

ANNOTATED AGENDA
CITY COUNCIL OF THE CITY OF YONKERS
STATED MEETING
TUESDAY, NOVEMBER 23, 2010

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

TIME: 8:00PM

PRESENT: PRESIDENT OF THE COUNCIL
 CHUCK LESNICK

DISTRICT:

 1 MAJORITY LEADER PATRICIA D. McDOW
 5 MINORITY LEADER JOHN M. MURTAGH

COUNCIL MEMBERS:
DISTRICT:

 2 WILSON A. TERRERO
 3 JOAN GRONOWSKI
 4 DENNIS E. SHEPHERD
 6 JOHN LARKIN

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 9, 2010 approved on motion of Majority Leader Patricia McDow.

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COMMUNICATIONS FROM CITY OFFICIALS

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COMMUNICATIONS - GENERALLY

1. IN A LETTER DATED NOVEMBER 16, 2010 TO THE CITY COUNCIL FROM BARRY McGOEY PRESIDENT OF YONKERS FIREFIGHTERS LOCAL 628. RE: REQUESTING THE INSPECTOR GENERAL CONDUCT A REVIEW OF "SICK LEAVE" IN ALL YONKERS DEPARTMENTS AS WELL AS BOARD OF EDUCATION.

FILED

2. FROM THE PLANNING BOARD OF THE VILLAGE OF BRONXVILLE; NOTICE OF A PUBLIC HEARING TO BE HELD ON DECEMBER 08, 2010, AT 7:30 PM TO CONSIDER AN APPLICATION FOR DEVELOPMENT FILED BY MIDLAND GARDENS OWNERS INC.

FILED

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COMMITTEE OF THE WHOLE

<u>NAME</u>	<u>ADDRESS</u>	<u>ITEM NO.</u>
JAMES FAULKNER	316 WARBURTON AVENUE	3

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GENERAL ORDINANCE NO.5-2010

1. BY: COUNCIL PRESIDENT LESNICK, MAJORITY LEADER McDOW, MINORITY LEADER MURTAGH, COUNCILMEMBERS TERRERO, GRONOWSKI, SHEPHERD AND LARKIN;

A GENERAL ORDINANCE AMENDING CHAPTER 65 OF THE CODE OF THE CITY OF YONKERS ALSO KNOWN AS "ANIMALS AND DOGS."

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

Section 1. Chapter 65 of the Code of the City of Yonkers entitled "Animals and Dogs" is hereby amended in part by adding to Section 65-1 thereof entitled "Definitions", a new definition for the term "Dangerous Dogs and Animals" and "Dangerous Instrument" to read as follows:

"DANGEROUS DOGS AND ANIMALS - (1) any dog or animal that when unprovoked, approaches or menaces any person in a dangerous or terrorizing manner, or in an apparent attitude of attack, upon the streets, sidewalks or any public grounds or places; or (2) any dog or animal with a known propensity, tendency or disposition to attack, when unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or (3) any dog or animal which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or (4) any dog or animal owned, bred or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting ; or (5) any dog or animal used to facilitate a crime or criminal offense. This definition does not include dogs or animals owned or used by the Police Department or other law enforcement personnel performing police functions.

DANGEROUS INSTRUMENT- Any instrument or substance which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury. including a [vicious] dangerous dog or animal as defined by this chapter."

Section 2. Chapter 65 of the Code of the City of Yonkers entitled "Animals and Dogs" is hereby amended in part by deleting from Section 65-1 entitled "Definitions" the term "Vicious Animal" and "Vicious Dog."

Section 3. Chapter 65 of the Code of the City of Yonkers entitled "Animals and Dogs" is hereby amended in part by amending Section 65-2 thereof entitled "Interchangeability of terms." to read as follows:

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“65-2 Interchangeability of terms.

Whenever it is applicable and/or appropriate, the terms “dog” and “animal” shall be interchangeable in the context of the specific section, and the terms “poundkeeper”, “dogcatcher”, “dog control officer”, “animal control officer”, and “deputy dog control officer” and “deputy animal control officer” shall be interchangeable.”

Section 4. Chapter 65 of the Code of the City of Yonkers entitled “Animals and Dogs” is hereby amended in part by amending Section 65-3 entitled “Licensing of dogs; fees; identification tags.” subdivisions “A”, “C”, “D, and “F” to read as follows:

“§65-3. Licensing of dogs; fees; identification tags.

A. All dogs required to be licensed pursuant to the provisions of Article 7 of the Agriculture and Markets Law of New York State or a dog that is four (4) months of age or older or required to be licensed pursuant to this chapter whose place of residence or domicile or whose owner's place of residence or domicile is Yonkers must be properly licensed with the City of Yonkers pursuant to this chapter of the City Code of the City of Yonkers and Article 7 of the Agriculture and Markets Law of New York State. A license shall be renewed after a period of one (1) year beginning with the first day of the month following the date of issuance and shall be renewable annually thereafter prior to the expiration date. A license shall be issued only upon compliance with the applicable provisions of this chapter and Article 7 of the Agriculture and Markets Law, including submission of proof that the dog has been vaccinated against rabies.

C. Except as provided in Subsection D of this section, the annual fee for each dog license issued in the City of Yonkers shall be: ...

(2) [Seventeen dollars and fifty cents] Twenty dollars and fifty cents (\$20.50) for each unsprayed or unneutered dog.

(3) Fifty dollars (\$50.00) for each [vicious animals,] dangerous dog, in addition to the fee paid pursuant to Subsection C(1) and (2) of this section.

D. The annual fee for each dog license issued in the City of Yonkers pursuant to the provisions of the Agriculture and Markets Law to living persons who are 65 years old or older at the time of application shall be: ...

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GENERAL ORDINANCE NO.5-2010 (CONTINUED)

(2) [Seven dollars and fifty cents] Ten dollars and fifty cents (\$10.50) for each unsprayed or unneutered dog.

(3) Fifty dollars (\$50.00) for [vicious animals] each dangerous dog, in addition to the fee paid pursuant to Subsection D(1) and (2) of this section.

F. A purebred license may be obtained [pursuant to] as authorized by § 109 of the Agriculture and Markets Law. The [fee] surcharge for a purebred license shall be in the amount of three dollar (\$3.00) for each unsprayed or unneutered dog. In addition, for no more than ten (10) dogs a fee of twenty five dollars (\$25.00) will be imposed. For eleven to twenty five dogs, a fee of fifty dollars (\$50.00) will be imposed. For more than twenty five dogs a fee of one hundred dollars (\$100.00) will be imposed. [the amount authorized in § 110 of the Agriculture and Markets Law.] ...

H. Each dog licensed shall be issued an identification tag, which shall be affixed to a collar that shall remain on that dog at all times when the dog is not on the premises of the owner. If an identification tag is lost, the owner may apply to the City Clerk's Office for a replacement tag at a cost of five dollars (\$5.00)"

Section 5. Chapter 65 of the Code of the City of Yonkers entitled "Animals and Dogs" is hereby amended in part by amending §65-3 to read as "Licensing of dogs; fees; identification tags; insurance." and by amending §65-3 by adding thereto new Sections 65-3 "I" and "J" to read as follows:

"I. Any person or owner of a dangerous dog applying for a dog license for a dangerous dog as defined herein shall provide proof that liability insurance in an amount of one hundred thousand dollars (\$100,000) for personal injury or death of any person, resulting from an attack by such dog, has been obtained by such owner and is in full force and effect at the time of submission of such application for licensure.

J. Any person who applies for a dog license and knowingly fails to apply for a dangerous dog license when such license is required shall be guilty of a Class I Offense and may be fined and/or imprisoned for up to one year and may be subject to civil liabilities of up to ten thousand dollars (\$10,000.)"

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GENERAL ORDINANCE NO.5-2010 (CONTINUED)

Section 6. Chapter 65 of the Code of the City of Yonkers entitled "Animals and Dogs" is hereby amended in part by amending the title of Sections 65-4 entitled "Licensing of vicious animals" to read as "Licensing of dangerous dogs." and deleting Section 65-5 entitled "Identification of vicious animals" and reserving that section thereto and deleting Section 65-6.2 entitled "Regulation of vicious animals and dogs" and by amending the number of Section 65-6.1 to read as Section 65-6.

Section 7. Chapter 65 of the Code of the City of Yonkers entitled "Animals and Dogs" is hereby amended in part by amending Section 65-6 entitled "Regulation of dangerous dogs and animals." subdivision "E" and deleting subdivision "F" thereof to read as follows:

"§ 65-6. Regulation of dangerous dogs and animals.

E. No dangerous dogs or animals may be intentionally bred within the City of Yonkers and no person may own, harbor or possess two or more dangerous dogs or animals for breeding or any other purposes. [unless the dogs are purebreds of the breed "bull terrier" or "Staffordshire bull terrier" and have been previously registered as such with the American Kennel Club.]

[F. No person may own, harbor or possess more than two dangerous dogs or animals within the City of Yonkers for any purpose.]"

Section 8. Chapter 65 of the Code of the City of Yonkers entitled "Animals and Dogs" is hereby amended in part by amending §65-7 entitled "Sign required.", Sub-Section (A) to read as follows:

"65-7. Sign required.

A. The signs required under [§65-6.1] §65-6 of this chapter are to be no smaller in size than three (3) feet in length by three (3) feet in height and no larger than four feet (4) feet from the ground. These signs shall be of such material and construction so as not to fade or become illegible due to exposure to the elements."

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GENERAL ORDINANCE NO.5-2010 (CONTINUED)

Section 9. Chapter 65 of the Code of the City of Yonkers entitled "Animals and Dogs" is hereby amended in part by amending §65-14 entitled "Disposition of sick or dead animals." to read as follows:

"65-14. Disposition of sick or dead animals.

Every person having a dead animal or any animal diseased past recovery or sick with any contagious or infectious disease on his premises in the city and every person who has in his charge or under his control any animal who has died of any contagious or infectious disease in any street or place in the city shall at once remove or cause to be removed every such animal and disposed of the same as the [Commissioner of Public Health] Commissioner of Parks, Recreation and Conservation, Animal Control Officer, Deputy Animal Control Officer or other duly elected or appointed law enforcement officer may direct. "

Section 10. Chapter 65 of the Code of the City of Yonkers entitled "Animals and Dogs" is hereby amended in part by amending subsection B of §65-21 entitled "Dogs in municipal custody; adoption; fees." to read as follows:

"§65-21. Dogs in municipal custody; adoption; fees.

B. Owners of dogs or animals seized, prior to redeeming their dogs from municipal custody, shall either produce proof of current dog licensing or purchase a new dog license.

1) In addition, a dog owner who redeems his municipally seized dog shall pay a redemption fee as follows:

(a) [Fifteen dollars (\$15.)] Forty dollars (\$40.00) for the first seizure.

(b) [Twenty-five dollars (\$25.)] Sixty dollars (\$60.00) for the first twenty-four (24) hours or part thereof for the second seizure within one (1) year of the first seizure, plus [five dollars (\$5.)] fifteen dollars (\$15.00) per day or portion thereafter, as long as the dog remains in municipal custody.

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c) For the third or subsequent seizure within one (1) year of the first seizure: [thirty-five dollars (\$35.)] eighty dollars (\$80.00) for the first twenty-four (24) hours or part thereof, plus [five dollars (\$5.)] fifteen dollars (\$15.00) per day or portion thereafter, as long as the dog remains in municipal custody.

2) The number of seizures shall be counted against the dog owner without regard to whether or not it is the same dog being seized.”

Section 11. Chapter 65 of the Code of the City of Yonkers entitled “Animals and Dogs” is hereby amended in part by amending Section 65-25 entitled “Penalties for offenses.” subdivisions “B” thereof to read as follows:

“§ 65-25. Penalties for offenses.

B. A violation of §§ 65-8, 65-9, 65-10 (B), (C), (D), (F), (G), (H), and (I) or 65-13 of this chapter shall be a Class II offense. A violation of §65-10 (A) and (E) of this chapter shall be a Class I offense.”

Section 12. Chapter 65 of the Code of the City of Yonkers entitled “Animals and Dogs” is hereby amended in part by amending section 65-25, entitled “Penalties for offenses” by deleting therefrom, the term “vicious” and substituting in its place the term “dangerous.”

Section 13. This Ordinance shall take effect immediately.

THIS GENERAL ORDINANCE WAS ADOPTED BY THE CITY COUNCIL
AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 23, 2010
BY A VOTE OF 7-0.

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SPECIAL ORDINANCE

2. BY: COUNCIL PRESIDENT LESNICK, MAJORITY LEADER McDOW, MINORITY LEADER MURTAGH, COUNCILMEMBERS TERRERO, GRONOWSKI, SHEPHERD AND LARKIN;

AN ORDINANCE AMENDING THE CAPITAL BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2010 AND TERMINATING JUNE 30, 2011.

The City of Yonkers, in City Council convened, hereby ordains and enacts:

Section 1: An amendment to the Capital Budget for the fiscal year commencing July 1, 2010 and terminating June 30, 2011, a total estimated cost of \$217,735,000 submitted by the Mayor and amended having been filed in the City Clerk's office on November 16th, 2010, and a public hearing thereon having been held on Tuesday, December 7th, 2010 is hereby approved and adopted as an amendment to the Capital Budget of the City of Yonkers for the fiscal year commencing July 1, 2010 and terminating June 30, 2011.

Section 2: This ordinance shall take effect immediately.

A PUBLIC HEARING WAS SET FOR THE ABOVE SPECIAL ORDINANCE TO BE HELD DECEMBER 7, 2010

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RESOLUTION NO.146-2010

3. BY: COUNCIL PRESIDENT LESNICK, MAJORITY LEADER McDOW, MINORITY LEADER MURTAGH, COUNCILMEMBERS TERRERO, SHEPHERD AND LARKIN;

RESOLUTION APPROVING THE EXECUTION OF AN AGREEMENT WITH THE NEW YORK STATE DORMITORY AUTHORITY FOR THE ESTABLISHMENT OF A HIGH TECHNOLOGY INCUBATOR.

WHEREAS, the New York State Dormitory Authority has awarded a grant in the amount of \$500,000 (New York State Capital Assistance Program Project No. 3906) to the City of Yonkers to establish a high technology incubator, including fit-out of space and purchase of equipment, in the City of Yonkers; and

WHEREAS, these funds are being made available to the City of Yonkers with a requirement of in kind equity, in the amount of \$250,000 matching funds; and

NOW, THEREFORE, be it resolved by the City Council of the City of Yonkers that the Mayor of the City of Yonkers, or his designee, is hereby authorized to execute a grant agreement in the amount of \$500,000 between the New York Dormitory Authority and the City of Yonkers (New York State Capital Assistance Program Project No. 3906) to establish a high technology incubator, including fit-out of space and purchase of equipment, with a requirement of in kind equity in the amount of \$250,000 matching funds; 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 23, 2010 BY A ROLL CALL VOTE OF 6-1. COUNCILMEMBER GRONOWSKI VOTING "NAY"

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RESOLUTION NO.147-2010

4. BY: COUNCIL PRESIDENT LESNICK, MAJORITY LEADER McDOW, MINORITY LEADER MURTAGH, COUNCILMEMBERS TERRERO, GRONOWSKI, SHEPHERD AND LARKIN;

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, 2012

Marisol Cordero
381 Lake Shore Drive
Yonkers, New York 10541

City of Yonkers

RENEWAL

Miranda Leonetti
50 Hughes Terrace
Yonkers, New York 10701

Dept. of Housing

RENEWAL

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 23, 2010 BY A VOTE OF 7-0.

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RESOLUTION NO.148-2010

5. BY: MINORITY LEADER MURTAGH, COUNCIL PRESIDENT LESNICK, MAJORITY LEADER McDOW, COUNCILMEMBERS TERRERO, GRONOWSKI, SHEPHERD AND LARKIN;

WHEREAS, the Inspector General of the City of Yonkers is authorized and empowered to make any investigation or review which in his or her opinion is necessary to uncover any wrongdoing in City government, and

WHEREAS, pursuant to the Code of the City of Yonkers: "The jurisdiction of the Inspector General shall extend to any agency, officer, or employee of the city, or any person or entity doing business with the city, or any person or entity who is paid or receives money from or through the city or any agency of the city", and,

WHEREAS, pursuant to the Code of the City of Yonkers" "The Inspector General shall have the power to subpoena witnesses, administer oaths, take sworn testimony and compel production of books, papers, records and other evidence in furtherance of his/her duties and powers, and

WHEREAS, in the performance of that duty, the Inspector General has been engaged in a review and audit of certain expenditures of taxpayer money by the Yonkers Board of Education, and

WHEREAS, the Board of Education filed a court action challenging the Inspector General's authority to conduct a review of its books and records, and

WHEREAS, in or about June 2010, the New York State Supreme Court (Giacomo, J.) ruled that the Inspector General had the authority to review and audit the finances of the Board of Education, and

WHEREAS, in furtherance of that review, the Inspector General has sought to review the expenditure of monies received from the Board of Education by the Yonkers Federation of Teachers Welfare Fund ("the Fund"), and

WHEREAS, the Inspector General served a subpoena on the Fund dated October 25, 2010 due to the Fund's failure to fully cooperate with the Inspector General, and

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RESOLUTION NO.148-2010 (CONTINUED)

WHEREAS, the Fund responded through outside counsel, challenging both the validity of the subpoena and the right of the Inspector General to review the records of the Fund, and

WHEREAS, the taxpayers of the City of Yonkers have already borne substantial, unnecessary expense as a result of the costly and wasteful lawsuit brought by the Board of Education and should not be forced to incur additional legal expenses enforcing their rights against The Fund, and

WHEREAS, the citizens and taxpayers of the City of Yonkers have the right to know how every tax dollar of the City is used and that those tax dollars are spent appropriately and properly, now therefore,

IT IS RESOLVED, that the City Council calls upon the Yonkers Federation of Teachers Welfare Fund to immediately cease its resistance to the Inspector General's inquiry and to immediately comply fully and completely with the Inspector General's review of the finances of the Yonkers Board of Education including but not limited to monies paid by the City and the Board to the Fund.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A STATED MEETING HELD ON TUESDAY, NOVEMBER 23, 2010 BY A VOTE OF 7-0.

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COMMITTEE REPORTS

THIS MEETING WAS ADJOURNED AT 8:12PM