

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Marcus Serrano, City Manager

SUBJECT: Enclosures - Council Packet

DATE: November 6, 2015

Enclosed with this memorandum are the following items:

- 11-1 Notice regarding a Rye City School District Board of Education Meeting to be held on Tuesday, November 10, 2015 beginning at 7:30 p.m. in the Rye Middle School Multipurpose Room.
- 11-2 Notice from the American Legion Rye Post #128 regarding the Annual Veterans Day Observance to be held on Wednesday, November 11, 2015 beginning at 10:30 a.m. on the Village Green.
- 11-3 Legal Department Update from the Corporation Counsel dated November 6, 2015.
- 11-4 Notice from the Westchester County Department of Health regarding the open enrollment period for 2016 for the NY State of Health Marketplace.
- 11-5 Notice from Verizon FiOS regarding upcoming programming changes.
- 11-6 Meeting notice for the week of November 9, 2015 is available on the City website www.ryeny.gov under Calendar.



The Rye City School District

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Rye, New York 10580

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Elaine Cuglietto

District Clerk

Cuglietto.elaine@ryeschools.org

November 2, 2015

FOR IMMEDIATE RELEASE

November 10, 2015 Board of Education Meeting

The Rye City School District Board of Education will meet **Tuesday, November 10, 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 curriculum presentation on the approved new Grade 11/11H English Language Arts Curriculum and the District's Enrollment Report.

Members of the public are welcome and encouraged to attend this meeting of the Board and to speak at designated times.



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 on Wednesday, November 11, 2015 beginning at 10:30 a.m.

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 11th.

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: October 30, 2015

CLAIMS

Notice of Intent to Sue was served on the City of Rye and numerous other municipalities, including the County of Westchester by Save the Sound and other organizations. Notice of Intent to Sue is required to be served prior to the commencement of a lawsuit under the Clean Water Act. The Notice alleges violations of the CWA as a result of inflow and infiltration in the sanitary sewer systems/POTWs in Westchester County.

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 was September 14, 2015. Last week, I appeared in front of Judge Tolbert's law clerk along with Brendan Conroy to discuss the merits of the Article 78 proceeding.

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. **A bench trial commenced in front of Honorable Mary Smith. Opening arguments were heard and the trial will recommence next week.**

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. **City Defendants opposed the Rule 23 Motion and filed its opposition papers earlier this week.** 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 filed 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.

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. **Petitioner requested an additional two-week extension to file reply papers. Based on the substance of Plaintiff's request, Respondents requested time to file a sur-reply. The Petitioner has until November 18, 2015 to serve his reply. The Court indicated that the Petitioner will not be granted any further adjournments.**

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.

LINDA COLLINS v. CITY OF RYE and CONSOLIDATED EDISON

Plaintiff served the City of Rye and Consolidated Edison with a Summons and Complaint alleging personal injuries when she fell crossing the street in the area of Purchase Street and Smith Street on July 26, 2014. 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.

CONNECTICUT FUND FOR THE ENVIRONMENT D/B/A SAVE THE SOUND v. WESTCHESTER COUNTY, ET AL.

Save the Sound commenced a federal action alleging violations of the Clean Water Act in the United States District Court for the Southern District of New York against the County of Westchester, the City of Rye, and numerous other municipalities. Save the Sound is alleging violations of the Clean Water Act for exceeding effluent limits under the City's SPDES permit and in violation of its MS4 permit.

CITY COURT

Routine calendar with no unusual dispositions.

Respectfully submitted,



Kristen K. Wilson
Corporation Counsel



Robert P. Astorino, Westchester County Executive

NEWSRELEASE

Sherlita Amler, MD, Commissioner, Department of Health and
McCormack, Communications Director
Contact: Caren Halbfinger (914) 813-5013/after hours: 813-5000

FOR IMMEDIATE RELEASE: November 2, 2015

NAVIGATORS OFFER HELP WITH HEALTH INSURANCE DURING OPEN ENROLLMENT NY State of Health Marketplace Open Enrollment Starts Sunday

The open enrollment period for 2016 for the NY State of Health Marketplace began Sunday. Open enrollment runs through Jan. 31, but for coverage to begin on Jan. 1, residents must enroll or re-enroll in a plan by Dec. 15.

Residents who are currently enrolled in the Marketplace should receive information about renewing their coverage for 2016 directly from the NY State of Health Marketplace.

New this year is the Essential Plan. Designed for lower income people, the Essential Plan provides the same essential benefits as other plans, including free preventive care. Enrollment in Medicaid, Child Health Plus, the Essential Plan and the Small Business Health Option is available all year round.

To help residents and small business owners understand and access the Marketplace, Westchester County Health Department has seven "Navigators" available to help residents.

"We encourage residents to call us for free help choosing and enrolling in a health insurance plan that fits their budget and offers the coverage they need," said Westchester County Health Commissioner Sherlita Amler, MD. "With 26 sites around the county, there is sure to be a convenient place to meet with a Navigator near you."

Navigator sites include libraries, health department offices, community based organizations and government agencies. Weekday, evening and weekend hours are available either by appointment or during set hours. Navigator services are free and available in English and Spanish. To reach a Navigator, call (914) 813-5192 or email hnav@westchestergov.com.

To learn more about health coverage, go to www.nystateofhealth.ny.gov or call 1-855-355-5777. The NY State of Health Customer Service hours are Monday to Friday, 8am-8pm, and Saturday, 9am-1pm.

For more health information, like us on Facebook at www.facebook.com/wchealthdept, follow us on Twitter @wchealthdept or go to www.westchestergov.com/health.

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Fios® TV Channel and Programming Changes

On or after November 5, 2015, beIN Sports HD on channel 805 will also be available on channel 596. On or after January 31, 2016, beIN Sports HD will move from channel 805 to channel 596.

On or after November 16, 2015, Universal Sports Network on channel 804 was removed from the channel lineup by the content provider.

On or after December 15, 2015, One World Sports on channel 309 will move to channel 595 in your Fios® TV channel lineup.

On or after January 31, 2016, UpliftTV will become Enrich and will move from channel 798 to channel 659. Programming on the channel will remain the same.

The following does not affect subscribers in the Albany, Buffalo and Syracuse regions:

On or after November 9, 2015, Me TV programming on channel 19 will be replaced with Heroes & Icons, featuring classic television shows from the 1950s through the 1990s.