

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Marcus Serrano, City Manager

SUBJECT: Enclosures - Council Packet

DATE: March 25, 2016

Enclosed with this memorandum are the following items:

- 3-13 Public Notice for a Special Meeting of the Board of Trustees of the Village of Port Chester to be held on Wednesday, April 6, 2016 at 6:30 p.m. at the Village Justice Courtroom regarding the Environmental Impact Statement regarding the proposed redevelopment of 406-408 Boston Post Road and 999 High Street.
- 3-14 Legal Department Update from the Corporation Counsel dated March 25, 2016.
- 3-15 Notice from Rod Mergardt, Director of Health, Physical Education and Athletics, Rye City School District regarding the use of field lights for the Spring, 2016 night game schedule.
- 3-16 Meeting notice for the week of March 28, 2016 is available on the City website www.ryeny.gov under Calendar.

PUBLIC NOTICE

A SPECIAL MEETING WILL BE HELD BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PORT CHESTER ON APRIL 6, 2016 AT 6:30 P.M. OR SHORTLY THEREAFTER AT THE VILLAGE JUSTICE COURTROOM, 350 N. MAIN STREET, PORT CHESTER, NY TO CONDUCT A WORKSHOP IN CONNECTION WITH AN ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT REGARDING THE PROPOSED REDEVELOPMENT OF 406-408 BOSTON POST ROAD AND 999 HIGH STREET AND PROPOSED AMENDMENTS TO THE VILLAGE ZONING CODE AND ZONING MAP FOR A PROPOSED OVERLAY DISTRICT ENCOMPASSING THE EXISTING CD AND PMU ZONING DISTRICTS (SECTION 142.37, BLOCK 1, LOT 2; SECTION 142.45, BLOCK 1, LOTS 1,10,11,12,13,14,15,16,17,18,19,4,8,9; SECTION 142.53 BLOCK, 1, LOTS 1 AND 2; SECTION 142.61, BLOCK 1, LOT 2; SECTION 141.52, BLOCK 1, LOTS 2, 2.1 AND 2.4 ON THE TAX MAP OF THE TOWN OF RYE) AND THE ALTERNATIVE ZONING PROPOSAL TO AMEND THE EXISTING PMU ZONING DISTRICT (CHAPTER 345-62). APPLICANT, PC406 BPR LLC AND PC 999 HIGH STREET CORP., SEEKS REDEVELOPMENT OF THE FORMER UNITED HOSPITAL SITE AT 406-408 BOSTON POST ROAD AND 999 HIGH ST. AS A MIXED, MULTI-FAMILY RESIDENTIAL AND COMMERCIAL PROJECT ON PROPERTY KNOWN AS SECTION 141.52, BLOCK 1, LOTS 2, 2.1 AND 2.4. A PORTION OF THE MEETING WILL FOCUS ON TRANSPORTATION CONSIDERATIONS AS DESCRIBED IN THE APPLICANT'S ENVIRONMENTAL IMPACT STATEMENT. THE BOARD OF TRUSTEES MAY HOLD AN EXECUTIVE SESSION BEGINNING ON OR ABOUT 6:00 P.M.

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: March 25, 2016

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.

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 an Amended Note of Issue. Defendant filed a motion for summary judgment. Plaintiff's counsel requested a two week adjournment to respond to the motion. The City is in receipt of Plaintiff's opposition papers. The motion for summary judgment was refiled with a new return date of April 1, 2016.

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. The deposition of Scott Pickup took place on Monday January 11, 2016. On Wednesday February 24, 2016, the City and Travelers agreed to settle the pending matter for \$1.55 Million. On Friday February 26, 2016, Judge Cathy Seibel, S.D.N.Y., ordered that the case is discontinued with prejudice and further ordered that settlement must be consummated within thirty (30) days.

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 filed its sur-reply earlier this week and the matter is now fully submitted. Judge Neary responded to a letter I sent regarding ex parte communications made by Petitioner to the Court after the return date of this proceeding and the Court confirmed that any submissions by Plaintiff after December 9, 2015 would not be considered. In a Judgment, Decision and Order filed and entered on February 23, 2016, Judge Neary dismissed the petition in its entirety finding that Mr. Chittenden did not demonstrate that the City failed to comply with its obligations under FOIL or acted in an arbitrary and capricious manner. Notice of Entry was filed and served.

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. Judge Ross has granted Defendants' request to file a motion to change venue. Judge Ross denied the Defendants' motion to change venue and the case will remain in the Eastern District of New York. Both the City of Rye and County of Westchester defendants have filed a letter requesting a pre-motion conference in order to file a motion to dismiss. On February 18, 2016, I appeared before Magistrate Vera Scanlon for an Initial Conference and to set the Scheduling Order. Plaintiffs filed an amended complaint, filed a Summons for Westchester County Officer Mohl and served (and then subsequently withdrew) a subpoena for the District Attorney's files in the underlying criminal proceeding.

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 an additional ninety day (90) 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. Defendants participated in an initial settlement meeting on February 25, 2016 and a subsequent settlement conference on March 17, 2016.

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. Plaintiffs filed a notice of appeal and they have six months to perfect the appeal.

GERRITY v. CITY OF RYE

Christine Gerrity commenced a lawsuit against the City for injuries she sustained when she tripped while walking down the “handicapped” sidewalk ramp outside of 76 Purchase Street when there was on-going construction work on the sidewalks. Plaintiff alleges that on November 4, 2014 was performing work and left the area of the sidewalk in an unsafe and dangerous condition.

RYE CITY COURT

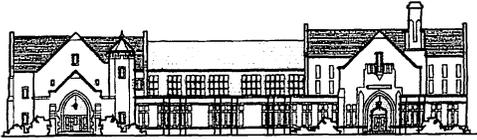
Normal traffic court calendar with no unusual dispositions.

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



HOME OF THE
GARNETS
 THE RYE HIGH SCHOOL
 RYE, NEW YORK 10580

ROD MERGARDT
 Director of Health,
 Physical Education and Athletics
 914-967-6100 Ext. 1242
 Fax: 914-925-1076
 E: mergardt.rod@ryeschools.org

March 14, 2016

Dear Rye High School Neighbor:

In accordance with the Board of Education Policy #7900 on the Use of Permanent Field Lights at John Nugent Stadium, I am informing you of the Spring, 2016 night game schedule. Should there be any changes or additions to this schedule, you will be notified as soon as possible.

Friday, April 1	Girls Lacrosse	6:45 p.m.
Friday, April 8	Boys/Girls Rugby	7:00 p.m.
Friday, April 15	Girls Lacrosse	6:45 p.m.
Friday, April 29	Boys Lacrosse	7:00 p.m.
Friday, May 6	Boys Rugby	7:00 p.m.
Saturday, May 7	Boys Lacrosse	7:00 p.m.
Friday, May 13	Boys Rugby	7:00 p.m.

If you have any questions and/or concerns, please do not hesitate to call me at 967-6100, ext. 1241.

Sincerely,

Rod Mergardt

Cc: Dr. Frank Alvarez
 Mrs. Patricia Taylor
 Mr. Frank Culross, City Manager
 Police Commissioner Pease
 Mr. Doug Scott, Rye Recreation Dept.