

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Frank J. Culross, City Manager

SUBJECT: Enclosures - Council Packet

DATE: November 7, 2014

Enclosed with this memorandum are the following items:

- 11-1 Notice from the American Legion Rye Post #128 regarding the Annual Veterans Day Observance to be held on Tuesday, November 11, 2014 beginning at 10:30 a.m. on the Village Green.
- 11-2 Legal Department Update from the Corporation Counsel dated November 7, 2014.
- 11-3 Meeting notice for the week of November 10, 2014 is available on the City website [www.ryeny.gov](http://www.ryeny.gov) under Calendar.



RYE POST #128  
P.O. Box 128  
Rye, New York 10580

**Rye American Legion Post 128 cordially invites everyone to attend the annual Veterans' Day Observance which will be held on the Village Green beginning at 10:30 a.m. on Tuesday, November 11, 2014.**

**A brief ceremony will be held in honor of those who served in our Nation's wars.**

**Thank you for your continued support. We look forward to seeing everyone on the 11<sup>th</sup>.**

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Rye City Council  
FROM: Kristen K. Wilson, Corporation Counsel  
SUBJECT: Litigation Update  
DATE: November 7, 2014

**TAX CERTIORARI**  
**CARROLL v. CITY OF RYE**

The Appellate Division Second Department has scheduled the oral argument for Monday, November 10th at 10 a.m. in White Plains.

**THE TOWN OF RYE AND THE RYE TOWN PARK COMMISSION v. THE ASSESSOR and Board of Assessment Review of the CITY OF RYE**

The City's reply brief was served and filed. This matter is now fully submitted to the Appellate Division, Second Department. We are waiting for an oral argument date.

**WESTCHESTER JOINT WATER WORKS v. CITY OF RYE**

The Appellate Division, Second Department, reversed the lower court and found that the City of Rye did have standing to seek dismissal of the proceedings based on a failure to comply with RPTL 708(3) and found that the City's records clearly showed that some of the property was located within the Rye Neck Union Free School District's property. **WJWW has filed a motion to renew/reargue the matter before the Appellate Division, Second Department and simultaneously sought leave to file an appeal with the Court of Appeals. Opposition papers are due on November 14, 2014.**

**181 NEW ENGLAND SEAFOOD CORP. v. NOREEN WHITTY, et al**

The return date for the motion has been adjourned.

**LITIGATION**

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

The T/V of Harrison filed an amended application with the NYSDEC. There is a comment period that has a deadline of October 6, 2014. A request for an extended comment period has been made. **On October 31, 2014, ALJ O'Connell issued an interim decision "Further proceedings and Draft Scheduling Order" and found that there are still issues for adjudication based on Harrison's amended permit application. In addition, ALJ O'Connell found that the issues Rye raised regarding DEC's amended negative declaration were "ripe" and provided an opportunity for DEC staff to respond. There is a conference call calendared for November 13, 2014.**

**CASPI v. CITY OF RYE**

This case has been transferred to Hon. Rakoff, U.S.D.J, S.D.N.Y. sitting in Manhattan. The trial date is currently February 2, 2015.

BOARD OF MANAGERS OF THE IVES AT RYE v. CITY OF RYE

The City has served its Answer with Affirmative Defenses.

OMNI CONTRACTING V. CITY OF RYE

The co-defendant Calgi Construction has filed for bankruptcy. As a result, the trial has been adjourned.

AMERICAN LEISURE ACTIVITIES OF NEW YORK CITY INC. v. CITY OF RYE

This matter was certified on October 15, 2014. **The matter is calendared for a settlement conference on November 17, 2014.**

RVIN REYES, et al v. CITY OF RYE, RYE GOLF CLUB, RM STAFFING & EVENTS, INC., MORRIS YACHT AND BEACH CLUB, INC. and SCOTT YANDRASEVICH, Jointly and Severally

A conference was held on September 12, 2014 in front of Judge Roman. The matter was referred to Magistrate Davison for all discovery. Plaintiffs' counsel has indicated that he would move for class certification by January 15, 2015.

GORDON and MARIA HARGRAVES v. CITY OF RYE ZONING BOARD OF APPEALS, WALTER & MARGARET NELSON, and Robert TALT

I appeared before Hon. Barry Warhit on Wednesday October 29, 2014 per the Decision and Order. Judge Warhit subsequently amended his Decision and Order to be more specific and clear in that he intended to remand the ZBA's findings and decision back to the Board to be more specific and detail its findings based on the record before it.

P. STEPHEN LAMONT v. KRISTEN K. WILSON, et al

Plaintiff did not officially file and serve the Second Amended Complaint for which he had asked permission from Judge Roman. Defendants' Motion to Dismiss must be served on or before November 21, 2014.

ALAN KACHALSKY v. THE CITY OF RYE, NEW YORK and the RYE CITY POLICE DEPARTMENT and P.O. ED BALLS

A notice of Removal to Federal Court, S.D.N.Y. was filed and served.

CHITTENDEN v. COMPAGNONE

Chittenden filed a motion for default judgment. Compagnone filed his answer and moved to dismiss for failure to serve a notice of claim on the City. Judge Mary Smith denied Plaintiff's motion and has ordered the parties in for a conference on November 10, 2014.

DOUGLAS E. LIMAN v. NICK EVERETT, MARTHA MONSERRATE, LAURA BRETT, BARBARA CUMMINGS, HUGH GREECHAN, PETER OLSEN, ALFRED VITIELLO, constituting the PLANNING COMMISSION OF THE CITY OF RYE, PANKAJ GUPTA and EMILY GUPTA, PAM McGUIRE and EUGENE McGUIRE

The City was served with an Article 78 proceeding seeking to vacate and nullify actions taken by the Planning Commission in approving a development project proposed by Applicants Pankaj and Emily Gupta. The petition seeks an Order annulling the Planning Commission's Resolution granting a Wetland and Watercourse Permit to the applicants.

**CITY COURT**

**PEOPLE v. TIMOTHY CHITTENDEN**

**Appellant's attorney has filed a Notice of Motion with the Appellate Division, Second Department seeking an extension of time to perfect the appeal.**

Respectfully submitted,

A handwritten signature in black ink that reads "Kristen K. Wilson". The signature is written in a cursive, flowing style.

Kristen K. Wilson  
Corporation Counsel

KKW/dfn