

ANNOTATED AGENDA
CITY COUNCIL OF THE CITY OF YONKERS
SPECIAL MEETING
WEDNESDAY, AUGUST 24, 2011

TIME: 6:00 P.M.

PRESENT: PRESIDENT OF THE COUNCIL
CHUCK LESNICK

DISTRICT
1 MAJORITY 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

WE, THE UNDERSIGNED MEMBERS OF THE CITY COUNCIL,
PURSUANT TO RULE 1.2 OF THE CITY COUNCIL RULES, DO HEREBY CALL
A SPECIAL MEETING OF THE CITY COUNCIL, TO BE HELD ON
WEDNESDAY, AUGUST 24, 2011. IN THE CITY COUNCIL CHAMBERS,
FOURTH FLOOR, CITY HALL, YONKERS, NEW YORK AT 6:00 P.M FOR THE
FOLLOWING PURPOSE:

TO DISCUSS AND TAKE ACTION ON:

1. A LOCAL LAW IN RELATION TO EXTENDING THE CITY OF YONKERS
MORTGAGE RECORDING TAX.
2. A LOCAL LAW EXTENDING THE CITY OF YONKERS INCOME TAX
SURCHARGE.
3. SPECIAL ORDINANCE – BOARD OF EDUCATION - QSCB BONDS
4. SPECIAL ORDINANCE – 55-97 WALSH ROAD – CON ED
5. SPECIAL ORDINANCE – 1-8 SCHROEDER STREET – CON ED
- 6 RES. – BANNER – ST. BARTOLOMEW'S CHURCH

COUNCIL PRESIDENT LESNICK
MAJORITY LEADER McDOW
MINORITY LEADER MURTAGH
COUNCILMEMBER TERRERO
COUNCILMEMBER GRONOWSKI
COUNCILMEMBER SHEPHERD
COUNCILMEMBER LARKIN

**THIS SPECIAL CITY COUNCIL MEETING WAS OPENED AND
CLOSED IN MEMORY OF PATRICIA LARKIN, THE MOTHER OF
COUNCILMEMBER JOHN LARKIN WHO PASSED AWAY ON AUGUST
17, 2011.**

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A COMMITTEE OF THE WHOLE MEETING WILL BE HELD PRIOR TO
THIS SPECIAL COUNCIL MEETING AT 5:30 P.M.

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COMMUNICATIONS FROM CITY OFFICIALS

MEMORANDUM FROM CORPORATION COUNSEL MARK BLANCHARD, DATED JULY 7, 2011, TO THE CITY COUNCIL, FORWARDING TWO PROPOSED LOCAL LAWS EXTENDING THE MORTGAGE RECORDING TAX AND INCOME TAX SURCHARGE FOR THE COUNCIL'S CONSIDERATION.

FILED

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COMMITTEE OF THE WHOLE

SPEAKERS

<u>NAME:</u>	<u>ADDRESS:</u>	<u>ITEM NO.</u>
John Burkhardt	Municipal Housing Authority	4 and 5

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LOCAL LAW NO. 8-2011

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

A LOCAL LAW AMENDING LOCAL LAW NO. 5-1993 AS AMENDED BY LOCAL LAW NO. 4-1995 AS AMENDED BY LOCAL LAW NO. 11-1997 AND AMENDED BY LOCAL LAW 5-2009 AMENDING SECTION 15-141 OF THE CODE OF THE CITY OF YONKERS, IN RELATION TO EXTENDING THE CITY OF YONKERS MORTGAGE RECORDING TAX.

BE IT ENACTED, by the City Council of the City of Yonkers, as follows:

Section 1. Section 15-141 of Article XIII of Chapter 15 of the Code of the City of Yonkers, as amended, is hereby further amended as follows:

Section 15-141. Imposition of tax.

A tax of fifty cents for each one hundred dollars and each remaining major fraction thereof of principal debt or obligation which is, or under any contingency may be secured at the date of execution thereof or at any time thereafter by a mortgage on real property situated within the city and recorded on or after September 1, 1993, or prior to [September 1, 2011] September 1, 2013, is hereby imposed on each such mortgage and shall be collected and paid as provided in this article. If the principal debt or obligation which is or by any contingency may be secured by such mortgage is less than one hundred dollars, a tax of fifty cents is hereby imposed on such mortgage, and shall be collected and paid as provided in this article.

Section 2. This local law shall take effect July 1, 2011.

THIS LOCAL LAW WAS ADOPTED BY THE CITY COUNCIL AT A SPECIAL CITY COUNCIL MEETING HELD ON WEDNESDAY, AUGUST 24, 2011 BY A ROLL CALL VOTE OF 6-1, COUNCILMEMBER GRONOWSKI VOTING "NAY".

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LOCAL LAW NO. 9-2011

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

A LOCAL LAW AMENDING LOCAL LAW NO. 8-1984, AS AMENDED BY LOCAL LAW NO. 9-1984, LOCAL LAW NO. 12-1984, LOCAL LAW NO. 9-1988, LOCAL LAW NO. 9-1991, LOCAL LAW NO. 6- 1994, LOCAL LAW NO. 5-1995, LOCAL LAW NO. 8-1996, LOCAL LAW NO. 10-1997 AND LOCAL LAW 4-2009 ENTITLED A LOCAL LAW PURSUANT TO 30-A AND 30-B OF THE NEW YORK STATE TAX LAW AMENDING THE CODES AND ORDINANCES OF THE CITY OF YONKERS BY ADDING A NEW ARTICLE IX AND A NEW ARTICLE X IN RELATION TO THE IMPOSITION OF A CITY OF YONKERS INCOME TAX SURCHARGE IN RELATION TO AMENDING SAID LOCAL LAW TO CONFORM WITH THE 2007 AMENDMENTS OF THE NEW YORK STATE TAX LAW.

BE IT ENACTED, by the City Council of the City of Yonkers, as follows:

Section 1. Paragraph A of Section 15-100 of Article IX of Chapter 15 of the Codes and Ordinances of the City of Yonkers, as amended, is hereby further amended as follows:

Section 15-100 . Persons subject to tax surcharge.

- A. General. The City of Yonkers income tax surcharge imposed hereby shall be imposed for each taxable year on every city resident individual, estate and trust in every taxable year commencing after December 31, 1983 and ending on or before December 31, [2011] 2013. A taxpayer's taxable year for the purposes of the City of Yonkers income tax surcharge imposed pursuant to this Article shall be the same as his/her taxable year under Article 22 of the New York State Tax Law.

Section 2 . Section 15-117 of Article X of Chapter 15 of the Codes and ordinances of the City of Yonkers, as amended, is hereby further amended as follows:

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LOCAL LAW NO. 9-2011 (CONTINUED)

Section 15-117. Taxable years to which tax is imposed. The tax imposed by this Article is imposed for taxable years beginning December 31, 1983 and ending on or before December 31, [2011] 2013.

Section 3. This local law shall take effect as of January 1, 2012.

THIS LOCAL LAW WAS ADOPTED BY THE CITY COUNCIL AT A SPECIAL CITY COUNCIL MEETING HELD ON WEDNESDAY, AUGUST 24, 2011 BY A ROLL CALL VOTE OF 6-1, COUNCILMEMBER GRONOWSKI VOTING "NAY".

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SPECIAL ORDINANCE

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

BOND ORDINANCE OF THE CITY OF YONKERS, NEW YORK, AUTHORIZING FUNDING FOR VARIOUS CAPITAL PROJECTS INCLUDED IN THE SCHOOLS FACILITIES MANAGEMENT PLAN FOR THE BOARD OF EDUCATION; STATING THE TOTAL ESTIMATED MAXIMUM COST THEREOF IS \$15,000,000; APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF \$15,000,000 BONDS OF SAID CITY TO FINANCE SAID APPROPRIATION.

Recitals

WHEREAS, the New York State Department of Education ("SED") has approved the Yonkers Public School District's application for capital project funding of \$15, 000,000 through a Qualified School Construction Bond ("QSCB") allocation per Section 155.22 of the Regulations of the Commissioner of Education;

Now, therefore,

THE CITY COUNCIL OF THE CITY OF YONKERS, IN THE COUNTY OF WESTCHESTER, NEW YORK, HEREBY ORDAINS (by the favorable vote of not less than two-thirds of all the members of said City Council) AS FOLLOWS:

Section 1. The City of Yonkers, in the County of Westchester, New York (herein called "City"), is hereby authorized to construct capital improvements to various school buildings, including building envelope restorations, masonry restoration, auditorium restoration, boiler replacement, structural reinforcement, HVAC, site improvements, emergency utilities and internal upgrades, and related work, at an estimated total maximum cost of \$15,000,000, all as more particularly described in the Yonkers Public Schools Qualified School Construction Bond Application to the New York State Department of Education dated April 28, 2011, and said amount is hereby appropriated therefor pursuant to the Capital Budget, as amended. The plan of financing includes the

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SPECIAL ORDINANCE (CONTINUED)

issuance of \$15,000,000 bonds of the City to finance said appropriation and the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable. Any amounts received by the Board of Education from the United States of America and/or the State of New York are hereby authorized to be expended towards the cost of such objects or purposes or the redemption of any notes and bonds issued therefor or to be budgeted as an offset to the taxes for the repayment of the principal of and interest on said notes and bonds.

Section 2. Bonds of the City in the principal amount of \$15,000,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

Section 3. The period of probable usefulness of such objects or purposes, within the limitations of Section 11.00 a. 91 of the Law, is fifteen (15) years.

Section 4. Each of the bonds authorized by this ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the City, payable as to both principal and interest by general tax upon all the taxable real property within the City without limitation of rate or amount. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this ordinance and of the Law and pursuant to the provisions of Section 30.00, Section 50.00, Sections 56.00 to 60.00, and Section 168.00 of the Law, the powers and duties of the City Council relative to authorizing bond anticipation notes and prescribing the terms, form and contents and all other powers or duties pertaining or incidental to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the

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SPECIAL ORDINANCE (CONTINUED)

renewals of said notes, the power to enter into agreements for credit enhancement for said bonds and notes, the power to determine whether such bonds shall be designated as QSCB bonds in conformance with QSCB allocations received from SED, and the power to make necessary certifications as to various matters as required by federal and New York State law in relation to issuance by the City of QSCB bonds, are hereby delegated to the chief fiscal officer of the City.

Section 6. Pursuant to the provisions of Section 17 of the Special Local Finance and Budget Act of the City of Yonkers constituting Chapters 488 and 489 of the Laws of 1976 of the State of New York (herein called the "Act"), the City is authorized and directed to include the following pledge and agreement of the State of New York (herein called the "State") contained in said Section 17 in this ordinance, and the Act provides that upon payment for the Bonds by the original and all subsequent holders thereof the inclusion of such pledge and agreement shall be deemed conclusive evidence of valuable consideration received by the State and City for such pledge and agreement and of reliance upon such pledge and agreement by any holder and that any action by the State contrary to or inconsistent with the provisions of such pledge and agreement shall be void:

"The state does hereby pledge to and agree with the holders of obligations of the City issued pursuant to the local finance law or this act that the state will not (a) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the power or duty of the City to exercise, perform, carry out and fulfill its responsibilities under this act to the extent that the City incorporates in any bond ordinance or credit agreement covenants and agreements to so exercise, perform, carry out and fulfill such responsibilities, (b) repeal, revoke, repudiate, limit, alter, stay, suspend or otherwise reduce or rescind or impair the rights and remedies of any such holders to fully enforce in a court of law such covenants and agreements so incorporated in the bond ordinance or credit agreement or to enforce the pledge and agreement of the state contained in this section, or (c) otherwise exercise any sovereign power contrary to or inconsistent with the provisions of such bond ordinance or credit agreement, it being hereby determined and declared that the provisions of this act and the powers and duties of the City authorized and imposed hereunder are proper, reasonable and appropriate means by which the state can and should exercise and has

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SPECIAL ORDINANCE (CONTINUED)

exercised its duty under section twelve of article eight of the constitution to prevent abuses by the City in taxation and in the contracting of indebtedness and that the provisions hereof are necessary and in the public interest and proper means to improve market reception for the purchase of bonds and other obligations of the City; provided, however, the foregoing pledge and agreement shall be of no further force and effect if at any time (i) there is on deposit in a separate trust account with the fiscal agent sufficient moneys or direct obligations of the United States of America or the state the principal of and/or interest on which will provide moneys to pay punctually when due at maturity or prior to maturity by redemption in accordance with their terms all principal and interest on all such obligations of the City outstanding, (ii) irrevocable instructions from the state and City to the fiscal agent for such payment of such principal and interest with such moneys have been given, and (iii) notice to the holders of such obligation as provided in the bond ordinance or credit agreement has been given, and provided further that such pledge and agreement by the state August be temporarily suspended upon the declaration of martial law in the City in the event of circumstances in the City deriving directly out of a natural disaster (such as an earthquake or major conflagration or flood but not a snowstorm) or civil disturbance (such as military invasion or civil insurrections but not strikes or crises created by financial abuses or economic events)".

Section 7. The validity of the bonds authorized by this ordinance and of any notes issued in anticipation of the sale of said bonds, August be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such ordinance are not substantially complied with,

and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 8. This bond ordinance shall take effect immediately, and the City Clerk is hereby authorized and directed to publish a summary of the

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SPECIAL ORDINANCE (CONTINUED)

foregoing ordinance, together with a Notice attached in substantially the form prescribed by §81.00 of the Law in "THE JOURNAL NEWS," a newspaper published in Yonkers, New York, and in "YONKERS RISING," a newspaper published in Yonkers, New York, each having a general circulation in the City and hereby designated the official newspapers of said City for such publication .

MOTION BY MINORITY LEADER MURTAGH, SECONDED BY MAJORITY LEADER McDOW TO PUT THIS ORDINANCE OVER. THE MOTION WAS CARRIED BY A VOTE OF 6-1, COUNCIL PRESIDENT LESNICK VOTING "NAY".

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SPECIAL ORDINANCE NO. 41-2011

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

A SPECIAL ORDINANCE GRANTING TO CON EDISON A PERMIT TO INSTALL A NEW CONDUIT AND RELATED SERVICES AT 55-97 WALSH ROAD AS THE ESTIMATED DIMENSIONS ARE IN EXCESS OF 100 LINEAR FEET.

WHEREAS, Consolidated Edison, in a communication forwarded to the City Engineer, has made application pursuant to an ordinance adopted by the Board of Aldermen of the City of Yonkers on May 31, 1892, to excavate in excess of 100 linear feet and no more than 1225 linear feet and to install a new 6 inch PE medium pressure gas main from the intersection of Locust Hill Avenue and Lafayette Place to 55-97 Walsh Road, Yonkers N.Y. in accordance with Drawing Number S10-11425-WCY-P2 and Permit Number A016601; and

WHEREAS, the work being done by said company is the replacement of existing lines and it is therefore a Type II action under the New York State Environmental Quality Review Act; and

WHEREAS, the said company will be required, prior to the commencement of the work, to insure the restoration of said streets in the same condition as said streets were in prior to said excavation and indemnifying and saving harmless the City of Yonkers against loss or losses, damages, action, or proceedings arising out of said excavation;

NOW, THEREFORE, the City of Yonkers, in City Council convened, hereby ordains and enacts:

Section 1. Permission is hereby given to Consolidated Edison, in accordance with the terms of an ordinance adopted by the Board of Aldermen of the City of Yonkers on May 31, 1892, to excavate in excess of 100 linear feet and no more than 1225 linear feet and to install a new 6 inch PE medium pressure gas main from the intersection of Locust Hill Avenue and Lafayette Place to 55-97 Walsh Road, Yonkers N.Y.

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SPECIAL ORDINANCE NO. 41-2011

Section 2. This ordinance shall take effect immediately.

THIS SPECIAL ORDINANCE WAS ADOPTED BY THE CITY COUNCIL AT A SPECIAL CITY COUNCIL MEETING HELD ON WEDNESDAY, AUGUST 24, 2011 BY A VOTE OF 7-0.

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SPECIAL ORDINANCE NO. 42-2011

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

A SPECIAL ORDINANCE GRANTING TO CON EDISON A PERMIT TO INSTALL A NEW CONDUIT AND RELATED SERVICES AT 1-8 SCHROEDER STREET AS THE ESTIMATED DIMENSIONS ARE IN EXCESS OF 100 LINEAR FEET.

WHEREAS, Consolidated Edison, in a communication forwarded to the City Engineer, has made application pursuant to an ordinance adopted by the Board of Aldermen of the City of Yonkers on May 31, 1892, to excavate in excess of 100 linear feet and no more than 1225 linear feet and to install 6 inch PE medium pressure gas main from the intersection of Locust Hill Avenue and Lafayette Place to 55-97 Walsh Road, Yonkers N.Y. for related services at 1-8 Schroeder Street in accordance with Drawing Number S10-11425-WCY-P1 and Permit Number A016621; and

WHEREAS, the work being done by said company is the replacement of existing lines and it is therefore a Type II action under the New York State Environmental Quality Review Act; and

WHEREAS, the said company will be required, prior to the commencement of the work, to insure the restoration of said streets in the same condition as said streets were in prior to said excavation and indemnifying and saving harmless the City of Yonkers against loss or losses, damages, action, or proceedings arising out of said excavation;

NOW, THEREFORE, the City of Yonkers, in City Council convened, hereby ordains and enacts:

Section 1. Permission is hereby given to Consolidated Edison, in accordance with the terms of an ordinance adopted by the Board of Aldermen of the City of Yonkers on May 31, 1892, to excavate in excess of 100 linear feet and no more than 1225 linear feet and to install 6 inch PE medium pressure gas main from the intersection of Locust Hill Avenue and Lafayette Place to 55-97 Walsh Road, Yonkers N.Y. for related services at 1-8 Schroeder Street, Yonkers, N.Y.

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SPECIAL ORDINANCE NO. 42-2011 (CONTINUED)

Section 2. This ordinance shall take effect immediately.

THIS SPECIAL ORDINANCE WAS ADOPTED BY THE CITY COUNCIL AT A SPECIAL CITY COUNCIL MEETING HELD ON WEDNESDAY, AUGUST 24, 2011 BY A VOTE OF 7-0.

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RESOLUTION NO. 107-2011

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

WHEREAS, St. Bartholomew Church, located at 15 Palmer Road in Yonkers will hold their annual" Parish Carnival" on September 29, 30, October 1st and 2nd , 2011 and has requested permission from the City Council to place two banners in the area promoting this event, and

WHEREAS, St. Bartholomew Church has asked that they be permitted to place two (2) banners closest to the location of Palmer and Saw Mill River Road and the other on the underpass bridge closest to the intersection of Central Park Avenue and Tuckahoe Road on or around September 9th and to be removed as soon after October 2nd , 2011 as is possible; and

WHEREAS, said locations are subject to the scheduling and availability of the banner sites as administered by the Department of Public Works.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Yonkers hereby grants permission to St. Bartholomew Church to place two banners in the aforementioned location, subject to any terms and conditions deemed appropriate by the Administration to protect the best interests of the City of Yonkers.

THIS RESOLUTION WAS ADOPTED BY THE CITY COUNCIL AT A SPECIAL CITY COUNCIL MEETING HELD ON WEDNESDAY, AUGUST 24, 2011 BY A VOTE OF 7-0.

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THIS SPECIAL COUNCIL MEETING WAS ADJOURNED AT 6:25 P.M.