

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Scott D. Pickup, City Manager

SUBJECT: Enclosures - Council Packet

DATE: February 4, 2011

Enclosed with this memorandum are the following items:

- 2-1 Letter from Howard Permut, President Metro-North Railroad, received February 3, 2011 regarding reduced New Haven Line service effective February 7 through March 4.
- 2-2 Memorandum from Commissioner Connors dated January 28, 2011 in response to Council member questions on Bay Constables.
- 2-3 Legal Department Update from the Corporation Counsel dated February 4, 2011.
- 2-4 Letter from Robert Hoch, Cablevision Director of Government Affairs, dated January 28, 2011 regarding the repositioning of the Travel Channel.
- 2-5 New York Times article from the edition of January 27, 2011 entitled "*Moody's to Factor Pension Gaps in States' Ratings*".
- 2-6 An article from the February, 2011 edition of SKI magazine entitled "*Thanks, Ralph*" in memory of Ralph Damiano, after whom Rye's recreational center is named.
- 2-7 Meeting notice for the week of February 7, 2011 is available on the City website [www.ryeny.gov](http://www.ryeny.gov) under Calendar.

# **An Important Message From Metro-North President Howard Permut On Reduced New Haven Line Service**

---

## **To Our New Haven Line Customers**

The extreme winter weather's repeated pummeling of the region has had a devastating impact on our New Haven Line.

Significant car shortages due to record-breaking amounts of snow and extreme cold have forced us to operate all our trains with fewer than scheduled cars. We have also had to cancel trains which exacerbate the problem and reduce the reliability of your commute.

The situation is dire. On a daily basis, there are close to 150 (40%) cars out of service on the New Haven Line. Our employees are working around-the-clock to get damaged equipment back into service. However, with each new weather event, more weather-damaged cars arrive in our shops in need of repair. The service we have been providing has been far less than what you have come to expect from us and we strive to provide you. It is time for us to take additional steps to improve our reliability.

The problems with our fleet created by its age—almost 70 percent of our electric fleet is over 40 years old—and the unprecedented winter weather are numerous. The cars were designed in a manner that made key components extremely vulnerable to snow. These components include:

- Traction motors, which must be repaired or replaced – a job that routinely takes six or more hours to complete.
- Brakes, which freeze and get stuck from the extreme cold.
- Doors, which won't close properly because the snow and ice that gets inside the door pockets prevents them from opening or closing on command.

Further complicating our efforts is the fact that shop space is limited. Our employees do not let this limitation stop them, working outside the shops, crawling under cars in the snow and extreme cold to repair components. The work is demanding, and progress is slow and hard won. Every day repaired equipment goes into service, and every day more weather damaged cars arrive in need of repair.

Crews have also focused their efforts on removing snow from pantographs on top of rail cars, digging out our rail yards, and clearing snow and ice from track switches.

Another factor working against us is the line's aging infrastructure. A significant portion of the catenary on the New Haven Line is over 100 years old. Further, we currently have tracks out of service to replace this system, which severely limits our operating flexibility and creates additional delays. And the line's equally old movable bridges tend not to move as well when impacted by the cold and snow.

*over*

The arrival of the new M8 rail cars will improve this situation in the future. At this point you may be wondering when that might be. We assure you that the testing of the new M8 pilot cars continues; however this is a highly complex car with much computer technology. As we identify problems in testing---mostly related to complex software---we effect a fix and need to retest, and the testing has been delayed by the snowstorms. While we are disappointed with the progress in getting these cars into revenue service, the process cannot be rushed. We will put the cars into revenue service when we are confident that they operate both safely and reliably, and we remain hopeful that this will occur in the first quarter of 2011.

**Given our continuing equipment shortages and the need to improve reliability of our service, we have issued a Reduced Winter Schedule, effective February 7 through March 4, which is attached. This schedule reduces weekday AM and PM peak service by approximately 10 percent. A Sunday Schedule will be in effect both Saturdays and Sundays beginning February 5.**

In developing this schedule, we have taken a number of factors into account, including the number of cars available for service, ridership patterns and our ability to operate the new schedule reliably.

The schedule is available on our website at [www.mta.info/mnr](http://www.mta.info/mnr) on Metro-North's schedules page (in the interactive schedule and in PDF form), and on Metro-North Train Time. Our train crews and customer service representatives will be available to assist you, answer questions and make sure you are as comfortable as possible during your crowded commute. You can also contact our Customer Information Center at 212-532-4900.

I am well aware that we are not offering the full complement of service on which you have come to rely. There will be crowding on trains and reliability of the service will be difficult to maintain. You want us to revert to our regular schedule as soon as possible. So do we. Although we are unable to do that as quickly as either you or we would want, we are working toward that goal.

Please look for service updates via our website or by signing up for email alerts at [www.mta.info/mnr](http://www.mta.info/mnr).

Again, we regret any inconvenience you may have experienced and appreciate your patience during what has been a very frustrating period for us all.

Sincerely,



Howard Permut  
President, MTA Metro-North Railroad



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



January 28, 2011

Memorandum for: Scott D. Pickup, City Manager

Subject: **COUNCIL MEMBER QUESTIONS RE: BAY CONSTABLES**

Responses to questions posed by Councilman Filippi regarding Bay Constables are provided below:

*"Can we have a brief run down on the difference between a bay constable & PO on the boat? Such as who can write tickets etc?"*

*Additionally what are the requirements for a bay constable and can we have more people join this force?"*

There are approximately 150 bay constables in New York State, primarily in the Southeast part of the state: Nassau, Suffolk, Rockland and Westchester counties. In the early 1800's in the eastern towns of Long Island, Bay Constables were elected to two year terms to protect the shellfish beds on the Great South Bay. In 1982, for the purpose of enforcement of the conservation laws related to fish and wild life and water fowl hunting, the position of Bay Constable was adopted by the Rye City Council. A Bay Constable has the same authority and powers as a New York State Environmental Conservation Officer; he or she is a peace officer under the New York State Criminal Procedure Law, and is authorized to arrest violators and issue summonses when acting pursuant to his or her special duties. A copy of the civil service job description for the position is attached.

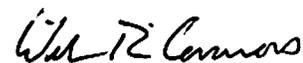
Bay Constables must complete, at a minimum, the New York State Municipal Police Training Council Basic Course for Part-time Peace officers, a forty hour course; Basic Firearms Training for Peace Officers, also forty hours; and the New York State Marine Law Enforcement Course, a forty hour course provided by the New York State Department of Parks, Recreation and Historic Preservation. They must possess a pistol license and at least fundamental boating skills. Additional training in first aid/CPR, navigation of the local waterways, search and rescue operations, and Department procedures is conducted by the Department. Prior to hiring, applicants undergo a psychological examination and drug screening.

The challenge in hiring Bay Constables is to identify candidates who possess the unique combination of required certifications and training; meet the Department's high standards for appointment; are willing to work for the modest salary offered for the position; and have sufficient flexibility in their full-time employment to be available for duty during the summer months. Although we have been fortunate in recent years to have a group of highly qualified and dedicated incumbents, in prior years these requirements have often resulted in a shallow hiring pool. Although theoretically the number of Bay Constables that could be hired is limited only by the availability of funding, the stringent requirements for the position impose practical limits. In addition, as part time/seasonal employees, their hours are limited by Westchester County guidelines; they can not work more than 17.5 hours per week if designated as part time employees, or more than four months per year if they are designated as seasonal employees.

The job specification for Bay Constables states "Supervision is not usually a function of this position." As I have indicated in prior correspondence, although the Police Officer assigned to the unit and designated as Officer In Charge performs routine operational and enforcement duties, the primary purpose of the assignment is to coordinate the unit's daily operations and to provide leadership, training, administrative and operational oversight, and accountability to the part-time seasonal staff by a full-time sworn member of the Department. Bay Constables can perform essentially all of the operational duties of a police officer within the context of their marine law enforcement duties. They cannot be assigned to routine patrol or traffic enforcement duties on land (absent emergency conditions; for example, upon conclusion of the swim portion of the Triathlon, we will typically redeploy Marine Unit personnel to assist in traffic control for the conclusion of the run). The police officer assigned to the unit provides direct supervision of the seasonal staff and daily operations, for which a stipend of seven per cent of salary during the boating season (April 1 to November 1) was negotiated with the union. Among other things, he or she oversees planning, scheduling, hiring, training, evaluation and selection of equipment, procurement, maintenance, and administrative tasks. He or she also provides for continuity of operations during the off season, for both administrative and operational issues. Many of the administrative responsibilities of the unit, including the preparation of equipment, setting and removal of navigational aids, and hiring and training of staff, are done during the Spring and Fall months. In addition, the Officer In Charge is the primary resource for any off season marine operations that occur – for example, flood rescues; pond or ice rescues; recovery of bodies, property, evidence, or obstructions in the water; and staging of equipment (inflatable boat/immersion suits/rescue equipment) in the event of storms or potential flooding conditions.

Submitted for your information.

WRC/wrc



William R. Connors  
Police Commissioner

## BAY CONSTABLE

**GENERAL STATEMENT OF DUTIES:** Performs marine patrol duties to insure and enforce codes, laws and ordinances governing waterways and conservation; does related work as required.

**DISTINGUISHING FEATURES OF THE CLASS:** Under the general supervision of the Police Department, the incumbent of this class enforces codes, laws, and ordinances governing boating safety and traffic, fishing, conservation and hunting which fall under the jurisdiction of the Police Department. Supervision is not usually a function of this position.

### **EXAMPLES OF WORK:** (Illustrative Only)

Patrols local waters and surrounding geographical area by boat or car to inspect permits (i.e., fishing, shell fishing, hunting permits);

Performs surveillance duties to assure code and law enforcement;

Investigates and documents evidence of violations;

Issues summonses as necessary;

Apprehends and arrests violators;

Prepares accusatory instruments, arrest warrants, supporting depositions for court submission;

Conducts search and rescue missions;

Aides and assists distressed boaters and swimmers;

Administers first aid as needed;

Works with other law enforcement agencies and U.S. Coast Guard;

Conducts harbor mooring inspections;

Prepares census figures (i.e., fish, wildlife, boat);

Instructs Young Boaters Safety Course and New York State Hunters Safety Course.

REQUIRED KNOWLEDGE, SKILLS, ABILITIES AND ATTRIBUTES: Thorough knowledge of search and rescue procedures; good knowledge of the codes and laws governing the use of local waters; good knowledge of the geography of the municipality; knowledge of small boat handling and operation; knowledge of first aid and CPR procedures; ability to get along well with the general public; ability to interpret codes, laws and regulations; good judgment; physical agility; physical condition commensurate with the duties of the position.

MINIMUM ACCEPTABLE TRAINING AND EXPERIENCE:

1. Completion of Municipal Police Training Councils minimum training requirements for part time Peace Officers (40 hours);
2. Recreational Watercraft Law Enforcement (35 hours);
3. New York State Environmental and Conservation Law (20 hours);
4. Search and Rescue Methods and Procedures (20 hours);
5. Boat Handling and Seamanship (20 hours);
6. Standard First Aid and C.P.R. (30 hours).

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Rye City Council  
FROM: Kristen K. Wilson, Corporation Counsel  
SUBJECT: Litigation Update  
DATE: February 4, 2011

**LITIGATION**

**FEDERICI v. CITY OF RYE, et al**

The attorney representing the City's insurance carrier has informed us that plaintiff has reached a settlement with a co-defendant in this action that claims disability discrimination and sex/gender harassment. It is expected that the City will be released from any and all claims as part of that settlement and no monetary contribution will be required on the part of the City. The City has moved for Summary Judgment in this case and will not withdraw that motion until a Stipulation of Settlement has been signed.

**BEAVER SWAMP BROOK – (DEC Administrative proceeding)**

No new developments.

**SCHUBERT V. CITY OF RYE, ET AL.**

No new developments.

**R.B. CONWAY V. CITY OF RYE**

No New developments.

**DELLI PAOLI V. ZONING BOARD OF APPEALS**

No new developments.

**SHEW v. CITY OF RYE**

No New developments.

**MOLLOY v. PLANNING COMMISSION**

No new developments.

**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*

Kristen K. Wilson  
Corporation Counsel

KKW/dfn



ROBERT HOCH, DIRECTOR  
GOVERNMENT AFFAIRS  
(914) 378-4515 PHONE  
(914) 909-0207 FAX  
rhoch@cablevision.com

VIA FACSIMILE & USPS  
914-967-4604

January 28, 2011

The Honorable Douglas French, Mayor  
City of Rye  
1051 Boston Post Road  
Rye, New York 10580-2996

Re: **Travel Channel Repositioning**

Dear Mayor French:

Effective March 1, 2011, in accordance with a contractual obligation, the Travel Channel (SD and HD) will be repositioned from Channel 178 to Channel 96. Cable Card customers will find the Travel Channel HD on Channel 763.

In addition HBO2 SD will be moved from its current location on Channel 96 to Channel 310.

Customers will be notified through bill and on air messaging of the channel relocations. In addition, customers can always find their most current channel line-ups on our consumer website [www.optimum.com](http://www.optimum.com).

If you have any questions, as always please feel free to call me.

Sincerely,

Robert Hoch

The New York Times Reprints

This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers here or use the "Reprints" tool that appears next to any article. Visit [www.nytreprints.com](http://www.nytreprints.com) for samples and additional information. Order a reprint of this article now.



January 27, 2011

# Moody's to Factor Pension Gaps in States' Ratings

By MARY WILLIAMS WALSH

Moody's Investors Service has begun to recalculate the states' debt burdens in a way that includes unfunded pensions, something states and others have ardently resisted until now.

States do not now show their pension obligations — funded or not — on their audited financial statements. The board that issues accounting rules does not require them to. And while it has been working on possible changes to the pension accounting rules, investors have grown increasingly nervous about municipal bonds.

Moody's new approach may now turn the tide in favor of more disclosure. The ratings agency said that in the future, it will add states' unfunded pension obligations together with the value of their bonds, and consider the totals when rating their credit. The new approach will be more comparable to how the agency rates corporate debt and sovereign debt. Moody's did not indicate whether states' credit ratings may rise or fall.

Under its new method, Moody's found that the states with the biggest total indebtedness included Connecticut, Hawaii, Illinois, Kentucky, Massachusetts, Mississippi, New Jersey and Rhode Island. Puerto Rico also ranked high on the scale because its pension fund for public workers is so depleted that it has virtually become a pay-as-you-go plan, meaning each year's payments to retirees are essentially coming out of the budget each year.

Other big states that have had trouble balancing their budgets lately, like New York and California, tended to fare better in the new rankings. That is because Moody's counted only the unfunded portion of states' pension obligations. New York and California have tended to put more money into their state pension funds over the years, so they have somewhat smaller shortfalls.

In the past, Moody's looked at a state's level of bonded debt alone when assessing its creditworthiness. Pensions were considered "soft debt" and were considered separately from the bonds, using a different method.

"A more standard analysis would view both of these as liabilities that need to be paid and put stress on your operating budgets," said Robert Kurtter, managing director for public finance at Moody's.

In making the change, Moody's sidestepped a bitter, continuing debate about whether states and cities were accurately measuring their total pension obligations in the first place. In adding together the value of the states' bonds and their unfunded pensions, Moody's is using the pension values reported by the states. The shortfalls reported by the states greatly understate the scale of the problem, according to a number of independent researchers.

"Analysts and investors have to work with the information we have and draw their own conclusions about what the information shows," Mr. Kurtter said.

In a report that is being made available to clients on Thursday, Moody's acknowledges the controversy, pointing out that governments and corporations use very different methods to measure their total pension obligations. The government method allows public pension funds to credit themselves for the investment income, and the contributions, that they expect to receive in the future. It has come under intense criticism since 2008 because the expected investment returns have not materialized. Some states have not made the required contributions either.

Moody's noted in its report that it was going to keep using the states' own numbers, but said that if they were calculated differently, it "would likely lead to higher underfunded liabilities than are currently disclosed."

After adding up the values of each state's bonds and its unfunded pensions, Moody's compared the totals to each state's available resources, something it did in the past only for each state's bonds. It found that some relatively low-tax states, like Colorado and Illinois, had very high total debts compared with their revenue, suggesting that their finances could be improved by collecting more taxes.

But some states that are heavily indebted, like New Jersey, also have among the highest tax rates, suggesting other types of action may be needed to reduce their debt burdens.

Moody's also ranked total indebtedness on the basis of each state's total economic output and its population. It did not factor state promises for retiree health care into its analysis, on the thinking that pensions are a fixed debt like bonds, but retiree health plans can usually be renegotiated.

Mr. Kurtter said Moody's was not suggesting that any state was in such serious trouble that it was about to default on its bonds, something considered extremely unlikely by many analysts.

Some state officials have complained about a recent tendency to focus on total pension obligations, calling it a scare tactic by union opponents who want to abolish traditional pensions and make all state workers save for their own retirements.

Mr. Kurtter said Moody's had decided it was important to consider total unfunded pension obligations because they could contribute to current budget woes.

"These are really reflections of the budget stress that states and local governments are now feeling," he said. A company with too much debt could close its doors, he said, but governments do not have that option.

"They have a tax base. They have contractually obligated themselves to make these payments. These are part of the ongoing budget stress," he said. "It ultimately all comes back to being an operating cost. Addressing those problems is really what's happening today."

# On skiing

## Thanks, Ralph

It's never too late to repay a childhood debt.  
By David Healy

Four decades ago, two people changed my life. The first, Jean Claude Killy, came courtesy of ABC Television, which in 1968 broadcast the Winter Olympics in color for the first time. Seven years old and oblivious to this fact, I sat transfixed in front of our black and white Zenith as Killy dashed to three golds in Grenoble, France. Gravity-induced speed, the majesty of the Alps, cool racers—I instinctively knew that skiing was for me.

The second, Ralph Damiano, was a less likely but more tangible life-changer. Mr. Damiano, as we kids knew him, was Rye, N.Y.'s recreation director. He didn't discover our sport until late in life, and he wasn't a great skier. But like Killy, Ralph had an easy grin and a love of the mountains. He also knew the slopes were made for children, so every Saturday he rented enough buses to take scads of suburban kids north to the Catskills or Berkshires.

It was a different America then. Depending on the destination, 10 bucks or so bought you a bus ride, a group lesson and a lift ticket. When I was 9, my parents trusted Ralph enough to bundle me up and send me on the bus to the Sterling Forest ski area in Tuxedo, N.Y. It was sleeting when we arrived, but Mr. Damiano didn't hesitate, so neither did we.

It's easy to forget what it's like to be a newbie on skis. I fell three times just trying to ride the Poma lift. Fortunately, a ski instructor sent his young daughter over to show me the way, and I spent the day chasing her up and down the gentle hill. I went home in a trance, equally enthralled by talking to a *girl* for a whole day and by a sport that was to define my life.

Skiing with Mr. Damiano quickly

taught me a few key life lessons, including the value of hard work and saving money. After all, I needed to get on Mr. Damiano's bus each week. It also taught me about the wheels of fortune. In 1972, I missed out on what was to be the only Rye field trip to Davos, Switzerland. Needing some standard for inclusion, Ralph decreed you had to be an intermediate skier and a teenager to go. Just 12, I missed the cut. The group got treated to a three-foot blizzard that my old friends still tell stories about.

The snow gods didn't always smile on the rec trips. There was the bus crash on an icy road on the way to Catamount, N.Y., and the time my best friend lost his ski in a snowy ravine. But like anyone

**SKIING QUICKLY TAUGHT ME A LOT, INCLUDING THE VALUE OF HARD WORK AND SAVING MONEY. AFTER ALL, I NEEDED TO BE ON MR. DAMIANO'S BUS EACH WEEK.**

who spends time with kids in the mountains, Ralph knew how to handle adversity. "Don't worry," he told Charlie, "you'll get new skis. And the next time you come ski with me, it's free!"

Although I can still see the sparkle in his eyes, I realize now how little I knew about Mr. Damiano. And I have no idea if he ever knew how much he influenced me, and probably other kids. If not for



Mr. Damiano's ski trips, maybe I wouldn't be living in Vermont, where on occasion I still ski in the sleet and dream of three-foot storms in Davos.

My boyhood hometown, not far from Manhattan, was filled with doctors, ad execs and some captains of industry. Though Ralph's paycheck never measured up, his legacy is much greater. Town residents, much to their credit, recognized Ralph's contributions, and after his death in 1983, they held a parade and renamed the recreation center after him.

I like the idea that there will be a Ralph J. Damiano Recreation Center around for a while. But perhaps there's a better tribute, and that's to take some kids skiing this winter or to give the gift of a lesson or some gear.

During my ski-coaching years, my car overflowed with racers, especially on school snow days when we giggled in the knee-high at Mad River. And now there's Kenny and Jonathan, neighbor kids who spend Sunday afternoons plying the slopes and sometimes sipping hot chocolate in the lodge with my wife and me.

That was another one of Ralph's life lessons: Spread your joy around. "Pay it forward" in today's parlance. I know my life has been richer every time I've followed Ralph's lead. And I can only hope that others' will be, too. ●