

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members
FROM: Scott D. Pickup, City Manager
SUBJECT: Enclosures - Council Packet
DATE: August 27, 2010

Enclosed with this memorandum are the following items:

- 8-20 Litigation Update from the Corporation Counsel dated August 27, 2010.
- 8-21 Acting Police Commissioner
- 8-22 Playland RFP
- 8-23 Playland professional services
- 8-24 Child Car seat Checks
- 8-25 United Water Hearing Information
- 8-26 Meeting notice for the week of August 30, 2010 is available on the City website www.ryeny.gov under Calendar.

SDP/emm
Encs.

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Interim Corporation Counsel
SUBJECT: Litigation Update
DATE: August 27, 2010

CLAIMS

A Notice of Claim has been filed by MetLife Auto & Home Insurance Company as subrogee of Diane Moore. The notice states that Ms. Moore's 2010 Honda automobile was damaged when a fallen tree branch hit it while it was parked in the City employee parking lot. The claim has been forwarded to our insurance carrier.

LITIGATION

OSBORN v. CITY OF RYE

No new developments.

BEAVER SWAMP BROOK – (DEC Administrative proceeding)

No new developments.

151 PURCHASE STREET ASSOCIATES V. CITY OF RYE, ET AL.

No new developments.

SCHUBERT V. CITY OF RYE, ET AL.

No new developments.

R.B. CONWAY V. CITY OF RYE

The City served reply papers in further support of its motion for summary judgment this week.

DELLI PAOLI V. ZONING BOARD OF APPEALS

No new developments.

SHEW v. CITY OF RYE

No new developments.

MOLLOY v. PLANNING COMMISSION

In a 15-page decision, Judge Barbara G. Zambelli has denied and dismissed petitioners' Article 78 petition, which sought to overturn a Planning Commission decision to deny a wetland permit. The motion to intervene brought by Raymond Tartaglione was also denied.

TOWNSEND v. BOARD OF APPEALS

No new developments.

PANETTA v. PLANNING COMMISSION

No new developments.

HEAL the HARBOR v. CITY OF RYE

No new developments.

SCHUBERT v. PLANNING COMMISSION, et al

No new developments.

CITY COURT

Routine calendar with no unusual dispositions.

Respectfully submitted,



Kristen K. Wilson

Interim Corporation Counsel

KKW/dfn

PANETTA v. PLANNING COMMISSION

No new developments.

HEAL the HARBOR v. CITY OF RYE

No new developments.

SCHUBERT v. PLANNING COMMISSION, et al

No new developments.

CITY COURT

Routine calendar with no unusual dispositions.

Respectfully submitted,



Kristen K. Wilson
Interim Corporation Counsel

KKW/dfn



William R. Connors
Police Commissioner

POLICE DEPARTMENT

City of Rye, New York

21 McCullough Place

Rye, N. Y. 10580

Phone: (914) 967-1234

FAX: (914) 967-8341



August 27, 2010

Memorandum for: All Personnel

Subject: **ACTING POLICE COMMISSIONER 8/29/10 – 9/5/10**

I will be out of town on vacation from Sunday, August 29, 2010 to Sunday, September 5, 2010. During my absence, Detective Lieutenant Joseph A. Verille III will be designated Acting Police Commissioner.

A handwritten signature in cursive script that reads "William R. Connors".

William R. Connors
Police Commissioner

cc: City Manager

NEWS RELEASE

Ned McCormack, Communications Director (914) 995-2932

Contact: Lynne Smith (914) 995-3106; Peter Tartaglia (914) 864-7132

FOR IMMEDIATE RELEASE: Aug. 27, 2010

ASTORINO CALLS FOR VISIONARY PROPOSALS FOR PLAYLAND PROPERTY Formal “request for proposals” released

Visionary ideas – that’s what County Executive Robert P. Astorino said he is seeking from *developers* who are interested in presenting a plan for the future of Playland Park.

Astorino today released the RFP (Request for Proposals) that invites formal, detailed submissions for the use of the Long Island Sound property in the City of Rye, which includes an amusement park, boardwalk, beach, pool, and ice casino.

“Playland is a special place and a magnificent park that will always be part of the fabric of Westchester,” said Astorino. “But the time has come to reinvent Playland for the 21st century. The financial burden that the current operation has placed on taxpayers – annual, multi-million dollar losses, with no end in sight – is just no longer sustainable. Bold action is required to save Playland and this RFP is looking for ideas to position one of the greatest open spaces anywhere to thrive in the marketplace of today and the future.”

The RFP covers approximately 100 acres of the larger 280-acre Playland property. A critical feature is that its focus goes beyond the historic amusement park. Scenic vistas and a beautiful beach on Long Island Sound, an Olympic-size swimming pool, an extensive waterfront boardwalk, fishing piers, boating lake, dining and picnic areas, a proposed children’s museum, and an indoor ice skating rink, as well as the amusement park, can all be utilized, or not, in the plans submitted by developers. The only thing outside the bounds of the RFP is the Edith G. Read Wildlife Sanctuary.

“Previous attempts to solve Playland’s problems have faltered because their scope was limited to the amusement park,” Astorino said. “This RFP is essentially a blank sheet of paper that is looking for entrepreneurial imagination to unlock the full recreational and entertainment value of the property at large.”

MORE

The RFP is posted at the county's website at www.westchestergov.com/rfp. Formal proposals are due Feb. 10, 2011; the county estimates it would spend about three months reviewing these proposals. Under the RFP process, the county is not obligated to accept any of the plans proposed. Throughout the process, the public will have numerous opportunities to ask questions and give comments.

On Oct. 13, the county will hold an informational meeting at Playland for those interested in possibly submitting a proposal. Tours will also be available by appointment with the Parks Department. Ideas may include keeping all or part of the amusement park or proposing an entirely new use for the property. However, the RFP does prohibit residential use.

Since 1928, the focal point of the property has been the amusement park, which today has 50 major rides and attractions and covers about 30 acres. The prototype of today's modern theme parks, Playland was the country's first totally planned amusement park. Seven of its rides and several of its art deco buildings are designated as National Historic Landmarks.

Westchester County currently owns and operates the park – one of only a handful of governmental bodies to be in the amusement park business. With attendance steadily dropping over the past five years -- from 1 million in 2005 to 615,000 last year -- park ownership has translated into greater taxpayer subsidies.

Westchester County is not necessarily looking to make a profit off Playland, although such an outcome would certainly be welcome. As is the case with its other parks, the county's interest is to provide broad access to a resource that enhances the quality of life of residents. The mission, therefore, is to balance access with affordability.

"I recognize that Playland is an emotional issue for many of us in Westchester, but I also think the vast majority agree that something needs to be done if we want to be fiscally responsible," Astorino said. "This is just the beginning of what will certainly be a long process. What's exciting is that we have a chance to invent the future."

International Theme Park Services, Inc.

2195 Victory Parkway • Cincinnati, Ohio 45206 • USA

513-381-6131 • FAX 513-381-2756

<http://www.interthemepark.com/> • e-mail: itps@interthemepark.com

Dennis Speigel
President

August 18, 2010

The Honorable Rob Astorino
County Executive
County of Westchester
148 Martine Avenue
White Plains, NY 10601-3327

Ms. Catherine Parker
Councilwoman
The City of Rye
City Hall, 3rd Floor
1051 Boston Post Road
Rye, NY 10580

Ms. Kathleen O'Connor
Acting Commissioner
Department of Parks, Recreation, &
Conservation
County of Westchester
25 Moore Avenue
Mt. Kisco, NY 10549

Mr. Charles Dorn, CCM
The Dorn Consulting Group
472 Grace Church Street
Rye, NY 10580

Re: Rye Playland

Dear Mr. Astorino, Ms. O'Connor, Ms. Parker, and Mr. Dorn,

We have read with great interest the recent articles concerning the future of Rye Playland. We can be helpful to you in evaluating the situation, sorting out the options, and in informing a decision that will best serve many constituencies.

Please allow me to introduce ourselves. I'm Dennis Speigel, President of International Theme Park Services, Inc. Our consulting firm has over 30 years of experience, serving 500 clients and projects, in over 40 countries. I have served as the Chairman of the International Association of Amusement Parks & Attractions (IAAPA), the Industry's leading global trade association. We have considerable experience in making evaluations, having guided many banks, investment banks, private equity funds, and hedge funds on their large investments throughout the parks and attractions industry. We have also represented one of the world's largest buyers and operators of theme parks globally, originating their purchase of 38 amusement parks and attractions in the United States for over 500 million dollars.

We know first-hand how a facility is best managed and what the metrics of success are at every level. While we are based in Cincinnati, we have our colleague, Howard Kahn, based on Long Island. Mr. Kahn was a past-president of the New York Parks & Attractions Association, a member of the Board of the IAAPA, served as Vice President of Sales for Madison Square Garden, and served as SVP&GM of Cendant Corporation's leisure businesses. He has collaborated with us for over a decade on transaction origination and turn-arounds throughout the industry.



International Convention on the Elimination of All Forms of Racial Discrimination

States Parties to this Convention undertake to eliminate racial discrimination in all its forms and to promote understanding between all races, and to secure the full and equal enjoyment of the rights and freedoms set forth in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Against Persons Belonging to Other Races, Nationalities or Ethnic Groups.

States Parties to this Convention undertake to condemn all propaganda and all organizations which are based on racial superiority or hatred, incite to racial discrimination, or engage in any of the practices mentioned in article 4, and to prevent, prohibit and suppress all such propaganda and organizations.

States Parties to this Convention undertake to prohibit and suppress all acts of racial discrimination, whether based on political, economic, social, cultural or religious grounds, and to prevent, prohibit and suppress all such acts.

States Parties to this Convention undertake to take effective measures to ensure that no individual or group of individuals is subjected to racial discrimination, and to ensure that all individuals are equal before the law and enjoy the same rights and freedoms.

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Rye Playland
August 18, 2010
Page 2

We welcome the opportunity to establish a dialogue and add value to your existing efforts. If you so desire we can provide you our Corporate Background book and references. Please let me know electronically and we will forward to you immediately. My email is dennisspeigel@interthemepark.com our corporate web site is www.interthemepark.com. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dennis Speigel', written over a large, faint circular watermark or stamp.

Dennis Speigel
President

cc: Howard Kahn, ITPS, NY



City of Rye

Child Car Seat Check Events

On

September 18, 2010

&

September 25, 2010

From 9am to 3pm

@

**Milton Firehouse
560 Milton Rd. Rye NY 10580**

Sign up at Rye Police Headquarters

21 McCullough Pl. Rye, NY 10580

Or call

914-967-1234 ext. 0

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

August 5, 2010

NOTICE OF PUBLIC STATEMENT HEARING ON
UNITED WATER WESTCHESTER, INC. - WATER RATES
(09-W-0828)

The New York State Public Service Commission (PSC or Commission) will hold public statement hearings, and otherwise invites public comments, on a proceeding investigating the request of United Water Westchester, Inc. (UWW) to increase its rates for water service. A Joint Proposal of the active parties in this case, UWW, Department of Public Service Staff (Staff) and the City of Rye and Village of Rye Brook, jointly, has been filed and is available on the Commission's web site at <http://www.dps.state.ny.us>. (From the homepage, click on "Water," then click on "Case 09-W-0828 United Water Westchester Water Rate Case.") A summary of the terms of the Joint Proposal, prepared by the active parties, is attached to this notice. Interested members of the public may provide their comments regarding this matter at a public statement hearing to be held as follows:

<u>Rye, N.Y.</u>	Thursday, August 26, 2010
	4:00 p.m.
	Rye City Hall
	1051 Boston Post Road
	Rye, New York 10580

The public will have an opportunity to present comments at the hearing before an administrative law judge assigned by the Commission to this case. It is not necessary to make an appointment in advance or to present written material in order to speak at the public statement hearing. Speakers will be called after completing a card requesting time to speak. Anyone who fills out a card prior to 4:00 p.m. will have an opportunity to speak. The hearing will remain open and will continue until everyone wishing to speak has been heard or other reasonable arrangements are made. All comments at the hearing will be transcribed and become part of the Commission formal record.

**CASE 09-W-0828 - UNITED WATER WESTCHESTER INC. RATE CASE
SUMMARY OF JOINT PROPOSAL**

Term

The Joint Proposal ("JP") covers the four years beginning November 1, 2010 through October 31, 2014.

Drivers

The rate increases over the four years are primarily the result of increased expenses related to plant investments over the last two years, resulting in additional expenses for depreciation, maintenance, property insurance and property taxes. Additionally, the United Water Westchester Inc. ("UWWC" or the "Company") has experienced increased expenses related to employees and purchased water.

Base Rate Increases (Appendix 4, Page 1)

The JP provides for the following base rate increases to earn a 10% annual equity return:

Year One - \$3.368 million (35.4%)
Year Two - \$0.337 million (2.6%)
Year Three - \$0.328 million (2.48%)
Year Four - \$0.399 million (2.94%)

Under the levelization method the ratepayer will see base rate increases as follows:

Year One - \$2.709 million (28.45%)¹
Year Two - \$0.700 million (5.73%)
Year Three - \$0.625 million (4.84%)
Year Four - \$0.399 million (2.94%)

The Company and New York State Department of Public Service Staff ("Staff") realize that the size of the Year One increase is considerable and have proposed the levelization method. Although not shown in the above levelization table, surcharges in Year Three of \$0.075 million and Year Four of \$0.376 million will be required.

Bill Impacts (Appendix 1, Page 1)

Under the JP the bill impact for the annual rate increases are as follows:

Year One - \$0.798 million (6.92%)
Year Two - \$0.899 million (7.29%)
Year Three - \$0.328 million (2.48%)
Year Four - \$0.399 million (2.94%)

Under the levelization method the bill impacts are as follows:

¹ In its initial testimony, UWWC requested a base rate increase of approximately \$4.1 million (42.8%) for Year One, which included roll-ins of various surcharges.

CASE 09-W-0828

Year One - \$0.700 million (6.07%)
Year Two - \$0.700 million (5.73%)
Year Three - \$0.700 million (5.42%)
Year Four - \$0.700 million (5.14%)

The levelization method eliminates the large spike in Year One. Instead the customers' bills will increase by a constant amount over the four-year rate plan.

Equity Ratio, Return on Equity ("ROE") and Earnings Sharing Mechanism

The Company and Staff agreed to an equity capitalization ratio of 45% and an equity return of 10.0%.

The Company will retain 75% of all earnings attributable to an ROE up to 11.0%, with the remaining 25% to be returned to ratepayers. Earnings between 11.0% and 11.5% will be shared equally between the Company and ratepayers. Ratepayers will receive 75% of earnings over 11.5%.

Underground Infrastructure Renewal Project ("UIRP")

Base rates for the each of the four years include: \$1.5 million in Year One and \$1.25 million annually in Year Two, Year Three and Year Four for UIRP costs, including, but not limited to, mains; pressure regulation and sub-metering; and \$180,000 annually for valve replacements. This is in addition to the forecasted amounts for Blanket Capital projects already built into base rates.

Revenue, Production Cost and Property Tax Cost Reconciliation ("RRC")

The JP implements an RRC, under which if production costs exceed their respective targets, recovery of purchased water costs will be at 100% of the excess amount, whereas purchased power and fixed costs will be recovered at 75% of their excess amounts. The Signatories also agreed to an 18% allowance for lost and unaccounted for water.

Property Taxes

The JP allows customers to pay only 85% of actual property taxes that exceed the specified target levels for each year of the rate plan. Likewise, customers receive 85% of any decreases in property taxes below the target levels, with the proviso that the Company will be permitted to retain the remaining 15% if it can successfully demonstrate that the reduction was attributable to the Company's efforts in aggressively pursuing property tax challenges.

Purchased Water WJWW Adjustment Surcharge ("PWWJ")

UWVC purchases approximately 40% of its water from Westchester Joint Water Works ("WJWW"). Therefore, the base rate increases includes purchased water costs from the WJWW at its current rate, which consists of 1) the New York City Water Board ("NYCWB") pass through; 2) an Excess Per Capita charge for water takes over the entitlement amount; and 3) a WJWW charge. The current WJWW rates will remain in base rates throughout the term of the rate plan until such time as the Company's base rates are changed by the New York State Public Service Commission ("Commission").

When WJWW increases the cost of water above rates effective July 1, 2010, either through the NYCWB increases automatically passed through or through an increase to the WJWW portion of the rate, UWVC will be authorized to utilize the PWWJ which will automatically go into effect on July 1 of each year or on the same date that WJWW will increase their rates to recover the incremental costs above the amounts included in base rates.

The JP also provides that the costs related to the study and eventual construction of an alternative to WJWW's Rye Lake filtration plant will be recovered through the WJWW.

Purchased Water Aquarion Connecticut Adjustment Surcharge ("PWCT")

UWVC purchases approximately 60% of its water from Aquarion Water Connecticut ("AWC"). Therefore, the base rate increases includes purchased water costs from AWC at its current rate, which will remain in base rates throughout the term of the Rate Plan until such time as the Company's base rates are changed by the Commission.

When AWC increases the cost of water above current rates, UWVC will be authorized to utilize the PWCT, which will automatically go into effect on the date of said increase, to recover the incremental increase above the amounts included in base rates. The PWCT modifies the current "On-Going" surcharge to immediately recover increases in the AWC rates above the amounts embedded in base rates through this proceeding.

Pension and Other Post-Employment Benefits ("OPEBs")

The Company will continue to be subject to the Pension Policy Statement. The amount of Pension and OPEB expenses included in base rates is in accordance with the Pension Policy Statement.

Revenue Allocation and Rate Design

In Year One, approximately \$2.1 million in revenues are collected through the existing Metropolitan Transit Authority. Income Tax Based, WJWW Purchased Water, and AWC surcharges will be rolled into base rates. Since public fire protection customers are exempt from paying the AWC Purchased Water surcharge, no revenue collected through this surcharge will be allocated to public fire protection customers.

In Years Two, Three and Four, base rates for all service classifications will increase by 7.29%, 2.48%, and 2.94%, respectively.

CASE 09-W-0828

The Company will also establish a late payment charge ("LPC") of 1-1/2% per month on all delinquent bills beginning on the effective date of Year One.

A new deferred purchased water surcharge designed to recover an estimated \$780,000 over a three-year period will be implemented on the effective date of Year One. The surcharge is necessary to recover increases in costs of purchased water from WJWW for the period from July 1, 2008 through the Year One effective date.

Amortizations and Other Issues

The Company will amortize rate case expense over four years; and tank painting expense and deferred pension/OPEB expense over three years.

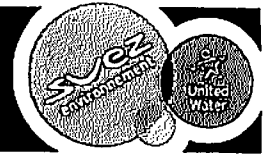
Outreach and Education ("O&E")

The Company agreed to continue its O&E program to increase awareness and understanding of water issues, policies, and initiatives such as water quality, cost, system improvements, conservation techniques, customer rights, and customer service matters.

Stay-Out Provision

With one exception, the Company will refrain from filing a rate case in which rates would go into effect before November 1, 2014. The exception is that the Company is allowed to file for temporary rates to preserve its financial integrity.

ALB-103507



United Water Westchester Inc.
NYSPSC Public Hearing
August 26, 2010

Remarks by Michael J. Pointing
Vice President and General Manager
United Water Westchester Inc.

Thank you for joining us today here in the City of Rye in Westchester County. As you may know, the former Aquarion Water Company of New York Inc. was purchased by United Water on April 30, 2007 and renamed United Water Westchester Inc. The New York Public Service Commission approved the purchase on April 18, 2007. United Water Westchester operates in the City of Rye and the villages of Rye Brook and Port Chester in Westchester County, New York, and serves slightly fewer than twelve thousand five hundred (12,500) customers.

The agreement that has been reached under a Joint Proposal now is a four-year rate agreement and part of the first rate filing for United Water Westchester since its acquisition in 2007.

Since the acquisition was executed, United Water Westchester has worked hard to make a number of improvements and upgrades to its system. Customers have benefited in a number of ways:



- United Water Westchester has invested approximately \$3.5 million in utility plant. This investment is comprised of water mains, lead service line replacements, meter replacements, new development work and water main relocations in conjunction with municipal drainage improvement projects.
- United Water Westchester has also upgraded its Supervisory Control and Data Acquisition ("SCADA") system to integrate it with the existing United Water New Rochelle SCADA system to take advantage of the close proximity of both companies through remote monitoring which reduces the need for additional employees.
- United Water Westchester has been able to keep operating costs such as rent, transportation and staff under control by sharing these costs with our sister company United Water New Rochelle. This has provided a significant benefit in keeping your water rates in check.
- United Water Westchester is also currently completing a program to install additional interconnection meters that will report real time flow and usage data via our SCADA system. This will help enable United Water Westchester to reduce non-revenue water by continuously monitoring system flows and providing real time changes that



can be used to spot large leaks as they happen. These investments are providing a more reliable service to customers, improving efficiency using automated SCADA systems and starting the foundation work to reduce lost and unaccounted for water.

We have worked diligently with Department of Public Service Staff and interveners during the past few months to move the rate proceeding process forward in the best manner possible.

The final Joint Proposal document is supported by United Water Westchester, the City of Rye, the Village of Rye Brook and the Staff of the New York State Department of Public Service. It represents

a fair compromise that provides excellent value to the consumers that includes significant capital investments to further maintain and improve system infrastructure and increase reliability. In fact, United Water Westchester will be investing \$1.25 million each and every rate year in pipe replacement or rehabilitation for pressure and fire flow improvements.

Water service remains a great value

According to the United States Environmental Protection Agency, water suppliers across the nation will have to spend more than \$250 billion on infrastructure



improvements over the next 20 years to continue to meet the ever-increasing, stringent water quality standards.

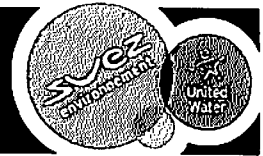
Despite the prospective rate increase, water is generally still a bargain compared to other utilities, such as electricity and phone service. In fact, according to the United States Congressional Budget Office, combined water and sewer bills nationally average only about 0.5% of household income. When compared to the cost of other utilities and household needs, water remains an exceptional value. The average gas and electric customer bill is around \$3,300 and represents about 7% of a customer's average income.

And, despite the increase, our customers will have their water brought to their tap every day for less than one penny a gallon. That's a pretty good value when you stop to think about it.

Customers can offset the effect of the potential increase by taking advantage of our aggressive water conservation program designed to encourage customers to save money and help the environment. In addition to selling indoor and outdoor water conservation kits

for \$5, the company also promotes water efficient landscaping – called xeriscape.

In addition, United Water offers a program called UW Cares, which assists low income customers and those



customers who have fallen behind on their bills due to a temporary crisis.

Based on the willingness we have shown to commit both economically and operationally to higher performance standards and the rising costs to operate and maintain the system, I believe that United Water Westchester has clearly demonstrated its need for rate relief.

We fully understand how important a safe, reliable supply of water is to the communities we serve, especially for our customers that rely on our water service for their daily needs.

From United Water's perspective, the importance of this Joint Proposal is that it will enable the communities we serve to continue to prosper and grow with the knowledge that a reliable, safe supply of water will be available.

Thank you.