

TOWN OF RYE – PLANNING BOARD MEETING

**Tuesday, April 16, 2024 – 6:00 p.m.
Rye Public Library**

***Members Present:* Don Cavallaro, Bob Eberhart, Select Board Rep. Bill Epperson, Chair Patricia Losik, Vice-Chair JM Lord, Steven Borne, Alternate John Shaw, Peter Moynahan**

***Also Present on behalf of the Town:* Planning/Zoning Administrator Kim Reed, RPC Circuit Rider Maddie DiIonno**

I. Call to Order

Chair Losik called the meeting to order, led the Pledge of Allegiance, and explained that the selection for the TAC Committee would be a public session not a public hearing.

Member Moynahan recused himself from the selection of a TAC Committee candidate and Member Shaw was seated in his place.

II. New Business

- **TAC Committee - two candidates to consider for one position:**

Chair Losik discussed the selection process, thanked the candidates, explained the TAC's roles and responsibilities, and outlined the TAC recommendation process.

- **John Moynahan**

Mr. Moynahan thanked the board and discussed his keen interest in transportation matters, and his concern regarding a lack of participation and attendance from TAC community representatives. He described his long-standing residency in Rye, his resume, and his aim in serving the TAC Committee.

- **Dania Seigle**

Ms. Seigle read from her submitted personal statement and discussed her participation in the awarded TAP Grant. She responded to comments regarding meeting attendance noting that the relevancy of meetings should be critically analyzed and that she always reviewed meeting agendas to be sure they're relevant to the town. She described her positive working relationship with Jason Rucker and ideas for improving safety on the road. She asked for clarification regarding participation in the Master Plan Steering Committee and Planning Board meetings.

Member Eberhart arrived at 6:20 PM.

Chair Losik explained the request for a TAC representative to meet with the Planning Board and the Planning Board's involvement moving forward. In response to Ms. Seigle's comment that she would have loved to have more discussions with the Planning Board in previous years, Chair Losik clarified that the TAC's expectation of involvement with the Planning Board is new and that connectivity to resources is critical.

Chair Losik opened to questions from the board.

Member Cavallaro asked how much of the state the TAC representative would meet with.

Mr. Moynahan stated that the rep. would just meet with our state and the Rockingham Planning Commission.

Ms. DiIonno explained that the TAC has 27 communities, mostly in Rockingham County.

Ms. Seigle concurred with Ms. DiIonno and added that speeches are given by various members throughout Rockingham County and everyone on the board is representing other towns.

Member Cavallaro observed that FEMA-related finances and other funding streams seem to be known and defined, noting that a background in finance is not as relevant to the position. He stated that it would be helpful for a candidate to know the history of Rye, how things have trended, and the town's needs.

Noting that FEMA funding can take a long time, Ms. Seigle discussed the importance of seeking alternate sources of funding (i.e. grants) for the rehabilitation of shoreline. She noted that municipal financing is not her area of expertise.

Mr. Moynahan stated that FEMA is strict; all guidelines must be followed or FEMA funding can be revoked.

Member Cavallaro suggested the Planning Board get periodic updates from the TAC representative via email.

Member Eberhart noted that it would be acceptable if the representative attended the two required Planning Board meetings remotely or via Zoom.

Ms. Seigle stated that while she works overseas, with advanced notice she could adjust her schedule to attend the required meetings.

Member Eberhart asked the candidates for their thoughts on improving road safety, aside from the suggestion of speed monitors. Ms. Seigle stated that speed bumps were presented to Chief Walsh and DPW Director Rucker. She explained their concern that speed bumps are not effective. Select Board Rep. Epperson explained that the topic of speedbumps has been a longstanding issue over the past 10 years. Mr. Moynahan discussed speed bumps and stated his concerns regarding emergency vehicle safety and effectiveness.

Select Board Rep. Epperson acknowledged Mr. Moynahan's impressive volunteer work resume, including his service as Selectman from 2002-2005. He described his experiences working with Ms. Seigle, noting that her communication and recommendations from David Walker, Phil Winslow, and Tom Sherman have been superior. He stated that while he admires Mr. Moynahan's willingness to serve in this role, he's overwhelmed by the experience and dedication that Ms. Seigle has put forward.

Chair Losik clarified that until now the Planning Board hasn't been involved with RPC appointments. She stated that the board would like help to the extent that it's allowed by the position.

Vice-Chair Lord agreed with Select Board Rep. Epperson's comments regarding Ms. Seigle's depth of experience. He noted that not everything the TAC works on is critical to the town and while pertinent information is important, it could be delivered in email form.

Member Borne observed that this role is about communication and anything that could be done to help make information easily accessible for the public is important. He also asked Ms. Seigle about the acoustics of TAC meetings. Ms. Seigle and Ms. DiIunno described the meeting setup and acoustics.

Member Shaw thanked both candidates for their service and asked each to speak about the role's requirement to balance acting as a representative of Rye and participating in a collaborative team.

Ms. Seigle stated that her role is predominantly to represent Rye. She stated that her four years of service have provided her with insight from the group, which she described as a great team with lots of collaboration.

Mr. Moynahan stated that even if things don't directly involve the town of Rye, the TAC representative should still be in attendance. He discussed a project on Route One regarding roundabouts that would affect Rye.

Chair Loisk invited Planning Board members to discuss.

Member Shaw explained that his question regarding collaboration was raised because participation and communication is important. He stated that he generally puts a lot of weight on incumbency and experience unless there is an issue, which there is not.

Member Borne stated that he is on the Budget Committee with Ms. Seigle and that she is a pleasure to work with and gets things done. He's had a fabulous experience working with her and is impressed with her ability to communicate and build relationships with others in town. He noted that her recommendations come from other members of the TAC and he's in favor of her continuing in the role.

Vice-Chair Lord stated that he doesn't know either candidate aside from what they've presented. He noted that the topic of acoustics is relevant as hearing is an important component of the job.

Ms. DiIunno informed the board that the town can appoint an alternate TAC member.

Member Cavallaro stated that an alternate member would be helpful as a depth of experience with the town would be beneficial in some projects. He stated that he's a big proponent of institutional knowledge. He observed that both candidates have different skill sets and that he appreciates them.

Member Eberhart stated that he's new to the Planning Board and not too familiar with what this position entails. While he had concerns about attendance, it's now a non-issue. He's known Mr. Moynahan since he worked in Rye and has great respect for him and all he's done and while he doesn't know Ms. Seigle, he's also impressed with what she's done.

Select Board Rep. Epperson stated that he admires Mr. Moynahan for all the work he's done. He stated that he has no issue asking someone to step down from the commission if they're not doing the job. He stated that Ms. Seigle has done a great job, that her communication is good, and he would highly recommend that she be reappointed and that Mr. Moynahan be appointed to the alternate position.

Chair Losik stated that she's impressed with both candidates and expressed appreciation for Mr. Moynahan's long, multidimensional service to the town. Noting Mr. Moynahan's keen interest in transportation matters, she suggested other opportunities for him to become more involved, including the Master Plan initiative. She stated that Ms. Seigle's four years' experience with the TAC has given her a great foundation and a better understanding of the interrelationship with NPO, the project process, communication, and all ancillary matters. She stated that Ms. Seigle's financial background is important. She stated that waiting until 2030 for projects to come to conclusion is frightening for people and that financial requirements are complex and far-

reaching. She expressed her appreciation for Ms. Seigle's experience and stated that she would be a good fit.

Chair Losik stated that she would be thrilled if Mr. Moynahan was willing to fill the alternate position and Ms. Seigle was to fill the primary position.

Member Cavallaro agreed that substantial things are happening in the next few years and it would be great to have an extra person.

Motion by Steven Borne that Dania Seigle be nominated as the TAC representative for the RPC for the two-year period from 1/1/24-12/31/25 for consideration by the Select Board. If John Moynahan is so willing, the Planning Board also appoints him as an alternate. Seconded by JM Lord.

Vote: 7-0-0 (D. Cavallaro, B. Eberhart, B. Epperson, P. Losik, J. Lord, S. Borne, J. Shaw in favor)

Member Peter Moynahan was reseated.

- **NHHOP Grant Phase II**

Chair Losik explained that the board completed the NHHOP Grant Phase I (the Housing Needs Assessment) last year and that Phase II is a regulatory audit and review of land use regulations. She stated that phase II has two components: land use regulation audit and facilitation of public input opportunities. She explained that they applied and were accepted into the program last year but funding ran out. In March 2024 resources were found and the board was invited to amend and resubmit the application. She explained the board's hope that it would be accepted for a grant of \$25,000. She stated that as soon as the board hears, they will have a kickoff meeting in May with Jenn Rowden (RPC), Kim Reed, and Kara Campbell.

Selectboard Rep. Epperson suggested mentioning a lack of adequate infrastructure on page three. Chair Losik explained that the proposal's language needs to be substantively the same as what was submitted and approved last year. She noted that the first page of the audit includes those issues.

Member Borne discussed his thoughts on the language in the application, community participation, and factors to work through in the Long Range Planning Committee.

Member Moynahan noted the use of two commas after "housing needs assessment" on the first page.

Member Cavallaro discussed the language addressing the density bonus.

Motion by Bill Epperson that the Planning Board reaffirm their interest in the NHHOP Phase II regulatory audit grant to review existing land use regulations and identify amendments that may be implemented to increase housing opportunities including identifying support or lack thereof for such changes in the Master Plan, pros and cons, the level of effort required, and the anticipated level of impact of proposed amendments. Seconded by Don Cavallaro.

Vote: 7-0-0 (D. Cavallaro, B. Eberhart, B. Epperson, P. Losik, J. Lord, S. Borne, P. Moynahan in favor)

- **RPC Planning Board training**

Chair Losik explained that Rules of Conduct will now be included in the Planning Board's Rules of Procedure. She explained that Planning/Zoning Administrator Kim Reed is responsible for the management of the Planning Board's budget and resources. She is also tasked with the coordination of all communication. All communication received from all sources should go through Planning/Zoning Administrator Reed, regardless of topic. She will then communicate with the board by putting items on the agenda. Chair Losik encouraged Planning Board members to review Appendix G of the handbook for more information.

RPC Circuit Rider Maddie DiIunno delivered a presentation on the roles and responsibilities of Planning Board members. It was agreed that the presentation would be posted on the Planning Board's landing page as durable guidance for all members.

Selectboard Rep. Epperson left the meeting at 8:15 and invited anyone interested in the speeding issue to the meeting on 4/17 at 10:00.

III. Other Business:

- **Parsons Creek:**
 - **Planning Board Role**

Chair Losik read from an email from Steve Harding requesting that the Selectboard Rep. give a presentation on what work FB Environmental will be doing this year and why. She explained that much of this is outside of the Planning Board's purview and that she would like to discuss what's in the board's purview. She explained that the Planning Board has two lanes: non regulatory (master plan) and regulatory (ordinances, regulations, etc.) but that many initiatives are outside the Planning Board's purview. She invited board members to share their thoughts about how this information integrates into Planning Board concerns.

Member Moynahan stated that his first impression is that this is a Master Plan issue related to natural resources which could be discussed at a meeting.

Member Shaw agreed that it relates to the Master Plan. He observed that the 2022 ordinance changes were significant and enforcement may be an issue. He suggested that more time may be needed to adjust to new ordinances and as more cases come through, observe if the ZBA is able to enforce those rules as written.

Vice-Chair Lord expressed that it's a complicated issue and the board might consider looking at the watershed area and implementing a protective overlay area. He also discussed land rights and the possibility of limiting septic system sizes to designs that are there today.

The board discussed the increased development, storms, and high water levels causing the saturation of leachfields in Parsons Creek.

Member Cavallaro discussed issues beyond Parson's Creek such as buildout. He suggested that the aquifer map on the Planning Board website should be considered for maximum buildout in the Master Plan. Responding to Member Cavallaro, Chair Losik asked him to clarify that density should not exist in the Aquifer and Wellhead Protection District. Member Cavallaro confirmed, stating that things are going in the wrong direction for the protection of those resources. He discussed the potential negative outcomes of short-term rentals.

Member Eberhart observed that it's clear these environmentally sensitive areas are already failing and overstressed. He stated that he's not sure how the Planning Board should come in, other than through the Master Plan to change ordinances and eliminate the possibility of expanding leachfields in sensitive areas. He also stated that enforcement needs to be addressed.

Chair Losik and Ms. DiIunno discussed the town of Hampton and their consideration of a Coastal Overlay Hazard District. Chair Losik stated that she'd like to learn more about that as she's interested in how an overlay district could work. She discussed that Aquifer and Wellhead Districts, observing that those rules don't apply to residential use.

Chair Losik suggested that this topic be brought to both the Master Plan and Rules and Regulations Committees for further discussion. She also noted that more information regarding groundwater rise should be forthcoming.

IV. Updates

- **Master Plan Update**

Member Moynahan updated the board on the most recent Master Plan Steering Committee meeting. Planning/Zoning Administrator Reed provided board members with an updated copy of the Draft Outreach Engagement Report dated 4/15, including changes by the committee.

Member Moynahan stated that the committee was impressed with what Resilience presented based on 163 pages of raw comments they reviewed. He stated that the committee received 320 total responses.

Planning/Zoning Administrator Reed outlined the MPSC's timeline, which is also posted on the town's website. Chair Losik stated that the committee agreed that the outreach survey would be live for public input on 4/22. Planning/Zoning Administrator Reed stated that it should be ready to be posted tomorrow. She commended Resilience for pulling data and capturing the essence of survey responses.

Chair Losik noted that buildout would be the top discussion at the May meeting's Future Landuse Work Session. She asked the board to review Planning/Zoning Administrator Reed's email and respond with any thoughts. She stated that a draft plan would be presented in November.

Motion by JM Lord to appoint Joe Persechino as a public member of the Master Plan Steering Committee. Seconded by Peter Moynahan.

Vote: 7-0-0 (D. Cavallaro, B. Eberhart, B. Epperson, P. Losik, J. Lord, S. Borne, P. Moynahan in favor)

Chair Losik reported that Rob Wright, former chair of the MPSC, informed the board that his plate was full and he would not be able to serve on the MPSC, so there is a vacancy. Planning/Zoning Administrator Reed agreed to ask if Kathryn will be a regular member, and if she is interested the board will make an appointment.

Chair Losik shared an NH Natural Heritage Bureau report with board members and discussed sections the board should review regarding wetlands functions and values. Planning/Zoning Administrator Reed confirmed that she sent the report to MPSC members.

Member Moynahan outlined the MPSC's timeline and topics of discussion for the next six meetings.

Member Borne discussed the creation of an infographic for the MPSC and other ideas for working with youth in the community. Member Moynahan noted that a common concern among committee members is that time is quickly running out. Planning/Zoning Administrator Reed

stated that, according to Steve Whitman, president and owner of Resilience, it's too late to take on new opinions and data; at this point, spreading the word may be enough.

- **Subdivision Update**

- **Thompson Landing**

Vice-Chair Lord stated that foundations are in, 1/3 of all units are sold or under agreement, they're finishing site work for paving, and hoping to get the buildings started before summer ends.

- **THP off Airfield Drive**

Vice-Chair Lord stated that Chinburg is now involved and they're prepping slab for four units behind existing units.

- **1215 Ocean Blvd**

Vice-Chair Lord stated that a preconstruction meeting has taken place and they will try to do site work this year.

- **665-667 Wallis Rd**

Vice-Chair Lord stated that they needed to complete the demolition of the existing building and it was more cost-effective to start fresh. He stated that foundation plans remain the same, but they may come before the board again.

- **Marsdon Woods**

Vice-Chair Lord stated that after months it should be nearly done. He reported that there were huge amounts of rock and that loam and seed would need to be a priority.

- **Goss Grant Subdivision**

Vice-Chair Lord stated that he visited today and they're probably ready to pave. They have an artificial CO but are waiting on the last house so they can do the final top and the town can accept.

V. Minutes and Escrows

- **February and March meeting minutes**

Meeting Minutes: February 20, 2024

Corrections:

- It should be noted that Bill MacLeod and Steven Borne are alternate members.
- Add Maddie DiIunno, RPC Circuit Rider to page one.
- Page 3, "TRC" should be "TMS stamp"
- Page 7, correction to the spelling of Haley Ward
- Page 8, correction to the spelling of John Shaw

Meeting Minutes: March 19, 2024

Corrections:

- Page 3, correction to the spelling of ad hoc
- Page 5, “where it states 9+8, should be corrected to 9x8”
- Page 8, “It’s the size of the tanks that’s the limiting factor.”
- Page 1, note that Bill MacLeod is an alternate member, add Alternate John Shaw and Maddie DiIunno, RPC Circuit Rider
- Page 2, “Members Cavallaro, Moynahan, and Shaw expressed interest”
- Page 3, add the following language regarding the Master Plan Steering Committee vote:

Motion by Steven Borne to appoint Peter Moynahan to the Master Plan Steering Committee. Seconded by Don Cavallaro.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

Chair Losik clarified that Rob Wright would continue as a member, per Counsel. Peter Moynahan would be added, and she would continue as an ad hoc member, subsequently clarified and voted: as a Planning Board member. She also noted that Joe Persechino was named as an ad hoc member, but has functioned as a regular member of the public group of five.

Planning/Zoning Administrator Reed stated that all five members of the public are committed through 12/2024.

Motion by Steven Borne to appoint Patricia Losik to the Master Plan Steering Committee. Seconded by Bill Epperson.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

Motion by Steven Borne to appoint Peter Moynahan as Chair of the Master Plan Steering Committee. Seconded by Patricia Losik.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

Motion by JM Lord to approve the February 20, 2024 meeting minutes as amended. Seconded by Steven Borne.

Vote: 3-0-3 (S. Borne, J. Lord, P. Losik in favor, B. Eberhart, P. Moynahan, D. Cavallaro abstained)

Motion by JM Lord to approve the March 19, 2024 meeting minutes as amended. Seconded by Steven Borne.

Vote: 6-0-0 (S. Borne, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

- Escrows

Motion by JM Lord to pay the following escrows:

- Sebago in the amount of \$676.00 for Rye Airfield
- Sebago in the amount of \$842.50 for 665-667 Wallis Road
- Sebago in the amount of \$465.00 for 2203 Ocean Boulevard
- TVC in the amount of \$134.00 for 665-667 Wallis Road

Seconded by Steven Borne.

Vote: 6-0-0 (S. Borne, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

Motion by Steven Borne to adjourn at 9:24 PM. Seconded by JM Lord. All in favor.

Respectfully Submitted,
Emilie Durgin

TOWN OF RYE – PLANNING BOARD

TUESDAY, April 16, 2024 at 6:00pm

Agenda II New Business - TAC Committee candidates: Dania Seigle and John Moynahan

Outline:

1. Thank both candidates for their interest and attendance
2. Public session not a public hearing. Members of the public may observe the discussion.
3. COI/Recusal(s)
4. Designate alternates(s) and clarify voting members
5. Background/relationship of TAC to planning

A. PB's recommendation to the TAC of the RPC is consistent with requirements per RSA 36:46 III: *"Representatives to a regional planning commission shall be nominated by the planning board of each municipality from the residents thereof and shall be appointed by the municipal officers of each municipality."*

B. TAC is a component of the Rockingham Metropolitan Planning Organizations (MPO) which is regional partnership which leads the development of the region's long range transportation plan, short range transportation improvement program and contributes to ongoing conversations about issues such as land use, economic development, climate change and the environment, safety and security, and public health. Serves as regional partnership among: USDOT, NHDOT, other state agencies, regional transit agencies, community leadership, local planning and public works officials, the business community and citizens.

6. TAC recommendation process:

- A. Presentations by the nominees (in alphabetical order)
- B. Subsequent to the presentations, all voting members may ask questions of nominees (may refer to TAC Recommendation guidelines: TAC work and PB assistance including steps toward facilitating the MP)
- C. Discussion and deliberation
- D. Motion: I move that _____ be nominated as the TAC representative to the RPC for the two year period from 1/1/24-12/31/25 for consideration by the Select Board.
- E. Second
- F. Debate and/or amendment
- G. Vote

7. Reseat members

Rye, NH - HOP Grant Application - Phase 2
Submitted June 12, 2023
Updated Submission – April 30, 2024

Rye, NH Overview:

The Town of Rye is a coastal municipality in New Hampshire that maintains a vibrant, year-round community. Rye's housing demands and challenges are similar to most municipalities in the state; however, the property values and infrastructure capacity, coupled with impacts from coastal hazards, add additional complications.

Contact Information:

- **Name of municipality and address of town hall:**
Town of Rye
Rye Town Hall
10 Central Road
Rye, NH 03870

- **Project contact person name, affiliation with community, phone, email:**
Kim Reed, Planning and Zoning Administrator, Town Planner
Town of Rye
Kreed@Town.rye.nh.us
603-379-8081

- Jennifer Rowden, Land Use Program Manager
Rockingham Planning Commission
jrowden@therpc.org
603-658-0521

Master Plan Status

Rye's existing Master Plan has been adopted in sections between 2013 and 2018, with the most recent housing section being adopted in 2013. Rye is currently in process of updating their entire Master Plan, with adoption anticipated to be in 2024. The current Phase 1 HOP grant Rye has received is being used to create the Rye Housing Needs Assessment that will be incorporated into the Master Plan update.

Housing Opportunity & Planning Grant Phases

Rye is currently applying for a Phase 2 Grant, with anticipation of applying for a Phase 3 grant to work on regulatory development once the results of the Housing Needs Assessment (current Phase I HOP grant award) is completed and the regulatory audit has been conducted. This phased approach will allow for a more refined scope of work with stronger goals to be developed for a Phase 3 grant application.

Phase 2: Regulatory Audit – Conducting an audit of existing regulations to evaluate possible zoning regulation modifications to increase housing opportunities, including the pros and cons, level of effort required, identifying support (or lack thereof) for such changes in the Master Plan, results from the Housing Needs Assessment, , and anticipated level of impact of the regulation change.

Requested amount: \$25,000

Phase 3: Regulatory Development – Anticipated to be applied for Spring 2024.

Unique Entity Identifier: W7T9LVL3QDQ1

Rye, NH - HOP Grant Application - Phase 2
Submitted June 12, 2023
Updated Submission – April 30, 2024

Patricia Losik, Chair
Rye Planning Board

[SIGNATURE]

DATE

**Minutes of May 16, 2023 Rye Planning Board Meeting authorizing the grant application are attached.*

The Rye Planning Board voted at its April 16, 2024 meeting to reaffirm its interest in this grant application.

Rye, NH - HOP Grant Application - Phase 2
Submitted June 12, 2023
Updated Submission – April 30, 2024

Application Narrative

Housing Challenge and Project Goals

Rye is currently experiencing housing challenges that are like those of many coastal New Hampshire communities: general lack of available housing, lack of affordable housing for young families and an aging population, cost and availability of infrastructure, and increased demand for secondary homes and short-term rentals. Factors that make Rye's housing future more complicated are the unique, environmentally sensitive areas found within the town, the extensive areas of the town that are vulnerable to the impacts of coastal hazards and climate change, and the high land value.

Critical to ensuring Rye remains a vibrant community is the development of a diverse housing supply that meets the needs of all residents. There are limited affordable housing units in Rye, and a shortage of long-term rental units to accommodate Rye's shifting population. Increasing housing diversity in the future will need to be a priority to accommodate current and future residents.

Over the course of the past two years, the Rye Planning Board has worked on a Master Plan update to better ensure that the vision and goals of the Master Plan align with best available data and science, the desires of residents, and the legal obligations of the town. The intention of the Master Plan update, along with its companion effort Buildout Analysis is to better ensure that the Rye land use regulations are helping to meet the community vision and goals. Both the Master Plan update and the Buildout Analysis are currently underway and are anticipated to be completed during proposed work timeframe. The results from those efforts, and the Phase 1 Needs Assessment work completed in Fall 2023, will be incorporated into the Phase 2 proposed work.

The Housing Opportunity Planning Grant, Phase 2, will provide Rye with the opportunity to review its existing land use regulations that focus on housing or impact housing. It will also highlight components that may be creating barriers within the existing ordinance and call out opportunities that may exist to provide increased housing in appropriate areas of town, as determined through the Phase 1 work and community outreach. Rye will use this opportunity to evaluate what other similarly sized communities are doing to comply with the NH Workforce Housing Statute.

During recent years, Rye has had a few multifamily housing development proposals come before the Planning Board. The Planning Board has wrestled with the proposals as Rye's regulations, and supporting documents, have not given strong guidance on housing. The outcome of both the Phase 1 and Phase 2 grants will assist Rye in identifying the zoning regulations that they can enact, modify, or remove that are supported by the community goals and vision in their Master Plan update efforts, are reinforced by the latest data, take into consideration the latest public input, and are consistent with statutory requirements.

Outcomes and Deliverables

Desired Outcomes & Deliverables:

Outcomes:

- Identify land use regulation amendments that may be implemented to increase housing opportunity in Rye.
- Facilitate the understanding necessary to submit a comprehensive application for a Phase 3 HOP Grant to update Rye's land use regulations.

Deliverables:

Rye, NH - HOP Grant Application - Phase 2

Submitted June 12, 2023

Updated Submission – April 30, 2024

- Community engagement opportunities, including multiple community workshops that are able to be accessible to seasonal and year-round residents.
- Regulatory Audit reviewing existing land use regulations and identifying regulatory barriers to housing development.
- Regular project reports providing updates on the implementation of the proposed scope of work, completed tasks, and metrics of success.

Scope of Work and Budget

Phase 2 – Regulatory Audit

Task 1: Land Use Regulation Audit

May 2024 –October 2024

RPC will conduct an audit of Rye's land use regulations, including the multi-family housing ordinance, to identify opportunities to make modifications to existing regulations or enact new regulations to promote the goals and actions found within the existing Master Plan, the outcomes of engagement from the Phase 1 Housing Needs Assessment & Analysis, and to reflect input received from the buildout analysis and Master Plan update project Rye is currently undertaking. The audit will include recommendations to assist the town in meeting its identified housing goals and actions, along with fulfilling housing requirements under state law. The recommendations will then be ranked for feasibility based on input from the Housing Needs Assessment & Analysis, the buildout analysis and Master Plan update work, and input from the Rye Planning Board.

Responsible Party: RPC Staff

Project Partners & Roles: Planning Board, Rye Planning Staff

Deliverables & Milestones: Land Use Regulation Audit

Estimated Cost of Task (including anticipated expenses): \$20,000

Task 2: Facilitate Public Input Opportunities

September 2024 –November 2024

RPC Staff will facilitate public input opportunities for the community to review and provide input to the audit findings, considerations and recommended action plans. Up to two public input sessions (which may take the form of in-person, virtual, or hybrid events) will be held. Materials from the public information sessions held during Phase 1 - Needs Assessment will be on display, such as photos, key maps and data points, and a summary of key issues surrounding housing at a local and regional level, as identified in earlier tasks. Participants will be engaged through interactive activities to discuss and prioritize key actions.

The project team will develop a participant packet with key materials for discussion. This opportunity will be widely publicized to all audiences across town, including businesses, manufactured home park residents, the elderly, etc. The Town and RPC will develop associated materials, facilitate these sessions, and compile input to inform the final action plans contained within the audit.

Responsible Party: RPC Staff

Project Partners & Roles: Planning Board, Rye Planning Staff

Deliverables & Milestones: Public Input Events (two), Public Input Summary including prioritized key actions.

Estimated Cost of Task (including anticipated expenses): \$5,000

Rye, NH - HOP Grant Application - Phase 2
Submitted June 12, 2023
Updated Submission – April 30, 2024

Task 3: Phase 3 Housing Opportunity Grant Application
Spring 2024

RPC Staff will assist Rye in the preparation and submission of a Phase 3 HOP Grant Application, including a plan to move ahead with regulatory change, incentives, or other means to increase housing opportunity within appropriate areas of town. This grant application will be based on the findings of the regulatory audit, community engagement, and the housing goals and actions as identified in the Master Plan update and Rye Housing Needs Assessment.

Responsible Party: RPC Staff

Project Partners & Roles: Planning Board, Master Plan Committee, Rye Planning Staff

Deliverables & Milestones: Phase 3 HOP Grant Application Submission

Estimated Cost of Task (including anticipated expenses): Cost for completing this task will not be charged to this grant.

	Task Name	Details	Cost
Task 1	Land Use Regulation Audit	RPC will conduct an audit of Rye's land use regulations, to identify opportunities to make modifications to existing regulations or enact new regulations to promote housing opportunities	\$20,000
Task 2	Facilitate Public Input Opportunities	Facilitate public input opportunities for the community to review and provide input to the audit findings, considerations, and recommended action plans	\$5,000
Task 3	Phase 3 Housing Opportunity Grant Application		N/A
	Administrative costs (no more than 7.5% of total project cost)		\$1,250
TOTAL			\$26,250

Community Engagement Plan

A robust community engagement plan in Rye is critical to the success of the use of the Regulatory Audit which is designed to fit within the Phase 1 HOP grant, the Master Plan update and Buildout Analysis currently underway in Rye. This project will develop and implement a community engagement plan that will encourage and foster robust community participation, including listening, discussion, deliberation, and decision-making in a facilitated setting. Community buy-in is essential for Rye to successfully implement the goals and actions of the Master Plan and the Housing Needs Assessment. Rye currently has representatives participating in the Housing Academy who will assist with the development of the community engagement plan and facilitation of public meetings. The public engagement efforts must present background information in a clear and understandable manner to aid in productive discussions in town.

While an overview of the community engagement plan has been outlined in Task 2 above, it is important to note that the community engagement plan will be reviewed with the Planning Board and Long Range Planning Committee at the onset of this project. The plan may be adjusted, as needed, to fit the needs of the community to add or reallocate resources.

Rye, NH - HOP Grant Application - Phase 2

Submitted June 12, 2023

Updated Submission – April 30, 2024

Consistency with Master Plan

This grant application is aimed at demonstrating areas of support for potential regulatory change based on Rye Master Plan update efforts and the findings of the Rye Phase 1 HOP Grant (Rye Housing Needs Assessment).

Planning Board Member Training

RYE PLANNING BOARD

APRIL 16, 2024



Planning Board Purpose



Oversee and guide the orderly development, growth, and land use within the community;



Ensure adherence to zoning ordinances, comprehensive plans, and local regulations;



Promote sustainable development that balances the preservation of natural resources and wellbeing of the community.

Legal Responsibilities

- Prepare and Adopt a Master Plan to guide the development of the municipality - RSA 674:2
- Prepare a Capital Improvements Program - 674:5
- Drafting, reviewing, recommending zoning ordinances, regulations & amendments - RSA 675:3
- Subdivision Regulations - 674:36
- Site Plan Regulations - 674:44
- Excavation Regulations - 155-E:1 (III) (a)
- Driveway Regulations – 236:13
- Approve or disapprove plans for subdivision of land and site plan review.

Ethical Responsibilities

- **Avoid conflicts of interest:**
 - Know when to recuse yourself,
 - Disclose any information that could be perceived as bias.
 - Refrain from ex-parte communications
- **Fair and impartial decision-making:**
 - Listen attentively to all viewpoints presented by residents, developers, and stakeholders.
 - Make decisions based on town regulations and the best interests of the community rather than personal preferences or external pressures.
- **Respect for due process:**
 - Ensure that the applicant receives a fair and thorough review process.
 - Adhere to Rules of Procedure.
- **Professionalism and integrity:**
 - Maintain professionalism and integrity in all interactions, both amongst the board and with the public.
 - Refrain from engaging in personal attacks, conflicts of interest, or unethical behavior that could undermine public trust in the planning process and the integrity of the board.

Meeting Conduct



Pre-Meeting

- **Come to meetings prepared** – Review all meeting materials thoroughly prior to each meeting.
- **Seek clarification on agenda items and prepare questions in advance.**
- **Refrain from ex-parte discussions** – Do not discuss a current case with other members, applicants, abutters, neighbors, friends, or relatives outside of the public hearing. Direct all planning board related requests or inquiries to appropriate town staff.

During the Meeting

- **Remain impartial** – Hear all sides; express your position during deliberation, not during testimony.
- **Participate and Vote** - Each board member should vote yes or no on every motion and rarely if ever abstain (i.e., “acquiesce to the will of the majority”) from voting.
- **Be respectful and formal**– Always address the Chair when you wish to speak, do not interrupt others
- **Adhere to the regulations and Rules of Procedure** – Remain objective; all decisions should be rooted in the regulations



When to Recuse Yourself

- If you have a direct personal or pecuniary (financial) interest in the outcome of a case that differs from the interest of other citizens (RSA 673:14).
- If you would be disqualified as a juror i.e., if you:
 - Expect to gain or lose upon the disposition of the case;
 - Are related to either party;
 - Have advised or assisted either party;
 - Have directly or indirectly given his opinion or has formed an opinion;
 - Are employed by or employs any party in the case;
 - Are prejudiced to any degree regarding the case; or
 - Employ any of the counsel appearing in the case in any action then pending in the court.
- Abutting landowners are disqualified from hearing an application. Totty v. Grantham Planning Board, 120 N.H. 388 (1980) *“we hold that ownership of land abutting a proposed subdivision by a planning board member presents a conflict of interest and requires that the member be disqualified from voting thereon.”*

Recusal (cont.)

- Only you can recuse yourself, however the board can take a non-binding vote on the question.
- When in doubt, recuse yourself. Can't serve two masters at one time.
- If you should be disqualified yet participate in the board's decision, you may have tainted the entire decision of the board, and it can be invalidated.



Z-1 v. City of Manchester (2019)

- *Conditional use permit for gas station convenience store came before the planning board.*
- *After two public hearings but before board deliberation and final decision, two planning board members voiced opposition to the project on social media.*
- *At subsequent meeting, members who voiced their opposition were asked to recuse themselves. They refused and later voted to deny the application.*
- *The application was filed to superior court which vacated the decision and sent the case back to the planning board.*
- *The court ruled that the member's failure to enter into and participate in deliberations with an open mind threatened the integrity of the deliberative process undermining public trust in the overall function of the planning board.*

Board Members Serving on Other Boards / Committees

- **Understand Roles and Responsibilities** – Abide by the specific rules and regulations of each board/committee you're serving on.
- **Avoid Ex-Parte Communication with other board/committee members.**
- **Avoid Perceived Conflicts:** Even if there isn't a direct conflict of interest, be mindful of situations that could create the appearance of impropriety. Upholding the public's trust requires not only avoiding actual conflicts but also avoiding situations that could undermine confidence in your impartiality.
- **Disclose potential conflicts and recuse yourself when necessary.**
- **Seek Guidance:** If you're unsure whether a particular situation constitutes a conflict of interest, seek guidance from the town staff. It's better to err on the side of caution and seek clarification than risk breaching ethical standards.

Right to Know Law (RSA 91-A)

- All meetings of the planning board are subject to New Hampshire's Right to Know Law, RSA 91-A.
- A “meeting” occurs whenever a quorum of board members convenes in person, by phone, e-mail or by any other electronic means to discuss or act upon a matter over which the board has supervision, control, jurisdiction, or advisory power (RSA 91-A:2). ***A discussion alone is enough to make a meeting (even by email); the board does not have to make a decision in order to be involved in a public meeting.***
- ***Public meetings*** require 24-hour notice; minutes must be taken and made available to the public within five business days after the meeting (whether approved or not).
- ***Public hearings*** require 10-day notice to all abutters, minutes must be taken and made available to the public within five business days after the meeting (whether approved or not).

Planning Board Decisions - Findings of Fact

- RSA 676:3, I requires that the applicant be given a final written decision (commonly referred to as a “Notice of Decision”) that documents the board’s decision to approve or disapprove the application
- In general, the board should be clear with identifying how the application meets (or doesn’t meet) their regulations and checklist requirements when determining the findings of fact.
- The findings of fact should be complete, so that (1) a reviewing court knows all of your reasons for your decision, and (2) the applicant has instructions if they want to try a second time.
- Failure of the board to make specific written findings of fact ***supporting a disapproval*** shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15

Using Expertise in Decision-Making

- Planning board may engage third party review during site plan/subdivision review process – RSA 676:4-b (engineer, wetland scientist, planner, hydrologist, legal, etc.) Cost falls on applicant.
- Expert review can be basis for approval/denial.
- Must have a reason for rejecting expert opinions (what is lacking in qualifications, methodology, data, conclusions?) (**personal feelings are not enough**)
- Lay opinions and anecdotes don't outweigh uncontroverted expert evidence.
Appeal of Town of Windham, No. 2021-0473 (10/4/2022); Trustees of Dartmouth College v. Hanover, 171 N.H. 497 (2018); Condos East Corp. v. Conway, 132 N.H. 341 (1989)

Resources and Support

- 2023 Planning Board Handbook
 - https://www.nheconomy.com/getmedia/96399d2a-fa38-4cac-9fcf-a25002f1fe36/2023-PB-Handbook-FINAL_1.pdf
- NHOPD Planning and Zoning Training and Webinar Series
 - <https://www.nheconomy.com/office-of-planning-and-development/what-we-do/municipal-and-regional-planning-assistance/osi-planning-and-zoning-training>
- New Hampshire Municipal Association
 - <https://www.nhmunicipal.org/events-training>
- Rockingham Planning Commission
 - <https://www.therpc.org/>
- Rye Planning Board: <https://www.town.rye.nh.us/planning-board>



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