

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Marcus Serrano, City Manager

SUBJECT: Enclosures - Council Packet

DATE: November 20, 2015

Enclosed with this memorandum are the following items:

- 11-10 Notice from the Westchester County Department of Health providing tips to prevent salmonella this Thanksgiving.
- 11-11 Legal Department Update from the Corporation Counsel dated November 20, 2015.
- 11-12 Notice from Verizon FIOS regarding an increase in the TV Broadcast Fee.
- 11-13 Meeting notice for the week of November 23, 2015 is available on the City website www.ryeny.gov under Calendar.



Robert P. Astorino, Westchester County Executive

NEWS RELEASE

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

FOR IMMEDIATE RELEASE: Nov. 18, 2015

SERVE A TASTY TURKEY, NOT SALMONELLA THIS THANKSGIVING Westchester County Health Department offers tips for safe holiday cooking

Don't wing it – follow expert advice from the health department to safely prepare and cook your Thanksgiving feast and avoid food borne illnesses.

“When you're rushing to get a big holiday meal on the table, it's easy to make a mistake or take a shortcut that could cause your guests to become ill,” said Sherlita Amler, MD, Commissioner of Health. “Follow our safe food handling and cooking tips so that your guests will remember their visit and the meal for all the right reasons.”

Frequent hand washing by the chef is essential to safe food handling.

“Thoroughly wash your hands after you touch raw poultry and before you handle any ready to serve foods,” said Peter DeLucia, Assistant Commissioner of Public Health Protection. “Follow these six tips and you'll be sure to serve a safe and healthy holiday meal.”

- 1. Thaw** - Never defrost a turkey by leaving it out at room temperature. Frozen turkeys must be thawed in the refrigerator. Allow 24 hours for every 4 to 5 pounds. To eliminate any chance of cross contamination, don't place a thawing turkey or any raw meat (even if commercially wrapped) in a spot where it could drip on any ready to serve foods such as fresh fruit or vegetables that will not be cooked before serving.
- 2. Separate and Prepare** - Bacteria on raw poultry can contaminate your hands, utensils, and work surfaces as you prepare the turkey. Use a separate cutting board for all raw meat and poultry preparation. Keep raw turkey away from vegetables and side dishes that will not be cooked. When preparing food, wash hands, surfaces, and utensils often with hot, soapy water to avoid spreading harmful bacteria.

MORE

- 3. Stuff** - To avoid undercooked stuffing that can cause a food borne illness, bake stuffing separately in a shallow pan, where it can quickly reach 165°F. Many food borne outbreaks have been caused by stuffed, roasted turkey. This occurs because it takes a long time for heat to penetrate deep into the cavity so bacteria can survive inside the bird. If you must stuff the turkey, do it immediately before placing in the oven.
- 4. Cook** -Turkeys should be cooked to a minimum internal temperature of 165°F. How long it will take depends on oven temperature, temperature fluctuation and turkey weight. The safest way to be sure the bird is fully cooked is to use a 0 to 220 degree probe thermometer to check the turkey's internal temperature by inserting the probe thermometer deep into the turkey's thigh. If you do decide to stuff your turkey, check the internal temperature of the stuffing as well; it should also be at least 165 degrees.
- 5. Properly Cool Leftovers** - Improper cooling practices are one of the most frequent causes of food borne illness. Leftover turkey, stuffing and other items should be refrigerated within two hours from the time you remove the turkey from the oven. Soups and stocks should be cooled in the refrigerator, uncovered in shallow pans. They can then be transferred to large covered vessels after reaching refrigerator temperature. Be sure not to pack your refrigerator so tightly that the cool air can't circulate. Avoid filling containers with food deeper than four inches and then stacking multiple containers on top of each other. Once the food is cooled to less than 45°F, it is safe to stack.
- 6. Reheat** – Leftovers, including turkey meat, stuffing and stock should be reheated to at least 165°F before serving. (Make sure to use your metal stem probe thermometer to check.)

For more food preparation safety tips, go to www.westchestergov.com/health, like us on Facebook at www.facebook.com/wchealthdept or follow us on Twitter @wchealthdept. The health department can be reached at (914) 813-5000.

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: November 13, 2015

CLAIMS

Adele Arrigale filed a Notice of Claim against the City for personal injuries she sustained while walking through the parking lot at 281 Midland Avenue. Ms. Arrigale suffered some minor injuries to her head, arm and hand and also damaged her glasses. Her damages for both medical treatment and her glasses total \$355.00.

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 continued this week in front of Hon. Mary Smith and Plaintiff is still putting on its case. The trial will continue 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 Rule 23 Motion is fully submitted and we are waiting for a decision on same.

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. **Plaintiff has filed a Note of Issue.**

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 January 15, 2016 and all depositions completed by December 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 has filed and served his opposition papers. Defendants have until December 7, 2015 to file a sur-reply.**

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 served their motion papers on 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. I submitted this matter to the City's insurance carrier for a coverage determination. **Save the Sound has consented to a sixty day (60) adjournment in order to allow the defendants time to submit a request for permission to file a motion to dismiss.**

CITY COURT

Routine calendar with no unusual dispositions.

Respectfully submitted,



Kristen K. Wilson
Corporation Counsel

KKW/kkw



Fios® TV Channel and Programming Changes

Broadcast Fee: Effective on or after 30 days from the date of this message, you will receive a Fios® TV Broadcast fee of \$2.99 per month. If you currently have a Broadcast Fee on your bill, this will be increased to \$2.99 per month. This monthly fee helps cover a portion of the costs local TV stations charge Verizon for their programming and is subject to change.