

ANNOTATED AGENDA
CITY COUNCIL OF THE CITY OF YONKERS
STATED MEETING
TUESDAY, NOVEMBER 24, 2009

Committee of the Whole 5:30 P.M.
Stated Meeting 6:00 P.M.
City Council Chambers

TIME: 6:35 P.M

PRESENT: PRESIDENT OF THE COUNCIL
 CHUCK LESNICK

DISTRICT

 2 MAJORITY LEADER SANDY ANNABI

 4 MINORITY LEADER LIAM J. McLAUGHLIN

COUNCIL MEMBERS:

DISTRICT:

 1 PATRICIA D. McDOW - ABSENT

 3 JOAN GRONOWSKI

 5 JOHN M. MURTAGH

 6 DEE BARBATO

Recitation of the Pledge of Allegiance to the Flag followed by a minute of silence to invoke God's guidance and Blessing upon our deliberations.

Minutes of the stated meeting held on November 10, 2009 and a Special Meeting held on Tuesday, November 10, 2009 approved on motion of Majority Leader Sandy Annabi.

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COMMUNICATIONS FROM CITY OFFICIALS

1. From Corporation Counsel Frank Rubino to all Councilmembers regarding Local Law – Amending Chapter 56 of the Code of the City of Yonkers (LEED).

FILED

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COMMUNICATIONS GENERALLY

1. From David L. Lewis, Esq., correspondence to Councilmember Murtagh regarding the Yonkers Board of Education

FILED

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COMMITTEE OF THE WHOLE

NO SPEAKERS

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PUBLIC HEARING

A PUBLIC HEARING ON A PROPOSED ORDINANCE CLOSING AND
DISCONTINUING CERTAIN PARTS OF PUBLIC STREETS KNOWN AS
LOEHR PLACE AND MULFORD STREET IN THE CITY OF YONKERS

SPEAKERS

NAME

ADDRESS

1. AL DELBELLO

REPRESENTING THE DEVELOPER

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OLD BUSINESS

SPECIAL ORDINANCE NO.27-2009

1. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

AN ORDINANCE CLOSING AND DISCONTINUING CERTAIN PARTS OF PUBLIC STREETS KNOWN AS LOEHR PLACE AND MULFORD STREET IN THE CITY OF YONKERS

The City Council of the City of Yonkers hereby enacts and ordains:

Section 1. Loehr Place Narrowing. Pursuant to Section 29 and subdivision 7 of Section 20 of the General City Law, it is hereby ordered and directed that the portions of Loehr Place identified as street closing areas on the Map titled New Street Opening and Existing Street Adjustment, dated November 28, 2007 prepared by Langan Engineering and Environmental Services, submitted to the City Council together with this proposed Special Ordinance, be and hereby are closed and discontinued as public street areas of the City of Yonkers, and the City Engineer is hereby authorized and directed to change the Official Map of the City of Yonkers to reflect such closing and discontinuance.

Section 2. Mulford Street Closing. Pursuant to Section 29 and subdivision 7 of Section 20 of the General City Law, it is hereby ordered and directed that the entire area of Mulford Street, as shown the Map titled New Street Opening and Existing Street Adjustment, dated November 28, 2007 prepared by Langan Engineering and Environmental Services, submitted to the City Council together with this proposed Special Ordinance, be and hereby is closed and discontinued as a public street of the City of Yonkers, and the City Engineer is hereby authorized and directed to change the Official Map of the City of Yonkers to reflect such closing and discontinuance.

Section 3. This ordinance shall take effect immediately.

THIS SPECIAL ORDINANCE WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

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NEW BUSINESS

LOCAL LAW NO.11-2009

2. BY MINORITY LEADER MCLAUGHLIN, COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, COUNCILMEMBERS MCDOW GRONOWSKI, MURTAGH AND BARBATO:

A LOCAL LAW AMENDING CHAPTER 56 OF THE CODE OF THE CITY OF YONKERS ENTITLED BUILDING AND ELECTRICAL CODE TO ADD A NEW ARTICLE XVII ENTITLED "SUSTAINABLE DEVELOPMENT"

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

ARTICLE XVII, SUSTAINABLE DEVELOPMENT

Chapter 56 of the Code of the City of Yonkers entitled "Building and Electrical Code", is hereby amended, in part, by adding thereto a new Article XVII entitled "SUSTAINABLE DEVELOPMENT" in reference to Building Design and Construction to read as follows:

§ 56-190. Findings

The City Council of the City of Yonkers finds that there is an urgent need to minimize the short term and long term negative impacts the built environment has on the residents and natural environment in the City of Yonkers and on the planet earth.

§ 56-191. Statement of Purpose

It is the purpose of this Article is to promote the public health, safety and general welfare and to minimize adverse environmental impacts by provisions designed to:

- A. Provide owners and occupants of commercial (retail and office), industrial, institutional, civic, multi-family and detached, semi-attached, town and row house type residential buildings with the economic, environmental and health benefits of energy and water savings;
- B. Improve indoor air and water quality;
- C. Reduce non-point source water pollution
- D. Increase and promote environmentally sustainable surroundings.

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LOCAL LAW NO.11-2009 (CONTINUED)

§ 56- 192. Objectives.

The Objectives of this article are:

- A. To benefit the community by having buildings constructed and/or substantially rehabilitated in such a manner that they conserve energy and are resource-efficient.
- B. To reduce production and proliferation of greenhouse gases and
- C. To reduce the overwhelming drain on the existing limited and overstressed energy, stormwater and potable water and transportation resources and infrastructure
- D. To reduce the production of solid waste.
- E. To ensure that those who develop and occupy buildings and facilities in the City of Yonkers assume responsibility for the environmental impacts of their actions
- F. To provide that developers and occupants are notified that the City of Yonkers is taking a leading role in promoting environmental sustainability and energy conservation

§ 56- 193. Definitions.

“Commercial Building(s)” shall mean any commercial (retail and office), industrial, institutional, civic, and as listed in Table 43-1 as Business, Commercial and Office Uses and Public and Institutional Uses and Apartment Houses including multi-family houses of three (3) families or more.

“Residential Building(s)” shall mean any detached, semi-attached, single family, two family town and row house dwellings and dwelling units as defined in section 43-8 of this Code.

“GreenBuilding Rating System” shall mean the U.S. Green Building Council’s (USGBC) Leadership in Energy and Environmental Design (LEED) Rating Systems including LEED-NC (New Construction), LEED-EB (Existing Buildings), LEED-CI (Commercial Interiors), LEED-CS (Core and Shell) and LEED-ND (Neighborhood Development), excluding LEED-

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H (Homes), or the Green Building Initiative's Green Globes Rating Systems or Substantially Similar Recognized Standard in effect at the time this article is adopted for all construction and/or substantial rehabilitation of all Commercial Buildings as of the date of enactment of this Article.

"ENERGY STAR RATING SYSTEM" shall mean the New York State Energy Research and Development Authority's (NYSERDA) Energy Star rating system for all newly constructed and/or substantially rehabilitated Residential Buildings in existence now and any future versions promulgated by NYSERDA.

"SUBSTANTIAL IMPROVEMENT" shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the assessed valuation of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure by the City of Yonkers or National Register of Historic Places.

"Governmental Benefits" shall mean the City or related City entity or any Governmental Entity providing land, funding, tax exemption, or tax abatement or an agreement for a Payment in Lieu of Taxes or Tax Increment Financing, Variance from any requirement of the City Code, Re-Zoning or Zone Creation or Amendment to the Zoning Code and PUR zoning)

§ 56 - 194. Applicability.

This Local Law shall be applicable to all new construction and Substantial Improvement of Commercial or Residential buildings that receive any

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LOCAL LAW NO.11-2009 (CONTINUED)

governmental benefits as part of the development of such building (e.g., land, funding, tax relief, variance, re-zoning or zoning variance). The provisions of this Article shall take effect six (6) months after the adoption of this Article. In the event that after the effective date as described above there is an amendment(s) in any of the aforementioned Green Building Rating Systems then such amendments will only take effect for the purposes of this article after the Yonkers City Council affirmatively adopts the same.

§ 56-195. APPLICABLE STANDARDS, ADMINISTRATION, AND BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY/COMPLETION REQUIREMENTS

A. Commercial Buildings

The USGBC LEED Silver certification or the substantially similar certification according to the Green Building Initiative's Green Globes Rating Systems, 2 Globes or a Substantially Similar Recognized Standard , shall be the minimum requirement of all new construction and substantially rehabilitated Commercial Buildings.

B. Residential Buildings

The NYSERDA Energy Star certification shall be the minimum requirement for all new construction and substantially rehabilitated Residential Buildings. To achieve an Energy Star certification a Residential Building shall attain a home energy rating of 84 or higher on the current expanded Home Energy Rating System (HERS) Scoring System adopted by the State of New York (which corresponds to an Index of 80 or less as defined in the *2006 Mortgage Industry National Home Energy Rating System Standards* promulgated by the Residential Energy Services Network (RESNET).

C. Administration

The City Building Commissioner and his staff in the Department of Housing and Buildings shall administer and implement this article by granting or denying Building Permits and/or as necessary Certificates of Occupancy/Completion in accordance with its provisions.

D. Building Permit:

1. **COMMERCIAL BUILDING:** Every applicant for a building permit for the new construction or substantial rehabilitation of a Commercial

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LOCAL LAW NO.11-2009 (CONTINUED)

Building shall provide to the Building Commissioner a LEED checklist or similar form indicating a minimum rating of Silver or Two (2) Globes

completed by a LEED Accredited Professional or similar 3rd Party Accredited Professional. No Building Permit shall be issued for a Commercial Building unless the initial review documentation demonstrates that the proposed new construction and/or substantial rehabilitation work in the Commercial Building has satisfied the requirements to attain LEED-Silver, Green Globes Two (2) Globes, or Substantially Similar recognized standard certification.

2. RESIDENTIAL BUILDING: Every applicant for a building permit for new construction or substantial rehabilitation of a detached, semi-detached, town and row house type residential building shall provide to the Building Commissioner an Energy Star checklist indicating an minimum energystar rating completed by a New York State Home Energy Rating Professional. No Building Permit shall be issued for a Residential Building unless the Energy Star review documentation demonstrates that the proposed new construction and/or substantial rehabilitation work in the Residential Building has satisfied the requirements to attain Energy Star certified status.

E. Certificate of Occupancy/Completion. The Commissioner of Buildings shall determine whether the requirements under the permitting process are implemented at each stage of construction, including, but not limited to, at the foundation inspection, structural inspection, insulation inspection, HVAC inspection and prior to the issuance of a final Certificate of Occupancy. The Commissioner of Buildings may rely on a duly sworn certification from an Accredited Professional 3rd Party Assessor and/or New York State Home Energy Rating Professional that said inspections were completed and that the above requirements were met. The Commissioner of Buildings may conduct other inspections, as needed, to ensure compliance with this Act.

1. Commercial Buildings

Prior to issuance of a Certificate of Occupancy the construction and/or substantial rehabilitation work in a Commercial Building must pass a test for combustion safety by an analyst certified by the Building Performance Institute.

Prior to issuance of Certificate of Occupancy for a Commercial Building, all field verification and testing requirements of the

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LOCAL LAW NO.11-2009 (CONTINUED)

applicable USGBC LEED Silver or Green Globes Two (2) Globe rating or Substantially similar recognized standard shall be satisfied.

2. Residential Buildings

Prior to issuance of a Certificate of Occupancy the construction and/or substantial rehabilitation work in a Residential Building must pass a test for combustion safety by an analyst certified by the New York Power Authority.

Prior to issuance of Certificate of Occupancy for a Residential Building, all field verification and testing requirements of the NYSERDA Energy Star rating shall be satisfied.

§ 56- 196. Issuance of Certificate of Occupancy/Completion

A. Commercial Building: Certificate of Occupancy/Completion shall be issued when the applicant produces documentation from an Accredited 3rd Party Assessment Professional that the constructed and/or substantially rehabilitated commercial, industrial, institutional, civic and/or multi-family building has achieved sufficient points to attain LEED-Silver, Green Globes Two (2) Globes or Substantially Similar recognized standard certification. Upon preliminary certification and Pending final certification from the respective rating entity the Building Commissioner may issue a Temporary Certificate of Occupancy.

B. Residential Building: Certificate of Occupancy/Completion shall be issued when the applicant produces documentation from a NYSERDA HERS professional that the constructed and/or substantially rehabilitated Residential Building has achieved an Energy Star HERS score of 84 or better.

§ 56 – 197. Appeals; Variances.

1. The Yonkers City Council will have the sole discretion to grant variances and decide appeals from the requirements of this article.

2. The Planning Board as established by the City of Yonkers shall hear and make recommendations to the City Council regarding appeals and requests for variances from the requirements of this article.

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LOCAL LAW NO.11-2009 (CONTINUED)

3. The Planning Board may recommend the granting of an appeal or variance from any of the requirements of this act upon a finding that the applicant has substantially complied with the applicable standard under this article.
4. The burden shall be on the applicant to show the circumstances to establish substantial compliance.
5. Any hearing held by the Planning Board for the purpose of an appeal in accordance with this article shall be deemed a public hearing as defined in this Zoning Code and require the applicant to provide notice and post signs in accordance with same.
6. Upon a finding that the conditions of this Article have been satisfied, the Planning Board may attach such conditions to its recommendations as it deems necessary to further the purposes and objectives of this article.
7. Variances hereunder may only be issued upon a finding that the variance requested is the minimum necessary, under the circumstances, to afford relief.
8. The Planning Board shall deliver a written notice of its recommendation and any conditions imposed along with the transcript of the proceedings to the Department of Housing and Buildings which will maintain the records of all appeal actions, including any technical information and also report said recommendation with conditions and a transcript of the proceedings to the City Council for City Council action within 45 days after the Planning Board adopts a recommendation.
9. The City Council may approve, reject or approve with conditions the recommendations of the Planning Board.
10. Those aggrieved by the decision of the City Council may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

THIS LOCAL LAW WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A ROLL CALL VOTE OF 5-1, COUNCILMEMBER MURTAGH VOTING "NAY". COUNCILMEMBER McDOW WAS ABSENT.

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GENERAL ORDINANCE

3. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

A GENERAL ORDINANCE AMENDING SECTION 43-130 OF THE ZONING CODE OF THE CITY OF YONKERS IN REGARD TO NEW BUILDINGS OR STRUCTURES EXEMPT FROM PROVIDING OFF-STREET PARKING AND LOADING.

The City of Yonkers, in City Council convened, does hereby ordain and enact:

Section 1. Section 43-130 of the Zoning Code of the City of Yonkers, entitled "New buildings or structures exempt from providing off-street parking and loading." is hereby amended, in part, to read as follows:

"Section 43-130. New buildings or structures exempt from providing off-street parking and loading.

A. New buildings or structures or enlarged or otherwise altered buildings or structures in the CB, DW, GC Districts shall be exempt from providing new or additional off-street parking or loading spaces until October 6, 2006, provided that no existing off-street parking or loading spaces provided on the property shall be eliminated or reduced in number, and except that the location, size or layout of such existing spaces may be changed in conjunction with the site plan review.

B. New Building or structures or enlarged or otherwise altered building or structures in any historic district, already created at the time this becomes effective, in the CB, DW, GC Districts shall be exempt from providing new or additional off street parking and loading spaces for non-residential uses (except restaurant and eating and drinking establishments) with less than or equal to 4000 SF per establishment up to a total of 9000 square feet in total non-residential uses per building."

Section 4. Chapter 43 Article X of the Zoning Code of the City of Yonkers entitled "Off-Street Parking and Loading", is hereby amended in part by adding a new Section 138 entitled "Reduced Parking Requirements for certain Apartment Houses, Live-Work Buildings,

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GENERAL ORDINANCE (CONTINUED)

Multifamily Dwelling Units and Multiple-family Dwelling Units.” which shall read as follows:

“Section 43-137. Reduced Parking Requirements for certain Apartment Houses and Live-Work Units

For new construction of Apartments and Live-Work Units within one-quarter (1/4) of a mile of an active train station used for passenger rail-transportation purposes, the minimum number of required parking spaces shall be one parking space per apartment or live-work unit.”

Section 5. Chapter 43, Article X of the Zoning Code of the City of Yonkers is hereby amended in part by adding a new footnote to be 43-4 Schedule of Parking Requirements to read as follows:

“Note: When an apartment unit or a live-work unit is within one quarter (1/4) mile of an active passenger train station Section 43-138 shall apply.”

Section 6. This Ordinance shall take effect immediately.

A PUBLIC HEARING ON THIS GENERAL ORDINANCE WAS SET FOR THE DECEMBER 8, 2009 CITY COUNCIL MEETING.

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SPECIAL ORDINANCE NO.28-2009

4. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

A SPECIAL ORDINANCE AMENDING THE CITY OF YONKERS GRANT BUDGET FOR FISCAL YEAR 2009/2010.

The City of Yonkers hereby ordains and enacts:

Section 1: The City's Grant Budget for fiscal year 2009/2010 is hereby amended by increasing revenues and appropriations for the Parks Department for a grant from ASPCA relating to the Construction of the New Yonkers Animal Shelter.

Increase Estimated Revenues

ASPCA	049-G18-1304-7149	\$140,000.00
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Increase Appropriation

Parks Dept. – Special Projects	049-G18-1304-049	\$140,000.00
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Section 2: The unencumbered balance of such appropriation equals or exceeds the estimated expenditures the City requires for such purpose during the remainder of the budget year.

Section 3: This ordinance shall take effect immediately.

THIS SPECIAL ORDINANCE WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

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SPECIAL ORDINANCE NO.29-2009

5. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

A SPECIAL ORDINANCE AMENDING THE CITY OF YONKERS GRANT BUDGET FOR FISCAL YEAR 2009/2010.

The City of Yonkers hereby ordains and enacts:

Section 1: The City's Grant Budget for fiscal year 2009/2010 is hereby amended by increasing revenues and appropriations for the Planning Department for a grant from NYS Criminal Justice, for the support of preventing juvenile delinquency, in conjunction with Julia Dyckman Andrus Memorial.

Increase Estimated Revenues

NYS DCJS	049-G05-8901-7515	\$74,199.00
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Increase Appropriation

Special Projects	049-G05-8901-0496	\$74,199.00
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Section 2: The unencumbered balance of such appropriation equals or exceeds the estimated expenditures the City requires for such purpose during the remainder of the budget year.

Section 3: This ordinance shall take effect immediately.

THIS SPECIAL ORDINANCE WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

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RESOLUTION NO.180-2009

6. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

RESOLUTION OF THE YONKERS CITY COUNCIL AUTHORIZING THE ISSUANCE OF A DETERMINATION OF SIGNIFICANCE PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQRA") RELATING TO THE AMENDMENT OF THE ZONING CODE OF THE CITY OF YONKERS REGARDING OFF STREET PARKING.

WHEREAS, there is pending before the Yonkers City Council an ordinance for the amendment of the Zoning Code of the City of Yonkers; and

WHEREAS, the City Council has determined that the proposed amendment of the Zoning Code is an Type I Action under the State Environmental Quality Review Act ("SEQRA") requiring the City Council to comply with the regulations promulgated pursuant to SEQRA; and

WHEREAS, an Environmental Assessment Form has been prepared to assist the City Council in complying with its responsibilities under SEQRA; and

WHEREAS, The City Council has carefully considered the proposed action and has reviewed the Environmental Assessment Form and the criteria set forth in Section 617.7 of 6 NYCRR Part 617 of the SEQRA regulations and has identified and carefully considered the relevant areas of environmental concern as are fully set forth in said Environmental Assessment Form to determine if the proposed action will have a significant impact upon the environment; and

NOW THEREFORE, BE IT RESOLVED by the Yonkers City Council that based upon it's review of the Environmental Assessment Form and for the reasons set forth in said Environmental Assessment Form, it is determined that there will be no adverse impact on the environment from the proposed amendment of the Zoning Code of the City of Yonkers; and,

BE IT FURTHER RESOLVED, that the Council President is authorized and directed to sign the Determination of Significance on the Environmental Assessment Form, on behalf of the City Council pursuant

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RESOLUTION NO.180-2009 (CONTINUED)

to Article 8 of the Environmental Conservation Law, indicating that the proposed action will not result in any significant adverse environmental impacts and to immediately transmit same to be filed and made available pursuant to the requirements of 6 NYCRR Part 617; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

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RESOLUTION NO.181-2009

7. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

WHEREAS, the City of Yonkers has been awarded a \$140,000 grant from the American Society of the Prevention of Cruelty to Animals for the support of the Yonkers Animal Shelter and the building of the new animal shelter; and

WHEREAS, the Mayor or the Commissioner of the Department of Parks, Recreation and Conservation of the City of Yonkers is hereby authorized to execute any documents necessary to receive such grant;

NOW, THEREFORE BE IT RESOLVED, that the City of Yonkers is hereby authorized to obtain the funds available under the grant; and be it further;

RESOLVED, that this resolution shall take effect immediately.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

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RESOLUTION NO.182-2009

8. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

WHEREAS, the State of New York, Division of Criminal Justice Services (DCJS) has selected the City of Yonkers to participate in the 2009 Grant Award for the Juvenile Accountability Block Grant (DCJS # JB0761206A, Contract Number C612063) from the New York State Division of Criminal Justice Services for the support of preventing juvenile delinquency in conjunction with the Julia Dyckman Andrus Memorial; and

WHEREAS, the total amount of this grant shall not exceed \$74,199; and

WHEREAS, the Mayor of the City of Yonkers is hereby authorized to execute such Grant Agreement; and

NOW, THEREFORE BE IT RESOLVED, that the Mayor of the City of Yonkers, or his authorized representative, is hereby authorized to execute the Grant Agreement to provide for the support of preventing juvenile delinquency in conjunction with the Julia Dyckman Andrus Memorial for the Department of Planning and Development of the City of Yonkers and to accept the award of \$74,199; and be it further;

RESOLVED, that this resolution shall take effect immediately.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

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RESOLUTION NO.183-2009

9. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

RESOLVED, by the City Council of the City of Yonkers, in meeting assembled:

That the settlement by the Corporation Counsel in the amount of EIGHTY SEVEN THOUSAND EIGHT HUNDRED NINETY NINE AND 71/100 DOLLARS (\$87,899.71) of the action entitled, "STATE OF NEW YORK, Plaintiff against THE CITY OF YONKERS, Defendant", for expenses incurred by the State of New York from a period beginning on or about March 24, 2003 to the present, for the costs associated with the clean up and removal of petroleum product which was discharged in the vicinity of 1130 Nepperhan Ave, on or about June 6, 1989. These expenses were related to violations of Article 12 of the New York Navigation Law, and the same hereby is approved and the Comptroller of the City of Yonkers is directed to draw his warrant in the amount of EIGHTY SEVEN THOUSAND EIGHT HUNDRED AND NINETY NINE AND 71/100 DOLLARS (\$87,899.71) in favor of said plaintiff the STATE OF NEW YORK.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

ANNOTATED AGENDA
CITY COUNCIL OF THE CITY OF YONKERS
STATED MEETING
TUESDAY, NOVEMBER 24, 2009

RESOLUTION NO.184-2009

10. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

WHEREAS, the Greyston Foundation, Inc. (the "Applicant") is the owner of the property located at 54 Warburton Avenue, Yonkers, which property is also known and designated on the tax assessment map of the City as 54 AKA 56 Warburton Avenue, Block 2017, Lots 3, 5, 6, 7, 8, 21, 22, 23, and 24 (the "Property"); and

WHEREAS, in July, 2007, on behalf of the Applicant, an application was filed with the Zoning Board of Appeals for several area variances to permit the construction of a sixteen (16) story "live-work" building containing 108 workforce housing units and an approximately 8,200 square foot restaurant together with 147 parking spaces and related infrastructure on the Property (the "Project"); and

WHEREAS, in October, 2007, persons unrelated to the Applicant filed an "Application for Landmarking and Historic Districting" pursuant to the City's Historic and Landmarks Preservation Law (Chapter 45 of the Yonkers City Code), requesting the establishment of an historic district which would encompass the Property and other parcels in the immediate vicinity of the Property (the "Landmark Application"); and

WHEREAS, the City's Landmarks Preservation Board (the "Landmark Board") referred the Landmark Application to the Planning Board of the City of Yonkers (the "Planning Board") for its review and recommendation as required under the Historic and Landmarks Preservation Law; and

WHEREAS, on January 9, 2008, after considering the Landmark Application at two (2) meetings, the Planning Board recommended against the establishment of a historic district; and

WHEREAS, on February 26, 2008, after considering the Landmark Application at two (2) meetings, the Landmark Board transmitted a favorable report to the City Council for the establishment of a historic district; and

WHEREAS, on April 22, 2008, the City Council voted unanimously to establish the historic district; and

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RESOLUTION NO.184-2009 (CONTINUED)

WHEREAS, in response to the establishment of the historic district, the Applicant and its consultants redesigned the Project to preserve and restore the facades of six existing structures located on the Property by integrating them into the design of the proposed new building; and

WHEREAS, as redesigned, the Project consists of a twelve (12) story “live-work” building containing 105 workforce housing units and approximately 8,870 square feet of neighborhood retail space, together with 151 on-site parking spaces and infrastructure (the “Modified Project”); and

WHEREAS, on June 6, 2008, the Applicant submitted an amended application (the “Amended Application”) to the Zoning Board of Appeals for variances to permit the construction of the Modified Project; and

WHEREAS, the Amended Application also included an expanded Full Environmental Assessment Form which included an expanded narrative description of the Modified Project and additional supplemental materials; and

WHEREAS, on December 24, 2008, an application for Site Plan and Special Use Permit Approval for the construction of the Modified Project was filed with the Planning Board (the application for Site Plan Approval and Special Use Permit collectively referred to as the “Special Use Permit Application”); and

WHEREAS, on January 9, 2009, the Zoning Board of Appeals, acting as lead agency under the State Environmental Quality Review Act for environmental review of the Modified Project and all related actions, adopted a negative declaration of environmental significance; and

WHEREAS, on January 9, 2009, the Zoning Board of Appeals of the City of Yonkers granted the Amended Application for variances to permit construction of the Modified Project; and

WHEREAS, on February 11, 2009, following a duly noticed public hearing (the “Public Hearing”), the Planning Board adopted a resolution approving the Site Plan and Special Use Permit Application for the Modified Project; and

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RESOLUTION NO.184-2009 (CONTINUED)

WHEREAS, pursuant to Section 43-51 of the Yonkers Zoning Ordinance, a Special Permit shall not be valid nor take effect until the City Council approves the issuance of such Permit by an affirmative resolution; and

WHEREAS, on February 18, 2009, in accordance with Section 43-55 of the Yonkers Zoning Ordinance, the City Council received a transcript of the Public Hearing and a copy of the Planning Board's Resolution (the "Findings and Decision"); and

WHEREAS, the City Council has duly considered the Special Use Permit Application submitted by the Applicant, together with the transcript of the Public Hearing, the Findings and Decision, and the criteria set forth in Article VII of the Yonkers Zoning Ordinance; and

RESOLVED, the Modified Project remains subject to review and the issuance of a Certificate of Appropriateness by the Landmark Board in accordance with the City's Historic and Landmarks Preservation Law; and

FURTHER RESOLVED, no demolition, alterations or construction activities may take place on the Property prior to the issuance of a certificate of appropriateness by the Landmark Board;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Yonkers, in meeting assembled that the proposed Special Use Permit should be granted; and be it further;

ALSO RESOLVED, that upon the record and findings of the Planning Board with respect to the application for a Special Use Permit at Block 2017, Lots 3, 5, 6, 7, 8 & 21-24 on the property known as 54 AKA 56 Warburton Avenue, pursuant to Article VII, §§ 43-51, 43-74(C), 43-78 (C) and Article IX of the Zoning Code of the City of Yonkers, the decision and actions of the Planning Board are hereby approved, subject to the following conditions:

(1) All improvements and conditions to the site shall remain in full force and effect as long as the site remains occupied.

(2) The historic façade elements of the project and the aesthetic design of the new elements of the project shall remain the responsibility of the Yonkers Landmarks Preservation Board.

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RESOLUTION NO.184-2009 (CONTINUED)

(3) Each unit shall comply with the New York State Building and Fire Prevention Code requirements at the time of occupancy. Any change in use from resident to commercial, or from one commercial use to another commercial use or from a commercial use to a residential use shall require a new certificate of occupancy.

(4) No live-work unit is permitted on the first floor of any structure

(5) Vents and other air handling or ventilation equipment, excluding residential type air conditioning sleeves, shall not be permitted to be placed upon any principal façade of any live work building.

(6) No signs may be erected in any window or on any wall of the building except for a one-foot by one foot flush mounted sign at the building entry for any live-work use within the building. In the case of a building devoted entirely to live-work units, an exception may be made and a building identification or name sign may be permitted. Additionally a three foot by two foot flush mounted directory sign may be permitted at ground level immediately adjacent to the entrance of the building.

(7) Signage for the first floor commercial uses shall conform to the Yonkers Sign Code. The initial signage provided for these uses shall be reviewed by the Planning Board staff to insure a high level of graphic quality.

(8) This building must conform to all of the conditions pursuant to § 43-78 (C) of the Yonkers Zoning Ordinance, the live-work requirements for a special use permit.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

ANNOTATED AGENDA
CITY COUNCIL OF THE CITY OF YONKERS
STATED MEETING
TUESDAY, NOVEMBER 24, 2009

RESOLUTION NO.185-2009

11. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

BE IT RESOLVED, that the following applicant(s) are hereby appointed and/or reappointed to the office of Commissioner of Deeds for a period of two years to expire on December 31, 2011.

Virginia Galatioto
7 Truesdale Place
Yonkers, New York 10705

M.H.A.

RENEWAL

Frances Brenes
538 Riverdale Avenue
Yonkers, New York 10705

Law Firm

NEW

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

ANNOTATED AGENDA
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RESOLUTION NO.186-2009

12. BY COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS McDOW, GRONOWSKI, MURTAGH AND BARBATO:

A RESOLUTION AUTHORIZING THE MAYOR OR DEPUTY MAYOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY IN CONNECTION WITH WESTCHESTER COUNTY'S HOUSING IMPLEMENTATION FUND ON BEHALF OF ASHBURTON AVENUE I, LP IN SUPPORT OF THE DEVELOPMENT OF THE ASHBURTON AVENUE HOPE VI SITE, CONTAINING UP TO APPROXIMATELY 49 DWELLING UNITS FOR SENIORS ON A PORTION OF THE PROPERTY

WHEREAS, ASHBURTON AVENUE I, LP, an affiliate of The Richman Group Development Corporation (the "Developer"), the developer for the Municipal Housing Authority for the City of Yonkers ("MHACY") has received site plan, special permit and subdivision approvals from the Yonkers Planning Board to construct a 4 story building containing approximately forty nine dwelling units for seniors as well as community and laundry space, at the address 110-126 Ashburton Ave., Block: 2041, Lots:12, 14, 16, 18 and 21 (the "Project"); and

WHEREAS, pursuant to Resolution 143-2009, adopted by the City Council on September 22, 2009, the City was authorized to convey the property by Bargain and Sale Deed to the MHACY to lease to the Developer in an "as-is" condition for the public purpose of providing relocation housing for the Ashburton Avenue VI Project; and

WHEREAS, pursuant to the MHACY lease to the Developer, the Developer shall construct the Project; and

WHEREAS, pursuant to Resolution 163-2006 adopted by the City Council on September 26, 2006, the Mayor was authorized, among other things, to apply for available funding under the County of Westchester (the "County") Housing Implementation Fund; and

WHEREAS, the County has agreed to make such funds available in support of the Project pursuant to an intermunicipal agreement; and

WHEREAS, so as to comply with the County Housing Implementation Fund Program, the City must grant an easement or other

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RESOLUTION NO 186-2009 (CONTINUED)

recordable interest in the property to the County for the public infrastructure improvements to be located in the public streets.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Yonkers that the Mayor or the Deputy Mayor is hereby authorized to (i) execute any and all documents necessary to enter into an intermunicipal agreement with the County; (ii) grant an easement or other recordable interest in the property and adjoining city streets and lands to the County for the public infrastructure improvements to be located in the public streets; and (iii) execute any and all other documents necessary and convenient to carry out this Resolution, including executing and any other documents, certificates or affidavits as may be approved by the Corporation Counsel of the City of Yonkers; and be it further

RESOLVED, that this Resolution shall take effect immediately.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 24, 2009 BY A VOTE OF 6-0. COUNCILMEMBER McDOW WAS ABSENT.

ANNOTATED AGENDA
CITY COUNCIL OF THE CITY OF YONKERS
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RESOLUTION

13. BY COUNCILMEMBER McDOW; COUNCIL PRESIDENT LESNICK, MAJORITY LEADER ANNABI, MINORITY LEADER McLAUGHIN, COUNCILMEMBERS GRONOWSKI, MURTAGH AND BARBATO:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YONKERS AUTHORIZING THE YONKERS ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE FINANCIAL ASSISTANCE TO THE RIVERVIEW II, LP

WHEREAS, the City of Yonkers (the "City") is tasked with the responsibility and burden to promote the health, safety and general welfare of the residents of the City by and among other things preventing unemployment and economic deterioration including by increasing and maintaining employment opportunities and attracting and sustaining economically sound commerce;

WHEREAS, in furtherance of its public purposes, the City has supported the provision of taxable and tax-exempt financing by the City of Yonkers Industrial Development Agency (the "Agency") and of certain other financial incentives to for-profit entities and not-for-profit corporations to promote the creation and preservation of employment opportunities for residents of the City and development of economically sound commerce consistent with the City's burdens and responsibilities as expressed above;

WHEREAS, there are occasions where financial assistance cannot be provided by the Agency and/or will be delivered in a more cost effective form through a not for profit corporation recognized by the City;

WHEREAS, the Yonkers Economic Development Corporation (the "Corporation" or "YEDC"), was formed on May 30, 2007 as a not-for-profit, local development corporation ("LDC") pursuant to Section 1411 of the Not-for-Profit Corporation Law (the "N-PCL") of the State of New York (the "LDC Act") and its Certificate of Incorporation of the Corporation, as filed by the Department of State May 31, 2007 (the "Certificate of Incorporation"), for the purposes described in N-PCL Section 1411 and is anticipated to provide financial assistance to the SFC Yonkers Project where financial assistance cannot be provided by the Agency and/or will be delivered in a more cost effective form through the Corporation;

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RESOLUTION (CONTINUED)

WHEREAS, like the SFC Yonkers Project, there are portions or whole projects that may be unable to access financial assistance through the Agency and/or the financial assistance can be delivered in a more cost effective form through the YEDC;

WHEREAS, Riverview II Preservation, LP originally had the Agency issue \$28,596,156 Multi-Family Housing Revenue Bonds (Riverview II Preservation, LP Project), Series 2007 and now desires to refund said bonds through a bond issuance by YEDC such that the project has access to this form of financial assistance in the most cost effective manner;

WHEREAS, the Certificate of Incorporation and Bylaws of the YEDC are presented to this meeting in the form attached; and

WHEREAS, to accomplish its job creation and other economic development responsibilities and to relieve the governmental burdens related to same, and to facilitate the ability of for-profit entities and not-for-profit corporations to access capital for projects that enhance, create and preserve employment opportunities for residents of the City, the City desires to task the YEDC with such burdens and responsibilities and authorize the YEDC to issue bonds on behalf of the City for such purposes and to work cooperatively with the Agency to achieve such public purposes; PROVIDED IN NO EVENT SHALL THE DEBTS OF THE YEDC BE A DEBT OF THE CITY; and

NOW, THEREFORE, BE IT RESOLVED, that the City approves the Certificate of Incorporation and the Bylaws; and be it

FURTHER RESOLVED, the City hereby designates the YEDC as and on behalf of issuer of the City for the purpose of issuing bonds to assist the Riverview II Preservation LP sole project with the authority to exercise on the City's behalf all lawful powers as may be deemed necessary to accomplish its public purposes including to enhance, create and preserve employment opportunities for residents of the City, which such powers shall include, but not be limited to, those powers described in N-PCL Section 1411 and the Corporation's Certificate of Incorporation, with the power to issue tax-exempt and taxable bonds, notes, or other obligations in furtherance of the Corporation's purposes, provided however that any obligations issued by the YEDC shall never be a debt of the State of New York, the City or any political subdivision thereof and

ANNOTATED AGENDA
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RESOLUTION (CONTINUED)

neither the State of New York, the City or any political subdivision thereof shall be liable thereon; and be it

FURTHER RESOLVED, that this resolution shall take effect immediately.

MOTION BY MAJORITY LEADER ANNABI, SECONDED BY COUNCILMEMBER BARBATO TO RETURN THIS RESOLUTION TO THE RULES COMMITTEE. THE MOTION WAS CARRIED UNANIMOUSLY.

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MOTION TO RECESS THIS COUNCIL MEETING BY MINORITY LEADER McLAUGHLIN, SECONDED BY COUNCIL PRESIDENT LESNICK AT 6:51 P.M. AFTER ITEM NO 12 WAS ADOPTED. THE MOTION WAS CARRIED UNANIMOUSLY. THE MEETING WAS RECONVENED AT 7:00 P.M.

THIS MEETING WAS ADJOURNED AT 7:32 P.M.