, state or federal laws and complying with all health and safety regulations governing their products.
Promotion & advertising:	<p>Down to Earth will develop and implement a promotion plan that incorporates the variety of media, signage and approaches that they consider best for this market.</p> <p>Down to Earth will be responsible for designing and producing all printed materials, advertisements, banners and signs promoting the Market. All materials will bear the logo, tag lines and color schemes of</p>

	the Down to Earth brand identity.
Clean-up & sanitation:	<p>At the end of each market day vendors will leave their areas broom clean and remove their own rubbish. The market manager will make sure the entire site is left as found.</p> <p>Down to Earth will, at its own expense, provide a portable toilet and handwashing unit for vendors to use during market hours. The unit will be placed in the Market area for the duration of the Market season. Down to Earth will engage a company to clean and service the unit weekly. The unit will be kept locked outside of Market operating hours.</p>
Covid-19 response:	Down to Earth will follow and enforce state and local COVID-19 safety rules.

Rye Chamber of Commerce and City of Rye Responsibilities

Site conditions & maintenance:	<p>The City will retain all responsibility for maintaining generally safe conditions of the market site such as patching broken pavement that could cause shoppers to fall.</p> <p>The City will provide one trash receptacle for use by the shoppers and empty it after the market closes.</p>
Traffic control:	The City will enforce parking restrictions to keep the Market area free from vehicles on Sunday mornings during the market season. Down to Earth may post temporary “No Parking Sunday, 6:30AM-2:30PM” signs in the market area.
Signage:	<p>The City will permit Down to Earth to set out temporary signs at the entrances to Parking Lot 2, including A-frame signs and lawn signs, for the duration of each Market day. The City will permit Down to Earth to place an A-frame or similar sign on Purchase Street at Boston Post Road for the duration of each Market day.</p> <p>The City will hang four pole banners, provided by Down to Earth, near the Market site, at no cost to down to Earth.</p>
Promotion:	<p>The Chamber will include information about the Market in the publications, websites, and event listings that it maintains as an information service for its residents and constituents.</p> <p>The Chamber and the City will allow Down to Earth to hang posters on community bulletin boards and distribute flyers to promote the farmers market as appropriate in local businesses and municipal buildings.</p>

For Zeltsman Associates, Inc.
dba Down to Earth Market

For Rye Chamber of Commerce

Brian M. Jackson

By _____

By _____

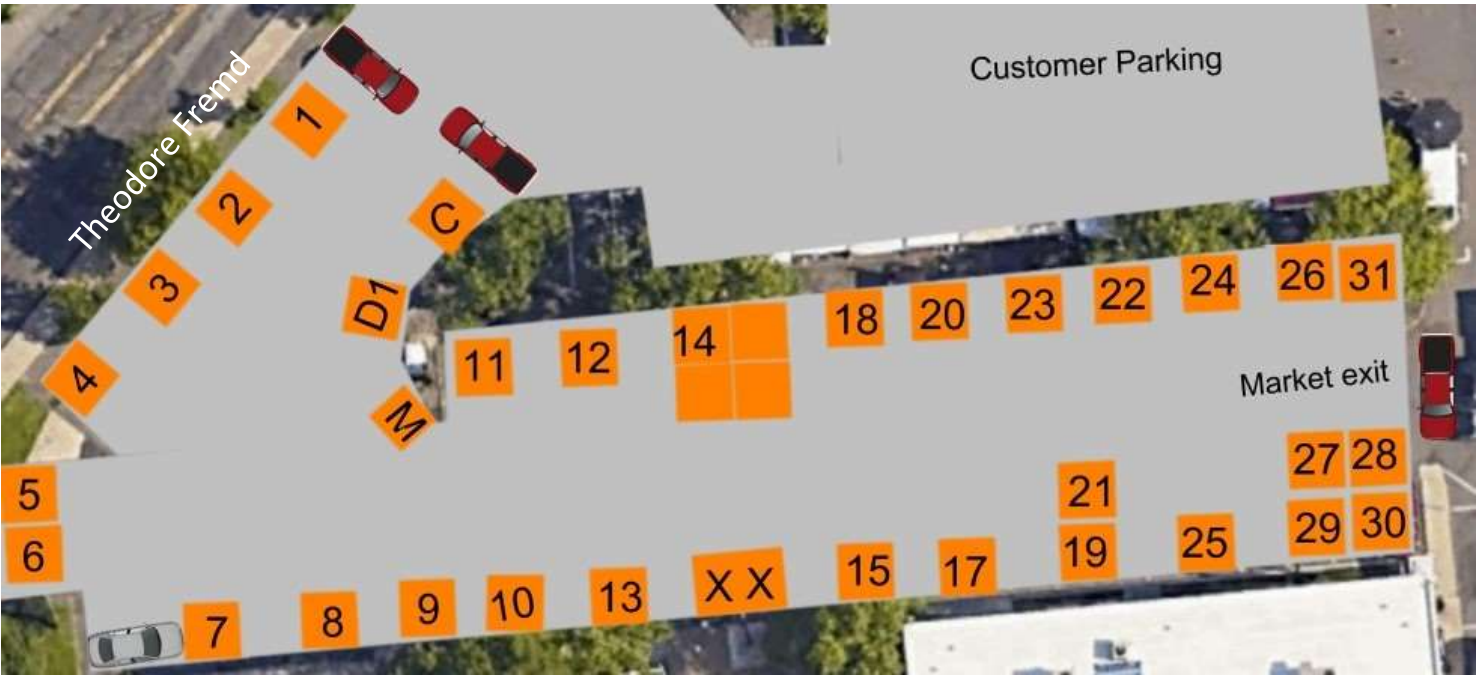
Print Dacotah Rousseau

Print BRIAN M JACKSON

Date _____

Date BRIAN M JACKSON

RYE FARMERS MARKET
SITE MAP – 2022 SEASON





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/09/2021

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PRODUCER Pro Insur, Inc dba Campbell Risk Management 9595 Whitley Drive, Suite 204 Indianapolis, IN 46240 Larry Spilker Ext 203	CONTACT NAME: Larry Spilker ext 203 PHONE (A/C, No, Ext): 317-848-9075 E-MAIL ADDRESS: lspilker@campbellrisk.com FAX (A/C, No): 317-848-9093 INSURER(S) AFFORDING COVERAGE INSURER A: HANOVER INSURANCE GROUP NAIC # 22292
INSURED Zeltsman Associates Inc dba Down to Earth Market dba Rye Farmers Market 173 Main Street Ossining New York 10562	INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	AA5008 LHW D481967	05/30/2021	05/30/2022	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
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<input type="checkbox"/>	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/>	<input type="checkbox"/>				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The City of Rye and The Rye Chamber of Commerce are named as additional insured with respects to the farmers market held in: Rye
Location: Parking Lot 2, Theodore Fremd Ave. Rye, NY 10580
Days: Sundays

CERTIFICATE HOLDER City of Rye 1051 Boston Post Rd. Rye, NY 10580	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>John C. Campbell</i>
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The City of Rye and The Rye Chamber of Commerce are named as additional insured with respects to the farmers market held in: Rye
Location: Parking Lot 2, Theodore Fremd Ave. Rye, NY 10580
Days: Sundays

CERTIFICATE HOLDER Rye Chamber of Commerce PO Box 72 Rye, NY 10580	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>John C. Campbell</i>
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/06/2021

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PRODUCER Russell Bond & Co. Inc. 295 Main Street Suite 866 Buffalo NY 14203	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: Scottsdale Ins Co NAIC # 41297
INSURED Zeltsman AssociatesInc DBA Down to Earth Market, Down to Earth Farmers Market and Farm Stand Pantry PO Box 567 Ossining NY 10562	INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DED RETENTION \$	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE	X	XBS0137313	05/30/2021	05/30/2022	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N <input checked="" type="checkbox"/> N	N / A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Excess Policy follows form with the Underlying Policy in terms of Additional Insured Coverage.
RE: Rye Down to Earth Farmers Market located in Parking Lot 2, Theodore Fremd Ave., Rye, NY 10580

CERTIFICATE HOLDER**CANCELLATION**

City of Rye
1051 Boston Post Road

Rye NY 10580

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Excess Policy follows form with the Underlying Policy in terms of additional insured coverage.
RE: Rye Down to Earth Farmers Market located in Parking Lot 2, Theodore Fremd Ave., Rye, NY10580.

CERTIFICATE HOLDER**CANCELLATION**

The Rye Chamber of Commerce
Attn: Margaret Rickets
PO Box 72
Rye NY 10580

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



CITY COUNCIL AGENDA

DEPT.: City Manager's Office

DATE: March 2, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Consideration of a request by the Rye Free Reading Room for the use of the Village Green and City Hall Parking lot to host the Annual Vehicle Fair Sunday, May 22, 2022 from 11:00 a.m. to 3:00 p.m.

FOR THE MEETING OF:

March 2, 2022

RECOMMENDATION: That the City Council approve the request for the Rye Free Reading Room to host the Annual Vehicle Fair.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND: The Rye Free Reading Room has requested use of the Village Green and the City Hall parking lot to host the annual Vehicle Fair on Sunday, May 22, 2022 from 11:00 a.m. to 3:00 p.m. The Vehicle Fair features carnival style activities, family crafts, story times, and an up-close experience with the large vehicles. To allow for setup and cleanup activities, the RFRR requests permission to use the Village Green and parking lot from 8:00 a.m. to 5:00 p.m.

See attached.



February 17, 2022

Honorable Joshua Cohn, Mayor
Rye City Council

Dear Mayor Cohn:

The Rye Free Reading Room respectfully requests the use of the Village Green and City Hall parking lot on Sunday, May 22th from 11:00 am to 3 pm to host the annual Vehicle Fair. In order to allow time for setup and cleanup, we would like to request permission to use the Green, parking lot, and Haviland Lane from 8 am to 5 pm. We also respectfully requests permission to host three food trucks on Sunday, May 22nd as part of the 2022 Vehicle Fair.

An interactive community event, the Vehicle Fair features carnival style activities, family crafts, and an up close experience with the large machines that fascinate young children. The Rye Free Reading Room and the Auxiliary Board host this event as a fundraiser for the library.

The trucks would sell food during the run of the event, 11 am to 3 pm, and would be located on Haviland Lane. No amplified sound used by the vehicles.

The Rye Free Reading Room is committed to providing a wide range of programming that enhances the lives of Rye residents, and has collaborated with the City for approval of similar requests. We are excited to continue to support community focused programs, and appreciate your consideration of this request.

Sincerely,

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

Chris Shoemaker
Library Director



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: March 2, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Consideration of a request by the Rye Free Reading Room to have three food trucks at the Annual Vehicle Fair on Sunday, May 22, 2022 from 11:00 a.m. to 3:00 p.m. The City Council will have to waive § 144-8D and G of the City Code.

FOR THE MEETING OF:

March 2, 2022

RECOMMENDATION: That the City Council approve the request for the Rye Free Reading Room.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

Waive § 144-8D and G of the City Code.

BACKGROUND: The Rye Free Reading Room will host the annual Vehicle Fair on Sunday, May 22, 2022 from 11:00 a.m. to 3:00 p.m. in the City Hall parking lot. They are requesting approval from the City Council for three food trucks. The City Council will have to waive § 144-8D and G of the City Code:

§ 144-8 Restrictions states that licensed hawker, peddler or solicitor shall:

D. Not stand nor permit the vehicle used by him or her to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or lessee of the ground floor thereof objects.

G. Not create or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions, upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.