

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

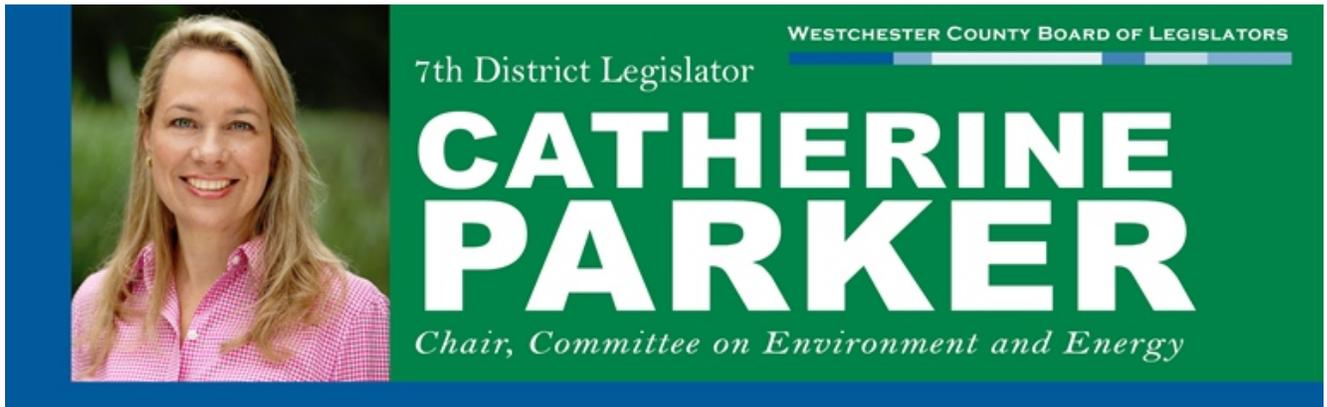
FROM: Marcus Serrano, City Manager

SUBJECT: Enclosures - Council Packet

DATE: December 4, 2015

Enclosed with this memorandum are the following items:

- 12-1 Notice from Westchester County Legislator Catherine Parker with an update on the Westchester County Budget.
- 12-2 Legal Department Update from the Corporation Counsel dated November 25, 2015.
- 12-3 Letter from Dan Ahouse, Cablevision Area Director of Government Affairs regarding the re-tiering of the Investigation Discovery Channels effective January 1, 2016.
- 12-4 Letter from Dan Ahouse, Cablevision Area Director of Government Affairs regarding changes to Cablevision rates effective January 1, 2016.
- 12-5 Meeting notice for the week of December 7, 2015 is available on the City website www.ryeny.gov under Calendar.



Dear Neighbor,

I have heard from many of you. Some of you have written to say please restore funding for ArtsWestchester because it is an engine for economic activity. I agree.

Others have written to request restoration of the curators at Muscote Farm, Edith Read Wildlife Sanctuary, Marshlands Conservatory and some have asked for restoration of all six curators for our county parks. You have cited the potential for lost educational opportunities and increase in vandalism as reason. *I agree.*

Some of you have written asking for restoration to Cornell Cooperative Extension, saying that a cut of 75% will effectively kill this program for Westchester, and that we get far more in services than we pay today. *I agree.*

Lastly, many of you have written on behalf of many worthy programs focused on providing safety net services such as My Sister's Place, April's Child (formally the Child Abuse Prevention Center of Westchester), and Legal Services of Hudson Valley, among others noting that these organizations save Westchester County significant dollars by providing service that prevents more costly and significant social services that Westchester would be mandated to provide if the situations went unchecked. *Yep.*

In total, to restore those cuts and others that could affect public safety and flood mitigation, we need another **\$6,204,474.**

Finding the revenue or cutting other expenses is no small challenge. To better understand the concerns of this budget as a whole, I am including a link to the report on the County Executive's proposed budget by the Citizen's Budget Advisory Committee (CBAC).

http://westchesterlegislators.com/committees/2014_2015Term/BA/CBAC-2016BudgetPresentation.pdf

Let's keep the conversation going on the proposed budget. I will check in with you again next week to give another update.

All the best,

Catherine F. Parker

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: December 4, 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 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 commenced on November 4, 2015. A bench trial continued this week in front of Hon. Mary Smith and the matter was settled for \$135,000. The plaintiff commenced

this action seeking approximately \$500,000 in damages plus 9% interest. The settlement amount is equal to approximately what the City withheld from paying Omni under the contract.

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 answer or otherwise submit a request for permission to file a motion to dismiss. Judge Seibel has "so ordered" the new schedule.

JEANETTE v. VERILLE

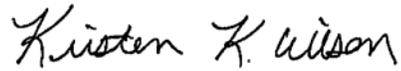
On December 3, 2015, Judge Mary Smith rendered a decision vacating the arbitrator's decision in its entirety and found that Arbitrator Barone committed misconduct pursuant to CPLR 7511.

CITY COURT

There were two trials this week that are noteworthy. One trial involved a summons that was issued by a Rye Police Officer for using a portable electronic device while operating a motor vehicle. While summonses are issued often for this conduct, one of the issues at trial was whether a digital camera falls within the definition of "portable electronic device." The second trial involved a violation that was issued to a tenant in a commercial space pursuant to a complaint by the building's manager. The tenant was in the basement of the building attempting to turn the water on because the water had been turned off. The building manager called in to the police department that the tenant was trespassing. A violation was

written under the City Code for trespass. The tenant was represented by Adam Bradley, Esq. The judge reserved decision on both matters.

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/kkw



DAN AHOUSE
AREA DIRECTOR, GOVERNMENT AFFAIRS
dahouse@cablevision.com
914-378-4533

November 30, 2015

The Honorable Joseph Sack, Mayor
City of Rye
1051 Boston Post Road
Rye, New York

RE: *Investigation Discovery SD & HD*

Dear Mayor Sack:

Please let this letter inform you and your staff that effective January 1, 2016 Investigation Discovery Channels SD/HD will be re-tiered from the current Optimum Preferred, Silver & Gold packages and Grandfathered iO Package and iO Silver & Gold packages to the Optimum Value and Grandfathered Family packages.

Also, the Investigation Discovery Channel currently carried in the Optimum Business Preferred and Entertainment Preferred packages and the Grandfathered Optimum Business and Entertainment packages will be re-tiered to the Optimum Business Value and Entertainment Value packages.

There is no rate or channel change associated with this change. The Investigation Discovery Channel will continue to be carried in SD on channel 171 and in HD on channel 778.

Customers will be notified of this change through on air and bill messages. In addition, customers can always find the most current channel and packaging information on Cablevision's consumer website www.Optimum.com.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Dan Ahouse". The signature is written in a cursive, flowing style.

Dan Ahouse

DAN AHOUSE
AREA DIRECTOR, GOVERNMENT AFFAIRS
dahouse@cablevision.com
914-378-4533



November 30, 2015

The Honorable Joseph Sack, Mayor
City of Rye
1051 Boston Post Road
Rye, New York 10580-2996

Dear Mayor Sack:

This is to inform you that as of January 1, 2016, there will be certain changes to Cablevision rates, including multi-product discounts and nominal increases to both Digital Video Recording (DVR) services and set top box rental fees. Pricing will remain unchanged for Optimum TV packages, standalone Optimum Online, the new "Cord Cutter" packages and Optimum Voice. The changes are as follows:

Residential Customers:

- Optimum DVR Service: Customers will see an increase of \$1.00.
- Multi-Product Discount: Customers who subscribe to both Optimum Online and Optimum TV will see a \$5.00 reduction in the multi-product discount.
- Set Top Box Fee: Customers will see an increase of \$1.00.

Commercial Customers:

- Modem Rental Fee: Customers with a Cablevision-provided modem not currently paying the modem rental fee will begin paying the \$9.99 fee. Customers currently paying the modem rental fee will see an increase of \$5.04.
- Optimum DVR Service: Customers will see an increase of \$1.00.
- Static IP Service: Customers subscribing to Static IP service will see an increase of \$5.00.
- Set Top Box Fee: Customers will see an increase of \$1.00.

Optimum continues to provide significant value to customers by offering content and programming that meet the needs and interests of the diverse communities we service.

Customers are being notified 30 days in advance of these changes through bill messages or inserts. In addition, rate information will be available on our website at www.optimum.net.

As always, if you have any questions please feel free to call me.

Sincerely,

A handwritten signature in black ink that reads "Dan Ahouse". The signature is written in a cursive, flowing style.

Dan Ahouse

CABLEVISION OF WESTCHESTER
Six Executive Plaza, Yonkers, NY 10701
914-378-8960