

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Marcus Serrano, City Manager

SUBJECT: Enclosures - Council Packet

DATE: October 23, 2015

Enclosed with this memorandum are the following items:

- 10-14 Notice regarding a Rye City School District Board of Education Meeting to be held on Tuesday, October 27, 2015 beginning at 7:30 p.m. in the Rye Middle School Multipurpose Room.
- 10-15 Legal Department Update from the Corporation Counsel dated October 23, 2015.
- 10-16 Meeting notice for the week of October 26, 2015 is available on the City website www.ryeny.gov under Calendar.



The Rye City School District

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Elaine Cuglietto

District Clerk

Cuglietto.elaine@ryeschools.org

October 21, 2015

FOR IMMEDIATE RELEASE

October 27, 2015 Board of Education Meeting

The Rye City School District Board of Education will meet **Tuesday, October 27, 2015** beginning at 7:30 PM in the Rye Middle School Multipurpose Room.

Prior to the meeting, beginning at 7:00 p.m. the Board will meet in Executive Session at Rye Middle School Multipurpose Room 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, are business and personnel items that normally come before the Board.

In addition, there will be a presentation of the Annual Academic Achievement Report. Members of the public are welcome and encouraged to attend this meeting of the Board and to speak at designated times.

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: October 23, 2015

CLAIMS

No new claims were filed this week.

TAX CERTIORARI

MICHAEL ROTH v. CITY OF RYE

Petitioner has served a Notice of Verified Petition and Petition against the City of Rye challenging the Decision of J.H.O. Maher's dated February 20, 2015 which upheld the City Assessor's original assessment. Petitioner alleges that J.H.O Maher's decision is irrational. The City is in receipt of Petitioner's reply papers. The return date is September 14, 2015.

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

Oral argument took place in front of the following judges: Mastro, J.P., Skelos, Dickerson and LaSalle. We are still waiting for a decision.

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

I appeared at a court conference with Judge Tolbert and his law clerk on April 21, 2015. Motions for summary judgment are still pending.

LITIGATION

BEAVER SWAMP BROOK – (DEC Administrative proceeding)

The DEC Commissioner rendered a decision in which he partially upheld and partially reversed the ALJ's interim decision. The DEC Commissioner upheld the ALJ's decision finding that the negative declaration was rational and based on the record before it. In addition, the Commissioner reversed the ALJ's decision and found that Harrison's application did meet the standards under the Freshwater Wetland Act.

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 trial has been calendared to commence on November 4, 2015.

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

The parties appeared before Hon. Nelson Roman. Plaintiffs anticipate making a Rule 23 motion. A motion schedule was established. Next status conference is calendared for November 20, 2015.

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

Judge Cacace dismissed Petitioners' Petition finding that the Respondent ZBA acted reasonably, properly considered the statutory criteria that must be met in order for a variance to be granted and relied on substantial evidence in the record. Notice of Entry was served on October 21, 2015. Petitioners have thirty (30) days to file a Notice of Appeal.

CHITTENDEN v. COMPAGNONE

The non-party deposition of Sergeant Charlie Hunter took place on August 14, 2015. Additional non-party depositions and other outstanding discovery will take place over the next several weeks. Another compliance conference was held this week and Plaintiff still owes Defendant outstanding discovery documents. **I attended the Conference on October 21, 2015 and Plaintiff's counsel stated that, despite his prior statements, he was not going to file a lawsuit in federal court. Court referee informed Plaintiff's attorney that the Note of Issue must be filed in thirty days.**

CITY OF RYE v. TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

The City served its Complaint on Travelers. Travelers has answered the Complaint and discovery is taking place. An initial conference was held before Judge Seibel and a short discovery schedule was set, with fact discovery to be completed by December 11, 2015, and expert discovery to be completed by March 11, 2015. **A court ordered meeting with the parties is calendared for October 27, 2015.**

NOTICE OF DANGEROUS CONDITION

The City received a copy of a "Notice of Dangerous Condition" regarding any future bow and arrow or other permitted deer hunting.

CHITTENDEN v. WILSON, ET AL.

Mr. Chittenden commenced an Article 78 Proceeding against Kristen Wilson, Marcus Serrano and others alleging violations of the Public Officers Law. **Plaintiff requested an additional week extension (second request) to file reply papers.**

BALLANTONI v. CITY OF RYE, CONSOLIDATED EDISON, and PERSICO CONTRACTING AND TRUCKING, INC.

Plaintiffs served the City of Rye, Consolidated Edison and Persico Contracting with a Summons and Verified Complaint alleging that the City was negligent in performing construction work in and around 81 High Street and created a dangerous condition. Plaintiff fell and sustained injuries. The matter is venued in Westchester County Supreme Court.

JACQUELINE FITZPATRICK v. CITY OF RYE, CONSOLIDATED EDISION and WESTCHESTER COUNTY

Plaintiff served the City with a Summons and Complaint alleging that the City, Consolidated Edison and Westchester County were negligent in maintaining Highland Road near Mendota Avenue. On December 11, 2014, Plaintiff tripped and fell while crossing Highland Road and sustained a shoulder fracture and other bruising. The matter is venued in Westchester County Supreme Court.

AGUIRRE and SANCHEZ v. COUNTY OF WESTCHESTER, ET AL.

Plaintiffs commenced a federal lawsuit in the Eastern District of New York alleging violations of their civil rights under the Constitutions of the United States and New York State. Plaintiffs were arrested in Queens and subsequently indicted in Westchester County Supreme Court for Assault in the Second Degree and Robbery in the Second Degree. On November 26, 2012, Westchester County Court Judge Hubert issued a decision and order dismissing the indictment. The matter has been forwarded to the City's insurance carrier for a coverage determination. **Judge Ross has granted Defendants' request to file a motion to change venue. Defendants must serve their motion papers by November 9, 2015. Plaintiffs must serve opposition papers by November 30, 2015. Motion must be fully submitted by December 14, 2015.**

CITY COURT

Routine calendar with no unusual dispositions.

Respectfully submitted,



Kristen K. Wilson
Corporation Counsel

KKW/kkw