

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Marcus Serrano, City Manager

SUBJECT: Enclosures - Council Packet

DATE: April 22, 2016

Enclosed with this memorandum are the following items:

- 4-13 Notice regarding a Rye City School District Board of Education Meeting to be held on Tuesday, April 26, 2016 beginning at 8:00 p.m. in the Rye Middle School Multipurpose Room.
- 4-14 Notice from Westchester County Executive Robert P. Astorino that residents can now include beverage cartons with their recyclables. The City of Rye Public Works will include these recyclables effective Monday, April 25, 2016.
- 4-15 Legal Department Update from the Corporation Counsel dated April 22, 2016.
- 4-16 Notice from the Rye Nature Center and the Rye Sustainability Committee regarding an event entitled *Everything You Wanted to Know About Compost (But Didn't Know You Wanted to Ask!)* to be held on Friday, May 6, 2016, at 9:15 a.m. at the Rye Nature Center.
- 4-17 Meeting notice for the week of April 25, 2016 is available on the City website [www.ryeny.gov](http://www.ryeny.gov) under Calendar.



**The Rye City School District**

*411 Theodore Fremd Avenue, Suite 100S*

*Rye, New York 10580*

*Tel: (914) 967-6100 Ext .6278 Fax: (914) 967-6957*

*EW Elaine Cuglietto*  
*District Clerk*

*Cuglietto.elaine@ryeschools.org*

April 19, 2016

FOR IMMEDIATE RELEASE

**April 26, 2016 Board of Education Meeting**

The Rye City School District Board of Education will meet **Tuesday, April 26, 2016** beginning at 8:00 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 fiscal, special education, personnel and business items that ordinarily come before the Board as well as a Presentation on Rye High School's Project Lead the Way

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



Robert P. Astorino, Westchester County Executive

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## **NEWS RELEASE**

Ned McCormack, Communications Director (914) 995-2932

**FOR IMMEDIATE RELEASE: April 21, 2016**

### **UPGRADE TO WESTCHESTER COUNTY'S MATERIAL RECOVERY FACILITY ALLOWS EXPANSION OF RECYCLING PROGRAM TO INCLUDE BEVERAGE CARTONS**

Westchester County Executive Robert P. Astorino announced today that just in time for Earth Day, residents of Westchester County's Refuse Disposal District (RDD) will be able to include beverage cartons when they put their recyclables out to the curb for collection.

The Daniel P. Thomas Material Recovery Facility (MRF) in Yonkers, processes residential recyclables for the municipalities that are located within the RDD, approximately 90% of the county's population. The MRF is operated by City Carting of Westchester. Last year, when the county and City Carting executed a 5-year contract extension, Astorino negotiated for City Carting to pay for the purchase and installation of screening equipment to enhance the facility's cardboard and paper recycling capabilities. The new equipment requires less hand-sorting of paper recyclables, which allowed for the redeployment of personnel to hand-sort beverage containers.

Beginning on April 25, 2016, district residents will be able to include the cartons with their commingled recyclables (glass, plastic and metal recyclables) for collection by their refuse hauler. Recyclable cartons consist predominantly of cardboard and include waxy cartons used for juice and milk (sometimes called gable-top containers); soup and broth; cream; and egg substitutes. Although mostly made of cardboard, the cartons should be included with other recyclable beverage containers made of glass, plastic and metal for collection; they should not be included with paper and cardboard recyclables.

“As greater awareness of beverage carton recycling spreads among residents, Westchester can expect to see a slight increase in the county-wide recycling rate,” said Astorino. “Robust recycling markets displace demand for virgin materials when new products are manufactured. The MRF equipment upgrade is the latest effort by the county to divert more materials from the trash, conserving resources while protecting the environment.”



Mixed paper and cardboard at the Material Recycling Facility (MRF) in Yonkers.

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Rye City Council  
FROM: Kristen K. Wilson, Corporation Counsel  
SUBJECT: Litigation Update  
DATE: April 22, 2016

**CLAIMS**

**Ms. Donovan-Corrigan filed a Notice of Claim alleging that a City tree fell and damaged her fence The City has closed out the claim for \$95.00.**

**Florek and Counsel filed a “Notice of Intent” with the City on behalf of three couples that were former members of Rye Golf Club. The Notice indicates that a Notice has been filed with the Court of Claims.**

**Leonard C. Aloï, Esq., on behalf of Stanislaw Szewezky, filed a Notice of Claim seeking damages resulting from a fall behind 22 Purdy Avenue in the municipal lot. Mr. Szewezky allegedly slipped on black ice on February 16, 2016 in the parking lot and fractured his right foot. The Notice of Claim has been forwarded to our insurance carrier for a coverage determination.**

**Stolzenberg Cortelli, LLP, LLP, on behalf of Wilton Valdez filed a Notice of Claim seeking damages resulting from personal injuries when Mr. Valdez fell from a ladder while performing repair work at the Milton Firehouse. Mr. Valdez suffered a broken foot and is alleging that a City ladder that he borrowed was defective. The Notice of Claim has been forwarded to our insurance carrier for a coverage determination.**

**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. **Petitioners requested a 2 month enlargement of time to perfect the appeal. We are waiting for the Second Department to render a decision on the request.**

### 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 15, 2016. **On April 20, 2016, Judge Mary Smith rendered a Decision and Order granting the City's motion for summary judgment and dismissing Mrs. Chittenden's three causes of action. The Decision was entered in the Westchester County Clerk's office on April 21, 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 **forty-five (45) 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. **Both the County Defendants and the City Defendants filed motions to dismiss. Plaintiff requested an extension until April 28,**

**2016 to file his opposition papers. The Judge granted the requested extension and Defendants have until May 9, 2016 to file and serve their reply papers.**

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.

**There have been numerous Defendants-only strategy meetings and also two settlement meetings with all parties. On Wednesday, April 20, all parties appeared in front of the Honorable Cathy Seibel in the Southern District of New York for a formal status conference and update. At the conference, the parties requested more time to conduct system wide studies regarding the condition of the infrastructure. The enlargement of time would delay the requirement for defendants to answer. The Judge agreed to this approach and was pleased that the parties appeared to be working together in a productive fashion. The Plaintiffs are responsible for submitting quarterly status reports to the Judge while the system studies are undertaken.**

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.

ANDERSON v. CITY OF RYE, ET AL.

Melissa Anderson filed a summons and complaint against the City of Rye, the Rye Neck Union Free School District and the Village of Mamaroneck seeking damages for personal injuries sustained while on the playground at Rye Neck Middle School. The City's insurance carrier has been notified and denied defense and indemnification since this property is not owned by the City and the City does not maintain or operate the playground equipment.

**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 style with a large initial 'K'.

Kristen K. Wilson  
Corporation Counsel

KKW/kkw

Rye Nature Center  
&  
City of Rye Sustainability Committee  
*present*

Everything You Wanted  
to Know About Compost

(But Didn't Know You Wanted to Ask!)



Got a composter? Wonder what to do with it? Drop by the Rye Nature Center and we'll be happy to show you the what, why and how-to of

composting. Rye Nature Center experts will be on-hand to answer all your questions.

For more resources on composting and healthy yards, check out the Rye Sustainability Committee's [website!](#)

Follow us on [Facebook!](#)

Free and open to the public--children welcome!

**When:** Friday, May 6th

**Time:** 9:15 am

**Where:** Rye Nature Center, 873 Boston Post Road

**Further info:** [tarrietaka@ryenaturecenter.org](mailto:tarrietaka@ryenaturecenter.org)



### **Rye Sustainability Committee**

The Rye Sustainability Committee, a committee of the Rye City government, is dedicated to educating the community about critical environmental issues.



The Friends of Rye Nature Center provides a full range of environmental education programs that encourage the protection of our natural resources and promote environmental awareness in Rye and surrounding communities.

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