

Assessment of the Possible Elimination of the Justice Court in the Village of Port Chester

Benefits & Costs

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Village of Port Chester

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Summary

Introduction

Confronting the service demands of a city with the financial resources of a village, Port Chester's finances are challenged. Despite a property tax burden on residents that is high relative to household income, spending per resident is lower than comparable communities. In addition to exploring the revenue potential of incorporating as a city (a subject also under investigation by the same consultant team), the village is seeking ways to reduce net spending.

In this engagement, the Village of Port Chester engaged CGR and Sourced Municipal Solutions principally to study the village justice court. The request for proposals identifies two principal components: Most urgently, would eliminating the village court improve or degrade the village's financial challenges? Secondly, the RFP seeks information on a range of governance questions, presuming that the village retains the court.

Fiscal impact of eliminating the justice court

- Presently, the Village of Port Chester justice court generates \$1.2 million more revenue than expense for the village.

The operating cost of the Port Chester Justice court, as estimated in the 2020-21 (FY21) adopted budget, is \$1.2 million without the cost of benefits. With benefits, we estimate the total operating cost to be \$1.5 million. The FY21 revenue estimate for the village is \$2.7 million.

- Dissolution of the Port Chester Justice Court would result in all administrative responsibilities and caseloads being transferred to the Town Clerk and Town Justices of the Town of Rye. Port Chester residents will continue to pay approximately 40% of all costs attributed to the operations of the Town of Rye Justice Court.

Based upon the current town assessment roll, Port Chester and Rye Brook are each almost 40% of assessed valuation with the remainder attributed to the Village of Mamaroneck in the neighborhood known as Rye Neck. In the 2020 budget, net operating costs of the Town of Rye Justice Court are projected to be \$175,000. Based upon percent of assessed valuation, these costs are borne Town wide as follows: Port Chester \$68,000, Rye Brook paying \$68,000 and Rye Neck, \$38,000. Increases in operating expenses as a result of the dissolution of the Port Chester Justice Court will also be borne Town wide in accordance with assessed valuation.

- Dissolving the Port Chester Justice Court will result in an increase in net revenue for village taxpayers of approximately \$1 million, or 3% of its tax levy. However, when factoring in the estimated share of increased costs the entire Town of Rye will incur (post dissolution), village

taxpayers will be spending about \$0.6 million less, for a 2% reduction in total property taxes levied.

This finding turns on the disposition of local revenue if the work of the village court were to pass to the Town of Rye court. By law, some revenues received by a justice court are retained by the local jurisdiction and some are remitted to higher levels of government. In the event of court dissolution, both parking revenue and revenue collected from violations of Port Chester village ordinances would be remitted to the Village of Port Chester.

With the help of village staff, we obtained a detailed list of the revenue received. Of the \$2.9 million in 2019 revenue, \$2.2 million represented parking ticket fines and an additional \$0.2 million was associated with violations of village ordinances, a sum of \$2.4 million (83%). The remaining local revenue—\$0.5 million in calendar year 2019—would have remained with the Town of Rye had the village court been dissolved in that year.

Applying that proportion (83%) to the village's estimated FY21 revenue of \$2.7 million suggests that the village would retain \$2.2 million in revenue but will lose income of about \$0.5 million. It would avoid expenses for FY21 total \$1.5 million. So, if the Port Chester Justice Court dissolves, net revenue retained would result in a net reduction in the \$30 million tax levy of \$1 million, or about 3%.

Port Chester taxpayers are also Town of Rye taxpayers. If the cost of Port Chester's justice court operations are shifted from village taxpayers to all town taxpayers, the town property tax paid by village taxpayers would increase. As the village share of taxable real property in the town is just under 40% (based on the 2019 Roll), village taxpayer share of the increase in the town property tax would be \$0.4 million.

So, on balance, the village taxpayers would be spending about \$0.6 million less in taxes, for an estimated 2% reduction in the combined village/town property tax.

Other Considerations

- The process of court dissolution is unclear.

Unlike most villages in New York State, the Port Chester Justice Court was not established under State Village Law but pursuant to a special act of the State Legislature that is included in Port Chester's Village Charter. We note that Port Chester's judges are appointed not elected and have a two year, and not a four year term as in non-charter villages. Therefore, the legal process for dissolution is unclear. We recommend that the Village Attorney be consulted for his opinion on

this matter. Court facilities will still need to be modernized regardless of whether the Port Chester Justice Court dissolves.

We've been told that the Office of Court Administration has long been urging the community to improve the physical court facility. Eventually, OCA's requirements must be addressed. Decisions such as whether the Town Justice Court will remain located in the Village of Port Chester, or how much capital costs of facilities will ultimately be, will result in other impacts.

- Dissolution may impact efficiencies the Village has been able to achieve in the Village's operations, as well as its priorities.

The current village justices live in the Village and are appointed by the Village Board. Experience suggests that appointed justices are considered more a part of the leadership structure of the village and are aware of local community law enforcement and code initiatives as well as the need for efficiencies in court related operations and constituent services.

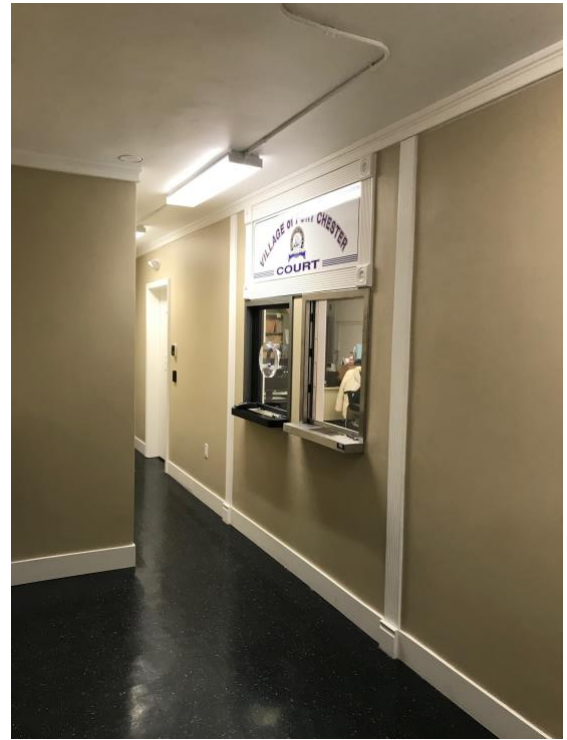


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Introduction

The Village of Port Chester is experiencing significant fiscal distress, a condition that has gradually become more severe in recent years. As documented in CGR's April 2020 report, *City Status for Port Chester: Evaluating the Impacts*, the village property tax, when measured as a share of household income, is nearly the highest in Westchester County and among the highest in the state. Yet while property taxes are relatively high, village expenditure per resident is lower than many comparable communities. Faced with increasing need but constrained by the ability of property owners to pay higher taxes, the community must seek all possible ways to constrain spending.

City leaders engaged CGR to explore whether elimination of the village justice court would improve the fiscal picture. In addition, CGR was asked to explore management issues that pertain to continued court operations in Port Chester.

Local justice courts in New York State

Local justice courts are an integral part of New York's Unified Court System comprising the Judicial Branch of New York State government. Each justice court is responsible for administering justice consistent with the Constitution and its separation of powers, as well as applicable statutes and court rules, and subject to the general oversight of the Chief Judge and Chief Administrative Judge. Every town and village justice, and every municipal official interacting with the local justice court, shares responsibility for ensuring the effectiveness of the justice court under our Constitution, the UJCA, and other statutes that govern aspects of justice court operations – including the Judiciary Law, Civil Practice Law & Rules (“CPLR”), Criminal Procedure Law (“CPL”), Real Property Actions and Proceedings Law (“RPAPL”), Vehicle and Traffic Law (“VTL”), General Municipal Law (“GML”), Town Law, and Village Law.

While justice courts are empowered to hear both civil and criminal cases, they are courts of limited jurisdiction, adjudicating only certain types of civil and criminal cases. On the civil side, justice courts hear money actions that do not exceed \$3,000, with very narrow exceptions. On the criminal side, justice courts are local criminal courts with the same jurisdiction as the New York City criminal courts, district courts and city courts outside New York City, with the power to adjudicate misdemeanor and petty offenses, and arraign defendants in felony cases before they are transferred to a superior court (usually the county court).

Most of New York's town and villages operate a justice court. Justice courts vary in their number of justices, volume and types of cases, hours and frequency of scheduled court dates, number of non-judicial employees, and costs of operation. Many factors shape these aspects of justice court operations, some of which are matters of local discretion.

The day to day operations and administration of a local justice court is a complex undertaking that involves interaction with multiple levels and branches of government, reporting obligations, enforcement of rights, financial controls, security, and technology. Because the expense of operating a justice court is the responsibility of the Village of Port Chester, the village must hire non-judicial personnel of the justice court, provide supplies and facilities, and provide for whatever other physical or human resources the court may require. At the same time, the justice court is not a routine department or office of village government. It is part of a constitutionally different branch of government, and its justices have rights and duties that are constitutionally different from all other village officials. Therefore, a cooperative relationship between the justice court and the village government is necessary to respect the principle of separation of powers.*

Port Chester Justice Court

With a population of nearly 30,000 residents as well as robust commercial and retail activities, the Village of Port Chester is teeming with civic life. Consequently, its local justice court is one of the most active courts in the State of New York.

One justice and two associate justices are appointed by the Board of Trustees to preside over the adjudication and disposition of thousands of cases each year. All three justices serve two-year terms that will expire on May 14, 2021.

Justice court jurisdiction

The Village Court has both civil and criminal jurisdiction. In civil matters, the court has jurisdiction over actions and proceedings for recovery of money or property, other than real estate, where the amount sought to be recovered or the value of the property does not exceed \$3,000, exclusive of interest or costs (UJCA §§201, 202). The Village Court also has jurisdiction over summary proceedings to recover possession of real property within the boundaries of the Village, to remove tenants from such property and to render judgment for rent due without regard to amount (UJCA §204).

Court facilities and operations

The justice court is located in a municipal building at 350 Main Street in the Village of Port Chester. This building also serves as the headquarters for the Port Chester Police Department. The court shares a courtroom facility with the Town of Rye Court, and both court offices operate public windows on the 2nd floor.

Port Chester Justice Court is in session as follows:

* Handbook for town and village justices and Court Clerks <https://www.osc.state.ny.us/localgov/pubs/jch.pdf>

Port Chester Justice Court

Every Monday	Criminal calendar 9:00am -1:00pm
3x/month on Tuesday	Vehicle and Traffic calendar 4:00pm
Every 3rd Weds	Vehicle and Traffic calendar 4:00pm
1x/month Weds	Small Claims 6:30pm
Thursday	Criminal calendar and Building Code calendar 9:00am -1:00pm
Friday	Criminal calendar 9:00am -1:00pm

The justice court caseload is docketed under the following categories:

- Penal Law cases
- Vehicle and Traffic cases
- Civil Cases
- Village Code cases
- New York State Fire Prevention and Building Code

In the past year, over 7500 cases were handled by the Port Chester Justice Court. Approximately 75% of the activity before the court involved vehicle and traffic parking enforcement matters. The village has a Traffic Violations Bureau that assists the Court in the disposition of traffic related offenses. The bureau window is open 8:00AM through 3:30PM on weekdays.

Professional administration and support

Westchester County Civil Service has provided for one exempt court clerk position for the Village of Port Chester. Day-to-day office management, as well as the coordination and organization of cases coming before the Port Chester Justice Court is the responsibility of a single court clerk. The work of the court clerk is highly specialized and complex. Knowledge of criminal law, civil law, court procedures, legal terminology and documents, as well as office management and staff supervision are all requisite attributes and skills. In keeping with the doctrine of separation of powers, the Justices are responsible for supervising the work of the court clerk and overseeing the operations of the department. Professional training and education are provided by the OCA, state and peer associations.

The Port Chester Court Clerk is assisted by a staff of seven (7) full-time employees who are assigned various administrative supporting roles according to their job classifications and the tasks at hand. All seven positions are held by employees who were appointed pursuant to Civil Service requirements for competitive positions. The ministerial and day to day responsibilities of the office are primarily administrative and financial.

Administrative responsibilities include maintaining all court files, creating and maintaining calendars and dockets; interacting with the general public; communicating and corresponding with prosecutors, attorneys, law enforcement agencies and other stakeholders. Financial responsibilities include receiving, receipting and recording all fines and bail received; making daily deposits, maintaining separate bank accounts for each justice, and reporting all transactional court activity monthly to the Office of the State Comptroller.

The Port Chester Court Clerk's office is open to the public from 9:00am to 3:30pm on Mondays, Wednesdays and Fridays; and from 8:00am to 3:30pm on Tuesdays and Wednesdays. In addition to administrative support, the Village assigns constables to assist the Justices with facilitating matters as well as maintaining order and decorum.

Operational efficiency of the Port Chester Justice Court

There are approximately 1300 local justice courts in the State of New York. Three Westchester County courts—Port Chester, Harrison and Greenburgh—have consistently ranked among the top ten most active. The table below compares Port Chester's Justice Court to courts operating in the towns of Harrison and Town of Greenburgh and includes its size rank among the state's justice courts.

	2014		2015		2016		2017		2018	
	Rev \$M	Rank	Rev \$M	Rank	Rev \$M	Rank	Rev \$M	Rank	Rev \$M	Rank
Greenburgh	\$2.89	1	\$2.57	8	\$2.89	6	\$2.75	7	\$2.45	8
Harrison	\$2.79	3	\$2.82	5	\$4.13	1	\$3.93	1	\$3.26	3
Port Chester	\$2.72	5	\$2.81	6	\$2.82	7	\$3.26	5	\$3.39	1

The Port Chester Justice Court is operating at a level of efficiency comparable to Harrison and Greenburgh. Despite having more transactional activity in 2018, Port Chester Justice Court has 10% fewer full-time staff available than Harrison, and 20% less than Greenburgh. In 2020, Harrison budgeted over \$16,000 for part-staff, while Greenburgh has budgeted over \$300,000. Port Chester budgeted \$0.

	Port Chester	Harrison	Greenburgh
Full time staff	8	9	10
Gross Wages (\$1,000)	\$798	\$832	\$871
FYE20 Total Operating Budget (\$1,000)*	\$1,105	\$999	\$1,724
2018 Gross Revenue (\$1,000)	\$3,386	\$3,255	\$2,454

*Operating budget does not include fringe benefits

Impacts of court dissolution

Retention of revenues

When a village justice court does not exist, violations of village ordinances and local laws are brought before the town justice court (see Village Law §3-301[2][a]; Uniform Justice Court Act §2101[i][1], [2]). In those circumstances the question of whether fines and penalties recovered for such violations are paid to the town or village is determined by the following general principles:

- “Except as otherwise provided by law, all fines and penalties imposed for the violation of a village local law, ordinance or regulation shall be the property of the village, whether or not the village has established the office of village justice.” (Village Law §4-411; see also UJCA §2021[1]).
- Violations under the Vehicle and Traffic Law. Speeding fines for violations of village speed limits adopted under the Vehicle and Traffic Law are payable to the town (see Vehicle and Traffic Law §1803[1][a], [b]).
- Parking fines and penalties for violations of village parking regulations are payable to the village (see Vehicle and Traffic Law §1803[1][b]). Violation of Vehicle and Traffic Law §306 (no inspection) and §402 (no plates) which occurs while a vehicle is parked on the public highways of this State shall constitute a parking violation (Vehicle and Traffic Law §§306[b], 402[6]).

Disposition of traffic violations bureau

The dissolution of the Village of Port Chester Justice Court would result in the dissolution of the village's traffic violations bureau. Chapter 112 of the Port Chester Village Code that establishes the bureau would be repealed*.

Code amendments

In addition to the repeal of Chapter 112 – Traffic Violations Bureau, the following revisions would be necessary:

- Repeal of Chapter 22- Court Constables;
- Repeal of Chapter 62- Justice Court (residency requirements)
- Repeal of The Police Court Act found within the Port Chester Charter.
- Other local codes will need to replace the term “village court” with “town court.”

Setting fines & fees

If the Town of Rye establishes a traffic violations bureau, the Justice Court must pre-designate the exact fines to be paid for the cases heard in the traffic violations bureau. Therefore, fines that the Town Traffic Violations Bureau must impose for guilty pleas to Village parking related offenses are prescribed by the Village Board and must be submitted to the Town Justices for acceptance and order.

The pre-determined fine must be within the statutory fine limitations for the offense. In general, a person convicted of a traffic infraction is punishable by a fine of not more than \$150 for the first conviction, not more than \$300 for a second conviction on a violation committed within 18 months of the first conviction, and not more than \$450 for a third conviction based on a violation committed within 18 months after the first conviction. Penalties on conviction for a traffic infraction established by local law, ordinance, order, rule, or regulation are prescribed by the locality but cannot exceed the maximum amounts set forth in the Vehicle and Traffic Law. Tickets returnable in a traffic violations bureau must include applicable schedules of penalties so a defendant may resolve the matter by mail.

* A town or village may, by local law or ordinance, authorize the Justice Court having jurisdiction over traffic cases arising in the town or village to establish a traffic violations bureau to assist in disposing traffic and parking infractions. A traffic violations bureau may be authorized to accept guilty pleas to violations of traffic and parking laws, ordinances, rules, and regulations. A traffic violations bureau cannot accept guilty pleas to speeding offenses, misdemeanors, or felonies; these matters must come before the court itself. Persons who plead not guilty to traffic infractions are entitled to a trial under the procedures set forth in the CPL and VTL.

Impacts on court administration

Depending on their form of incorporation, villages can provide for the appointment of justices by the governing board. Town justices must be elected, however. NYS Town Law sets the number of elected Justices at two. (Town law section 20 subdivision 1). Home rule legislation may be required if the Town of Rye needs to increase the number of justices, as would likely be required if the village dissolved its justice court.

Re-establishing the Port Chester Justice Court under current law

Should the Village of Port Chester ever desire to re-establish its justice court, it would be compelled to do so under the auspices of NYS Village Law as well as the Uniform Justice Act. Among other nuances, under NYS Village Law justices are elected, not appointed as is currently the case in Port Chester. All the expenses of maintaining a village court, including the fees of a village constitute a village charge (Village Law §4-410(2)).

The Village of Port Chester presently has an appointed Village justice and two Associate Village justices, also appointed. The current judges hold a term that will expire on May 14, 2021. The Court staff also includes one full-time Court Clerk, four full-time Assistant Court Clerks, two full-time cashiers and one part-time cashier, a court reporter and a Spanish-speaking interpreter on an as-needed basis.

Facility modernization requirements



While the provision of Justice Court facilities generally is a matter of substantial local discretion, the NYS Office of Court Administration has established standards for local justice courts. These standards require that facilities should be at least minimally appropriate for the safe and effective holding of public court sessions and provide secure storage for paper, electronic, or microfilmed court records.

There is a recognized need to modernize the court facilities and offices at 350 Main Street whether or not the Village of Port Chester Justice Court continues to exist. Although state funds are available at times for such renovations, grant funds are not assured and the community must consider this possibility when exploring the proper structure of the local justice court or courts.



Fiscal impact of dissolving Village of Port Chester justice court

The tax cap and “transfers of function” calculations

While the tax cap makes it even more important for localities to ensure the cost-effectiveness of municipal services, eliminating or restructuring the local justice system does not necessarily mean a dollar-for-dollar savings against the tax cap. Under the tax cap statute, when the responsibility and associated costs of a local government function are transferred from one local government to another, the State Comptroller must determine the affected localities’ costs and savings attributable to the transfer for the first fiscal year following the transfer. The affected local governments are required to adjust their tax levy limits based on those costs and savings.

Dissolution yields net cost reduction for Village of Port Chester property tax payers

The cost of operating the Village of Port Chester court is estimated at \$1.48 million in the adopted FY2020-21 budget (including the estimated cost of benefits for court personnel). As fines and forfeitures anticipated total \$2.7 million, the courts are expected to be a net source of revenue for the village for FY21.

Historically, 83% of revenue to the Village of Port Chester Justice Court was local revenue (either town or village). See table below for the detail.

Port Chester Court Revenue	State	County	Local	Total ('19 Est)
2019	n/a	n/a	\$2.87	\$3.46
2018	\$0.40	\$0.08	\$2.90	\$3.39
2017	\$0.43	\$0.14	\$2.69	\$3.26
2016	\$0.46	\$0.09	\$2.27	\$2.82
2015	\$0.43	\$0.06	\$2.31	\$2.81
2014	\$0.41	\$0.07	\$2.25	\$2.72
2013	\$0.38	\$0.07	\$2.02	\$2.47
2012	\$0.30	\$0.05	\$2.07	\$2.42
2011	\$0.36	\$0.05	\$1.84	\$2.24

Source: Office of NYS Comptroller

Disposition of fines & fees after dissolution

Except as otherwise provided by law, all fines and penalties imposed for a violation of a village local law, ordinance or regulation shall be the property of the village, whether or not the village has established the office of village justice.* One of the exceptions to this rule concerns the disposition of fines or penalties for traffic offenses under §1803 of the Vehicle and Traffic Law ("VTL") (Village Law §4-411). Vehicle and Traffic Law §1803(1)(b) establishes a formula for the distribution of all such fines and penalties collected for violations of the VTL "or any act relating to the use of highways by motor vehicles or trailers" occurring within villages.+‡

Additionally, villages are entitled to receive certain fees for the services of the village court in criminal actions and other proceedings (General Municipal Law ("GML") §99-1). Village courts are also entitled to fees from deposits of bail money in certain proceedings (GML §99-m). See also UJCA §1911 establishing a fee schedule payable to the clerk of a village court in civil matters.

CGR's analysis of Port Chester Justice Court revenue for 2019 shows \$2.2 million in parking fines and an additional \$0.2 million in fines for violation of various village ordinances. These revenues would have been retained by the village had the court been dissolved in 2019. The additional local revenue—about \$0.5 million—would have been retained by the Town of Rye Justice Court.

Estimated net impact for FY21

** Section 4-411 of Village Law: <https://www.nysenate.gov/legislation/laws/VIL/4-411>

+ Title VII of the Vehicle and Traffic Law entitled "Rules of the Road" includes numerous violations such as obedience to traffic signals, passing, rights of way, pedestrians' rights and duties.

‡ Notwithstanding the foregoing, villages are subject to a maximum recovery of \$5.00 per capita for speeding fines, penalties and forfeitures (VTL §1803(5)). Amounts in excess of that limit go into the State's general fund.

Recall that budgeted FY21 justice court costs are \$1.5 million (with benefits). Budgeted revenue to the court is \$2.7 million. If the share of local revenue retained by the village according to the 2019 distribution of fines and fees between town and village were to apply, 83%, the village share would be \$2.2 million.

Given these assumptions, the dissolution of the village court in FY21 would result in a loss of revenue of about \$0.5 million, much outweighed by a loss in expense of \$1.5 million, leaving Port Chester taxpayers with an aggregate tax bill that is smaller by a million dollars, three percent of the budgeted \$30 million tax levy

It is important to note that village taxpayers are also town taxpayers. The Town of Rye may change the structure of the enlarged Town Justice Court, achieving efficiencies not realized by the current structure. This is not a management study of the proposed town court, however, and therefore we assume that the current operating costs of the village court as directly assumed by the enlarged town court.

Dissolution of the village court therefore shifts \$1.5 million in cost but also \$0.5 million in revenue for a new negative impact on town taxpayers of about \$1.0 million. As the Port Chester tax base is nearly 40% of the tax base of the entire town (2019 Roll), village taxpayers' \$1.0 million savings in village taxes is offset by an increase in town taxes of about \$0.4 million in higher town taxes. The total property tax liability of village taxpayers falls by \$0.6 million.

Case Study: 2012 Dissolution of the Village of Ossining Justice Court

Pre-merger study*



On January 1, 2012, the Village of Ossining officially dissolved its justice court and the function was absorbed entirely by the Town of Ossining Court. The consolidation came as the result of local (*i.e.* Town and Village) legislative action and, because the Village of Ossining is a charter village, special enabling legislative action by the State of New York†. The village and town Boards jointly decided to pursue this move to increase efficiency and taxpayer savings, as well as to improve management and oversight.

Under the consolidated framework, the permanent staff and caseload from the village was transferred to the town, aside from one probationary worker who was transitioned to a position in another community. The village's appointed judges did not move to the town because the town justices are elected positions. Employee and caseload scheduling became the responsibility of the town justices. To compensate for the consolidated caseload, election of a third town justice took place in November 2011.

The following outline shows employment and caseload figures for the Town and Village Courts as they functioned through 2011, as well as how they were anticipated to alter after shifting to the Town. The budget data presents additional details regarding how the changes will be reflected in the Town budget.

* Center for Governmental Research. Municipal Services & Financial Overview, Town and Village of Ossining, NY. April 2012

† As the Village of Port Chester is also a charter village, dissolution in Port Chester may also require NYS legislative action. CGR is currently seeking an answer to this question.

Pre-merger structures

Village Court

- Total violations, 2010: 5,113
- Total parking tickets, 2010: 11,793
 - Office Staffing (5 FT/ 6PT)
 - 1 f/t court clerk, 1 f/t assistant court clerk, 1 f/t intermediate clerk (Spanish-speaking), 1 f/t intermediate clerk, 1 f/t intermediate account clerk, 6 p/t court attendants
 - 1 f/t justice, 1 acting justice (appointed)

Town Court

- Total violations, 2010: 4,378
- Office Staffing (2FT/ 2PT)
 - 2 f/t court clerks, 1 p/t intermediate clerk, 1 p/t police officer (used as needed)
 - 2 p/t justices

Consolidated Structure (effective January 1, 2012)

- Staffing
 - 3 p/t justices (elected)
 - 2 f/t court clerks
 - 1 f/t assistant court clerk
 - 1 f/t intermediate clerk (Spanish-speaking)
 - 1 f/t intermediate clerk
 - 1 f/t intermediate account clerk
 - 1 p/t intermediate clerk
 - Part-time court attendants/police officers (used as needed)

Town and Village documents related to the consolidation estimated the following impacts related to the court consolidation: The average parcel in the Village was expected to save \$36 from 2011 to 2012, while the average parcel in the unincorporated area is expected to incur additional costs of slightly more than \$17. This impact was the result of shifting approximately \$460,571 in additional costs from the Village budget to the Town budget, according to the Office of the State Comptroller.

2020 Update

The following outcomes were reported to the CGR team through an interview with Tom Warren, the Town Controller/Treasurer in May, 2020*.

- The Office of the NYS Comptroller (OSC) audited the impacts of the dissolution and consequently approved a higher tax cap margin for the Town and a lower one for the Village. Port Chester should anticipate the same result.
- The town was brought in early to negotiate the impacts of the dissolution. To keep harmonious intergovernmental relations it was viewed as a merger. An IMA was deemed necessary to protect village employees to the extent they could be protected. The town paid less and its benefits were less generous.
- The town board passed legislation in 2011 that authorized the town justice court to establish a Traffic Violations Bureau (TVB).
- Revenue to the village appears to have declined, possibly attributable to the town's TVB pursuing delinquent accounts with less intensity than was the case previously.
- Ossining Village charges the town for constables or police assigned to the town court.

Conclusion

The rationale for preserving separate town and village courts is unclear. The Town of Rye Justice Court serves all of the justice court needs of the Village of Rye Brook plus the actions pertaining to residents of Port Chester that are not addressed by the Village of Port Chester Justice Court. Rye Brook does not have a separate court.

* Conducted by Patricia Dwyer.

The key distinction between the Port Chester and Rye courts is that the village justices are appointed, and are possibly more integrated into the leadership structure of the village than the elected town justices. Were the village to dissolve the court, the trustees would lose both authority and responsibility over the judicial process.

The dissolution process would also have an impact on court personnel, many of whom have considerable tenure with the village.



The town is under no obligation to offer employment to current village employees, although the town and the village could merge the two courts through an intermunicipal agreement that could specify protection for current village court employees.

The powers of the two justice courts are equivalent. The two courts share a common space.

Revenue flows according to the particular violation. Revenue from parking violations and specific village ordinances flow to the two villages (Port Chester and Rye Brook) with the remainder of the local share going to the town.

There may be cost savings associated with eliminating the village court and sending all of its work to the town court. That was not the purpose of this study. Nor has the CGR team identified obvious redundancies that would be overcome through a dissolution of the village court.

What is clear is that Village of Port Chester budget and tax levy would decrease if village trustees were to eliminate the village justice court. Including the village taxpayers town tax liability, the annual savings from eliminating the court would be an estimated \$0.6 million, about 2% of the tax levy. The remaining Town of Rye taxpayers—thus Village of Rye Brook taxpayers—would pay the difference.

Unlike most villages in New York State, the Port Chester Justice Court was not established under State Village Law but pursuant to a special act of the State Legislature that is included in Port Chester's Village Charter. We note that Port Chester's judges are appointed not elected and have a two year, and not a four year term as in non-charter villages. Therefore, the legal process for

dissolution is unclear. We recommend that the Village Attorney be consulted for his opinion on this matter.

Note that the State of New York will eventually require an investment in the court facility. This could be a shared responsibility under an intermunicipal agreement.

Financial impact on Port Chester

The net cost of the Rye town court is borne by town taxpayers in proportion to the assessed values of each. Port Chester and Rye Brook are each 39% of assessed value with the remainder located in the Village of Mamaroneck in the neighborhood known as Rye Neck. As the total cost of the court is \$285k offset by \$110k in revenue, the net cost to Port Chester is about \$67k with Rye Brook paying \$68k and Rye Neck, \$39k.

In aggregate, the net savings for village taxpayers from dissolving the village court (including the impact on town taxes) would about \$.6 m.

A consolidated court may also be more efficient—savings of just 10% in combined court costs would total \$177k, reducing the total tax burden of village taxpayers even more. Note that CGR's review did not identify inefficiencies but wish to recognize that unified management of both courts would likely identify cost saving measures over time.



GOVERNMENT EFFICIENCY & CONSOLIDATION PROGRAMS

Planning Memo

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New York State Division of Local Services—Local Government Efficiency (LGE) Grant Program

Deadline: The following is a breakdown of important dates related to this program
CFA Program – Overview below based on 2019 solicitation

- Application Deadline TBD via CFA cycle

Amount: The following is a breakdown of information related to program funding

- \$4,000,000 total funding available
- **Implementation Planning Maximum:** \$12,500 per participating local government, *not to exceed \$100,000*
 - 50% match requirement
- **Implementation Maximum:** \$200,000 per participating local government, *not to exceed \$100,000,000*
 - 10% match requirement

Eligible Applicants: The following entities are eligible to apply for funding through this program

- Municipalities;
- Counties;
- Local government entities;
- Sewer Authorities; and
- Boards of Cooperative Educational Services (BOCES).

Overview: This program assists local leaders with identifying best practices and finding new opportunities for financial savings and operational efficiencies. Proposal should address local government efficiency actions including: assessing the current services provided, understanding the future needs of the community, developing a cost-benefit assessment that includes residents' perceived value of services and their ultimate costs, and the final effects of implementation of the selected options. Projects that could address the grant priorities for functional consolidation, a local government efficiency plan, implementation of multi-year financial planning, and multi-agency funding to be most competitive. Priority is given to consolidating police, fire, and emergency medical services as well as projects that implement a planning project completed with LGE funds. The following is a breakdown of eligible expenses:

- Legal and consultant services;
- Capital improvements and certain equipment purchases that are integral to implementation of a functional consolidation;

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- Transitional personnel costs, not to exceed three years, only where such expenses are integral to project implementation.

The following is a breakdown of ineligible expenses:

- Recurring expenses such as salaries and overhead
- Approved operating expense of the school district as defined in Education Law § 3606(1)(t).
- Additional ineligible expenses also include, but are not limited to: alcohol, out-of-state or out-of-country travel, prizes and awards, honoraria, lobbying expenses, fund-raising events/expenses, grant writing costs, fines and penalties, taxes, deficit funding, religious activities and refreshments for meetings.

Past Recipients: The following is a breakdown of past recipients:

- *(DOS LGE) Town of Clarkstown, Consolidated Purchasing Department Study* – The Town of Clarkstown will evaluate merging its purchasing department with Rockland County’s Division of Purchasing. The project will examine costs savings resulting from bulk purchasing and elimination of personnel through attrition and/or transfer. (\$25,000)
- *(DOS LGE P) Town of Patterson, Fire Services Consolidation Study* – The Town of Patterson will undertake a study to assess the possibility of consolidation or sharing of services of two fire departments in the district as a means of reducing the cost for fire protection services. (\$22,500)
- *(DOS LGE) Orange County, Dwaarkill Pine Bush Regional Water Supply Project* – The project will include construction of three production groundwater wells, a treatment building and installation of 10,500 feet of transmission main from the County-owned Dwaar Kill well field. (\$400,000)
- *(DOS LGE) Dutchess County Water and Wastewater Authority, Public Water System Consolidation* – The Town of Hyde Park will dissolve eight water and sewer districts and consolidate system ownership under the Dutchess County Water and Wastewater Authority. (\$404,619)

Website: <https://regionalcouncils.ny.gov/sites/default/files/2017ResourcesAvailable.pdf>

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NYS Department of State (DOS) – Municipal Restructuring Fund Program (MRF)

Deadline: The following is a breakdown of important dates related to this program

- Rolling Application Deadline

Amount: The following is a breakdown of information related to program funding

- Formula-based award amount
 - Awards are based on a project’s projected savings, using the following formula:
Projected Savings = 0.20 x (Net Present Value of the 10-year savings forecast for all the governments involved)
 - Maximum award is not to exceed the total cost of the project

Phase of Funding	Maximum Amount for a Project is based on the Tax Levy Impact and Implementation Award Calculation Worksheet
1. Project Charter	Upon completion of the Project Charter: 5% of the possible award amount (up to \$50,000) for Project Development (Phase 2)
2. Project Development	Upon completion of the Phase 2: 35% of the possible award amount for Small Scale Implementation (Phase 3)
3. Small Scale Implementation	Upon completion of the Phase 3: 60% of the possible award amount for Full Scale Implementation (Phase 4)
4. Full Scale Implementation	Upon completion of Phase 4: Remaining 10% of the possible award amount for project deliverables
Total:	100% = 0.20 x (Net Present Value of the 10-year savings forecast for all the governments involved)

Eligible Applicants: The following entities are eligible to apply for funding through this program

- Municipalities
- Counties
- School District

Please note: School districts may not apply for funding for SED eligible projects.

Overview: Through the Municipal Restructuring Fund (MRF) Program, the NYS Department of State assists agencies in consolidating their local governments to take advantage of shared services

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and property tax reductions. Funded programs may be at any stage in the process but must plan to markedly transform the delivery of services provided by their government to save costs. Throughout the multi-phase contract, review, and approval process the DOS will provide applicants technical assistance, document review sessions, and project clinics to develop the best possible project. A breakdown of eligible funding categories is below:

- **Venture Track:** This track will be used to develop the idea from the ground up, taking it through the project charter, project development, small scale implementation, and finally full-scale implementation.
- **Fast Track:** The Fast Track is intended to accelerate projects that have been developed and are at a later state of readiness but need financial and/or technical assistance to implement. These could be projects where feasibility studies or small-scale implementation have been completed. Projects should have already completed phase 3 Small Scale Implementation required benchmarks and be ready for full implementation.

Projects on the Venture Track will move through four phases: 1) Project Charter; 2) Project Development; 3) Small Scale Implementation; and 4) Full Scale Implementation. Applicants will have to complete each phase of the project and score at least the minimum point value required to receive reimbursements and be eligible to apply for the next phase.

- **Phase 1 Project Charter (30/50 points to proceed):** Applicants will evaluate the project viability and anticipated return on investment. Project Charter should:
 - Identify required resources and impediments or project success
 - Give estimates of costs and potential property tax reductions
 - Include a Tax Levy Impact and Implementation Award Calculation Worksheet
 - Include a Work Plan and Budget Form for the project
- **Phase 2 Project Development (18/20 points to proceed):** Applicants will build a plan based on the charter created in Phase 1. A plan will include risk management, change management, organizational change, and communications throughout the life of the project. Additionally, a list of assumptions must be brought forth and will be tested in the next phases, along with pilot projects and potential legal impediments.
- **Phase 3 Small Scale Implementation (24/30 points to proceed):** Applicants will pilot small elements of the project to test the assumptions made in phase 2. Once these assumptions are identified and tested, they will be reviewed by DOS. The results of the pilots will affect the Full-Scale Implementation.
- **Phase 4 Full Scale Implementation:** The complete execution of the project as described in the revised project and work plans.

Priority consideration will be given to applicants with the following order of precedence:

1. Fast Track projects, based on the largest percentage of savings;
2. Phase 4 projects, based on the largest percentage of savings;

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3. Phase 3 projects, based on the largest percentage of savings; and
4. Other phases based on application receipt date.

Eligible expenses include:

- Consultant services;
- Capital improvements and equipment purchases necessary for a functional consolidation; and
- Direct expenses of the project, including personal service and non-personal service costs.

Ineligible expenses include:

- Indirect costs;
- Costs that are eligible under any provision of the Education Law;
- Operating expenses of a school district; and
- Expenses covered funded through:
 - Shared Municipal Services Incentive;
 - Local Government Efficiency;
 - Citizens Reorganization Empowerment Grant;
 - Local Government Performance and Efficiency Program;
 - Financial Restructuring Board; or
 - Municipal Restructuring Funds.

Past Recipients: The following entities have previously received funding through this program

- (2016) Town of Chemung, NY: Phase 4 Highway Department Consolidation. (\$250,538)
- (2016) Tompkins County, NY: Phase 1 County/City Police Consolidation. (\$50,000)
- (2016) Village of Watkins Glen, NY: Phase 1 Regional Wastewater System. (\$7,408)

Website: <https://www.dos.ny.gov/funding/rfa-15-mrf-27/index.html>

FAQ

1. Are there any mandatory first-steps before the submission deadline?
 - a. Prior to either Small Scale or Full-Scale Implementation, all involved local governments, school districts, and other municipal entities are required to include a resolution confirming the governing board's support for the project.
2. Is there a mandatory Technical Assistance Session or Workshop?
 - a. Not stated.
3. What partnerships are required? How must the partnership be demonstrated?
 - a. All partners involved need to provide, at minimum, a letter of support for the proposal.
4. How do you submit the application?

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- a. Email: MRFprogram@dos.ny.gov
- 5. How are funds distributed?
 - a. Reimbursement.
- 6. If there is a financial match requirement:
 - a. No match required.
- 7. When was the application open/announced?
 - a. January 2018.
- 8. Is the applicant able to submit more than one grant application for consideration?
 - a. One application limit.
- 9. Is there a clear contact email or phone number for the program?
 - a. Kyle Wilber
Program Manager
(518) 473-3355
mrfprogram@dos.ny.gov