

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Marcus Serrano, City Manager

SUBJECT: Enclosures - Council Packet

DATE: May 13, 2016

Enclosed with this memorandum are the following items:

- 5-6 Notice regarding a Rye Town Park Community Conversation to be held on Saturday May 14, 2016 from 10:00 a.m. to 12:00 p.m. in the Pavilion Area at Rye Town Park.
- 5-7 Notice regarding a Rye Town Park Commission Meeting to be held on Tuesday May 17, 2016 beginning at 6:00 p.m. in the Rye Brook Village Hall.
- 5-8 Notice regarding a Rye City School District Board of Education Meeting to be held on Tuesday May 17, 2016 beginning at 8:00 p.m. in the Rye Middle School Multipurpose Room.
- 5-9 Legal Department Update from the Corporation Counsel dated May 13, 2016.
- 5-10 Notice regarding a City Council Coffee to be held on Saturday May 21, 2016 from 9:30 a.m. to 11:00 a.m. at the Rye Free Reading Room.
- 5-11 Notice from the Village of Port Chester Board of Trustees regarding a Public Hearing to consider Starwood Capital's preliminary FEIS to be held on Tuesday, May 24, 2016 at 7:00 p.m. in the Port Chester Senior Center.
- 5-12 Notice from Verizon Fios® TV regarding the removal of World Fishing Channel on channels 317 SD/817 HD on or after July 1, 2016.
- 5-13 Meeting notice for the week of May 16, 2016 is available on the City website [www.ryeny.gov](http://www.ryeny.gov) under Calendar.



# **Rye Town Park Community Conversation**

**Saturday, May 14, 2016  
10am to Noon**

**Pavilion Area,  
Rye Town Park  
Parking Entrance on Dearborn Avenue,  
Rye, NY 10580.**

**Here's your chance to voice your thoughts  
on the 2015 operations of the park and  
what changes, if any, you would like to see  
Implemented, going forward in 2016.  
Everyone Welcome!**



*Rye Town Park*  
*95 Dearborn Ave.*  
*Rye, NY 10580*  
*914 967-0965*

**RYE TOWN PARK COMMISSION**  
**MEETING NOTICE**

**Commission Members**

Julie Killian – Commissioner  
Dennis Pilla, Mayor-Village of Port Chester  
Joseph Sack, Mayor-City of Rye  
Benedict Salanitro, Commissioner  
Paul Rosenberg, Mayor-Village of Rye Brook  
Gary Zuckerman - President

**DATE: TUESDAY, MAY 17 2016**

**TIME: 6:00 P.M.**

**PLACE: RYE BROOK VILLAGE HALL  
938 KING STREET  
RYE BROOK, NEW YORK**

**PURPOSE: MONTHLY MEETING**



**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*

*Elaine Cuglietto*

*District Clerk*

*Cuglietto.elaine@ryeschools.org*

May 12, 2016

FOR IMMEDIATE RELEASE

**May 17, 2016 Board of Education Meeting**

The Rye City School District Board of Education will meet Tuesday, May 17, 2016 beginning at 8:00 PM in the Rye Middle School Multipurpose Room. Prior to the meeting, the Board will meet at 7:00 PM in Executive Session 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.

At approximately 9:00 p.m. with the closing of the polls, the Board will adjourn to hear the Board of Education Candidate Election and Budget Vote / Osborn Bond results.

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

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Rye City Council  
FROM: Kristen K. Wilson, Corporation Counsel  
SUBJECT: Litigation Update  
DATE: May 13, 2016

**CLAIMS**

**Notice of Claims were filed by John Lyons and Marjorie Lyons, Mark and Silvia Lederman and Stephen and Deborah Chapin seeking their alleged portion of the settlement funds received by the City for damage to the greens at Rye Golf Club. All claimants were members of Rye Golf Club for the 2015 season.**

**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. The Second Department granted the enlargement of time.

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. Notice of Entry was filed on April 25, 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. **The City is in receipt of the settlement check and this matter has now concluded.**

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. 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. The Appellate Division, Second Department received Petitioner's Notice of Appeal and assigned the following docket number 2016-03878.

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 Plaintiffs filed their opposition papers and the City received the County's initial disclosures.

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. During the week of May 9, 2016, I submitted an affirmation establishing ownership and maintenance of the playground property.

**PEOPLE v. CHITTENDEN**

Chittenden's appeal of his conviction in Rye City Court finding him guilty of numerous vehicle and traffic law violations has been calendared for oral argument in the Appellate Term on May 19, 2016.

**RYE CITY COURT**

Normal traffic court calendar with no unusual dispositions.

Respectfully submitted,



Kristen K. Wilson  
Corporation Counsel

# Coffee with the City Council



**When:** Saturday, May 21<sup>st</sup> from  
9:30 a.m. to 11:00 a.m.

**Where:** Rye Free Reading Room

**Who:** Mayor Joe Sack

Deputy Mayor Julie Killian

Police Commissioner Michael Corcoran

**\*\*Free coffee and donuts will be provided \*\***

**\*\*Future meetings are scheduled for July 16th and October 1st at the RFRR \*\***

## PUBLIC NOTICE

A PUBLIC HEARING WILL BE HELD BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PORT CHESTER ON MAY 24, 2016 AT 6:00 P.M. OR SHORTLY THEREAFTER AT THE SENIOR CENTER, 222 GRACE CHURCH STREET, PORT CHESTER, NY TO CONDUCT A PUBLIC HEARING ON THE PRELIMINARY FINAL ENVIRONMENTAL IMPACT STATEMENT (pFEIS) AND REVISED PROPOSED AMENDMENTS TO THE VILLAGE ZONING CODE AND/OR ZONING MAP 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 TO AMEND THE EXISTING PMU ZONING DISTRICT (CHAPTER 345-62) AND THE ALTERNATIVE ZONING PROPOSAL 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) . APPLICANT, PC 406 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.



## **Fios® TV Programming Change**

### **IMPORTANT INFORMATION**

We are committed to providing our customers with the best TV experience while keeping our prices low. Each year, the cost of programming increases substantially, and in order to minimize those costs from being reflected in your bill, it is sometimes necessary to remove channels from our lineup.

We have decided not to renew our contract for The World Fishing Channel (channel 317 & 817), and will discontinue broadcasting effective July 1, 2016. We are sorry for any inconvenience this may cause.

Thank you.