

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Marcus Serrano, City Manager

SUBJECT: Enclosures - Council Packet

DATE: January 20, 2017

Enclosed with this memorandum are the following items:

- 1-4 Notice from New York State Assemblyman Steve Otis regarding a Westchester Legislative Delegation Forum on the Governor's Proposed Executive Budget to be held on Friday, February 3, 2017 from 10:30 a.m. to 2:00 p.m. at the Greenburgh Public Library.
- 1-5 Legal Department Update from the Corporation Counsel dated January 20, 2017.
- 1-6 Notice regarding a Special Rye City School District Board of Education Meeting to be held on Saturday, January 21, 2017 beginning at 7:45 a.m. in the Rye City School District Central Administration Building.
- 1-7 Notice regarding a Special Rye City School District Board of Education Meeting to be held on Monday, January 23, 2017 beginning at 6:00 p.m. at the Wainwright House.
- 1-8 Notice regarding a Special Rye City School District Board of Education Meeting to be held on Wednesday, January 25, 2017 beginning at 6:00 p.m. at the Wainwright House.
- 1-9 Letter from Dan Ahouse, Altice Area Director of Government Affairs, regarding programming changes to Esquire and WZME.
- 1-10 Meeting notice for the week of January 23, 2017 is available on the City website www.ryeny.gov under Calendar.

NEW YORK STATE LEGISLATURE
WESTCHESTER DELEGATION

Notice of Public Forum



SUBJECT: To allow local organizations, elected officials, residents, and communities of Westchester County to share their views on the Governor's Executive Budget for SFY 2017-2018.

**February 3, 2017
10:30 AM – 2:00 PM**

Greenburgh Public Library
300 Tarrytown Road, Elmsford, NY 10523

Contact: Debra Lagapa at (914) 939-7028
lagapad@nyassembly.gov

Persons who wish to comment on the proposed budget should so indicate on the reply form attached. The Westchester Delegation will accommodate as many participants as possible. Persons wishing to make a presentation at the forum should complete and return the reply form as soon as possible, but **no later than the close of business, Wednesday, February 1st**. It is important that the reply form be fully completed and returned so that persons may be notified in the event of postponement or cancellation of the forum.

To the extent possible, the Westchester Delegation will try to accommodate any individuals wishing to testify who have not pre-registered, but are present at the forum.

We also encourage the submission of written comments, which will be fully considered by the delegation. **Written comments may be emailed as an attachment in any common format to the Westchester Delegation in care of:**

Debra Lagapa at lagapad@nyassembly.gov

Witnesses are asked to keep oral presentations to ***no more than five minutes in length.*** In preparing the order of witnesses, the Westchester Delegation will attempt to accommodate individual requests to speak at particular times in view of special circumstances. This request should be made on the attached reply form or to the delegation staff as soon as possible. Please bring **ten copies** of any prepared statement with you to the forum.

Accommodations will be provided for individuals with disabilities, upon reasonable request, to afford such individuals access and admission to the forum.

**Westchester Delegation
Public Forum Reply Form**

Persons wishing to present comments at the February 3rd forum are requested to complete this reply form and return by mail, fax or email to:

Debra Lagapa
Office of Assemblyman Steve Otis
222 Grace Church Street
Port Chester, NY 10573
(914) 939-7028 (o)
(914) 939-7167 (fax)
lagapad@nyassembly.gov

NAME: _____

TITLE: _____

ORGANIZATION: _____

ADDRESS: _____

E-MAIL: _____

TELEPHONE: _____

FAX: _____

I will require assistance and/or handicapped accessibility information. Please specify the type of assistance needed:

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: January 20, 2017

CLAIMS

No new claims by third parties were filed this week.

TAX CERTIORARI

THE TOWN OF RYE AND THE RYE TOWN PARK COMMISSION v. THE ASSESSOR and Board of Assessment Review of the CITY OF RYE

The Appellate Division, Second Department, handed down a Decision and Order reversing the lower court and granting the City's cross-motion for summary judgement. Notice of Entry was served on July 28, 2016. The Decision and Order confirms the City's ability to tax that portion of Rye Town Park which is occupied by Seaside Johnnies. On September 6, 2016, the City was served with a Motion for Leave to Appeal to the Court of Appeals by both the Town of Rye and the Rye Town Park Commission. The City filed its opposition papers on September 16, 2016. We are waiting for a decision from the Second Department.

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

STANISLAW SZEWCZYK v. CITY OF RYE

Plaintiff filed and served a summons and complaint seeking damages for injuries sustained as a result of a fall. Plaintiff slipped and fell on ice in the parking lot area bordered by Purchase Street and School Street. The matter was commenced in Supreme Court, Westchester County. A Notice of Claim was previously filed and a 50 H hearing has taken place.

WILTON VALDEZ v. CITY OF RYE, RYE FIRE DEPARTMENT and MILTON FIREHOUSE

Plaintiff filed suit in Westchester County Supreme Court seeking damages he sustained while working at the Milton Firehouse. Plaintiff was injured when he fell off of a ladder while he was repairing a garage bay door. Plaintiff alleges that the ladder that he borrowed from the Milton Firehouse was defective and that such defect caused him to fall. Plaintiff commenced this action under the New York Labor Law Sections 200, 240, and 241(6). An Answer with Affirmative Defenses was filed earlier this week.

DeBORBA v. CITY OF RYE

Plaintiffs commenced suit against the City of Rye alleging a serious injury when Luis DeBorba tripped and fell on a sidewalk abutting 2 School Street, Rye, New York. The Summons/Complaint has been forwarded to our insurance carrier for a determination. **A preliminary conference was held on January 18, 2017 and a discovery schedule was agreed upon by all parties.**

CHITTENDEN v. WILSON, D'ANDREA, SERRANO AND CITY OF RYE

Pro Se Petitioner commenced an Article 78 proceeding against the City of Rye and several officials alleging that the City failed to comply with the Freedom of Information Law. Petitioner served his reply papers on September 2, 2016 and Respondents filed their sur-reply on September 16, 2016. On December 12, 2016, Judge Zambelli issued a Decision, Order and Judgment dismissing Plaintiff's petition in its entirety and denied him any costs or fees associated with the filing of the Petition. In her Decision, Judge Zambelli found that the City Respondents properly complied with the Freedom of Information Law Requirements in a reasonable timeframe given the nature of Petitioner's request. Furthermore, with respect to those FOILs which Respondents denied, Judge Zambelli found that such denials were correct and upheld the Respondents' denials.

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 Judge granted Plaintiffs motion to certify the class. A pre-motion conference has been requested by the City of Rye and is currently calendared for October 19, 2016. A settlement conference took place in front of Magistrate Davison and the parties reached a tentative settlement.

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 an additional one-month enlargement of time to perfect their appeal. Petitioners perfected their appeal and served respondents with the record on appeal and appellate brief. Respondents filed their opposition

brief on September 19, 2016. The Appeal is fully submitted. We are still waiting for a date for oral argument.

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. A Notice of Appeal was filed on April 25, 2016 by Plaintiff Luanne Chittenden. Plaintiff has failed to perfect her appeal in a timely manner.

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. Petitioner has requested a three-month extension due to an alleged disability that is preventing him from working on his papers in a timely manner. Petitioner has failed to perfect his appeal in a timely manner.

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. A compliance conference was held in May and a discovery schedule was entered into that requires all depositions to be completed by September 2016 and a Note of Issue to be filed April 2017.

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. On October 25, 2016, a revised discovery schedule was set and Plaintiffs' counsel had until November 2, 2016 to perfect service and until November 10 to serve responses to Plaintiffs' discovery demands. On November 8, 2016, Judge Ross rendered an Opinion and Order granting, in part, and denying, in part, the Defendants' motion to dismiss. Plaintiffs' claims against all of the unidentified John Does and against County Sgt. Hess are dismissed with prejudice. In addition, Plaintiffs' "Deprivation of Civil Rights" and "monell" causes of action are dismissed with prejudice as to all Defendants. Plaintiffs' false arrest claim against Chittenden is dismissed with prejudice but remains as to County Officers Lopez and Mohl. Also, Plaintiff Aguirre's claims for malicious prosecution and fair trial claims remain as to all three (Chittenden, Lopez, and Mohl). Judge Scanlon signed an amended Order to allow the New York State Department of Corrections more time to transfer Plaintiff Aguirre to Sing Sing Correctional Facility. The deposition is currently scheduled to take place on or before February 17, 2017. **The deposition of Melissa Sanchez will be taken on January 24, 2017.**

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. Plaintiffs submitted the first and second and third quarterly status report to the Judge.

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.

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. Plaintiffs have requested a preliminary conference.

RYE CITY COURT

Routine vehicle and traffic law calendar with no unusual dispositions.

Respectfully submitted,



Kristen K. Wilson
Corporation Counsel

KKW/kkw



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

January 13, 2017

FOR IMMEDIATE RELEASE

January 21, 2017 Special Board of Education Meeting

The Rye City School District Board of Education will meet on Saturday January 21, 2017 beginning at 7:45 A.M. in the Rye City School District Central Administration Building, 411 Theodore Fremd Avenue, Suite 100S, Rye New York 10580

It is expected the Board will adjourn immediately into Executive Session to discuss matters leading to the appointment and/or employment of a particular person.



5

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

January 13, 2017

FOR IMMEDIATE RELEASE

January 23, 2017 Special Board of Education Meeting

The Rye City School District Board of Education will meet on:

Monday January 23, 2017 beginning at 6:00 p.m. at the Wainwright House 260

Stuyvesant Avenue, Rye, New York 10580

It is expected the Board will adjourn immediately into Executive Session to discuss matters leading to the appointment and/or employment of a particular person.



5

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

January 13, 2017

FOR IMMEDIATE RELEASE

January 25, 2017 Special Board of Education Meeting

The Rye City School District Board of Education will meet on:

Wednesday January 25, 2017 beginning at 6:00 p.m. at the Wainwright House

260 Stuyvesant Avenue, Rye, New York 10580

It is expected the Board will adjourn immediately into Executive Session to discuss matters leading to the appointment and/or employment of a particular person.



January 6, 2017

Hon. Joseph Sack, Mayor
City of Rye
1051 Boston Post Road
Rye, NY 10580

Dear Mayor Sack:

Pursuant to Public Service Law §224-a, Altice USA (the "Company") hereby notifies the Commission of the following programming changes:

- Esquire: Effective February 20, 2017, pursuant to the Company's carriage renewal agreement with NBC Universal executed on December 31, 2016, Esquire network (currently carried on Optimum Preferred tier) will no longer be carried on Optimum's channel lineup. Company's customers will be notified through on-screen messaging (on the affected channel and guide, at least once each hour for no less than 30 days) and bill messages or inserts. Notice will include the customers' right to downgrade or disconnect within 30 days of receipt of notice at no charge and to receive a refund of pre-paid service charges, connection, upgrade or other one-time charges they may have incurred in connection with their service during the prior six months.
- WZME: On December 29, 2017, the Company became aware that effective January 1, 2017, WZME, which was carried on the Optimum Broadcast Basic tier in certain systems in the Hudson Valley, replaced the channel's content from "Heroes & Icons" to Sonlife Broadcasting Network. Customers are receiving the notice described above through on-screen messages and bill messages or inserts.

If you have any questions please feel free to call me at 914-378-4533.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Ahouse".

Dan Ahouse
Area Director, Government Affairs