

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Scott D. Pickup, City Manager

SUBJECT: Enclosures - Council Packet

DATE: April 1, 2011

Enclosed with this memorandum are the following items:

- 4-1 Notice from the Rotary Club of Port Chester-Rye Brook regarding a *Japan Relief Dinner* to be held at Tandoori, Taste of India in Port Chester on April 7, 2011 from 6:00 to 10:00 p.m.
- 4-2 Legal Department Update from the Corporation Counsel dated April 1, 2011.
- 4-3 Notice from the Rye/Soundshore CSA regarding fresh organic vegetables available for purchase at the Community Synagogue on Mondays from 3:30-6:30 p.m. from June through November.
- 4-4 Meeting notice for the week of April 4, 2011 is available on the City website www.ryeny.gov under Calendar.



The Rotary Club of Port Chester-Rye Brook

And

One World United and Virtuous

Invite you to

A Japan Relief Dinner

At Tandoori, Taste of India

163 North Main Street, Port Chester, NY (914)937-2727

6-10 PM, 7th of April 2011

All Food Donated by Tandoori Restaurant

A special thank you to The Council of Community Service

Help the victims of the Japanese Earthquake and Tsunami

Suggested contribution \$50 . 100% of proceeds will go to Japanese Victims



For more information call Roman Ciosek at 914-318-8612 or email at rciosek@aol.com

Port Chester-Rye Brook Rotary Foundation is a 501 (c) (3) charitable organization

400 King Street, Port Chester, NY 10573

www.portchesterryebrookrotary.org

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: April 1, 2011

CLAIMS

In February, I informed you that a notice of claim had been filed by William McKeever in connection with damage to the roof of a house owned by him at 147 Grace Church Street that was caused when a branch from a tree fell on it. The claim was rejected by our insurance carrier because the branch fell as a result of weather events of snow and ice that the City had no control over. This week a second notice of claim was filed on behalf of Mr. McKeever in connection with the same incident stating that the City had negligently maintained the tree. The claim has been forwarded to our insurance carrier.

LITIGATION

BEAVER SWAMP BROOK – (DEC Administrative proceeding)

The City is reviewing the draft permit to submit comments to DEC Region III and the ALJ. Via email dated April 1, 2011, Harrison indicated it had no issues with the draft permit and the conditions imposed upon it.

SCHUBERT V. CITY OF RYE, ET AL.

Federal District Court Judge Kenneth Karas rendered a 39 page Opinion and Order (the "Opinion") in which he granted Defendants' Motions to Dismiss. In his Opinion, Judge Karas noted the City Council repeatedly allowed Mr. Schubert to speak and was sympathetic towards his issues. In deciding Defendants' Motions to Dismiss, Judge Karas dismissed the official-capacity suits against the City Council and the Mayor. Judge Karas found that the Amended Complaint should be dismissed against all the Defendants (except Paul Shew who did not argue this) on the grounds of qualified immunity. Judge Karas also found that Plaintiffs' substantive and procedural due process rights were not violated and that Plaintiffs failed establish a First Amendment retaliation claim.

Judge Karas did not exercise supplemental jurisdiction of potential state law claims against Mr. Shew. In addition, Judge Karas did not grant Defendants' argument that the Amended Complaint should be dismissed on legislative immunity grounds.

The Opinion was entered on March 31, 2011 and Plaintiffs have thirty (30) days to file a Notice of Appeal.

R.B. CONWAY V. CITY OF RYE

The trial has been calendared for September 2011.

DELLI PAOLI V. ZONING BOARD OF APPEALS

The Zoning Board of Appeals is going to be reconsidering the application of Delli Paoli in light of the Supreme Court's recent decision.

SHEW v. CITY OF RYE

Plaintiff's opposition papers to the City's Motion to Dismiss were received this week. As part of his papers, Mr. Shew is requesting permission to file a late amended notice of claim.

MOLLOY v. PLANNING COMMISSION

Petitioner's Appellants appeal still pending.

PANETTA v. PLANNING COMMISSION

Petitioner's reply papers are due in early April.

SCHUBERT v. PLANNING COMMISSION, et al

The Notice of Entry was served on March 18, 2011. Plaintiffs have 30 days from March 18, 2011 to file and serve a Notice of Appeal. To date, no Notice of Appeal has been served.

CITY COURT

The oral argument in People v. Schwartz in front of the Appellate Term is calendared for April 7, 2011. In People v. Kuder Island Colony (seawall adjacent to Molloy Cottage), the matter was adjourned until April 22, 2011. In People v. Kuder Island Colony (building code violation), the owner of the cottage that is in disrepair appeared and has approximately 8 weeks to perform the necessary work and to have the necessary inspections and approval in place. The matter was adjourned until May 27, 2011.

Otherwise, City Court was a routine calendar with no unusual dispositions.

Respectfully submitted,



Kristen K. Wilson
Corporation Counsel

KKW/dfn



Fresh Farm Organic Vegetables Come to Rye

**Join Rye/Soundshore CSA
(Community Supported Agriculture)
at**

Community Synagogue

**Pickup: Mondays 3:30-6:30 pm
June - November 2011**

**\$499 vegetables (24 weeks)
\$249 fruit (20 weeks)**

Questions?

Ask Ellen at edeixler@aol.com

Sign up at www.stoneledgefarmny.org

Sponsored by The Green Team at Rye Community Synagogue