

**ANNOTATED AGENDA**  
**CITY COUNCIL OF THE CITY OF YONKERS**  
**STATED MEETING**  
**TUESDAY, DECEMBER 8, 2009**

Committee of the Whole 7:30 P.M.  
Stated Meeting 8:00 P.M.  
City Council Chambers

TIME: 9:05PM

PRESENT:           PRESIDENT OF THE COUNCIL  
                          CHUCK LESNICK

DISTRICT  
      2               MAJORITY SANDY ANNABI - ABSENT  
  
      4               MINORITY LEADER LIAM J. McLAUGHLIN

COUNCIL MEMBERS:  
DISTRICT:

      1               PATRICIA D. McDOW  
  
      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 24, approved on motion of Minority Leader Liam McLaughlin.

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**COMMUNICATIONS FROM CITY OFFICIALS**

1. FROM THE YONKERS PLANNING BOARD POSITIVE DECLARATION REGARDING BUENA VISTA AVENUE TEUTONIA DEVELOPMENT. THE YONKERS PLANNING BOARD HAS ASSUMED THE ROLE OF LEAD AGENCY. *COPIES ON DESKS.*
  
2. FROM FRANK J. RUBINO, CORPORATION COUNSEL TO THE CITY COUNCIL, MEMORANDUM REGARDING LOCAL LAW 11-2009 (LEED LEGISLATION) FORWARDING A PROPOSED GREEN BUILDINGS LAW FOR THE CITY COUNCIL'S CONSIDERATION.

**FILED**

**ANNOTATED AGENDA**  
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**COMMUNICATIONS**

1. FROM THE CITY OF MT. VERNON CITY CLERK: NOTICE OF PUBLIC HEARING TO BEING HELD BY MT VERNON CITY COUNCIL, WED. DECEMBER 16, 2009 AT 7:00PM ON PROPOSED TEXT AMENDMENTS TO THE PLANNED UNIT DEVELOPMENT (PUD-2) ZONING DISTRICT. COPIES ON DESKS
  
2. FROM CHRISTOPHER J. ELLIS, CHIEF EXAMINER AT THE OFFICE THE STATE COMPTROLLER, A LETTER TO MAYOR AMICONE ADVISING THE MAYOR THAT THE CITY HAS BEEN SELECTED FOR AN AUDIT REGARDING OVERTIME FOR POLICE AND FIREFIGHTERS.

**FILED**

**ANNOTATED AGENDA**  
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COMMITTEE OF THE WHOLE

NO SPEAKERS

**ANNOTATED AGENDA**  
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**PUBLIC HEARING**

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

**NO SPEAKERS**

**ANNOTATED AGENDA**  
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OLD BUSINESS

GENERAL ORDINANCE NO.8-2009

1. BY COUNCIL PRESIDENT LESNICK, MINORITY LEADER McLAUGHLIN, COUNCILMEMBERS, 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 ordinance 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."



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GENERAL ORDINANCE NO.8-2009 (CONTINUED)

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

"Section 43-138. Reduced Parking Requirements for certain Apartment Houses and Live-Work Units

Under Section 43-130-B, 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: Under Section 43-130- B, 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

THIS GENERAL ORDINANCE WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY DECEMBER, 8 2009 BY A ROLL CALL VOTE OF 5-1. COUNCILMEMBER McDOW VOTING "NAY". MAJORITY LEADER ANNABI ABSENT.

**ANNOTATED AGENDA**  
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**NEW BUSINESS**

**GENERAL ORDINANCE NO.9-2009**

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

A GENERAL ORDINANCE AMENDING CHAPTER 66 OF THE CODE OF THE CITY OF YONKERS KNOWN AS "NOISE" RELATING TO EXEMPTING CERTAIN NOISE FROM COMMERCIAL AND INDUSTRIAL SOURCES IN ORDER TO FACILITATE THE REDEVELOPMENT OF THE CITY OF YONKERS.

Be it ordained by the City Council of the City of Yonkers, as follows:

Section 1. Chapter 66 of the Code of the City of Yonkers entitled "Noise" is hereby amended, in part, by amending the current Section 66-6 thereof entitled "Exemptions" by adding thereto a new Sub-Section K thereof, to read as follows:

" §66-6. Exemptions.

The following sounds are exempted from the restrictions of this chapter:

K. The sounds in excess of 50 dBA as measured at a residential property, where such sounds are generated from an industrial or commercial facility described in section K(1) provided further that the sound level from such facility does not increase beyond the sound level from the facility's normal overall operations as of the effective date of this amendment. :

(1) an industrial or commercial facility that does not meet the noise standards of section 66-5(E) or 66-5(F) of Chapter 66 of the Code due to the introduction of a residential use on an adjacent or nearby property due to a rezoning, a new land use, or a new occupancy in an otherwise existing building, where such new residential use begins on or after the effective date of this amendment provided that this exemption applies solely with respect to such new residential use."

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GENERAL ORDINANCE NO.9-2009 (CONTINUED)

Section 2. This ordinance shall take effect immediately.

THIS GENERAL ORDINANCE WAS ADOPTED BY THE CITY COUNCIL  
AT A STATED MEETING HELD ON TUESDAY DECEMBER, 8 2009 BY  
A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

**ANNOTATED AGENDA**  
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**GENERAL ORDINANCE**

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

A GENERAL ORDINANCE AMENDING SECTION 43-34 OF THE ZONING CODE OF THE CITY OF YONKERS IN REGARD TO REGISTERED SEX OFFENDERS IN CERTAIN SECTIONS OF THE CITY.

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

Section 1. Section 43-34 of the Zoning Code of the City of Yonkers entitled "Supplemental regulations for certain residential uses." is hereby amended, in part by adding a new subdivision "H" entitled "Registered sex offenders" to read as follows:

"Section 43-34. Supplemental regulations for certain residential uses.

H. Legislative Intent.

The City Council of the City of Yonkers hereby intends to exercise its powers to protect the health and safety of its residents, and in particular its youngest and most vulnerable residents, from the increasing number of registered sex offenders who are released into the community.

The City Council is especially concerned with individuals who have been categorized as Sex Offenders who are considered by State authorities to be at risk of committing another sexual crime.

Based on the State's own assessment of such individuals, the City Council does hereby find that Level I, Level II and Level III Sex Offenders may constitute a threat to public safety and therefore enacts the restrictions contained herein to safeguard the citizens of Yonkers to restrict the residency of individuals who are known to pose a threat to public safety.

Section 1. Residency where prohibited. Except as may be provided in the Corrections Law, registered Level II and Level III Sex Offenders are hereby prohibited from residing within a radius of one half mile from any entrance to a public or private school day care center park or playground or within such premises.

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GENERAL ORDINANCE (CONTINUED)

Section 2. The Commissioner of Buildings and Housing may coordinate the enforcement of this law with the Commissioner of Police.

Section 3. This law will not apply to a person

- a. required to serve a sentence at a jail, prison, juvenile facility or other correctional institution or facility; or  
subject to an order of civil or criminal commitment under state law;  
or
- b. who is a minor or a ward under a guardianship.

Section 4. This law will also not apply to any registered Sex Offender living in the City of Yonkers prior to December 8, 2009, unless said person relocates.

Section 5. Any person violating the provisions of this section, 43-34 H, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be punished by a fine of not less than one thousand dollars (\$1000.) nor more than ten thousand dollars (\$10,000.) or by a term of not more than one (1) year, or by both such fine and imprisonment.”

Section 2. The City Clerk, in coordination with the Commissioner of Police and appropriate State agencies, shall cause notification of such prohibition to be delivered in writing to each and every registered Sex Offender residing within the City of Yonkers as well as those residing within Westchester County, with a copy of such notice to the Yonkers Police Department, the New York State Division of Parole and the Westchester County Department of Probation as well as to any other such public agency as the City Clerk , in his or her judgment, shall determine has an interest in such notification.

Section 3. This ordinance shall take effect immediately.

THIS GENERAL ORDINANCE WAS PUT OVER.

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SPECIAL ORDINANCE NO.30-2009

4. BY COUNCIL PRESIDENT LESNICK, 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 and Development Department. To perform energy audits of City facilities and replacement windows at City Hall as well as retrofit lighting for the Performing Arts Center at Sarah Lawrence College.

Increase Estimated Revenues

U.S. Dept. of Energy	049-G12-1609-3130	\$1,823,200
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Increase Appropriation

Professional Fees	049-G12-1609-0413	\$163,200
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Special Projects	049-G12-1609-0496	\$1,660,000
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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 DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

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SPECIAL ORDINANCE NO.31-2009

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

A SPECIAL ORDINANCE AMENDING THE CITY OF YONKERS GRANTS 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 Andrea Stewart Cousins, NYS Senate relating to the Estamos Unidos Activities.

Increase Estimated Revenues

Legislative Member Item	049-G18-8053-7432	\$15,000.00
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Increase Appropriation

Parks Dept. – Special Projects	049-G18-8053-0496	\$15,000.00
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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 DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

**ANNOTATED AGENDA**  
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RESOLUTION NO.189-2009

6. BY COUNCIL PRESIDENT LESNICK, 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 RELATING TO THE AMENDMENT OF THE NOISE CODE OF THE CITY OF YONKERS.

WHEREAS, there is pending before the Yonkers City Council an ordinance for the amendment of the Noise Code of the City of Yonkers, more specifically, the addition of a new §66-6(K), to exempt certain pre-existing industrial or commercial noise levels, where the introduction of a new residential use would otherwise render such pre-existing noise level in a violation of §§66-5(E) or 66-5(F) of the Noise Code (the "Proposed Action"); and

WHEREAS, the City Council has determined that the Proposed Action is an "Unlisted" Action under §617.2 (ak) of the State Environmental Quality Review Act ("SEQRA"), thus requiring the City Council to comply with the regulations promulgated pursuant to SEQRA; and

WHEREAS, a Short Environmental Assessment Form ("EAF") has been prepared to assist the City Council in complying with its responsibilities under SEQRA in connection with the Proposed Action; and

WHEREAS, the City Council has carefully considered the Proposed Action and has reviewed the EAF and the criteria set forth in Section 617.7 of 6 N.Y.C.R.R. Part 617 of the SEQRA regulations and has identified and carefully considered the relevant areas of environmental concern as are fully set forth in the EAF to determine if the Proposed Action will have a significant adverse impact upon the environment; and

NOW THEREFORE, BE IT RESOLVED by the Yonkers City Council that, based upon its review of the EAF and for the reasons set forth therein, it is determined that the Proposed Action will not cause any significant adverse impact on the environment; and,



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**RESOLUTION NO.189-2009 (CONTINUED)**

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 to Article 8 of the Environmental Conservation Law, indicating that the Proposed Action will not result in any significant adverse impact on the environment, and to immediately transmit same to be filed and made available pursuant to the requirements of 6 N.Y.C.R.R. 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 DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

**ANNOTATED AGENDA**  
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RESOLUTION NO.190-2009

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

WHEREAS, the Planning Department of the City of Yonkers has been awarded a \$1,823,200 grant from the United States Department of Energy for the purposes of energy efficiency and conservation; and

WHEREAS, the grant will provide for energy audits of the facilities of the City of Yonkers, as well as window replacements in City Hall and lighting retrofits for the Performing Arts Center at Sarah Lawrence College; and

WHEREAS, the grant is for a two year period, being from September 30, 2009 until September 29, 2012 and such funding does not require a cash match from the City of Yonkers; and

WHEREAS, the Mayor of the City of Yonkers, or his designee, is hereby authorized to execute such agreement with the United States Department of Energy and receive such award in order to provide such funds to the Planning Department of the City of Yonkers;

NOW, THEREFORE BE IT RESOLVED, that the Mayor of the City of Yonkers is hereby authorized to execute the grant agreement with the United States Department of Energy in order to implement the program and receive the award; 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 DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

**ANNOTATED AGENDA**  
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**RESOLUTION NO.191-2009**

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

WHEREAS, the Yonkers Department of Parks, Recreation and Conservation has been awarded a \$15,000 Legislative Grant from the State of New York to fund the Estamos Unidos Celebration Activities for the fiscal year of 2009-2010, through the efforts of State Senator Andrea Stewart Cousins; and

WHEREAS, there are no matching funds required from the City of Yonkers; and

NOW, THEREFORE, BE IT RESOLVED, by the Yonkers City Council, that it does hereby endorse and approve the application and award for a \$15,000 Legislative Grant in support of the Estamos Unidos Celebration Activities, 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 DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

**ANNOTATED AGENDA**  
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**RESOLUTION NO.192-2009**

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 ONE THOUSAND DOLLARS (\$1,000.00) of the claim entitled, "In the Matter of the Claim MARIA A. GARCIA, (residing at 35 Hawthorne Avenue 2, Yonkers, New York 10701) Claimant against THE CITY OF YONKERS, Respondent", for property damage arising out of an alleged accident on July 22, 2009, alleging that her vehicle was struck by a City of Yonkers police vehicle be and the same hereby is approved and the Comptroller of the City of Yonkers is directed to draw his warrant in the amount of ONE THOUSAND DOLLARS (\$1,000.00) in favor of said claimant.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

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**RESOLUTION NO.193-2009**

10. BY COUNCIL PRESIDENT LESNICK, 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 Four Thousand Two Hundred and Twelve (\$4,212.00) of the action entitled, "Johanna Valdez, (residing at 76 Saratoga Avenue, 2<sup>nd</sup> Floor, Yonkers, New York, 10705), Plaintiff against THE CITY OF YONKERS, Defendant", for property damage arising out of a motor vehicle accident on January 29, 2009 in the parking lot of 61 South Broadway, in Yonkers, New York, be and the same hereby is approved and the Comptroller of the City of Yonkers is directed to draw his warrant in the amount of Four Thousand Two Hundred and Twelve Dollars (\$4,212.00) in favor of said plaintiff.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

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**RESOLUTION NO.194-2009**

11. BY COUNCIL PRESIDENT LESNICK, 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 TWENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$25,000.00) of the action entitled, "DIEGO CAPISTRAN, an infant by his father and natural guardian, RUBEN CAPISTRAN, and RUBEN CAPISTRAN, individually (residing at 150 Park Avenue, Yonkers, New York 10703), Plaintiffs, against THE BOARD OF EDUCATION OF THE CITY OF YONKERS and THE CITY OF YONKERS, Defendants", for personal injuries and medical expenses arising out of an incident on June 22, 2007 wherein it is alleged that the infant plaintiff was injured when he slipped in the playground at Museum School 25 and his left leg went under the unsecured, rusty, sharp bottom edge of the fabric of the chain link fence in that playground at Museum School #25 in the City of Yonkers, be and the same hereby is approved and the Comptroller of the City of Yonkers is directed to draw his warrant in the amount of TWENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$25,000.00) in favor of said plaintiffs and their attorneys, Andrea & Towsky, Esqs., pursuant to the terms of the Infant's Compromise Order dated November 9, 2009 of the honorable William J. Giacomo, Justice of the Supreme Court.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

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**RESOLUTION NO.195-2009**

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

WHEREAS, a number of residents of the area near Fenway South have requested the City declare the existing portion of Fenway South, between West Delano Avenue and Parkway North to be a public street; and

WHEREAS, the City Council of the City of Yonkers hereby authorizes the commencement of a "Round Robin" to initiate the process where information is gathered by various City departments to determine the proper conclusion for such request; and

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Yonkers hereby authorizes the City Clerk to institute a Round Robin to determine if it would be in the best interests of the City of Yonkers to declare the existing portion of Fenway South between West Delano Avenue and Parkway North to be a public street; 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 DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

**ANNOTATED AGENDA**  
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**TUESDAY, DECEMBER 8, 2009**

RESOLUTION NO.196-2009

13. BY COUNCILMEMBER McDOW; COUNCIL PRESIDENT LESNICK, 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.



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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

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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.

A FRIENDLY AMENDMENT BY COUNCIL PRESIDENT LESNICK, TO REMOVE CERTAIN LANGUAGE FROM THE ABOVE RESOLUTION. THIS AMENDMENT WAS CARRIED UNANIMOUSLY.

THIS RESOLUTION WAS ADOPTED AS AMENDED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY DECEMBER, 8 2009 BY A VOTE OF 6-0. MAJORITY LEADER ANNABI ABSENT.

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

WHEREAS, the City of Yonkers facilitates Economic Development through its Office of Economic Development, Empire Zone Office, Empowerment Zone, Community Development Agency, Industrial Development Agency, Parking Authority and other entities; and

WHEREAS developers of commercial, residential and mixed use projects, frequently seek approval from the City Council, the Planning Board, the Zoning Board of Appeals, the Landmarks Board, or other bodies; and

WHEREAS, during the approval process developers frequently make promises to the community and the approving entities as to the physical, social and economic aspects of the proposed projects including, but not limited to, women and minority enterprises, Yonkers First Source Hiring Program, affordable housing, energy conservation, historic preservation, and other community benefits; and

WHEREAS, the City Council of Yonkers deems it essential that a Yonkers Commission on Responsible Development be established for the purpose of ensuring that development is beneficial to the City of Yonkers, developers are accountable to the City; and that that the residents and City Council are kept informed on the progress of the project development.

BE IT RESOLVED, that the City Council creates the Commission on Responsible Development whose purpose is to track the process of economic development projects and written promises made to the community and the City during the approval process.

BE IT ALSO RESOLVED, that the Commission on Responsible Development will be comprised of the following nine (9) members: one (1) representative from the Inspector General's office; one (1) representative from the Commission on Human Rights.; and seven (7) Community Members (appointed by the City Council).

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BE IT FURTHER RESOLVED, that the terms for each member shall be as follows:

- 1) The slots designated for the Inspector General's office and the Commission on Human Rights shall be permanent positions without a specific term.
- 2) The slots designated for the seven (7) members appointed by the City Council shall be for three years in duration.
  - A. However, that of the members first appointed, four (4), who are appointed by Council members from districts one, three and five, shall be appointed for a period of three (3) years, and three (3), who are appointed by Council members from districts two, four, and six and the council president shall be appointed for a period of two (2) years.
  - B. Any member chosen to fill a vacancy occurring, otherwise then by expiration of term, shall be appointed for the unexpired term of the member whom he or she is to succeed.
- 3) The Chairperson and the Vice Chairperson of the Commission shall be nominated by the commission and confirmed by the City Council and the terms of office of each shall be for a period of three (3) years.

BE IT FURTHER RESOLVED, the Commission on Responsible Development shall submit a bi-annual report to the City Council of Yonkers during the first three (3) years of the project development, then an annual report at the close each fiscal year thereafter until the project ends; or as requested by the City Council of Yonkers.

THE ABOVE RESOLUTION WAS DEFEATED BY A 4-2 VOTE.  
COUNCIL PRESIDENT LESNICK AND COUNCILMEMBER McDOW  
VOTING YEA. MAJORITY LEADER ANNABI WAS ABSENT.

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

A RESOLUTION AMENDING THE ZONING CODE OF THE CITY OF YONKERS (CH. 43 OF THE CODE OF THE CITY OF YONKERS) TO CREATE A NEW HISTORIC OVERLAY ZONE

43. HISTORIC OVERLAY ZONES

1. Purpose

It is the intent and purpose of an Historic Overlay Zone to encourage and promote the educational, cultural, and economic welfare of the citizens of the City of Yonkers by preserving and protecting historic structures, sites, monuments, streets, areas and neighborhoods which serve as visible reminders of the history and cultural heritage of the community. Furthermore, it is the purpose of such zones to strengthen the economy of the community. Furthermore, it is the purpose of this district to strengthen the economy of the City by stabilizing and improving property values in historic areas, and to encourage construction and development that will be harmonious with existing historic structures and areas.

An Historic Preservation Overlay Zone shall operate in conjunction with any other zoning district over which it is imposed, and such areas may be used as permitted by the underlying zoning districts except as may be specifically restricted by this section. Where the regulations and permitted/conditional uses of a zoning district conflict with those of the Overlay Zone, the more restrictive standards apply.

2. Imposing or Extending an Historic Overlay Zone

An Historic Overlay Zone shall be imposed or extended in a manner similar to other zoning changes, except that a public hearing shall be conducted by the Landmarks Preservation Board, and a recommendation by that Board shall be made to the Yonkers City Council. The public hearing shall be advertised in a newspaper of general circulation in the City of Yonkers, for a period of not less than fifteen (15) days prior to the hearing date.

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**RESOLUTION (CONTINUED)**

3. Jurisdiction of the Landmarks Preservation Board

The City of Yonkers Landmarks Preservation Board (the "Board") shall be responsible for the preservation and protection of historically and architecturally significant structures, and to preserve the cultural and historical heritage of the City within the designated Historic Overlay Zones.

4. Exterior Alterations of Historic Structures and Sites

In order to protect and preserve the distinctive characteristics of historic buildings within an Historic Overlay Zone, all exterior alterations and additions to designated City of Yonkers Landmark structures and districts shall remain subject to review and approval by the Board in accordance with the provisions of this Code with regard to Landmarks preservation and demolition.

5. Demolition and Moving of Historic Structures

In order to ensure that historical and culturally distinctive structures are moved or destroyed only after all other alternatives have been considered, all moving and demolition permits for historic structures in this overlay district shall be approved in accordance with the provisions of this Code with regard to Landmarks designation and demolition.

6. Non-Historic Existing Structures

Structures which are not designated City of Yonkers landmarks themselves or are not within a designated Historic District, but are located within an historic overlay zone can and often do have a significant impact upon surrounding historic structures and sites. Therefore, in order to preserve the historic character of the district, all exterior alterations and additions to such structures and sites shall be subject to review and approval by the Board. Review is not required for repair, maintenance, and replacement with comparable materials.

In its review of alterations or additions to existing non-historic structures the Board's review and approval shall be limited to consideration of whether the proposed alteration will or will not further deviate from the historical character, appearance, or material composition than its current state.

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7. New construction

It is just as vital, than any development and construction of new structures within historic overlay zones be compatible with the historic character of the area. Therefore, building permits for such structures located within historic overlay districts shall be subject to review and approval by the Board.

In its review of proposed new construction the Board's review and approval shall be limited to consideration of whether or not the materials and design of proposed new construction will or will not conflict with or detract from nearby historic structures or the district as a whole.

8. Procedures

A special historic overlay zone application for new construction, alterations, moving or demolition shall be prepared for use by the Office of the Corporation Counsel in cooperation with the Buildings Department and the Landmarks Preservation Board.

Such application will, thereafter be required to be submitted to the Building Department along with the required building permit application in connection with any property within an Historic Overlay District. Applications shall be reviewed by the City Planning Staff, and a staff recommendation issued to the Board. (Applications must be submitted no less than thirty (30) days prior to the regularly scheduled Board meeting in order to be placed on the agenda). Incomplete applications may be returned, or may require additional information.

At a minimum, the historic preservation overlay district application shall include:

- A. A description of the location of the property, address, tax parcel numbers, and site of proposed work.
- B. A detailed site plan showing the location of the structure on the site, setback dimensions, the location of driveways, streets and alleyways, landscape areas, and the general location of structures on adjacent lots. Photographs may be used in addition to the site plan.

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- C. A description of the proposed construction or alteration detailing the objectives of the work, listing the proposed changes as well as the materials and design (wood, brick, stucco, paint color, lighting etc.)
  
- D. A summary of the history of the structure in question including but not limited to its age, architectural style, chain of title and any other information bearing upon its historic or architectural significance.

Upon receipt of an application, the Board may request that a public hearing be conducted prior to rendering a decision on the application. The public hearing may be held in conjunction with the next scheduled meeting of the board or scheduled separately. In either case, notice of the hearing must be given in a newspaper of general circulation in the city, at least fifteen (15) days in advance of the hearing.

9. Design Standards

The Board shall construct and maintain a set of specific design standards for each individual Historic Preservation Overlay Zone. Such standards shall be presented to the Yonkers City Council for adoption by ordinance. The design standards should be tailored to reflect the historic character of each individual overlay district.

THE ABOVE RESOLUTION WAS REFERRED TO THE YONKERS PLANNING BOARD AND THE WESTCHESTER COUNTY PLANNING BOARD.



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**COMMITTEE REPORTS**

THIS MEETING WAS ADJOURNED AT 9:26PM