

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Scott D. Pickup, City Manager

SUBJECT: Enclosures - Council Packet

DATE: February 10, 2012

Enclosed with this memorandum are the following items:

- 2-4 Letter from County Legislator Judy Myers dated February 8, 2012 regarding the removal of the route 76 bus line in Rye.
- 2-5 Announcement from Westchester County Executive Robert P. Astorino regarding \$9 million that has been designated for seven capital projects to address chronic flooding in Westchester County.
- 2-6 Legal Department Update from the Corporation Counsel dated February 10, 2012.
- 2-7 Notice regarding a Rye City School District Board of Education meeting to be held on Tuesday, February 14, 2012 at 8:00 p.m. in the Rye Middle School Multipurpose Room.
- 2-8 Meeting notice for the week of February 13, 2012 is available on the City website www.ryeny.gov under Calendar.

Judith A. MyersLegislator, 7th District
Majority Whip

Committee Assignments:
 Budget & Appropriations
 Community Services
 Environment & Energy
 Government Operations
 Generational, Cultural & Ethnic Diversity
 Legislation
 Public Safety & Security

Received

FEB 09 2012

City Manager's Office
Rye, New York

The Honorable Doug French
 Rye City Mayor
 Rye City Council Members
 1051 Boston Post Road
 Rye, NY 10580

8 February 2012

Re: Case 30270 – Application of Liberty Lines Transit, Inc. for a deviation of its bus line service on Route 13 as well as requesting new service.

Doug
 Dear Mayor French and City Council Members,

As you are aware, Westchester County has moved not to renew a contract with the Rye-Port Chester Transit and the route 76 bus line that they served. Instead, the County has provided a deviation in an existing route 13 that covers approximately 2/3 of the old route but eliminates service to the Milton Point area of Rye. The County has applied to the NYS DOT for this deviation.

Please find, attached, a resolution proposed by me and Chairman Jenkins and passed by the Westchester County Board of Legislators on Monday February 6, 2012. This resolution protests the application of Liberty Lines Transit, Case 30270, for new service and deviation of Route 13 bus line UNLESS the deviation is amended to cover the full original route and schedule of the former bus route 76 (prior to service cuts made to the line in September 2011 and prior to the expiration of the 76 contract).

Additionally, my letter to NYS DOT Commissioner McDonald protesting this application has been referred to Acting Chief Administrative Law Judge Robert Rybak. He has requested a response by Liberty Lines and NYS DOT by February 22.

Any support you can provide with this matter would be greatly appreciated, especially by the residents of Milton Point who have been left stranded by this action.

Sincerely,

Judy Myers

Cc: Scott Pickup, City of Rye Manager



BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER,
STATE OF NEW YORK

INTRODUCED BY:
MYERS & JENKINS

Resolution No. 2 - 2012

WHEREAS, the Westchester County Board of Legislators has supported the development and operation of a mass transit system for passenger bus service within Westchester County since its inception in 1969, in order to promote efficient, affordable, and safe transportation through the County; and

WHEREAS, Chapters 188 and 596 of the Laws of Westchester County authorize the Board of Legislators to appropriate funds for mass transportation services, approve or amend bus franchises, and provide consent to bus routes; and

WHEREAS, this Honorable Board added funding to the 2012 Westchester County Budget for the specific purpose of continuing the service of bus Route 76 in the City of Rye and the Village of Port Chester and overrode County Executive Robert Astorino's line item veto of this funding, thereby ensuring sufficient financial support for the operation of Route 76; and

WHEREAS, despite this Honorable Board's clear intent to continue Route 76 bus service during 2012, County Executive Astorino has discontinued this service and has modified the existing bus Route 13 operated by Liberty Lines, which thus eliminates bus service to previously served residences and businesses in areas of the City of Rye and the Village of Port Chester by Route 76; and

WHEREAS, County Executive Astorino did not seek any input from the affected public or the review of this Honorable Board prior to imposing such changes; and

WHEREAS, Liberty Lines Transit, Inc., has recently submitted an application to the New York State Department of Transportation for authority to operate a new service to encompass a part of Route 76 and a deviation of existing Route 13 service; and

WHEREAS, the route changes proposed by Liberty Lines Transit, Inc., and supported by County Executive Astorino will not meet the public transportation needs of many residents, businesses, employees, and senior citizens in Rye, Port Chester, and elsewhere that depend on the bus service on a daily basis; and



**BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER,
STATE OF NEW YORK**

**INTRODUCED BY:
MYERS & JENKINS**

Resolution No. 2 - 2012

WHEREAS, the Westchester County Board of Legislators has supported the development and operation of a mass transit system for passenger bus service within Westchester County since its inception in 1969, in order to promote efficient, affordable, and safe transportation through the County; and

WHEREAS, Chapters 188 and 596 of the Laws of Westchester County authorize the Board of Legislators to appropriate funds for mass transportation services, approve or amend bus franchises, and provide consent to bus routes; and

WHEREAS, this Honorable Board added funding to the 2012 Westchester County Budget for the specific purpose of continuing the service of bus Route 76 in the City of Rye and the Village of Port Chester and overrode County Executive Robert Astorino's line item veto of this funding, thereby ensuring sufficient financial support for the operation of Route 76; and

WHEREAS, despite this Honorable Board's clear intent to continue Route 76 bus service during 2012, County Executive Astorino has discontinued this service and has modified the existing bus Route 13 operated by Liberty Lines, which thus eliminates bus service to previously served residences and businesses in areas of the City of Rye and the Village of Port Chester by Route 76; and

WHEREAS, County Executive Astorino did not seek any input from the affected public or the review of this Honorable Board prior to imposing such changes; and

WHEREAS, Liberty Lines Transit, Inc., has recently submitted an application to the New York State Department of Transportation for authority to operate a new service to encompass a part of Route 76 and a deviation of existing Route 13 service; and

WHEREAS, the route changes proposed by Liberty Lines Transit, Inc., and supported by County Executive Astorino will not meet the public transportation needs of many residents, businesses, employees, and senior citizens in Rye, Port Chester, and elsewhere that depend on the bus service on a daily basis; and

WHEREAS, the operation of the modified bus service without approval by the Westchester County Board of Legislators is contrary to Chapter 188 of the Laws of Westchester County; and

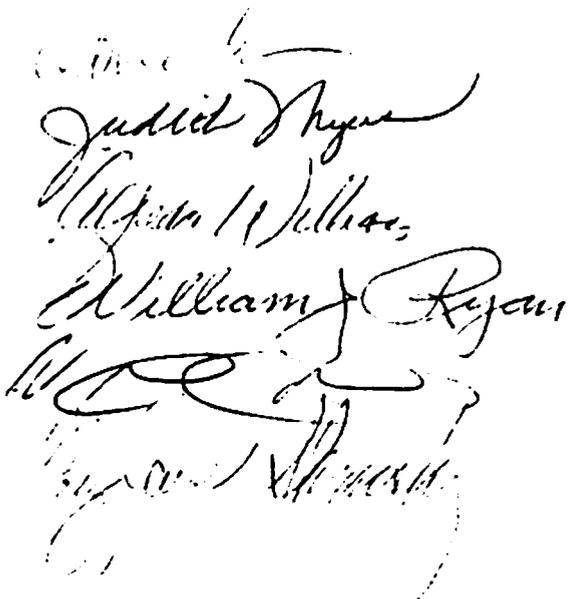
WHEREAS, the operation of the modified bus service as proposed by Liberty Lines Transit, Inc. is contrary to the 2012 Westchester County Budget; now therefore be it

RESOLVED, that the Westchester County Board of Legislators does hereby protest the application of Liberty Lines Transit, Inc., for new service and deviation of Route 13 bus line in Case No. C-30270 listed in the January 25, 2012 Weekly Bulletin of Motor Carrier Applications unless the deviation is amended to cover the full route and schedule of the former bus Route 76; and be it further

RESOLVED, that the Clerk of the Westchester County Board of Legislators is hereby authorized and directed to serve a certified copy of this resolution upon the Commissioner of Transportation of the State of New York to register this Board's protest, to request a public hearing, and to seek this Board's participation in Case No. C-30270; and be it further

RESOLVED, that the Clerk of the Board shall forward copies of this Resolution to New York State Governor Andrew Cuomo, New York State Assemblyman George Latimer, New York State Senator Suzi Oppenheimer, Westchester County Executive Robert Astorino, the City of Rye, and the Village of Port Chester so that the intent of this Honorable Board be widely known.

February 3, 2012
White Plains, New York



Handwritten signatures of board members, including Judith Thayer, William J. Ryan, and others.

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I HEREBY CERTIFY that I have compared the foregoing Resolution, Resolution No. 2 - 2012, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of said original Resolution, which was duly adopted by the Westchester County Board of Legislators, of said County on February 6, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said County Board of Legislators on this 6th day of February, 2012.



Tina Seckerson

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

(seal)

NEWS RELEASE

Ned McCormack, Communications Director (914) 995-2932

Contact: Jessica Proud (914) 995-2950

FOR IMMEDIATE RELEASE: February 9, 2012

**ASTORINO ANNOUNCES INITIATIVES TO TACKLE FLOODING
\$9 million in capital projects and expansion of “River Rescue” to target problem areas
First half of Bronx River stabilization project near County Center complete**

Westchester County Executive Robert P. Astorino announced today that \$9 million has been designated for seven capital projects to address chronic flooding along the Bronx River and Sound Shore. In addition, he announced two complementary initiatives: the expansion of the River Rescue program, a public-private partnership to engage volunteers in removing debris from the Bronx River, and the ongoing restoration of the banks of the Bronx River.

“The actions announced today are positive steps in alleviating flooding in some of our biggest problem areas,” said Astorino. “The causes of flooding in this county are a result of many complex factors that cannot be fixed overnight or without significant capital investments beyond the means of the county. But the county can and must continue to do whatever it can on its own. While I will continue meeting with state and federal officials to advocate for assistance, we will do everything we can at the county level, working with our municipalities, to target achievable projects to reduce and prevent future flooding.”

Four of the seven projects targeted by the Astorino administration for the \$9 million in capital funding are along the Bronx River, which allows for speedier approvals because the county owns the property.

The Bronx River projects include:

- Mount Vernon/Yonkers: Oak Street pump station rehabilitation. Cost estimate \$450,000 - \$500,000;
- Yonkers/Eastchester/Scarsdale: Bronx River channel re-alignment and bank stabilization at Garth Woods. Cost estimate \$1 million;

-more-

- Greenburgh: Fisher Lane/Bronx River Parkway storm water wetland restoration and stream bank stabilization. Cost estimate \$700,000, and
- Eastchester/Yonkers: Harney Road vicinity stream bank stabilization and channel modification. Cost estimate to be determined.

Two other projects were identified by local municipalities as priority flood-mitigation projects and proposed to the county for implementation with a local commitment to fund at least 50 percent of the total cost. The county will fund the balance. They are:

- Village of Larchmont: drainage improvements along Pine Brook at the Boston Post Road (Route 1) crossing. Cost estimate to county \$2.3 million;
- City of New Rochelle: Hutchinson River culvert replacement. Cost estimate to county \$2.5 million.

One additional project that the county is undertaking is the replacement of a sewer line on Anita Lane in the Village of Mamaroneck. The removal of the center support structure currently in the river will contribute to flood mitigation. Cost estimate is \$2 million.

Recently, restoration of the Bronx River west bank, near the County Center, was completed. The project, which is designed to mitigate flooding by reinforcing the embankments, cost \$1 million including a county cash share of \$87,000 (\$514,000 in-kind services credit). It was conducted and funded in coordination with the U.S. Army Corps of Engineers. Restoration of the east bank is now under way. Slated for completion by the end of the summer in 2012, the second phase is being financed with a \$350,000 grant through the National Fish and Wildlife Foundation, matched with \$350,000 from the county.

To build on the earlier success of River Rescue, a public-private project launched last year to help prevent future flooding by cleaning the banks of the Bronx River, the county has deployed ongoing dedicated crews charged with debris removal. The project has been divided into six sectors along the length of the river and crews will target completion by June, weather permitting. The county is continuing its partnership with the Turf and Landscape Association, which has volunteered services from its commercial landscapers to assist in the removal of debris. Assistance from local municipalities and residents is also being provided in some areas.

White Plains Mayor Thomas Roach said: "Flooding does not respect municipal boundaries and that is why it is so important that municipalities and the county work together to address the causes of flooding in our county. Through its clean-up of the Bronx River, Westchester County has provided a direct benefit to the City of White Plains. We appreciate their assistance and we look forward to working with the County on other mutually beneficial flood mitigation initiatives in the future."

"My hope is that the entire Board of Legislators sees the importance of these investments and approves these projects with appropriate haste," said County Legislator Michael Smith, whose district encompasses part

of the Bronx River. "These projects are positive steps in the right direction towards improving the quality of life for many impacted Westchester taxpayers."

"I'm encouraged by the progress that's been made toward real flood mitigation along the Bronx River," said County Legislator Gordon Burrows. "With this \$9 million dollar capital expenditure and the new initiatives that County Executive Astorino announced today, I'm confident that we are taking very real, practical and important steps toward dealing with the problem of flooding in the Bronx River and sound shore basin.

Said County Legislator Sheila Marcotte: "I'm glad for County Executive Astorino's leadership on the issue of chronic flooding that regularly affects thousands of people and costs millions of dollars in damage here in southern Westchester. We can debate and speculate on the causes for the increased instances of flooding we've seen over the years but one thing we can all agree on is that these very practical solutions of clearing out our natural waterways and shoring up our groundwater management systems are important steps to getting the flooding issues under control."

###

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: February 10, 2012

TAX CERTIORARI

CARROLL v. CITY OF RYE

Post-trial briefs have been submitted and the Judge's site visit has occurred.

LITIGATION

ELISSA CAVATARO and RICHARD CAVATARO v. UNITED WATER WESTCHESTER INC., THE CITY OF RYE, RYE VOLUNTEER FIREFIGHTERS INC. and RYE FIRE DEPARTMENT

A summons and complaint was served on the City in connection with a slip and fall accident that occurred in front of the Locust Avenue Firehouse on October 26, 2010. A notice of claim had previously been served. The summons and complaint has been forwarded to our insurance carrier.

BEAVER SWAMP BROOK – (DEC Administrative proceeding)

The City's appeal of ALJ O'Connell's 2009 Issues Ruling and July 2011 Supplemental Rulings is still pending.

BASSETT v. CITY OF RYE

The plaintiff has filed a notice of appeal of the decision of Judge Berliner to the Appellate Division, Second Department. The Notice of Appeal was filed within the required time after Notice of Entry was served.

CASPI v. CITY OF RYE

A Conference was held before Magistrate Judge Yanthis on October 27th. The discovery deadline was extended to February 24, 2012 and dates for the depositions of the individual officers have been scheduled. Defendants were notified that Plaintiff has requested the depositions of non-party police officers.

DELLI PAOLI V. ZONING BOARD OF APPEALS

The Board of Appeals reaffirmed the Board of Architectural Review's decision to deny the application at their May meeting.

SHEW v. CITY OF RYE

A Notice of Appeal to the Appellate Division, Second Department has been filed on behalf of Paul Shew seeking to overturn the Decision and Order rendered by Hon. Gerald E. Loehr in this case.

MOLLOY v. PLANNING COMMISSION

Petitioner's time to perfect their appeal has expired.

PANETTA v. PLANNING COMMISSION

The Petitioner/Plaintiff filed a motion to amend the Court's Decision and Order of December 16, 2011 to reflect that those causes of action for a declaratory judgment and 42 U.S.C. sec. 1983 were severed.

RUNES v. BOARD OF ASSESSMENT REVIEW and CITY ASSESSOR

An Article 78 Petition has been filed by Richard Runes of 3 Kirby Lane North seeking to overturn the April 12, 2011 decision of the small claims hearing officer, JHO Luke M. Charde, Jr. who determined that the assessment on Mr. Runes' property was supported by the evidence put forth by the City.

BUTLER v. PLANNING COMMISSION

The City served and filed the following documents: Certified Record of Proceedings; Verified Answer with Affirmative Defenses; Memo of law in opposition; and affirmation in opposition. The Petitions will have an opportunity to reply to these papers.

CITY COURT

Routine calendar with no unusual dispositions.

Respectfully submitted.

Kristen K. Wilson

Kristen K. Wilson
Corporation Counsel

KKW/dfn



The Rye City School District

411 Theodore Fremd Avenue, Suite 100S

Rye, New York 10580

Tel: (914) 967-6100 Ext. 6278 Fax: (914) 967-6957

EW
Elaine Cuglietto
District Clerk
cugliete@ryeschools.org

February 6, 2012

FOR IMMEDIATE RELEASE

February 14, 2012 Board of Education Meeting

The Rye City School District Board of Education will meet Tuesday, February 14, 2012 beginning at 8:00 PM in the Rye Middle School Multipurpose Room. Prior to the meeting, the Board will meet in Executive Session for the review of the employment history of current and prospective employees, negotiations pursuant to the Taylor Law, review of current litigation and litigation strategy.

On the agenda is:

- Special Education Opportunities Review – The District Management Council
- Bond and 2012-2013 Budget Issues

Members of the public are welcome and encouraged to attend this meeting of the Board and to speak during the public hearing on the budget.