

## **CITY OF RYE**

### **NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, October 20, 2010, at 8:00 p.m. in the Council Room of City Hall. *The Council will convene at 7:00 p.m.\* and it is expected they will adjourn into Executive Session at 7:01 p.m. to discuss personnel matters.*

### **AGENDA**

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Presentation by Mayor and City Manager of Certificates of Public Service to members of the City staff who have served Rye for twenty-five or thirty years.
5. Approval of the election of two new members to the Rye Fire Department.
6. Draft unapproved minutes of the special meeting/workshop of the City Council held September 27, 2010 and the regular meeting of the City Council held October 6, 2010.
7. Residents may be heard who have matters to discuss that do not appear on the agenda.
8. Mayor's Management Report
  - Rye Town Park Advisory Committee 2010 Season Summary
  - Water Company Update
  - Legal Update
9. Presentation by the Rye Free Reading Room regarding the 2011 Budget.
10. Presentation by Joshua Trauner, NextG Networks, regarding their application for a License Agreement for use of the Public Rights-of-Way for wireless telecommunications.
11. Discussion on the proposal from the Committee to Save the Bird Homestead, Inc. regarding the Rye Meeting House.
12. Continuation of Public Hearing to amend Local Law Chapter 191, Section 39, Parking Time Limits and fees, to remove the setting of fees from Local Law.
13. Resolution authorizing the City Manager to increase the fees on selected parking permits.
14. Resolution to return net revenues from the Central Business District parking pay stations to General Fund City operations.
15. Resolution authorizing the City Manager to increase the fees on meters and pay stations.

16. Bid Award for a Truck-Mounted Combination Sewer Vacuum and Jetter (Bid# 5-10).
17. Bid Award for the Interior Alterations to the Rye Police Station (Bid# 6-10).
18. Three appointments to the Rye Golf Club Commission by the Council for three-year terms expiring January 1, 2013 and the designation of one member to the Rye Golf Club Nominating Committee.
19. Miscellaneous communications and reports.
20. Old Business.
21. New Business.
22. Adjournment.

\* \* \* \* \*

The next regular meeting of the City Council will be held on Wednesday, November 3, 2010. The City Council will hold a Town Hall at The Osborn on Monday, October 25, 2010 at 7:00 p.m.

\*\* City Council meetings are available live and re-cablecast by RTV on Cablevision Channel 75 and Verizon Channel 39; they are also available for replay, video on demand, at <http://rye.peg.tv>.

\* Office Hours of the Mayor on 10/20 will be held 30 minutes earlier at 6:30 pm in the Mayor's Conference Room prior to the scheduled executive session.



# CITY COUNCIL AGENDA

NO. 4

DEPT.: Police

DATE: October 20, 2010

CONTACT: Commissioner William R. Connors

**AGENDA ITEM:** Presentation by Mayor and City Manager of Certificates of Public Service to members of the City staff who have served Rye for twenty-five or thirty years.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

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

**BACKGROUND:** Awards will be presented to the following City of Rye employees who have served Rye for twenty-five or thirty years.

| EMPLOYEE               | DEPARTMENT                   | YEARS OF SERVICE |
|------------------------|------------------------------|------------------|
| Alan Demmel            | Fire                         | 25               |
| Dennis DeVito          | School Crossing Guard/Police | 25               |
| Richard Dooley         | Department of Public Works   | 25               |
| Arcadio Ocasio         | Department of Public Works   | 25               |
| Sally Rogol            | Recreation                   | 25               |
| Dominick Cerasoli      | Department of Public Works   | 30               |
| Det. Robert Chittenden | Police                       | 30               |
| James LaBrusciano      | Rye Golf Club                | 30               |
| Det. John Wood         | Police                       | 30               |





# CITY COUNCIL AGENDA

NO. 5

DEPT.: Fire Department

DATE: October 20, 2010

CONTACT: Chief George Hogben

**AGENDA ITEM:** Approval of the election of two new members to the Rye Fire Department.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council approve the election of two new members to their respective appointments.

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

**BACKGROUND:** The Board of Fire Wardens has advised that two new members were elected into membership and were approved by the Fire Wardens at their last meeting. The new members and their appointments are as follows:

- 1) Robin Latimer - Fire Police Patrol Company
- 2) Antonio Alba - Poningoe Engine and Hose Company



# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Clerk

DATE: October 20, 2010

CONTACT: Dawn F. Nodarse

**AGENDA ITEM:** Draft of the unapproved minutes of the special meeting/workshop of the City Council held September 27, 2010 and the regular meeting of the City Council held October 6, 2010, as attached.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,**

CHAPTER  
SECTION

**RECOMMENDATION:** That the Council approve the draft minutes.

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

**BACKGROUND:**

Approve the Unapproved Minutes of the special meeting/workshop of the City Council held September 27, 2010 and the regular meeting of the City Council held October 6, 2010, as attached.

***DRAFT UNAPPROVED MINUTES*** of the  
Special Meeting/workshop of the City Council of the  
City of Rye held in City Hall on September 27, 2010  
at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI  
PAULA J. GAMACHE  
PETER JOVANOVICH  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT:     None

The Council convened at 7:00 p.m. Mayor French made a motion, seconded by Councilman Jovanovich and unanimously carried to adjourn into executive session to discuss personnel matters at 7:01 p.m. Councilwoman Keith made a motion, seconded by Councilman Sack and unanimously carried, to adjourn the executive session at 8:05 p.m. The regular meeting convened at 8:09 p.m.

1.     Pledge of Allegiance

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

2.     Roll Call

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

Prior to proceeding with the agenda items, Mayor French announced that the date for receiving responses to the RFP for the position of Corporation Council had been extended for an additional two weeks.

Special Meeting Agenda Item

3.     Resolution removing the ETPA from 151 Purchase Street *nunc pro tunc* to February 24, 2006 in accordance with the settlement  
Roll Call.

Interim Corporation Counsel Kristen Wilson said that as a condition of the settlement agreement the City must adopt a Resolution removing ETPA from the building located at 151

Purchase Street back to February 24, 2006. In response to questions raised at the last meeting, she has received written confirmation from the attorneys for the building's owners that it was not their intention to seek back rent from the tenants. Former Mayor John Carey said that he believed the tenants at 151 Purchase Street could bring an action against the City for not protecting their interests by removing ETPA and urged the Council to add language whereby the tenants would hold the City harmless if the City would defend the tenants against any claims brought against them by the landlord. Mayor French said that the majority of the Council believes that the settlement reached provides the best protection to 99 out of 106 residents.

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

WHEREAS, the City Council of the City of Rye adopted a Resolution on February 24, 2006 in which the City adopted the Emergency Tenant Protection Act (the "ETPA") for all buildings containing fifty (50) or more dwelling units; and

WHEREAS, the property located at 151 Purchase Street was included in said Resolution; now therefore be it

RESOLVED, that the property located at 151 Purchase Street will no longer be subject to the ETPA; and be it further

RESOLVED, that the ETPA is not applicable to the property at 151 Purchase Street, nunc pro tunc, to February 24, 2006.

**ROLL CALL:**

|         |   |
|---------|---|
| AYES:   | Mayor French, Councilmembers Filippi, Gamache, Jovanovich and Keith |
| NAYS:   | Councilmembers Parker and Sack                                      |
| ABSENT: | None  |

The Resolution was adopted by a 5-2 vote.

\*\*\*\*\*

Workshop Agenda Items

4. Review of the Purchase Street Stop-Sign pilot program and improvements at Locust Avenue intersection

City Planner Christian Miller provided an update on the pilot program that has temporarily replaced traffic signals on Purchase Street with stop signs. The test began on August 9<sup>th</sup> and was originally scheduled to last for only two weeks, but will be continued because of positive feedback. Many hoped for benefits have been seen. Both pedestrians and drivers have reacted positively to the test. There have not been any appreciable delays in traffic congestion. Another positive effect is that pedestrians seem to be more engaged when crossing the street.



Analysis has been done on the intersections of Purchase Street and Locust Avenue, Smith Street and Purchase Street and Elm Place and Purchase Street. Staff would like to get approval from the Council for the proposed improvements at the Locust and Purchase intersection. In addition to the stop signs, there will be bump outs at the intersections, which will extend the curbs into the street and an extension of the no parking zone opposite Locust Avenue. The bump outs will prevent cars from parking illegally and preserve the turning radius coming out of Locust Avenue. The next phase would be the final design of the Locust/Purchase intersection, which will include input from the Fire Department, as well as further study of conditions at the Smith and Elm intersections. Mr. Miller said that it was hoped that the Locust/Purchase intersection improvements could be completed in the current construction cycle but it would take a very aggressive schedule. There would be some disruption in the Central Business District, but it would be a relatively quick process and would be much less disruptive than signal installation. It was noted that residents have expressed concerns about bump outs at other locations. Comments from the public generally expressed support for the experiment, but concerns were expressed about bump outs creating dangerous conditions for bikers and an increase in jaywalking was noted. The Council indicated that staff should move forward with the program; provide more information about bump outs; look into enforcement issues; and designation of sight lines for crosswalks.

5. Discussion regarding developing a Citizens of Rye Sustainability Plan

Councilwoman Keith introduced Sara Goddard, Marci Raab and Birgit Townley, a subcommittee of the Conservation Commission/Advisory Council (CC/AC), who have been looking into doing a Sustainability Plan for Rye. She said Rye has been doing many things to move towards being a sustainable city, which should be included in a plan. Additionally, we must look into what else can be done to make the City sustainable. Ms. Keith said this is an opportunity to get the entire community involved in the process. The members of the subcommittee provided a brief summary that covered why Rye needs a Sustainability Plan; what would be included in such a plan; the goals and initiatives that would be used to develop it; and, the benefits that would be reaped by having such a plan. They also explained what they had accomplished to date and outlined what their next steps would be including the possibility of forming a new committee solely dedicated to sustainability. They noted that many other communities around the country have already adopted Sustainability Plans and that Rye is a member of ICLEI (International Council for Local Environmental Initiatives), an international organization that provides guidance for communities that are creating plans. Mayor French asked the members of the subcommittee to come back to the Council with a proposal for the suggested new committee including what its mandate would be and proposed members. Councilwoman Keith suggested that including people with grant writing experience would be very helpful.

6. Discussion of CC/AC recommendations on revisions to the City tree ordinance

Councilman Filippi said that the City's tree ordinance has been a concern of many in the community for quite some time and may need to be updated. Former Councilwoman Carolyn Cunningham, CC/AC Chair Lori DeCaro and committee member Jim Nash presented recommendations for updating the City's Tree Ordinance. They suggest a revised law should: fix a loophole in the current law that allows a homeowner to remove trees from their property

prior to coming before the Planning Commission for subdivision approvals; not exempt the City from any requirements of the law; and not regulate trees with a circumference of less than eight inches. They said they were looking for direction from the Council but hoped to have a law that would make it difficult to take down a tree without a good reason. A question was raised about restricting the rights of a property owner to remove trees from their property. The group felt that there is a public benefit to trees that must be considered before taking them down, and this should also be part of the discussion. The Council asked if the group could pass along to the Council an analysis of tree ordinances from other communities. It was also suggested that the revised law should include removal of trees due to infestation in a timely manner and removal of non-native invasive weed trees. Mayor French thanked those who presented and said the process would continue.

7. Budget review with selected Commissions

Mayor French said that the Council and City staff have been looking at ways to deal with the 2011 budget and at long-term options for changing things structurally to obtain cost savings and revenue opportunities. City Manager Pickup said that a series of recommendations were made in June to find additional revenue sources in the 2011 budget.

One recommendation was a \$95,000 increase in the contribution from the Golf Club. Golf Club Manager Scott Yandrasevich as well as Golf Commission members Frank Adimari, Pat Dooley, John Duffy, Rich Verille and Pat Geoghegan were in attendance. The Members of the Commission indicated that they were looking for direction from the Council. They said the \$95,000 proposal, together with the 2.9% increase in fees already anticipated for 2011, would necessitate raising their rates approximately 7% for next year and they did not believe they could do that. The Golf Club operates only on the revenue they take in. They did not receive the “bump” in memberships that they believed would happen due to the recession because some members took advantage of the private clubs lowering their fees in order to attract members. Membership fees comprise about 95% of the Club’s revenue. If the fees are raised too much, the Club may lose members. If there is an increase it is a recreation tax and should be spread out over the City on all forms of recreation and include the private clubs as well. Mayor French asked if the City should be in the restaurant business. Club Manager Yandrasevich said that since taking over operation of Whitby Castle the membership usage has gone from zero member usage to probably all member usage. Councilman Sack said that the City has to determine what its assets are and then decide what price the asset is worth to the City. Mayor French summarized what he believed were the points raised by the Commission Members as follows: (1) the price point is tapped out; (2) the Club pays the City too much already for services; (3) the City should be in the restaurant business; (4) there is no opportunity to cut costs from the budget; and (5) there is no model that would attract more membership. The Council asked to be provided with numbers on what would happen if the Golf Club were required to provide an additional \$95,000 to the City as well as a summary sheet of trends in memberships and restaurant use over the last ten years. Mr. Yandrasevich asked that the Club be allowed to make the decisions on how to accomplish what the Council decides. The final vote on the \$95,000 will not be taken until December.

Another recommendation was for the Recreation Department to increase their recovery rate on programs to 50%. Recreation Commission members Bart DiNardo, Lisa Dempsey and

Doug Carey were in attendance. They said that the Recreation Department now offers quality, affordable programs and raising the fees will affect those who use the programs. People will have to decrease what they can sign up for. The Department's proposed budget raises fees and cuts costs but also cuts programs such as the Haunted Park, the Pops Concert and the Holiday Bonfire. Cutting and eliminating recreation programs could affect property values. They said it is important that key, core programs are affordable for everyone. The concern of the Commission is that if fees are increased, participation in programs will decrease and less revenue will be generated. City Manager Pickup said that the proposed Recreation Department budget is still \$160,000 short of the goal for cost return.

A third recommendation was to double the cost of a merchant parking permit and increase the meter parking rates. Lisa Guarino, President of the Chamber of Commerce, spoke against the proposal to increase meter rates, saying it would present additional difficulties for businesses in the downtown and was a short-term decision that will have a long-term detrimental effect. Suggestions were offered to increase revenue such as: printing advertizing on the back of parking meter receipts; extending the hours of required meter usage and enforcement; extending the time merchants can park at meters or allow them to call in their payments; and having additional events such as the recent "Spend \$25 on the 25<sup>th</sup>" to encourage people to shop. Making Rye a destination area would also help increase sales. The Council was appreciative of the input from the Chamber of Commerce and noted that they must consider how increased parking fees would affect business in their decision process.

8. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn the meeting at 11:40 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on October 6, 2010 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI  
PAULA J. GAMACHE  
PETER JOVANOVIH  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT:     None

1.     Pledge of Allegiance

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

2.     Roll Call

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

3.     General Announcements

- The next Rye Town Park Commission meeting will be held on October 19<sup>th</sup> at 6:00 p.m. in City Hall.
- The Council will hold a Town Hall meeting at The Osborn on October 25<sup>th</sup> at 7:00 p.m.
- The Playland Strategic Planning Group will be scheduling a walk-through at Playland. Anyone interested in participating should contact Councilwoman Parker.

Other announcements were made regarding information, accomplishments and activities of other organizations and groups in the City. The City Clerk also provided a brief report on the new online system for commuter parking permit renewal.

4.     Draft unapproved minutes of the regular meeting of the City Council held September 15, 2010

Councilwoman Keith made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the regular meeting of the City Council held on September 15, 2010, as amended.

5. Residents may be heard who have matters to discuss that do not appear on the agenda

*Jim Amico, 350 Midland Avenue*, said he believed the stop sign experiment on Purchase Street was working great. He suggested the City look at other intersections in the City to see where stop signs might be needed. He also asked when the stimulus project on Midland Avenue would be completed. City Manager Scott Pickup said he believed the speed signs would be completed this week. Mr. Amico also expressed concern about activities of the construction company performing work on Midland Avenue and said there was a need for more oversight. City Manager Pickup said the City would look into it.

*Heather Patterson*, a local artist, invited the Council to the first annual Pier Boardwalk Arts and Music Festival that will be held at Playland from 10:00 a.m. to 6:00 p.m. on Saturday, October 9<sup>th</sup>.

*Frank Corsaro, 10 Red Oak Drive*, congratulated the Council and those responsible for building the sidewalks on Oakland Beach Avenue.

6. Mayor's Management Report

- 2011 Budget Process Summary

City Manager Pickup said ten major items had been identified that are driving budget concerns for 2011. Progress has been made through conversations the Council has held with some of the user groups. There will be other issues that the Council will have to address relating to fees in this year's budget process. There are also structural long-term concerns that must be looked at, some of which will require executive session discussions. The upcoming budget will have both internal and external impacts on just about every level of what is done in the City. This year's budget presentations will focus on pertinent programs and issues. He added that there have been some updates on major revenues, which seems to be good news so far. He and City Comptroller Jean Gribbins feel that they have met most of the goals that were discussed in March.

- Legal Update

Interim Corporation Counsel Kristen Wilson reported on the following matters:

- Beaver Swamp Brook: A conference call was held with Harrison, interested parties, the Department of Environmental Conservation (DEC) and the Administrative Law Judge (ALJ) last week. The City will continue to try to work with Harrison and encourage a technical meeting with the engineers for both sides. The City will also submit a response to Harrison's most recent submission next week.
- Osborn v. City of Rye: This matter is still pending in the Appellate Division, Second Department.
- Schubert v. City of Rye: The motion to dismiss in this matter is still pending in Federal Court before Judge Karas.

7. Update from the Committee to Save the Bird Homestead on the Rye Meeting House proposal

City Manager Pickup began with an update on the status of the pending grants for the purchase of the Bird homestead. A meeting was held with Assemblyman George Latimer, who will try to move the process forward with the Ways and Means Committee in Albany. The City is fully submitted to the other agencies for the other outstanding grants and is currently waiting for notice and disbursement.

Anne Stillman, President of the Committee to Save the Bird Homestead (the Committee), said that she has spoken with the agency handling the Save America's Treasures Grant and they are agreeable with the Committee's proposal to take over operation of the Rye Meeting House, but certain steps must be followed. Ms. Stillman and City Manager Pickup responded to questions and comments from the Council about the Committee's proposal.

- The Committee should provide the Council with financials detailing what the Committee hoped to accomplish with \$100,000, as well as financials on the Committee itself. (The Committee has raised \$135,000 over the past year and several donations and pledges have come in since their proposal was initially made to the Council. Donations come in to the Committee and there will be one operating budget for both properties, with specific capital projects targeted for fund raising.)
- How does the Committee raise funds? (Membership drives, solicitation letters, grant writing and special events.)
- What does City staff think about the proposal? (Staff is appreciative of the Committee's work because the Meeting House project is not a priority capital project for the City.)
- The Council needs information on how much money the Committee will need to sustain the upkeep of the Bird Homestead and the Meeting House over a five or ten year period in comparison to how much they expect to get. (The operating budget for the Bird Homestead is very low because the staff is all volunteer. The budget for the Meeting House would be similar. The Committee believes it can get the Meeting House into usable condition for \$100,000. Other projects would be done through fundraising.)
- This proposal is a good opportunity to get something accomplished at the Meeting House in a quicker time period.
- Representatives from the Council, the Committee and City staff should sit down and work out the details of an agreement that will come back to the Council for a vote.
- Will the Committee have to follow the same laws as the City in working on the property? (The City will still own the building so New York State guidelines must be met.)

Mayor French summarized by saying the Committee would provide the Council with more financial details and the Bird Homestead Memorandum of Understanding (MOU) would be reviewed in order to set parameters for an MOU on the Meeting House. Councilman Fillipi and Councilwoman Parker will work with Ms. Stillman and City Manager Pickup and report back to the Council at the October 20<sup>th</sup> meeting.

Dan Kelly, Kathleen Malone, Jack Zahringer and Candice Riegelhaupt all offered their support for the Committee's proposal.

8. Public Hearing to amend Local Law Chapter 191, Section 39, Parking Time Limits and fees, to remove the setting of fees from Local Law

City Manager Pickup said staff would like to create a section where all fees and charges are listed in order to be able to make changes without going through the local law and public hearing procedure each time. This would allow staff the opportunity to present fee changes to the Council prior to the budget season. The proposed local law would allow this to be done with parking fees.

Councilman Filippi made a motion, seconded by Councilwoman Gamache and unanimously carried, to open the public hearing.

Council questions and comments included:

- Will adopting this system open the Council to legal exposure? (No, it is just an easier way to control fees.)
- This would make it easier for the Council to review and change fees.
- How would it work? (It would be similar to the capital projects presentation. A full presentation would be made to the Council, probably in early November, with a recommendation for fees and charges.)
- Taking away the need for a public hearing to change a fee could disenfranchise some people. (The Council can always hold a public hearing on fee changes.)
- The annual fee discussion would be a part of the budget discussion.
- Could the draft law be changed to include language requiring a public hearing to change fees. (It could be a policy but is not a requirement under state law.)

The public hearing was kept open.

9. Public Hearing to amend Local Law Chapter 191, Vehicles and Traffic, Section 191-47 C, D, and E, Parking application, fees and location to clarify the language regarding City municipal parking places

City Manager Pickup said the proposed local law would update sections in the Code to clarify specific areas in municipal parking lots that would require the display of parking permits in order to make enforcement easier.

Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried, to open the public hearing.

There was no one from the public who wished to speak on the proposed local law.

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to close the public hearing.

Councilman Jovanovich made a motion, seconded by Councilwoman Keith, to adopt the following local law:

**CITY OF RYE**

**LOCAL LAW NO. 8 of 2010**

**A local law to amend Chapter 191, Vehicles and Traffic, Section  
191-47 C, D and E, Parking application, fees and location of the  
Code of the City of Rye as follows:**

**Section 1.**

**§191-47      Parking application, fees and location.**

**[Amended 6-15-1955; 4-18-1956; 10-5-1960; 12-5-1962 by Ord. No. 12-1962; 12-3-1969 by Ord. No. 6-1969; 3-19-1975 by Ord. No. 1-1975; 1-21-1976 by Ord. No. 4-1976; 11-19-1980 by Ord. No. 5-1980; 2-15-1984 by L.L. No. 5-1984 Editor's Note: This local law also provided that former §§[191-41](#) through [191-49](#) be renumbered to become §§[191-40](#) through [191-48](#), respectively. ; 4-6-1988 by L.L. No. 5-1988; 11-2-1988 by L.L. No. 17-1988; 12-15-1993 by L.L. No. 12-1993; 3-1-1995 by L.L. No. 3-1995; 12-18-1996 by L.L. No. 17-1996; 6-18-1997 by L.L. No. 6-1997; 12-20-2000 by L.L. No. 19-2000; 11-29-2006 by L.L. No. 11-2006]**

- C. Any merchant or other person employed within 1000 feet of a municipal parking place desiring to park all day shall, upon application to the City Clerk and payment of the annual fee, receive a merchant tag or license permitting him/her to park his/her motor vehicle in a municipal parking place. The merchant tag or license for that vehicle must be displayed on the driver's side of the vehicle's rear window. The merchant permits will not be honored on public streets or in the following parking spaces:

|  | Car Park | Space Numbers  |
|--|----------|--|
|  | 1        | 1-2; 20-23; 43-46; 70-71                                   |
|  | 2        | 80-84; 158-160; 197-199; 200-202; 222-225; 233;<br>237-243 |
|  | 3        | 315-332  |
|  | 4        | 488-519; 530-531   |
|  | 5        | 550-557  |

- D. Residents of the City of Rye desiring an all-day/all-night parking permit shall, upon application to the City Clerk and payment of an annual fee, receive a tag or license entitling him/her to park his/her motor vehicle. The municipal parking place closest to the applicant's place of residence will be assigned to the applicant. The proper parking tag or license for that vehicle shall be displayed on the driver's side of the vehicle's rear window.
- E. Residents of the City of Rye desiring an all-night parking permit shall, upon application to the City Clerk and payment of an annual fee, receive a tag or license permitting him/her to park his/her automobile or other vehicle. The municipal place closest to the applicant's place of residence will be assigned to the applicant.



**Section 2.     This law will take effect immediately upon filing with the New York State.**

ROLL CALL:

|         |  |
|---------|--|
| AYES:   | Mayor French, Councilmembers Filippi, Gamache, Jovanovich,<br>Keith, Parker and Sack |
| NAYS:   | None   |
| ABSENT: | None   |

The local law was adopted by a 7-0 vote.

10.     Resolution authorizing the City Manager to expand the contract with Complus Data Innovations, Inc. to outsource the collection of parking ticket payments

City Comptroller Gribbins said that expanding the contract with Complus Data Innovations, Inc. to outsource the collection of parking ticket payments, which is currently done by the City Finance Department, would save the City approximately \$55,000 in administrative costs by 2013. Cost savings are generated by eliminating a position in the Finance Department effective March 31, 2011, which will be proposed in the 2011 Budget. The City is at the end of its current supply of tickets and it will take six to eight weeks to receive a new supply, so the new process could be implemented by the beginning of 2011. There will be no change in the discount for payments made within two business days if a violator has received less than three tickets in a twelve month period. The process of sending out notices for unpaid tickets will not change. Complus will also notify the New York State DMV not to renew the registration of violators under the New York State Scofflaw Program. Violators will now have the following options to pay a ticket: (1) mail the payment to the address on the back of the ticket; (2) calling a phone number and paying by credit card; or (3) paying on line. Violators can call Complus at a toll free phone number with any questions.

Council comments and questions included:

- How will people deal with tickets issued by mistake? (They can choose an option on the back of the ticket indicating they wish to contest the ticket and it will be sent to Court for the Judges to review; there will be a plea form on line; or they can just go to Court on Thursday or Friday morning.)
- Could this extension of the contract be tried for just a year? (The outsourcing of the ticket payment collection part of the contract with Complus could be done that way. If the decision is made to bring it back to the City, it will require hiring an employee to perform the function again.)
- How do we reconcile that the tickets issued are being paid? (Complus will provide the City with whatever reports are needed.)
- Can police officers be issued the same type of hand-held devices as the PEO's? (It could be made part of the contract.)
- More information is needed about Complus and their employees.
- How much does Complus receive? (A percentage of the tickets collected as well as the fees for software and processing.)

- A Request for Proposal (RFP) should be done to see if there are other companies who can provide the entire service at a better cost.
- The enforcement and collection process will be more efficient with the new system.
- The Council needs to understand the credibility of the vendor and explore other possibilities before voting.
- There needs to be a way of verifying what tickets are written and processed.

City staff were instructed to prepare an RFP for parking ticket processing.

11. Consideration of setting the 2011 Budget Workshop schedule

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

**RESOLVED**, that the following schedule is adopted for the 2011 Budget process:

Monday, November 8: Presentation of the Budget

Monday, November 15: Budget Workshop

Wednesday, November 17: Budget questions addressed during regular Council meeting

Monday, November 22: Budget Workshop

Wednesday, December 1: Public Hearing on the Budget

Wednesday, December 15: Adoption of the Budget

12. Bid Award for Police Uniforms (Bid# 4-10)

City Manager Pickup said that there are specific requirements regarding body armor in the bid. One of the bidders was not able to meet those requirements. The recommendation is to award the bid to the company meeting those requirements.

The bid tab is as follows:

**BID #4-10  
POLICE UNIFORMS**

| <b>NAME OF BIDDER</b><br><b>New England Sportswear, Inc.</b>       | <b>New England<br/>Sportswear</b> |
|--|-----------------------------------|
| <b>SECURITY</b>  | <b>Certified Check</b>            |
| <b>ISSUE ITEM</b>  | <b>PRICE</b>                      |
| Blauer Style #8561P7 Trousers, Color Navy, Braid Navy              | <b>\$ 68.00</b>                   |
| Blauer Style 8810 (Men's) – BDU pants                              | <b>\$ 57.00</b>                   |
| Blauer Style 8810W (Women's) – BDU pants                           | <b>\$ 45.00</b>                   |
| Long Sleeve Shirt, Blauer, French Blue Heather - Style #8900       | <b>\$ 43.00</b>                   |
| Short Sleeve Shirt, Blauer, French Blue Heather - Style #8910      | <b>\$ 37.00</b>                   |
| Long Sleeve Shirt, Blauer, French Blue Heather (Women's) - #8900W  | <b>\$ 39.00</b>                   |
| Short Sleeve Shirt, Blauer, French Blue Heather (Women's) - #8910W | <b>\$ 34.00</b>                   |
| Long Sleeve Shirt, Blauer, White – Style #8900                     | <b>\$ 39.00</b>                   |

|   |                 |
|---|-----------------|
| Short Sleeve Shirt, Blauer, White - Style #8910                                       | <b>\$ 34.00</b> |
| Black Turtlenecks, Elbeco #7702 with RPD Monogram                                     | <b>\$ 23.00</b> |
| V-Neck Commando Sweater, Blauer #200 – Black  | <b>\$ 49.00</b> |
| V-Neck Commando Sweater, Blauer #210XCR - Black,<br>With Windstopper Liner            | <b>\$110.00</b> |
| Cruiser Jacket, Blauer #9010Z   | <b>\$213.00</b> |
| Lightweight Bomber Jacket, Blauer, Black & Orange                                     | <b>\$115.00</b> |
| Raincoat & Raincap, Blauer Style #9690 with Stencil                                   | <b>\$115.00</b> |
| Cap - Sentry #C1001 (Winter or Summer)  | <b>\$ 34.00</b> |
| Tie, 2 ¼" x ¼", 100% Wool Knit, NYSPD Style<br>With Choke Proof Metal Clip            | <b>\$ 9.00</b>  |
| Cool Mesh T-Shirts – Color White  | <b>\$ 21.00</b> |
| Gortex Trooper Style Winter Hat, Blauer #9111   | <b>\$ 20.00</b> |
| Point Blank Body Armor – Model BIIA;; Lev IIA – Male                                  | <b>\$560.00</b> |
| Point Blank Body Armor – Model BIIA; Lev IIA - Female                                 | <b>\$560.00</b> |
| Point Blank Vision Ballistic Vest Cover   | <b>\$120.00</b> |
| Uniform Dress Blouse/Formal Blouse as per Specifications<br>on Page 3 of Bid Proposal | <b>\$165.00</b> |
| White Dress Gloves  | <b>\$ 2.00</b>  |
| Olympic New York Zip Sleeve Jacket - #ONY673 – Color Royal Blue                       | <b>\$165.00</b> |
| Olympic Cycling Pants - #OCP588 – Color Black   | <b>\$ 90.00</b> |
| Olympic Cycling Pants with Liner - #OCP588 – Color Black                              | <b>\$100.00</b> |
| Olympic Ultraflex Shorts - #ULT189 – Color Black                                      | <b>\$ 68.00</b> |
| Sam Browne Shoulder Strap   | <b>\$ 29.00</b> |
| Sam Browne Gun Belt   | <b>\$ 70.00</b> |
| Safariland SSIII Holster  | <b>\$150.00</b> |
| Safariland Magazine Pouch – Double  | <b>\$ 40.00</b> |
| Safariland Handcuff Case  | <b>\$ 30.00</b> |
| Safariland Night Stick Holder   | <b>\$ 6.00</b>  |
| Safariland Keepers  | <b>\$ 4.00</b>  |
| Safariland Key Ring   | <b>\$ 10.00</b> |
| Safariland Mace Holder  | <b>\$ 24.00</b> |
| Safariland Nylon Gun Belt   | <b>\$ 35.00</b> |
| Safariland Nylon Holster  | <b>\$135.00</b> |
| Safariland Nylon Cuff Case  | <b>\$ 30.00</b> |
| Safariland Nylon Magazine Pouch – Double  | <b>\$ 30.00</b> |
| Safariland Nylon Handcuff Case  | <b>\$ 29.00</b> |
| Safariland Nylon Keepers  | <b>\$ 5.00</b>  |
| Collar Insignia, Silver R.P.D., 2 Pair per Officer, 3/8" Shirt,<br>½" Outer Garment   | <b>\$ 15.00</b> |
| Collar Insignia, Gold, D.E.T., 1 Pair per Detective, 3/8" Shirt                       | <b>\$ 15.00</b> |
| Collar Insignia, Gold, R.P.D., ½" Outer Garment<br>(2 Pair per Lt/Sgt/Det)            | <b>\$ 15.00</b> |
| Collar Insignia, Gold Rank for Shirts (2 Pair per Lt/Sgt)                             | <b>\$ 15.00</b> |

|   |                 |
|---|-----------------|
| Personalized Name Plates:                                 |                 |
| Gold  | <b>\$ 13.00</b> |
| Silver  | <b>\$ 13.00</b> |
| Sgt. Chevrons on Shirts and Outer Garments where Required | <b>\$ 6.00</b>  |
| Hash Marks - All Officers as Required, Priced per Mark    |                 |
| Blue/White on Black - P.O./Sgt                            | <b>\$ 3.00</b>  |
| Gold/White for Lieuts., Shirts                            | <b>\$ 3.00</b>  |
| Gold/Black for Lieuts., Outer Garments                    | <b>\$ 3.00</b>  |
| Tailoring Cost per Garment for Chevrons/Hashmarks         | <b>\$ 0.00</b>  |

**THE FOLLOWING ITEMS MAY BE SUBSTITUTED AT THE PURCHASER'S SOLE DISCRETION:**

|  |                |
|--|----------------|
| Perfection style 1775DN (ECO) Men's Matrix Series Cargo Pocket Trousers      | <b>\$50.00</b> |
| Perfection style 1775DN (ECO) Women's Matrix Series Cargo Pocket Trousers    | <b>\$50.00</b> |
| Long Sleeve Shirt, Perfection, French Blue – Style #1525FB                   | <b>\$46.00</b> |
| Long Sleeve Shirt, Perfection, French Blue (Women's) – Style #L1525FB        | <b>\$46.00</b> |
| Short Sleeve Shirt, Perfection, French Blue – Style #1825FB (ECO)            | <b>\$42.00</b> |
| Short Sleeve Shirt, Perfection, French Blue (Women's) – Style #L1825FB (ECO) | <b>\$42.00</b> |

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

**RESOLVED**, that Bid #4-10 for Police Uniforms is hereby awarded to New England Sportsware, Inc., the lowest bidder whose bid meets specifications.

**ROLL CALL:**

**AYES:** Mayor French, Councilmembers Filippi, Gamache, Jovanovich, Keith, Parker and Sack

**NAYS:** None

**ABSENT:** None

The Resolution was adopted by a 7-0 vote.

13     Resolution to declare certain equipment as surplus  
Roll Call.

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

**WHEREAS**, the Superintendent of Rye Recreation has determined that the equipment listed below is no longer useful to the City; now, therefore, be it

**RESOLVED**, that the aforementioned equipment be declared surplus and disposed in a manner determined by the City Comptroller to be in the best interests of the City.

List of Equipment:

Halloween items:

- Electric chair coffins,
- Mummy,
- 600' romex with 30 outlet boxes
- 65 wood panels,
- Strobe lights,
- Black lights,
- Motion detectors,
- Fog machines,
- Costumes and props,
- Skeletons,
- Assorted rubber body parts

Additional item:

- Game table

ROLL CALL:

|         |  |
|---------|--|
| AYES:   | Mayor French, Councilmembers Filippi, Gamache, Jovanovich,<br>Keith, Parker and Sack |
| NAYS:   | None   |
| ABSENT: | None   |

The Resolution was adopted by a 7-0 vote.

14. One appointment to the Board of Appeals to fill a term expiring on January 1, 2013, by the Mayor with Council approval

Councilwoman Parker made a motion, seconded by Councilwoman Keith and unanimously carried, to appoint David Cutner to the Board of Appeals to fill a term expiring on January 1, 2013.

15. One appointment to the Government Policy & Research Committee, one for a two-year term, by the Mayor with Council approval

Mayor French made a motion, seconded by Councilwoman Keith and unanimously carried, to appoint Elaine DiCostanzo to the Government Policy & Research Committee for a two year term expiring on January 1, 2012.

16. Consideration of a request by the Rye Chamber of Commerce to close a portion of Purchase Street on Sunday, November 28, 2010 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe*

Magic event

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

**RESOLVED**, that the request of the Rye Chamber of Commerce to close a portion of Purchase Street on Sunday, November 28, 2010 from 10:00 a.m. to 3:00 p.m. for the Mistletoe Magic event is hereby approved.

17. Miscellaneous Communications and Reports

Councilwoman Keith said that as a result of the presentation by a subcommittee of the Conservation Commission/Advisory Council (CC/AC) on a Sustainability Plan for the City, the Council is looking to form a Committee. She encouraged anyone who wants to be involved to contact her or Sara Goddard. She also reported that the new Shared Roadway Planning Working Group for Pedestrian and Biking Safety was holding their first meeting this evening. Additionally, Ms. Keith asked if the City should be holding a public hearing on the proposed changes to Playland. Councilwoman Parker said that all the meetings of the Playland Strategic Working Group were open to the public and when there were specific options available, public hearings may be held in order to receive public feedback.

18. Old Business

Councilman Sack said he thought the City should put out an RFP for the operation of the Rye Meeting House. He said he believed whoever operates the building should be required to meet certain benchmarks. City Manager Pickup said that the time involved in the RFP process could present a problem with the timeframe for receiving approvals from the State and Department of Interior relative to the Save America's Treasures Grant. Mr. Saks also asked about the status of the old street signs that have been replaced. City Manager Pickup said they were being saved at the Department of Public Works.

City Manager Pickup said he had provided the Council with additional information relative to a question raised at a previous meeting about amending the Fence Law. He said it included issues that were raised by staff and if the Council wanted to pursue the issue, it could be discussed at another Council meeting. Mayor French said he believed the Council had other more pressing issues to deal with at the moment.

Mayor French asked Interim Corporation Counsel to prepare a fact sheet for the public regarding the changes to the Solicitation Law.

19. New Business

Councilman Jovanovich asked Interim Corporation Counsel Wilson to provide the Council with an opinion relative to the citizenship requirements for people serving on Boards and Commissions. He said he believed that people who live in the community and want to participate should be able to, even if they are not citizens.

Councilman Filippi asked if the Council should consider raising the commuter parking fee for non-residents again next year. City Manager Pickup said he believed it would be difficult to go back to Metro-North with that proposal because they prefer uniform pricing in their lots.

Mayor French said that he, Councilwoman Parker and City Manager Pickup had met with the Army Corps of Engineers, the Mayor of Rye Brook and members of the Rye Flood Action Committee. He asked that an update on that meeting be included under the Mayor's Management Report at the next Council meeting. The Mayor also noted the passing of Tom Kennedy, a member of the Golf Club Commission, and extended condolences to the family.

20. Adjournment

There being no further business to discuss Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the meeting at 10:53 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk



# CITY COUNCIL AGENDA

NO. 8

DEPT.: City Council

DATE: October 20, 2010

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Mayor's Management Report

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

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

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

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

- Rye Town Park Advisory Committee 2010 Season Summary
- Water Company Update
- Legal Update





# CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager's Office

DATE: October 20, 2010

CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Presentation by the Rye Free Reading Room regarding the 2011 Budget.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:**

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

**BACKGROUND:**

Statistics for members of the Westchester Library System can be found at:

[http://www.westchesterlibraries.org/files/u5/member\\_libs/ML\\_Statistics\\_2009.pdf](http://www.westchesterlibraries.org/files/u5/member_libs/ML_Statistics_2009.pdf)



# CITY COUNCIL AGENDA

NO. 10      DEPT.: Corporation Counsel      DATE: October 20, 2010  
CONTACT: Kristen Wilson, Interim Corporation Counsel

**AGENDA ITEM:** Presentation by Joshua Trauner, NextG Networks, regarding their application for a License Agreement for use of the Public Rights-of-Way for wireless telecommunications.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

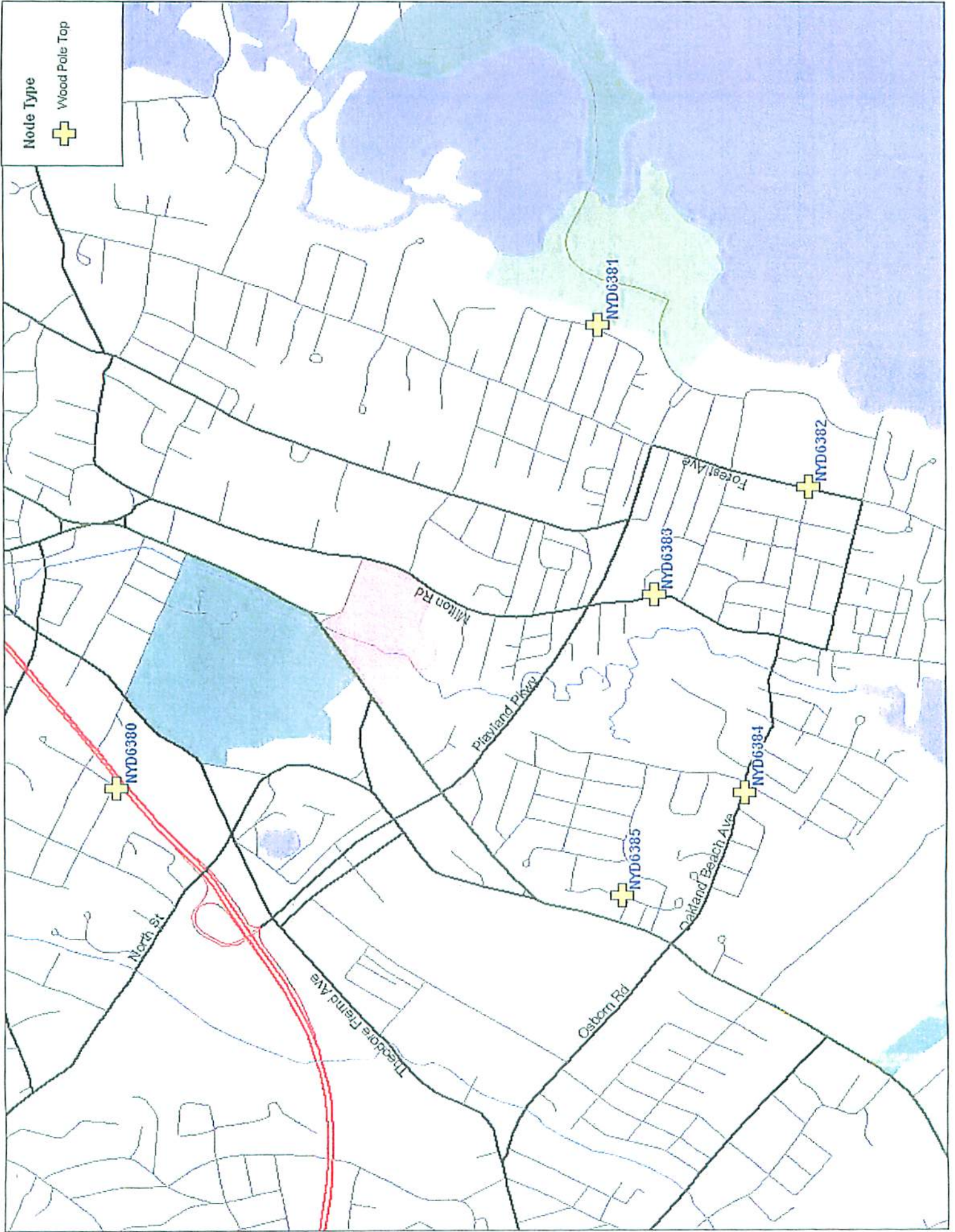
**RECOMMENDATION:**

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

**BACKGROUND:** NextG Networks, New York is seeking approval to conduct business as a telecommunications company operating with infrastructure located in the City's public ways.

NextG Networks currently has no facilities in the City of Rye. Their preliminary map (see attached) notes six (6) locations for installation.

Pursuant to Sections 196-13 and 196-16 of the Code of the City of Rye the Council may refer the application to the Board of Architectural Review (BAR) and consultant. The applicant would provide an application fee as well as \$5,000 escrow to pay for the consultant selected by and working for the City of Rye. Consistent with prior practice, staff will forward the application to its consultant who will provide a written assessment in advance of the public hearing. See attached application.



## RIGHT-OF-WAY USE AGREEMENT

**T**HIS RIGHT-OF-WAY USE AGREEMENT (this "Use Agreement") is dated as of \_\_\_\_\_, 2010 (the "Effective Date"), and entered into by and between the CITY OF RYE, a New York municipal corporation (the "City"), and NEXTG NETWORKS OF NY, INC. a Delaware corporation ("NextG").

### RECITALS

A. NextG owns, maintains, operates and controls, in accordance with regulations promulgated by the Federal Communications Commission and the New York State Public Service Commission, a fiber-based telecommunications Network or Networks (as defined below) serving NextG's wireless carrier customers and utilizing microcellular optical repeater Equipment (as defined below) certified by the Federal Communications Commission.

B. For purpose of operating the Network, NextG wishes to locate, place, attach, install, operate, control, and maintain Equipment in the Public Way (as defined below) on facilities owned by the City, as well as on facilities owned by third parties therein.

### AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following covenants, terms, and conditions:

1 **DEFINITIONS.** The following definitions shall apply generally to the provisions of this Use Agreement:

1.1 *City.* ("City") shall mean the City of Rye, New York.

1.2 *Decorative Streetlight Pole.* "Decorative Streetlight Pole" shall mean any streetlight pole that incorporates artistic design elements not typically found in standard steel or aluminum streetlight poles.

1.3 *Equipment.* "Equipment" means the optical repeaters, DWDM and CWDM multiplexers, antennas, fiber optic cables, wires, and related equipment, whether referred to singly or collectively, to be installed and operated by NextG hereunder. Examples of typical Equipment types and installation configurations are shown in the drawings and photographs attached hereto as Exhibit A and incorporated herein by reference.

1.4 *Fee.* "Fee" means any assessment, license, charge, fee, imposition, tax, or levy of general application to entities doing business in the City lawfully imposed by any governmental body (but excluding any utility users' tax, franchise fees, communications tax, or similar tax or fee).

1.5 *Gross Revenue.* "Gross Revenue" shall mean and include any and all income and other consideration collected, received, or in any manner gained or derived by NextG from or in connection with, the provision of RF telecommunication transport services, either directly by NextG or indirectly through a reseller, if any, to customers of such services wholly consummated within the

City, including any imputed revenue derived from commercial trades and barter equivalent to the full retail value of goods and services provided by NextG. "Adjusted Gross Revenue" shall include offset for: (a) sales, ad valorem, or other types of "add-on" taxes, levies, or fees calculated by gross receipts or gross revenues which might have to be paid to or collected for federal, state, or local government (exclusive of the Municipal Facilities Annual Fee paid to the City provided herein); (b) retail discounts or other promotions; (c) non-collectable amounts due NextG or its customers; (d) refunds or rebates; and (e) non-operating revenues such as interest income or gain from the sale of an asset.

**1.6 ILEC.** "ILEC" means the Incumbent Local Exchange Carrier that provides basic telephone services, among other telecommunications services, to the residents of the City.

**1.7 Installation Date.** "Installation Date" shall mean the date that the first Equipment is installed by NextG pursuant to this Use Agreement.

**1.8 Laws.** "Laws" means any and all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, administrative orders, certificates, orders, or other requirements of the City or other governmental agency having joint or several jurisdiction over the parties to this Use Agreement.

**1.9 Municipal Facilities.** "Municipal Facilities" means City-owned Streetlight Poles, Decorative Streetlight Poles, lighting fixtures, electroliers, or other City-owned structures located within the Public Way and may refer to such facilities in the singular or plural, as appropriate to the context in which used.

**1.10 Network.** "Network" or collectively "Networks" means one or more of the neutral-host, protocol-agnostic, fiber-based optical repeater networks operated by NextG to serve its wireless carrier customers in the City.

**1.11 NextG.** "NextG" means NextG Networks of NY, Inc., a corporation duly organized and existing under the laws of the State of Delaware, and its lawful successors, assigns, and transferees.

**1.12 Public Way.** "Public Way" means the space in, upon, above, along, across, and over the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, and places, including all public utility easements and public service easements as the same now or may hereafter exist, that are under the jurisdiction of the City. This term shall not include county, state, or federal rights of way or any property owned by any person or entity other than the City, except as provided by applicable Laws or pursuant to an agreement between the City and any such person or entity.

**1.13 PSC.** "PSC" means the New York State Public Service Commission.

**1.14 Services.** "Services" means the RF transport and other telecommunications services provided through the Network by NextG to its wireless carrier customers pursuant to one or more tariffs filed with and regulated by the PSC.

**1.15 Streetlight Pole.** "Streetlight Pole" shall mean any standard-design concrete, fiberglass, metal, or wooden pole used for streetlighting purposes.

**2 TERM.** This Use Agreement shall be effective as of the Effective Date and shall extend for a term of ten (10) years commencing on the Installation Date, unless it is earlier terminated by either party in accordance with the provisions herein. The term of this Use Agreement shall be renewed automatically



for three (3) successive terms of five (5) years each on the same terms and conditions as set forth herein, unless NextG notifies the City of its intention not to renew not less than thirty (30) calendar days prior to commencement of the relevant renewal term.

**3 SCOPE OF USE AGREEMENT.** Any and all rights expressly granted to NextG under this Use Agreement, which shall be exercised at NextG's sole cost and expense, shall be subject to the prior and continuing right of the City under applicable Laws to use any and all parts of the Public Way exclusively or concurrently with any other person or entity and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect the Public Way. Nothing in this Use Agreement shall be deemed to grant, convey, create, or vest in NextG a real property interest in land, including any fee, leasehold interest, or easement. Any work performed pursuant to the rights granted under this Use Agreement shall be subject to the reasonable prior review and approval of the City except that it is agreed that no zoning or planning board permit, variance, conditional use permit or site plan permit, or the equivalent under the City's ordinances, codes or laws, shall be required for the installation of NextG's Equipment installed in the Public Way and/or on Municipal Facilities, unless such a process has been required for the placement of all communications facilities and equipment in the Public Way by all other telecommunications providers, including but not limited to the ILEC and local cable provider(s).

**3.1 Attachment to Municipal Facilities.** The City hereby authorizes and permits NextG to enter upon the Public Way and to locate, place, attach, install, operate, maintain, control, remove, reattach, reinstall, relocate, and replace Equipment in or on Municipal Facilities for the purposes of operating the Network and providing Services. In addition, subject to the provisions of § 4.5 below, NextG shall have the right to draw electricity for the operation of the Equipment from the power source associated with each such attachment to Municipal Facilities. A denial of an application for the attachment of Equipment to Municipal Facilities shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties of NextG's Equipment if the Equipment proposed for such application substantially conforms to one of the approved configurations and the Equipment specifications set forth in Exhibit A.

**3.2 Attachment to Third-Party Property.** Subject to obtaining the permission of the owner(s) of the affected property, the City hereby authorizes and permits NextG to enter upon the Public Way and to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace such number of Equipment in or on poles or other structures owned by public utility companies or other property owners located within the Public Way as may be permitted by the public utility company or property owner, as the case may be. Upon request, NextG shall furnish to the City evidence that NextG has entered into the appropriate pole-attachment agreement required pursuant to N.Y. C.L.S. Pub. Ser. § 119-a. A denial of an application for the attachment of Equipment to third-party-owned poles or structures in the Public Way shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties of NextG's Equipment if the Equipment proposed for such application substantially conforms to one of the approved configurations and the Equipment specifications set forth in Exhibit A. Where third-party property is not available for attachment of Equipment, NextG may install its own utility poles in the Public Way, consistent with the requirements that the City imposes on similar installations made by other utilities that use and occupy the Public Way.

**3.3 Preference for Municipal Facilities.** In any situation where NextG has a choice of attaching its Equipment to either Municipal Facilities or third-party-owned property in the Public Way, NextG agrees to attach to the Municipal Facilities, provided that (i) such Municipal Facilities are at least equally suitable functionally for the operation of the Network and (ii) the rental fee and installation

costs associated with such attachment over the length of the term are equal to or less than the fee or cost to NextG of attaching to the alternative third-party-owned property.

**3.4 No Interference.** NextG in the performance and exercise of its rights and obligations under this Use Agreement shall not interfere in any manner with the existence and operation of any and all public and private rights of way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, electroliners, cable television, and other telecommunications, utility, or municipal property, without the express written approval of the owner or owners of the affected property or properties, except as permitted by applicable Laws or this Use Agreement. The City agrees to require the inclusion of the same or a similar prohibition on interference as that stated above in all agreements and franchises the City may enter into after the Effective Date with other information or communications providers and carriers.

**3.5 Compliance with Laws.** NextG shall comply with all applicable Laws in the exercise and performance of its rights and obligations under this Use Agreement.

**4 COMPENSATION; UTILITY CHARGES.** NextG shall be solely responsible for the payment of all lawful Fees in connection with NextG's performance under this Use Agreement, including those set forth below.

**4.1 Annual Fee.** In order to compensate the City for NextG's entry upon and deployment within the Public Way and as compensation for the use of Municipal Facilities, NextG shall pay to the City an annual fee (the "Annual Fee") in the amount of Five Hundred Dollars (\$500.00) for the use of each Municipal Facility, if any, upon which a Equipment has been installed pursuant to this Use Agreement. The aggregate Annual Fee with respect to each year of the term shall be an amount equal to the number of Equipment installed on Municipal Facilities during the preceding twelve (12) months multiplied by the Annual Fee, prorated as appropriate, and shall be due and payable not later than forty-five (45) days after each anniversary of the Installation Date. The City represents and covenants that the City owns all Municipal Facilities for the use of which it is collecting from NextG the Annual Fee pursuant to this § 4.1.

**4.1.1 CPI Adjustment.** Effective commencing on the fifth (5<sup>th</sup>) anniversary of the Installation Date and continuing on each fifth (5<sup>th</sup>) anniversary thereafter during the term, the Annual Fee with respect to the ensuing five-year period shall be adjusted by a percentage amount equal to the percentage change in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (All Items, All Urban Consumers, 1982-1984=100) which occurred during the previous five-year period for the New York-Northern New Jersey-Long Island, NY-NJ-PA Metropolitan Statistical Area (MSA).

**4.2 Right-of-Way Use Fee.** In order to compensate the City for NextG's entry upon and deployment of Equipment within the Public Way, NextG shall pay to the City, on an annual basis, an amount equal to five percent (5%) of Adjusted Gross Revenues (the "Right-of-Way Fee") payable within thirty (30) days of the Effective Date and on each anniversary thereafter. The Right-of-Way Fee shall be payable for the period commencing with the Effective Date and ending on the date of termination of this Use Agreement. NextG shall make any payment of the Right-of-Way Fee that may be due and owing within forty-five (45) days after the first anniversary of the Effective Date and within the same period after each subsequent anniversary of the Effective Date. Within forty-five (45) days after the termination of this Use Agreement, the Right-of-Way Fee shall be paid for the period elapsing since the end of the last calendar year for which the Right-of-Way Fee has been paid. NextG shall furnish to the City with each payment of the Right-of-Way Fee a statement, executed by an authorized officer of NextG or his or her designee, showing the amount of Adjusted Gross Revenues for the

period covered by the payment. If NextG discovers any error in the amount of compensation due, the City shall be paid within thirty (30) days of discovery of the error or determination of the correct amount. Any overpayment to the City through error or otherwise shall be refunded or offset against the next payment due. Acceptance by the City of any payment of the Right-of-Way Fee shall not be deemed to be a waiver by the City of any breach of this Use Agreement occurring prior thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due or from collecting any balance due to the City.

**4.3 Accounting Matters.** NextG shall keep accurate books of account at its principal office in San Jose, CA or such other location of its choosing for the purpose of determining the amounts due to the City under §§ 4.1 and 4.2 above. The City may inspect NextG's books of account relative to the City at any time during regular business hours on thirty (30) days' prior written notice and may audit the books from time to time at the City's sole expense, but in each case only to the extent necessary to confirm the accuracy of payments due under § 4.1 above. The City agrees to hold in confidence any non-public information it learns from NextG to the fullest extent permitted by Law.

**4.4 Most-Favored Municipality.** Should NextG after the parties' execution and delivery of this Agreement enter into an attachment or franchise agreement with another municipality of the same size or smaller than the City in the same County (excluding New York City), which agreement contains financial benefits for such municipality which, taken as a whole and balanced with the other terms of such agreement, are in the City's opinion substantially superior to those in this Agreement, the City shall have the right to require that NextG modify this Use Agreement to incorporate the same or substantially similar superior benefits and such other terms and burdens by substitution, *mutatis mutandis*, of such other agreement or otherwise.

**4.5 Electricity Charges.** NextG shall be solely responsible for the payment of all electrical utility charges to the applicable utility company based upon the Equipment' usage of electricity and applicable tariffs.

**5 CONSTRUCTION.** NextG shall comply with all applicable federal, State, and City codes, specifications, and requirements, if any, related to the construction, installation, operation, maintenance, and control of NextG's Equipment installed in the Public Way and on Municipal Facilities in the City. NextG shall not attach, install, maintain, or operate any Equipment in or on the Public Way and/or on Municipal Facilities without the prior approval of the City for each location.

**5.1 Obtaining Required Permits.** If the attachment, installation, operation, maintenance, or location of the Equipment in the Public Way shall require any permits, NextG shall, if required under applicable City ordinances, apply for the appropriate permits and pay any standard and customary permit fees, so long as the permit fees and process that the City requests of NextG are functionally equivalent to the fees and the process that are applied to the ILEC and/or the cable provider(s). In the case of Third Party attachments (to existing utility infrastructure), NextG agrees to provide the City with a list of proposed attachments in advance of its deployment to the City and, the City agrees to use reasonable efforts to review and approve NextG's list of proposed attachments to Third Party utility infrastructure within thirty (30) days of submission, and if no comment is received within thirty (30) days, the application will be presumed to be acceptable and no further action will be required prior to NextG's installation.

**5.2 Location of Equipment.** The proposed locations of NextG's planned initial installation of Equipment shall be provided to the City promptly after NextG's review of available street light maps (if applicable) and prior to deployment of the Equipment. Upon the completion of installation,



NextG promptly shall furnish to the City a pole list showing the exact location of the Equipment in the Public Way.

**5.3 Relocation and Displacement of Equipment.** NextG understands and acknowledges that the City may require NextG to relocate one or more of its Equipment installations. NextG shall at City's direction relocate such Equipment at NextG's sole cost and expense, whenever the City reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, completion, repair, relocation, or maintenance of a City project; (b) because the Equipment is interfering with or adversely affecting proper operation of City-owned light poles, traffic signals, or other Municipal Facilities; or (c) to protect or preserve the public health or safety. In any such case, the City shall use its best efforts to afford NextG a reasonably equivalent alternate location. If NextG shall fail to relocate any Equipment as requested by the City within a reasonable time under the circumstances in accordance with the foregoing provision, the City shall be entitled to relocate the Equipment at NextG's sole cost and expense, without further notice to NextG. To the extent the City has actual knowledge thereof, the City will attempt promptly to inform NextG of the displacement or removal of any pole on which any Equipment is located.

**5.4 Relocations at NextG's Request.** In the event NextG desires to relocate any Equipment from one Municipal Facility to another, NextG shall so advise the City. The City will use its best efforts to accommodate NextG by making another reasonably equivalent Municipal Facility available for use in accordance with and subject to the terms and conditions of this Use Agreement.

**5.5 Damage to Public Way.** Whenever the removal or relocation of Equipment is required or permitted under this Use Agreement, and such removal or relocation shall cause the Public Way to be damaged, NextG, at its sole cost and expense, shall promptly repair and return the Public Way in which the Equipment are located to a safe and satisfactory condition in accordance with applicable Laws, normal wear and tear excepted. If NextG does not repair the site as just described, then the City shall have the option, upon fifteen (15) days' prior written notice to NextG, to perform or cause to be performed such reasonable and necessary work on behalf of NextG and to charge NextG for the proposed costs to be incurred or the actual costs incurred by the City at the City's standard rates. Upon the receipt of a demand for payment by the City, NextG shall promptly reimburse the City for such costs.

**6 INDEMNIFICATION AND WAIVER.** NextG agrees to indemnify, defend, protect, and hold harmless the City, its council members, officers, and employees from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection therewith, including reasonable attorney's fees and costs of defense (collectively, the "Losses") directly or proximately resulting from NextG's activities undertaken pursuant to this Use Agreement, except to the extent arising from or caused by the negligence or willful misconduct of the City, its council or board members, officers, elected trustees, employees, agents, or contractors.

**6.1 Waiver of Claims.** NextG waives any and all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any Equipment or any loss or degradation of the Services as a result of any event or occurrence which is beyond the reasonable control of the City.

**6.2 Limitation of City's Liability.** The City shall be liable only for the cost of repair to damaged Equipment arising from the negligence or willful misconduct of the City, its employees, agents, or contractors and shall in no event be liable to indirect or consequential damages.

**7 INSURANCE.** NextG shall obtain and maintain at all times during the term of this Use Agreement Commercial General Liability insurance and Commercial Automobile Liability insurance protecting NextG in an amount not less than One Million Dollars (\$1,000,000) per occurrence (combined single limit), including bodily injury and property damage, and in an amount not less than Two Million Dollars (\$2,000,000) annual aggregate for each personal injury liability and products-completed operations. The Commercial General Liability insurance policy shall name the City, its elected officials, officers, and employees as additional insureds as respects any covered liability arising out of NextG's performance of work under this Use Agreement. Coverage shall be in an occurrence form and in accordance with the limits and provisions specified herein. Claims-made policies are not acceptable. Such insurance shall not be canceled, nor shall the occurrence or aggregate limits set forth above be reduced, until the City has received at least thirty (30) days' advance written notice of such cancellation or change. NextG shall be responsible for notifying the City of such change or cancellation.

**7.1 Filing of Certificates and Endorsements.** Prior to the commencement of any work pursuant to this Use Agreement, NextG shall file with the City the required original certificate(s) of insurance with endorsements, which shall state the following:

- (a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts;
- (b) that the City shall receive thirty (30) days' prior notice of cancellation;
- (c) that NextG's Commercial General Liability insurance policy is primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance; and
- (d) that NextG's Commercial General Liability insurance policy waives any right of recovery the insurance company may have against the City.

The certificate(s) of insurance with endorsements and notices shall be mailed to the City at the address specified in § 8 below.

**7.2 Workers' Compensation Insurance.** NextG shall obtain and maintain at all times during the term of this Use Agreement statutory workers' compensation and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000) and shall furnish the City with a certificate showing proof of such coverage.

**7.3 Insurer Criteria.** Any insurance provider of NextG shall be admitted and authorized to do business in the State of New York and shall carry a minimum rating assigned by *A.M. Best & Company's Key Rating Guide* of "A" Overall and a Financial Size Category of "X" (i.e., a size of \$500,000,000 to \$750,000,000 based on capital, surplus, and conditional reserves). Insurance policies and certificates issued by non-admitted insurance companies are not acceptable.

**7.4 Severability of Interest.** Any deductibles or self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the City. "Severability of interest" or "separation of insureds" clauses shall be made a part of the Commercial General Liability and Commercial Automobile Liability policies.

**8 NOTICES.** All notices which shall or may be given pursuant to this Use Agreement shall be in writing and delivered personally or transmitted (a) through the United States mail, by registered or certified mail, postage prepaid; (b) by means of prepaid overnight delivery service; or (c) by facsimile or email transmission, if a hard copy of the same is followed by delivery through the U. S. mail or by overnight delivery service as just described, addressed as follows:

*if to the City:*

CITY OF RYE  
Attn: Mayor  
Rye City Hall  
1051 Boston Post Road  
Rye, New York 10580

*if to NextG:*

NEXTG NETWORKS OF NY, INC.  
Attn: Contracts Administration  
2216 O'Toole Ave  
San Jose, CA 95131

**8.1 Date of Notices; Changing Notice Address.** Notices shall be deemed given upon receipt in the case of personal delivery, three (3) days after deposit in the mail, or the next business day in the case of facsimile, email, or overnight delivery. Either party may from time to time designate any other address for this purpose by written notice to the other party delivered in the manner set forth above.

**9 TERMINATION.** This Use Agreement may be terminated by either party upon forty five (45) days' prior written notice to the other party upon a default of any material covenant or term hereof by the other party, which default is not cured within forty-five (45) days of receipt of written notice of default (or, if such default is not curable within forty-five (45) days, if the defaulting party fails to commence such cure within forty-five (45) days or fails thereafter diligently to prosecute such cure to completion), provided that the grace period for any monetary default shall be ten (10) days from receipt of notice. Except as expressly provided herein, the rights granted under this Use Agreement are irrevocable during the term.

**10 ASSIGNMENT.** This Use Agreement shall not be assigned by NextG without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the transfer of the rights and obligations of NextG to a parent, subsidiary, or other affiliate of NextG or to any successor in interest or entity acquiring fifty-one percent (51%) or more of NextG's stock or assets (collectively "Exempted Transfers") shall not be deemed an assignment for the purposes of this Agreement and therefore shall not require the consent of the City, provided that NextG reasonably demonstrates to the City's lawfully empowered designee the following criteria (collectively the "Exempted Transfer Criteria"): (i) such transferee will have a financial strength after the proposed transfer at least equal to that of NextG immediately prior to the transfer; (ii) any such transferee assumes all of NextG's obligations hereunder; and (iii) the experience and technical qualifications of the proposed transferee, either alone or together with NextG's management team, in the provision of telecommunications or similar services, evidences an ability to operate the NextG Network. NextG shall give at least thirty (30) days' prior written notice (the "Exempted Transfer Notice") to the City of any such proposed Exempted Transfer and shall set forth with specificity in such Exempted Transfer Notice the reasons why NextG believes the Exempted Transfer Criteria have been satisfied. The City Council of City shall have a period of thirty (30) days (the "Exempted Transfer Evaluation Period") from the date that NextG gives the City its Exempted Transfer Notice to object in writing to the adequacy of the evidence

contained therein. Notwithstanding the foregoing, the Exempted Transfer Evaluation Period shall not be deemed to have commenced until the City has received from NextG any and all additional information the City may reasonably require in connection with its evaluation of the Exempted Transfer Criteria as set forth in the Exempted Transfer Notice, so long as the City gives NextG notice in writing of the additional information the City requires within fifteen (15) days after the City's receipt of the original Exempted Transfer Notice. If the Council of the City fails to act upon NextG's Exempted Transfer Notice within the Exempted Transfer Evaluation Period (as the same may be extended in accordance with the foregoing provisions), such failure shall be deemed an affirmation by the City Council that NextG has in fact established compliance with the Exempted Transfer Criteria to the City's satisfaction.

**11 MISCELLANEOUS PROVISIONS.** The provisions which follow shall apply generally to the obligations of the parties under this Use Agreement.

**11.1 Environmental Review.** NextG's facilities are "unlisted" but functionally equivalent to Type II actions under 6 N.Y.C.R.R. 617.5(c)(11). NextG agrees to comply with any rules pertaining to State Environmental Quality Review and to submit any required environmental forms for the City's review and approval, so long as the review that the City requires is the same that the City requires of all other telecommunications providers, including but not limited to the ILEC and the cable provider(s), for their installation of any facilities or equipment in the Public Way.

**11.2 Nonexclusive Use.** NextG understands that this Use Agreement does not provide NextG with exclusive use of the Public Way or any Municipal Facility and that the City shall have the right to permit other providers of communications services to install equipment or devices in the Public Way and on Municipal Facilities. The City agrees promptly to notify NextG of the receipt of a proposal for the installation of communications equipment or devices in the Public Way or on Municipal Facilities. In addition, the City agrees to advise other providers of communications services of the presence or planned deployment of the Equipment in the Public Way and/or on Municipal Facilities.

**11.3 Waiver of Breach.** The waiver by either party of any breach or violation of any provision of this Use Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Use Agreement.

**11.4 Severability of Provisions.** If any one or more of the provisions of this Use Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision(s) shall be deemed severable from the remaining provisions of this Use Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Use Agreement. Each party hereby declares that it would have entered into this Use Agreement and each provision hereof regardless of whether any one or more provisions may be declared illegal, invalid, or unconstitutional.

**11.5 Contacting NextG.** NextG shall be available to the staff employees of any City department having jurisdiction over NextG's activities twenty-four (24) hours a day, seven (7) days a week, regarding problems or complaints resulting from the attachment, installation, operation, maintenance, or removal of the Equipment. The City may contact by telephone the network control center operator at telephone number 1-866-44-NEXTG (446-3984) regarding such problems or complaints.

**11.6 Governing Law; Jurisdiction.** This Use Agreement shall be governed and construed by and in accordance with the laws of the State of New York, without reference to its conflicts of law principles. If suit is brought by a party to this Use Agreement, the parties agree that trial of such

action shall be vested exclusively in the state courts of New York, in the County where the City is incorporated or in the United States District Court for the Eastern District of New York.

**11.7 Consent Criteria.** In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Use Agreement, such party shall not unreasonably delay, condition, or withhold its approval or consent.

**11.8 Representations and Warranties.** Each of the parties to this Agreement represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform the parties' respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith, except as provided in § 3.2 above.

**11.9 Amendment of Use Agreement.** This Use Agreement may not be amended except pursuant to a written instrument signed by both parties.

**11.10 Entire Agreement.** This Use Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this Use Agreement which are not fully expressed herein.

In witness whereof, and in order to bind themselves legally to the terms and conditions of this Use Agreement, the duly authorized representatives of the parties have executed this Use Agreement as of the Effective Date.

City: CITY OF RYE, a New York municipal corporation

By: \_\_\_\_\_

\_\_\_\_\_  
[name typed]

Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2010

NextG: NEXTG NETWORKS OF NY, INC., a Delaware Corporation

By: \_\_\_\_\_

\_\_\_\_\_  
[name typed]

Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2010

I HEREBY APPROVE the form and legality of the foregoing Use Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_, Corporation Counsel

By \_\_\_\_\_

\_\_\_\_\_, Deputy City Attorney

**Exhibits:**

Exhibit A -- Equipment

*A Local Official's Guide:*  
**RESPONDING TO A TELECOMMUNICATIONS APPLICATION  
FROM NEXTG NETWORKS  
(New York)**

**N**extG Networks of NY, Inc ("NextG"). has submitted to you an application under the federal Communications Act for access to the public rights of way to construct facilities necessary to provide telecommunications services. In order to assist you in analyzing and responding to NextG's application, NextG sets forth below answers to common questions raised by local officials upon receipt of such an application.

**Q. Who is NextG Networks?**

A. NextG Networks is a next-generation communications company that provides managed RF transport and backhaul services to wireless communications service providers, including mobile network operators and public WLAN service providers. NextG's innovative and cost-effective RF-over-Fiber ("RFoF") transport solution enables wireless service providers to expand their coverage and/or capacity throughout metropolitan regions and in dense urban and isolated suburban areas. Founded in 2001, NextG Networks is headquartered in San Jose, California, and operates regional subsidiaries throughout the United States.

**Q. What is the authority that NextG has from the State of NY?**

A. NextG holds a Certificate of Public Convenience and Necessity ("CPCN") from the New York Public Service Commission ("PSC"), granting NextG the authority to deploy its facilities throughout the state "as a facilities-based provider and reseller of telephone service." PSC Case No. 03-C-0027 (April 4, 2003).

**Q. What kind of service does NextG provide?**

A. NextG provides Telecommunications Services. Specifically, it provides "RF Transport Services" that carry voice and data traffic handed off to it by wireless providers (such as cellular and PCS). It carries that traffic via its fiber optic lines from antennas located on utility and/or street light poles to a central switching-like location, and from there, either back to another antenna or out to the public switched telephone network or Internet. NextG has filed a tariff that has been accepted for filing with the PSC pursuant to Public Service Law, Art 5, § 92; 16 NYCRR Part 720.

**Q. What is NextG asking of the Municipality?**

A. NextG is applying for the right to construct, operate, manage, and maintain a telecommunications network in the public ways of the Municipality in compliance with the Municipality's ordinances and permitting requirements in order to serve its wireless customers and to improve wireless coverage and capacity in the Municipality. Although most municipalities have many different telecommunications providers in their public ways, many do not have a published requirement for an agreement or franchise to occupy the public way. Nonetheless, as a gesture of good faith, even though your municipality may not have published requirements, NextG has submitted a proposed form of right-of-way use agreement ("RUA") that asks for the following:



- ✦ the right to enter into the public way to provide telecommunications services consistent with NextG's CPCN and tariff on file with the PSC;
- ✦ the right to utilize Municipality-owned streetlight poles and traffic signal poles for an agreed annual fee for the collocation of NextG's facilities (this may avoid the need, in many cases, for NextG to install new utility infrastructure in the right-of-way);
- ✦ if applicable, the right to utilize any available Municipality-owned fiber or conduit for an agreed annual fee for the collocation of NextG's facilities; and

**Q. How long do I have to respond to NextG's application?**

A. Under federal law, local authorities must act on NextG's application, in writing, expeditiously. Unreasonable delay or a failure to act expeditiously has been held to constitute an unlawful barrier to entry under federal law.

**Q. Why not work on the franchise or agreement at the time that the permit applications are ready instead of now?**

A. The negotiation of an agreement or franchise can take several months and involves a public process requiring approval by the municipal council or board. Because of the time required for that process, NextG is requesting that the municipality let us know now if it is interested in an agreement so that the permitting process can conform to the terms of the agreement.

**Q. What information can I require from NextG?**

A. Local authorities may only request information directly related to NextG's physical construction in and occupation of the public rights of way. Local authorities are prohibited from inquiring into the "legal, technical, or financial" qualifications of NextG or other matters unnecessary for the local authority's ability to oversee NextG's construction and manage the public rights of way, since this is preempted by the PSC, which regulates these aspects of NextG's services.

**Q. Am I permitted to impose restrictions on NextG's use of the public rights of way?**

A. Local authorities are permitted only to "manage" NextG's construction and physical occupation of the public rights of way. This has been held to include matters such as requiring insurance or bonds and imposing standard construction permitting and safety regulations. This authority has also been described as extending to the "time and manner" of construction. The law is clear that no municipality may impose certain requirements on new entrants (like NextG) unless the same requirements for access to the public right-of-way are imposed on all users, including the Incumbent Local Exchange Provider (e.g., Verizon).<sup>1</sup>

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<sup>1</sup> See *TCG New York, Inc., v. City of White Plains*, 305 F.3d 67 (2nd. Cir., 2002).



**Q. Can the Municipality regulate NextG's activities as a telecommunications provider in the public rights-of-way?**

A. No. Section 253 of the Communications Act prohibits local authorities from regulating the provision of telecommunications services.

**Q. Am I required to treat NextG in the same way as the Municipality treats the incumbent local telephone company?**

A. Yes. Local authorities must treat competitive providers, like NextG, in a competitively-neutral and non-discriminatory manner. As a result, local authorities cannot impose on NextG requirements or fees that are not imposed on the incumbent Bell Company.

**Q. Who will own the equipment utilized in NextG's network and what impact does that have on NextG's rights?**

A. NextG will own or manage the fiber, the optical repeaters, and the antenna by means of which it provides RF Transport Services in all cases. Under New York law, the term "telephone corporation" means "every corporation ... owning, operating or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire...."<sup>2</sup> "Telephone line" includes all facilities "used, operated or owned by any telephone corporation to facilitate the business of affording telephonic communication...."<sup>3</sup> Because under its tariff and agreements NextG will use, operate and manage all equipment incorporated into its network, including the optical repeaters and antennae, those facilities are part of NextG's network and accorded the same rights as the rest of NextG's network facilities. While this may appear to be a new model that NextG is pioneering and with which the Municipality may not be familiar, NextG has deployed more than 6,000 nodes and several thousand miles of fiber nationwide under the process (including more than 1,500 in New York).

**Q. Is NextG a wireless provider?**

A. No. NextG is not licensed to provide wireless services and does not control any wireless spectrum. NextG is a "carrier's carrier" whose customers are wireless providers. However, as previously described, NextG's services are regulated by the PSC under the terms of its CPCN. In order to promote activities of the type that NextG offers, pursuant to §214 of the Telecommunications Act, the FCC promulgated rules that do not require separate registration for NextG's services.<sup>4</sup>

**Q. What facilities does NextG need to install to provide service in our community?**

A. NextG provides its service with a combination of fiber optic lines connected to small wireless antennas, optical repeaters, and associated equipment. Thus, it must generally install a certain amount of fiber optic cable, either underground or on existing utility poles. In

<sup>2</sup> NY Public Service Law, Article 1, § 2 (emphasis added).

<sup>3</sup> *Id.* (emphasis added).

<sup>4</sup> *In re Implementation of Section 402(B)(2)(A) of the Telecommunications Act of 1996 and Petition for Forbearance of the Independent Telephone & Telecommunications Alliance, Report and Order and Second Memorandum Opinion and Order*, CC Dkt. No. 97-11 and AAD File No. 98-43, 14 FCC Rcd 11364 (1999).

addition, it must install small wireless antennas and associated equipment on utility poles and/or streetlight poles, typically located in the public rights of way. When possible and appropriate, NextG may lease capacity on existing fiber optic facilities owned by the Municipality or other providers, thus diminishing the physical impact of NextG's installation.

**Q. Will NextG use existing utility poles?**

A. NextG will generally seek to collocate its facilities on existing utility or streetlight poles, typically located in the public rights of way. To the extent that it will be using privately-owned utility poles, NextG has entered into (or is in the process of entering into) any necessary pole attachment agreement. New York statutes and regulations adopted by the New York Public Service Commission govern the rates, terms, and conditions that private utility pole owners may impose on NextG's access to such poles. See N.Y. C.L.S. PUB. SER. § 119-a. Additionally, the PSC has promulgated rules that regulate the safety issues associated with such attachments, and NextG will comply with all of the PSC's published rules.<sup>5</sup>

**Q. Will NextG need to install any new poles of its own?**

A. Generally, no; however, if there is no available infrastructure, or if the Municipality does not wish to allow NextG to attach to its streetlight or traffic poles, NextG may need to install its own utility poles. In such cases, NextG will comply with all lawful local regulations governing such installations.

**Q. What are the benefits from NextG's entry into our community?**

A. First, NextG's facilities and services are less burdensome or intrusive than traditional cell towers. Where wireless providers have traditionally relied on very large towers or monopoles, NextG's service uses fiber optics and small, unobtrusive antennas located on existing utility and/or streetlight poles.

Second, NextG's service allows the wireless carriers to expand the coverage of wireless services, with less intrusive facilities. Traditional wireless technologies have suffered from "dead spots" and bandwidth capacity limitations. NextG's combination of fiber optics and lower antennas helps wireless providers eliminate dead spots and increase bandwidth needed for emerging and future services.

Third, NextG introduces competition that will help provide more service choices and more competitive prices for consumers.

Fourth, NextG network operations will provide revenue to the Municipality under the proposed agreement.

**Q. What are NextG's rights under Federal law?**

A. Section 253 of the Communications Act grants NextG the right to provide telecommunications services and prohibits municipalities from imposing requirements that prevent NextG from providing telecommunications services or that "have the effect of prohibiting" NextG from providing telecommunications services. Recent court decisions

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<sup>5</sup> NY Public Service Law, Art. 6, § 119-a, and *Order Adopting Policy Statement on Pole Attachments*, State of New York Public Service Commission Case 03-M-0432 (August 6, 2004).

applying § 253 have held that any municipal requirement that “materially inhibits” NextG’s ability to compete is preempted. This includes imposing on NextG requirements such as fees or franchises that are not imposed on the incumbent telephone company. Ultimately, municipalities may not exercise discretion over whether NextG can access the public rights of way and provide service.

Section 253 reserves for municipalities only the authority to “manage” NextG’s physical occupation of the public rights of way (*i.e.*, construction permitting and safety issues). NextG complies with all applicable and lawful local permitting requirements concerning construction in the public rights of way.

**Q. Are harmful radio-frequency emissions an issue with the equipment related to NextG’s service?**

**A.** No. The wireless antennas associated with NextG’s service produce RF radiation at levels well below the FCC’s permitted maximums for general-population, uncontrolled exposures, which are themselves conservatively low. Indeed, the facilities associated with NextG’s services are “categorically excluded” from the FCC’s requirement for routine environmental compliance testing for RF exposure.



**NextG Networks**

**City of Rye, New York**

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NextG – the solution for improved wireless  
coverage in your community

## About NextG Networks

**NextG Networks is a competitive local exchange carrier – a utility with the same regulatory rights and responsibilities as the telephone company.**

- NextG Networks is a regulated, facilities-based, carrier's carrier that designs and installs fiber-optic based networks to improve wireless coverage and capacity in municipalities and universities throughout the United States.
- We are the oldest Distributed Antenna System network provider in the United States with the largest number of operational networks. We have the most experience and success installing and maintaining these networks. In the New York metropolitan area alone, for example, NextG has deployed over 1,276 equipment locations and over 570 miles of fiber optic cable to date.





## NextG Services

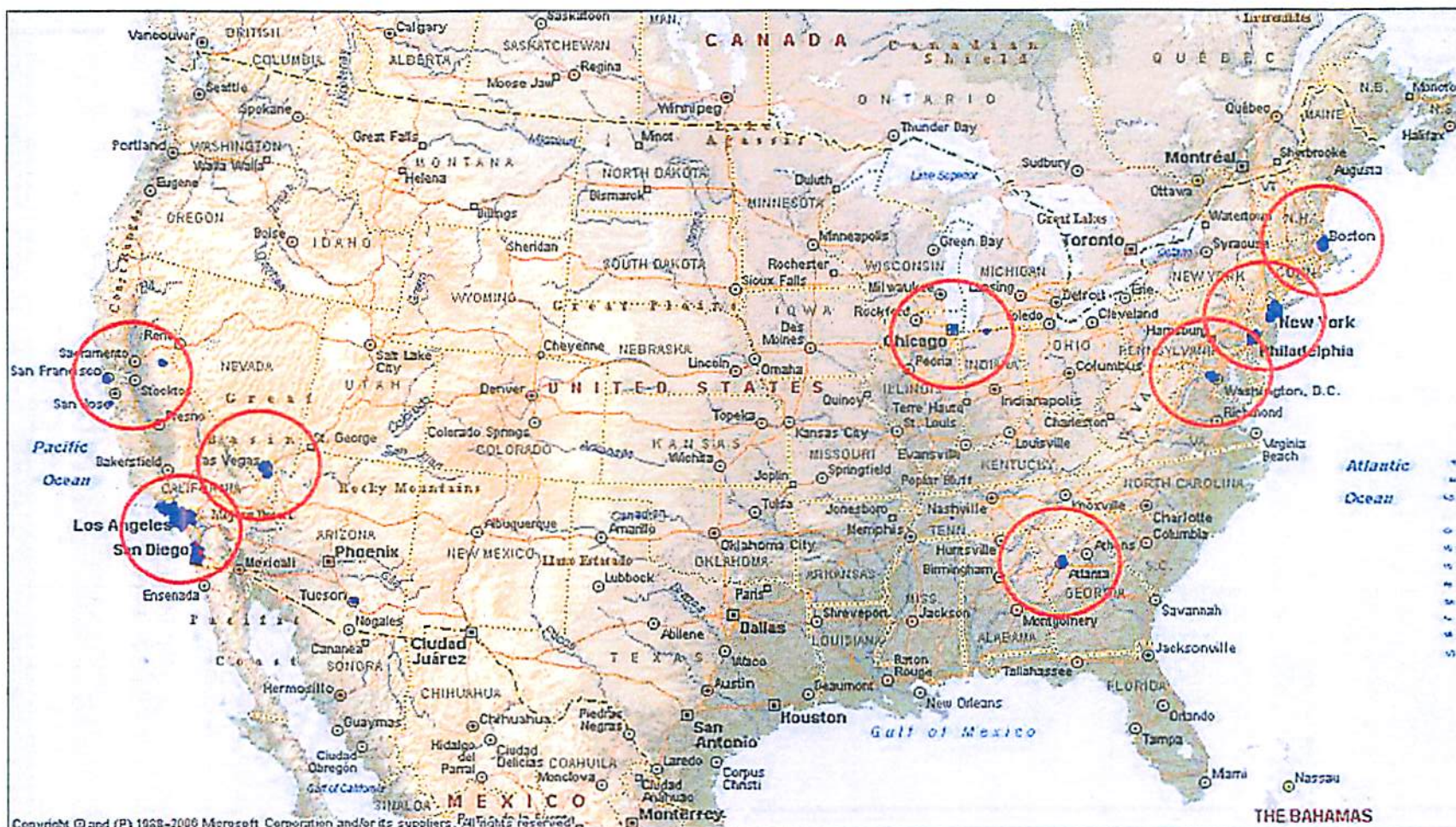
**NextG transports wireless signals without installing towers or traditional cell sites.**

- Wireless signals are transported through a Distributed Antenna System (DAS) network that connects to existing wireless facilities.
- DAS is a neutral-host, protocol-agnostic fiber-fed antenna network on existing infrastructure in the right-of-way. NextG's patented technology allows a single network to support multiple operators, multiple frequencies, and multiple wireless formats.
- Our service augments mobile phone coverage and capacity (fills in holes in service and prevents dropped calls.)
- Our customers include wireless carriers and wi-fi providers. We do not have end-user customers.





# NextG Networks Across the United States

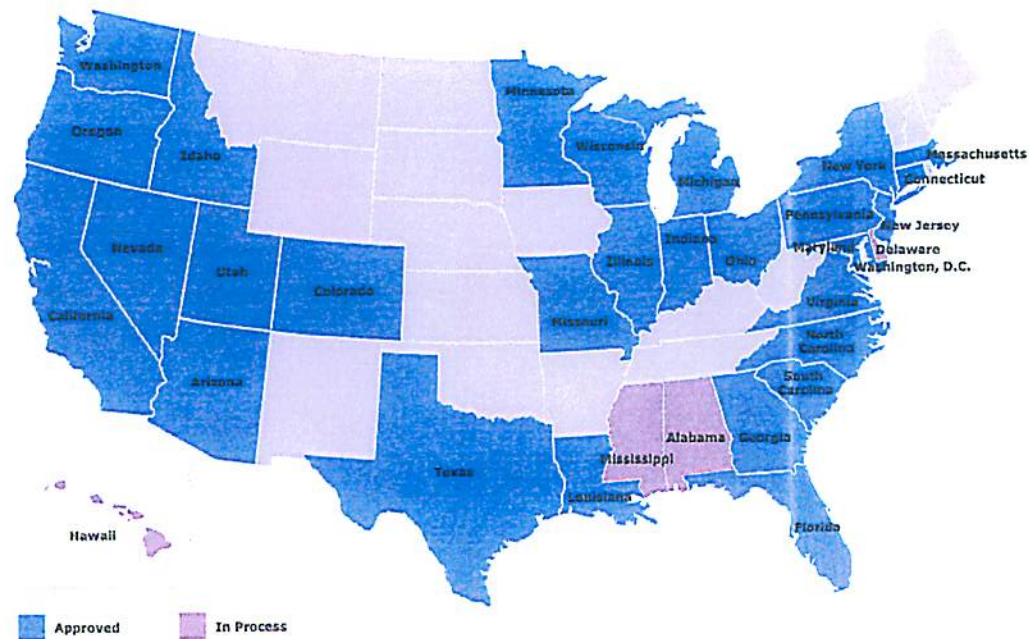




## NextG is a utility

**NextG obtains all state required regulatory authority prior to building networks.**

- In New York State we have a Certificate of Public Convenience and Necessity from the NY State Public Service Commission
- In New York State our general authority under the Federal Telecommunications Act has been held to be sufficient to offer telecommunications service as a utility and build our networks.





# Photos of NextG Installations in the Right of Way



NextG Networks

Company Confidential

Page 6, May 21, 2010



# NextG Installations in the Right of Way continued



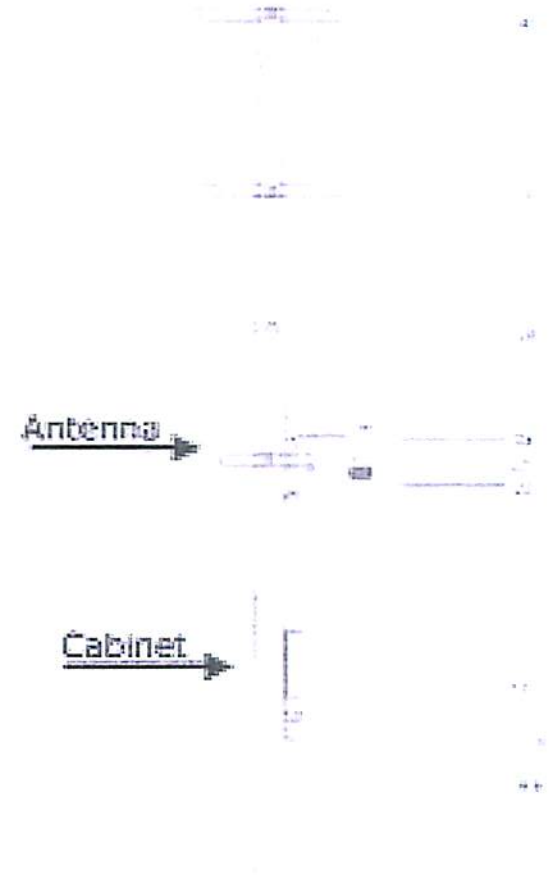
**NextG Networks**

Company Confidential

Page 7, May 21, 2010

# NextG Installations

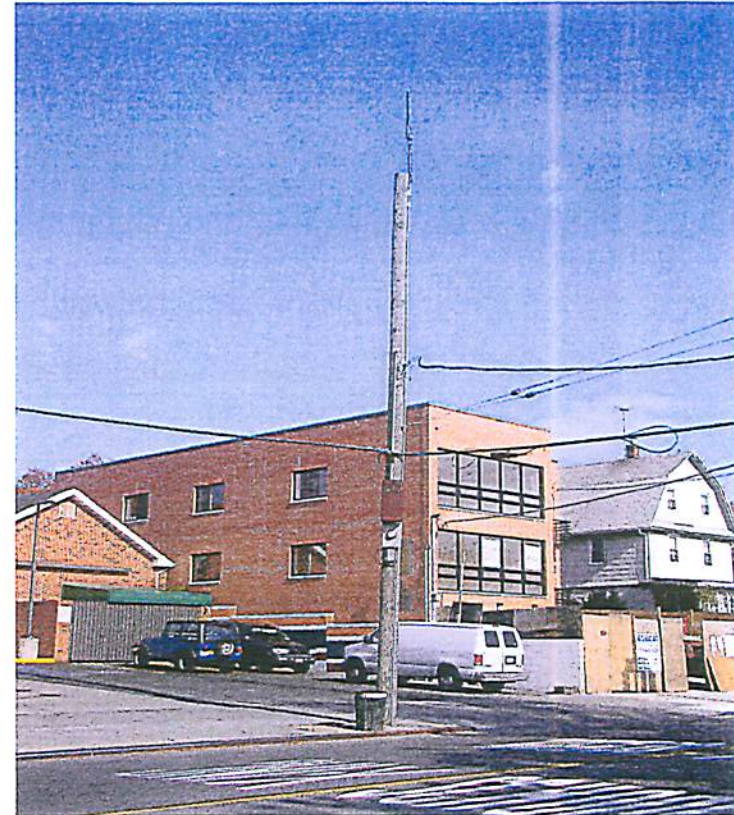
- NextG uses fiber optic cable to connect small, wireless antennas.
- The antennas are connected by coax cable to an RF-to-lightwave converter box on the pole. The box converts RF captured by the antenna into light wave signals which are then transported via fiber optic cable.
- These antennas are typically located inconspicuously on lampposts and utility poles in the right of way and utility easements.
- Installations do not interfere with lighting facilities or municipal safety systems.





## NextG Equipment

This is the most typical type of Node that NextG Networks will install. This installation consists of one antenna located at the top of the pole together with a small Equipment Cabinet attached to the pole below the power, telephone and cable utility lines.



## Arrangements with other Utilities

Because NextG is a regulated utility, NextG has access to utility infrastructure through USC Title 47, Ch. 5, Subch. II, Part I, Section 224 (the Pole Attachment Act).

NextG has secured necessary agreements with other utility companies to attach to utility poles and streetlights not owned by the municipality.



## Benefits to your Community

**NextG's networks allow communities to balance consumer and business demands for improved wireless coverage with community concerns about aesthetics.**

- Provides an alternative to traditional cell sites
- Increases capacity and capability for advanced wireless voice, data, hotspot and hotzone services from any service provider
- Minimizes future construction via advanced fiber optic technology
- Utilizes equipment that is often less obtrusive than other utilities who have similar rights to install equipment on poles within existing utility corridors.
- Offers to share revenue with the community and pole rental fees for attachments to available municipal infrastructure.





# CITY COUNCIL AGENDA

NO. 11

DEPT.: City Manager's Office

DATE: October 20, 2010

CONTACT: Scott D. Pickup, City Manager

**AGENDA ITEM:** Discussion on the proposal from the Committee to Save the Bird Homestead, Inc. regarding the Rye Meeting House.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,**

CHAPTER  
SECTION

**RECOMMENDATION:**

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

**BACKGROUND:**

Anne Stillman and the Committee to Save the Bird Homestead have put forward a proposal to take responsibility for the Rye Meeting House located next door to the Bird Homestead.





# CITY COUNCIL AGENDA

NO. 12

DEPT.: Finance

DATE: October 20, 2010

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Continuation of Public Hearing to amend local law Chapter 191, Section 39, Parking Time Limits and fees, to remove the setting of fees from Local Law.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE:**

|         |     |
|---------|-----|
| CHAPTER | 191 |
| SECTION | 39  |

**RECOMMENDATION:**

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

**BACKGROUND:**

To remove the setting of Parking Meter fees from the Local Law.

See attached draft of Local Law.



**CITY OF RYE  
LOCAL LAW NO. 2010**

**A local law to amend Chapter 191, Vehicles And Traffic, Section  
39 Parking time limit and fee of the  
Code of the City of Rye as follows:**

**Section 1.**

**§191-39 Parking time limits and fee.**

**[Amended 12-15-1965 by Ord. No. 4-1965; 2-18-1970; 2-15-1984 by L.L. No. 5-1984**

**Editor's Note: This local law also provided that former §§191-41 through 191-49 be renumbered to become §§191-40 through 191-48, respectively; 12-15-1993 by L.L. NO. 12-1993; 12-15-2004 by L.L. No. 5-2004]**

The permitted parking time ~~in a parking meter zone shall, except in the off street parking areas maintained by the City of Rye on City owned lands known as Car Park No. 1, Car ark No. 2, Car Park No. 3, Car Park No. 4 and Car Park No. 5 or as otherwise provided, be one hour for each 25 cents of the United States of America deposited in the meter. The permitted parking time in the off street parking areas maintained by the City of Rye on City owned lands known as Car Park No. 1, Car Park No. 2, Car Park No. 3, Car Park No. 4 and Car Park No. 5 shall be one hour for each 50 cents of the United States of America deposited in the meter.~~ **and fees in all City parking meter zones shall be set after public hearing by resolution by the City Council.** Upon the expiration of the permitted parking time with respect to any vehicle in such designated parking space, the operator shall forthwith remove such vehicle from such parking space.

**Section 2. This law will take effect immediately upon filing with the New York State.**



# CITY COUNCIL AGENDA

NO. 13

DEPT.: Finance

DATE: October 20, 2010

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution authorizing the City Manager to increase the fees on selected parking permits.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:**

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

**BACKGROUND:**

A request has been put forward to increase the fees for the following parking permits:

Increase All Day/All Night parking permits from \$660 to \$990

Increase Merchant Permit Parking permits from \$372 to \$744 per year

Increase All Night Parking Permits from \$330 to \$495

See attached from City Comptroller Jean Gribbins



Jean Gribbins  
Comptroller  
1051 Boston Post Road  
Rye, New York 10580

Tel: (914) 967-7303  
Fax: (914) 967-7370  
E-mail: [jgribbins@ryeny.gov](mailto:jgribbins@ryeny.gov)  
<http://www.ryeny.gov>

**CITY OF RYE**  
**Department of Finance**  
**MEMO**

TO: Scott Pickup, City Manager

FROM: Jean Gribbins, Comptroller

DATE: September 7, 2010

RE: Increase in Parking Fees for 2011 Budget

As part of the June 14, 2010 Presentation to the City Council, several options were presented to the City Council to offset the inherent increases in expenditures in the 2011 Budget. One of these options was to double all fees for parking permits and parking meters. The hope was that doubling all parking fees would generate an additional \$570,000 of Revenue for the City, or offset the tax increase by 3%.

After reviewing these options with the Finance Committee, and your conversations with Metro North, the following revenue increases have been estimated:

1 - **Metro North** – Increase all railroad parking permits to \$720 per year. (Metro North Resident, Metro North Non Resident, and City Owned Commuter Lots –Highland and Cedar.) This would generate approximately \$184,800 in additional Revenue. The City will begin to sell these permits on October 1<sup>st</sup>, 2010. Therefore, a decision will need to be made by the City Council at the September 15<sup>th</sup>, 2010 meeting, as to whether or not to increase this fee to generate additional Revenues for the City. The September 15<sup>th</sup> Council meeting is the last Council meeting before the permits are sold.

2 – **Commuter Meters** – Increase from \$3 per day to \$4 per day. This is a 33% increase in the fee, and would generate approximately \$4,300 in additional Revenue.

3- Increase all other **Meters and Paystations** from 30 minutes for 25 cents to 20 minutes for 25 cents. (Fifty cents per hour to 75 cents per hour.) This is a 50% increase in the fee, and would generate approximately \$113,750 in additional Revenue. In addition, net Paystation proceeds would need to be included as General Fund Revenues and not segregated for CBD Capital.

4 – Increase **All Day/All Night** Parking permits from \$660 to \$990. This is a 50% increase in the fee, and would generate approximately \$12,000 in additional Revenue.

5 – Double **Merchant Permit** Fees from \$372 per year to \$744 per year. This would bring the Merchant Permits more in line with the cost of the Commuter Permits, and would generate approximately \$110,000 in additional Revenue.

6 – Increase **All Night** Parking Permits from \$330 to \$495. This is a 50% increase in the fee, and would generate approximately \$1,200 in additional Revenue.

The total of these estimated additional Revenues is \$426,050. The anticipated Revenues targeted on June 14<sup>th</sup> were \$570,000. This is a \$143,950 shortfall.

Summary:

**City of Rye**  
**Additional Parking Revenue**  
**2011 Budget vs. 2010 Budget**

|   | <b>2011 Budget<br/>Increase in<br/>Revenue \$\$\$.</b> | <b>Tax Rate %</b> | <b>2011<br/>Budget<br/>Cost</b>   | <b>2010 Cost</b>  |
|---|--|-------------------|---|---|
| Metro North / Highland / Cedar<br>Commuter Meters | 184,800<br>4,300                                       | 0.97%<br>0.02%    | \$720<br>Resident /<br>Non<br>Resident<br>\$4 per day<br>75 cents<br>per hour | \$336<br>Resident /<br>\$550 Non<br>Resident<br>\$3 per day<br>50 cents per<br>hour |
| Meters and Paystations                            | 113,750  | 0.60%             |   |   |
| All Day/All Night                                 | 12,000   | 0.06%             | \$990   | \$660   |
| Merchant Permit                                   | 110,000  | 0.58%             | \$744   | \$372   |
| All Night Parking                                 | 1,200  | 0.01%             | \$495   | \$330   |
| Total Additional Revenue                          | <u>426,050</u>   | <u>2.24%</u>      |   |   |
| Anticipated Increase in Revenues                  | 570,000  | 3.00%             |   |   |
| Shortfall (Tax Rate Increase)                     | (143,950)  | -0.76%            |   |   |

Jean Gribbins  
 Comptroller



# CITY COUNCIL AGENDA

NO. 14

DEPT.: Finance

DATE: October 20, 2010

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution to return net revenues from the Central Business District parking pay stations to General Fund City operations.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council authorize the return of net revenues from parking funds to be utilized for general City use.

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

**BACKGROUND:**

See attached: Resolution passed at the City Council meeting of 12/16/09 and the Proposed Resolution.

***APPROVED MINUTES*** of the  
Regular Meeting of the City Council of the  
City of Rye held in City Hall on December 16,  
2009 at 8:00 P.M.

Mayor Otis made a motion, seconded by Councilman Pratt to adopt the following Resolution:

**WHEREAS**, it is the goal of the City that funds generated from the central business district parking pay stations in the central business district, minus expenses, shall be used to fund capital projects in the central business district, now, therefore, be it

**RESOLVED**, that within the general fund the City Comptroller shall maintain an accounting of gross revenues and net operating income generated for each year by the parking pay stations; and be it further

**RESOLVED**, that the City Comptroller shall also maintain a list of capital projects within the central business district that have been authorized by the City Council; and be it further

**RESOLVED**, that the City's annual CIP and annual City Budget shall include a report of this information for use by the City Council and the public; and be it further

**RESOLVED**, that the City Council will use this information as part of the capital planning process to track parking revenues and provide a basis to assign capital project commitments to the central business district on an ongoing basis.

**ROLL CALL:**

|                |   |
|----------------|---|
| <b>AYES:</b>   | Mayor Otis, Councilmembers Ball, Gamache, Parker, Pratt<br>and Sack |
| <b>NAYS:</b>   | Councilman Cunningham   |
| <b>ABSENT:</b> | None  |

The Resolution was adopted by a vote of 6-1.

**RESOLUTION TO RETURN NET REVENUES FROM THE CENTRAL  
BUSINESS DISTRICT PARKING PAY STATIONS TO GENERAL FUND CITY  
OPERATIONS**

**WHEREAS**, in the past it has been the goal of the City to use funds generated from central business district parking pay stations in the central business district, minus expenses, to fund capital projects in the central business district; and

**WHEREAS**, the financial situation of the City and its residents has changed significantly over the past two years; and

**WHEREAS**, the city desires to place any funds generated from the central business district parking pay station in the general fund: Now, therefore, be it

**RESOLVED**, that within the general fund the City Comptroller shall maintain an accounting of gross revenues and net operating income generated for each year by the parking pay stations; and be it further

**RESOLVED**, that the funds generated from the central business parking pay stations be made part of the general fund starting January 1, 2011.

ROLL CALL:

NAYS:

ABSENT:

The resolution was adopted by a vote of



# CITY COUNCIL AGENDA

NO. 15

DEPT.: Finance

DATE: October 20, 2010

CONTACT: Jean Gribbins, City Comptroller

**AGENDA ITEM:** Resolution authorizing the City Manager to increase the fees on meters and pay stations.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

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

**BACKGROUND:**

A request has been put forward to increase the fees for meters and paystations:

Increase Commuter Meter fees from \$3 a day to \$4 a day

Increase Meters and Pay stations from 30 minutes for \$.25 to 20 minutes for \$.25





# CITY COUNCIL AGENDA

NO. 16

DEPT: Public Works

October 20, 2010

CONTACT: George J. Mottarella, City Engineer

**ACTION:** Bid Award for a Truck-Mounted Combination Sewer Vacuum and Jetter (Bid# 5-10).

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That Bid #5-10 be awarded to Gabrielli Mack for One (1) truck-Mounted Combination Vacuum/Sewer Jetter for the amount bid - \$288,960.00.

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

**BACKGROUND:** Two bids were received and reviewed and Gabrielli Mack has the low bid. Purchase of this equipment has been deferred for two years.

**CITY OF RYE, NY**  
**Department of Public Works**

**Memorandum**

DATE: October 15, 2010

TO: Scott Pickup, City Manager

FROM: George J. Mottarella, City Engineer

RE: Bid Recommendation - Bid #5-10, One (1) Truck Mounted Combination  
Vacuum/Sewer Jetter

---

There were two bids received for the above mentioned bid. They are as follows:

|                       |              |
|-----------------------|--------------|
| Gabrielli Truck Sales | \$288,960.00 |
| Jet Vac, Inc.         | \$331,708.00 |

I recommend that the bid be awarded to the low bidder, Gabrielli Trucks Sales, for the amount bid, \$288,960.00. I would also like to point out that the purchase of this high priority emergency equipment has been deferred twice and the existing sewer truck is constantly in for maintenance.

If you would like to discuss this further, I am available at your convenience.

Attached is an Agenda Form for the Council's meeting of October 20<sup>th</sup>.

cc: Scott Fontecchio, General Foreman  
Diane Moore, Deputy City Clerk

---

*Public Works*  
*141 Oakland Beach Avenue*  
*Rye, NY 10580*

*(914) 967-7464 phone*

*(914) 967-4107 fax*



# CITY COUNCIL AGENDA

NO. 17

DEPT.: Public Works

DATE: October 20, 2010

CONTACT: George J. Mottarella, City Engineer

**ACTION:** Award bid for the Interior Alterations to the Rye Police Station (Bid #6-10).

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,**

CHAPTER  
SECTION

**RECOMMENDATION:** That Bid #6-10 be awarded to the low bidder, Peter A. Camilli and Sons, in the amount of eighty-nine thousand dollars (\$89,000.00).

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

## BACKGROUND:

Six bids were received and tabulated. The low bidder, Peter A. Camilli and Sons, meets all the City's specifications. The City Engineer has recommended that the bid be awarded to this low bidder.

See attached.



**CITY OF RYE**

CITY HALL • RYE, NEW YORK 10580

TELEPHONE (914) 967-5400

**ENGINEERING DEPARTMENT MEMORANDUM**

**TO:** Scott D. Pickup, City Manager

**FROM:** George J. Mottarella P.E. P.L.S., City Engineer, Director of Public Works

**DATE:** October 14, 2010


**SUBJECT:** Bid Recommendation for Contract 2010-06 Interior Renovations to the Rye Police Station

I have checked and tabulated the six (6) bids received for the above referenced contract. A copy of the bid results is attached for your convenience. I recommend the bid be awarded to the low bidder, Peter A Camilli and Sons, in the amount of eighty nine thousand dollars (\$89,000.00)

I have checked all of the references supplied by this contractor. Each reference has reported that Peter A Camilli and Sons has completed each respective project on time and to specification.

There are sufficient funds for this project in this year's budget.

Very truly yours,

  
George J. Mottarella, P.E., P.L.S.  
City Engineer, Director of Public Works

**Contract No. 2010-06 - Interior Alterations to the Rye Police Station**

| Position | Contractor                       | Contractor's Bid | Engineer's Check      | Dollar Amount Above Low Bid | % Above Low Bidder |
|----------|----------------------------------|------------------|-----------------------|-----------------------------|--------------------|
| 1        | Peter A Camilli and Sons         | \$89,000.00      | <b>\$89,000.00</b>    | \$0.00                      | 0.00%              |
| 2        | Construction Force Services Inc. | \$129,989.00     | <b>\$129,989.00</b>   | \$40,989.00                 | 46.06%             |
| 3        | Abott and Price Inc.             | \$134,000.00     | <b>\$1,285,166.61</b> | \$45,000.00                 | 50.56%             |
| 4        | Fourmen Contruction              | \$147,500.00     | <b>\$147,500.00</b>   | \$58,500.00                 | 65.73%             |
| 5        | K-Con Site Development           | \$152,000.00     | <b>\$152,000.00</b>   | \$63,000.00                 | 70.79%             |
| 6        | Foremost Development LLC         | \$194,400.00     | <b>\$194,400.00</b>   | \$105,400.00                | 118.43%            |



# CITY COUNCIL AGENDA

NO. 18 DEPT.: Golf Club DATE: October 20, 2010  
CONTACT: Scott Yandrasevich

**AGENDA ITEM:** Three appointments to the Rye Golf Club Commission by the Council for three-year terms expiring January 1, 2013 and the designation of one member to the Rye Golf Club Nominating Committee.

**FOR THE MEETING OF:**

October 20, 2010

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council approve the appointments and designate the individual elected to serve on the Rye Golf Club Commission Nominating Committee.

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

**BACKGROUND:**

The following individuals were elected to serve on the Rye Golf Club Commission for three-year terms beginning on January 1, 2011:

Frank Adimari  
John Duffy  
Richard Verille

The following individual was elected to serve on the Rye Golf Club Commission Nominating Committee for one year:

Paul Ryan

**CITY OF RYE**

**MEMORANDUM**

**TO:** Scott Pickup, City Manager  
Scott Yandrasevich, Rye Golf Club Manager

**FROM:** Dawn F. Nodarse, City Clerk

**SUBJECT:** Rye Golf Club Commission & Nominating Committee Election

**DATE:** October 8, 2010

The following are the results of the Golf Club Election:

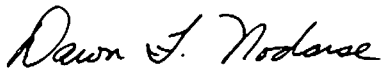
|                    |     |
|--------------------|-----|
| Envelopes Received | 387 |
| Valid Ballots Cast | 357 |
| Invalid Ballots    | 51  |

The election results for three representatives to the Golf Club Commission are:

| <b>Candidates</b> | <b># of Votes Received</b> |
|-------------------|----------------------------|
| Frank Adimari     | <b>207</b>                 |
| Carl Curran       | 151                        |
| John Duffy        | <b>213</b>                 |
| Jason Mehler      | 90                         |
| Morris Mondschein | 102                        |
| Richard Verille   | <b>224</b>                 |
|                   |                            |
|                   |                            |

The election results for one member to the Nominating Committee are:

| <b>Candidates</b> | <b># of Votes Received</b> |
|-------------------|----------------------------|
| Paul Cherrone     | 112                        |
| Paul Ryan         | <b>159</b>                 |
|                   |                            |

  
Dawn F. Nodarse  
City Clerk

DFN/dcm