# TOWN OF RYE – BOARD OF SELECTMEN MEETING

MONDAY, JANUARY 8, 2018 6:00 p.m. – Rye Town Hall

Members Present: Chairman Craig Musselman, Vice-Chair Priscilla Jenness and Selectman Phil Winslow

Others Present: Town Administrator Michael Magnant and Asst. Town Administrator/Finance Director Cynthia Gillespie

### 6:00 p.m.

### I. CALL TO ORDER

Chairman Musselman called the meeting to order at 6:00 p.m.

# II. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (a) Personnel

At 6:00 p.m., Priscilla Jenness made a motion to go into Non-Public Session per RSA 91-A: 3, II (a) Personnel. Seconded by Phil Winslow. Roll Call: Musselman – Yes, Jenness – Yes, Winslow – Yes.

At 6:35 p.m., Phil Winslow made a motion to come out of Non-Public Session. Seconded by Craig Musselman. Roll Call: Musselman – Yes, Jenness – Yes, Winslow – Yes.

# 6:30 p.m. RECONVENE PUBLIC MEETING

### III. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chairman Musselman reconvened the public meeting at 6:48 p.m. and led the Pledge of Allegiance.

### IV. ANNOUNCEMENTS

- **A.** The Town Offices will be closed Monday, January 15, 2018 in observance of Martin Luther King, Jr. Civil Rights Day
- **B.** The last day for Petitioned Warrant Articles to be submitted to the Selectmen's Office is Tuesday, January 9, 2018.
- C. Chairman Musselman noted that he has served as a Selectman in Rye for the past 12 years. He has reached the point where the constraints on his family's personal lives is such that he will not be able to continue as a Selectman. He will not be running for another three year term.

Motion by Priscilla Jenness to seal the minutes of the Non-Public Session just concluded. Seconded by Phil Winslow. All in favor.

V. **PUBLIC COMMENT** – (at the beginning of the meeting, for any comment by any Rye resident on any topic. Requested time limit, up to 5 minutes each person.)

**Peter Crawford, 171 Brackett Road**, spoke in regards to Town Hall Warrant Articles that will be presented for the town vote in March. He also spoke about warrant articles for the Town Hall that were presented at the 2017 town vote.

**Jenny Sears, 6 Dow Lane**, spoke to the Selectmen about the safety issues on Dow Lane and asked for the support of the Board on the petitioned warrant article regarding the closure of the end of Dow Lane that intersects with Route 1.

Elizabeth Sanborn, 16 Dow Lane, also spoke regarding the petitioned warrant article for Dow Lane.

**Brian Klinger, 466 Washington Road**, thanked Chairman Musselman for his dedicated service as a Selectman for the Town of Rye.

**David Marchefka, 35 Dow Lane**, asked for the Selectmen's support for the Dow Lane warrant article.

Tom Swist, 9 Dow Lane, also asked for the Board's support for the warrant article regarding Dow Lane.

- VI. **CONSENT AGENDA ITEMS** (to be discussed at the meeting only if pulled off the consent agenda by one of the three Selectmen.)
  - **A.** Appointment: Rye Energy Committee Unlimited Term
    - 1. Michael Joyce: Requests appointment as a member, letter rec'd 11/28/17
    - 2. Recommendation letter rec'd 11/28/17 from Danna Truslow, chair

Vice-Chair Jenness requested item A be taken off the Consent Agenda Items for discussion.

**Michael Joyce** introduced himself and spoke to the Selectmen in regards to his interest in serving on the Energy Committee.

Motion by Priscilla Jenness to appoint Michael Joyce to the Rye Energy Committee. Seconded by Phil Winslow. All in favor.

### VII. DISCUSSION ITEMS

- A. Meeting Minutes
  - 1. Meeting, Monday, December 11, 2017, 5:30 p.m., Town Hall

The following correction was noted:

• Last page, 2<sup>nd</sup> motion should read: **Motion by Phil Winslow to recommend and place** on the town warrant the article to accept Cedar Run as a town road.

Motion by Phil Winslow to accept the minutes of December 11, 2017 as amended. Seconded by Priscilla Jenness. All in favor.

2. Meeting, Tuesday, December 26, 2017, 5:45 p.m., Town Hall

The following corrections were noted:

- Page 1, under the Non-Public Session, it should be noted that <u>Priscilla Jenness recused</u> herself during the litigation discussion.
- Page 4, 2<sup>nd</sup> paragraph, 2<sup>nd</sup> sentence should read: She has also spoken with the Town's Finance Director and auditors who do not have an issue with accepting the payments.
- Page 6, 2<sup>nd</sup> paragraph, 3<sup>rd</sup> sentence should read: **He believes there will be a lot of people in Rye who will not want to look out of their homes over the ocean and see windmills**,

Motion by Priscilla Jenness to approve the minutes of December 11, 2017 as amended. Seconded by Phil Winslow. All in favor.

- 3. Non-Public Session, Monday, December 11, 2017
  - (1) per RSA 91-A:3, II (c) Reputation
  - (2) per RSA 91-A:3, II (e) Litigation

Motion by Phil Winslow to approve the minutes of the Non-Public Session for December 11, 2017 regarding RSA 91-A:3, II (c) Reputation. Seconded by Craig Musselman. Vote: 3-0-0

Motion by Phil Winslow to approve the minutes of the Non-Public Session of December 11, 2017 regarding RSA 91-A:3, II (e) Litigation. Seconded by Craig Musselman.

Vote: 2-0-1 Abstained: Priscilla Jenness

- 4. Non-Public Session, Tuesday, December 26, 2017
  - (1) per RSA 91-A:3, II (b) Hiring
  - (2) per RSA 91-A:3, II (e) Litigation

Motion by Priscilla Jenness to approve the minutes of the Non-Public Session of December 26, 2017 regarding RSA 91-A:3, II (b) Hiring as presented. Seconded by Phil Winslow. Vote: 3-0

Motion by Phil Winslow to approve the minutes of the Non-Public Session of December 26, 2017 regarding RSA 91-A:3, II (e) Litigation. Seconded by Craig Musselman. Vote: 2-0-1 Abstained: Priscilla Jenness

**B.** Unmerger Request – Harriet Kouchalakos 15 Glendale Road

**Town Administrator Michael Magnant** explained that RSA 674:39-aa allows property owners who have had their lots involuntarily merged by the town to petition the Selectmen to have their lots unmerged. The lots must not have been merged by some action of the owner. It is being recommended by the town attorney and the town staff that the Selectmen accept the unmerger.

Motion by Priscilla Jenness to accept the unmerger request of Harriet Kouchalakos, 15 Glendale Road. Seconded by Phil Winslow. All in favor.

C. Rye Mosquito Control Commission Recommendation for 2018 Mosquito Services

**Tom Aspinwall, Mosquito Control Commission Chair,** presented the proposals for mosquito control services for 2018. Proposals were received from Swamp, Inc., in the amount of \$81,725 and Dragon Mosquito Control, Inc., in the amount of \$87,240. The Mosquito Control Commission has voted to recommend that the bid be awarded to Dragon Mosquito Control because of the quality of their services in the past.

Motion by Priscilla Jenness to approve Dragon Mosquito Control, Inc. for 2018 Mosquito Control Services. Seconded by Phil Winslow. All in favor.

<u>Note</u>: Craig Musselman recused himself from the discussion and vote on the Town Administrator Working Agreement.

**D.** Working Agreement – Town Administrator

Vice-Chair Jenness reviewed the working agreement, which is an extension of four years with the details remaining the same for the permanent part-time position.

Motion by Phil Winslow to accept the agreement as written. Seconded by Priscilla Jenness. Vote: 2-0

### VIII. CORRESPONDENCE

**A.** Email rec'd from Brenda and Frank McDermott re: establishing a leash law in Rye

Chairman Musselman read an email received from **Brenda and Frank McDermott, 30F Street**, in regards to establishing a leash law in town. He noted that a leash law was proposed for the beach as recently as last year. The Deliberative Session was packed with people who love dogs and the language of the proposed ordinance was changed such that leashes were gone. It is probably the most contentious issue in the community. He continued that the Selectmen have until January 28<sup>th</sup> to proposed non-money warrant articles. The Board does not have a warrant article prepared; however, Chief Walsh has prepared a proposed ordinance.

Police Chief Kevin Walsh stated that he feels a dog should be on a leash because this is the one way an owner can control their dog. There are a lot of hours that the animal control officer and the police officers are putting into handling issues where dogs are not under control. During this past year, another police department had to be called in to help with a burglary call when Rye officers were busy handling two dog bite incidences at the same time. He noted that he has spoken with his officers and they feel the same way he does about dogs being on leashes. The dog owners can control their dogs if they are on a leash and it would be a lot safer.

Referring to Chief Walsh's proposed ordinance, Chairman Musselman asked if this would apply to beaches, public land and a dog at large on someone else's private property.

Chief Walsh explained that it would apply to public property. If a dog goes on to someone else's private property and is not welcome on that property, it would fall under a dog at large and would be covered under this proposed ordinance.

Chairman Musselman commented that there would also need to be changes to other ordinances that might conflict with this proposal.

Chief Walsh agreed.

Chairman Musselman stated that he is a dog lover and has defended dogs from the Board for years. He has reached the point that for the safety of dogs and the public, he thinks there should be a leash law on public property.

Chief Walsh stated he wants to give credit to the residents who use town property. They are very active and communicate with him on what can be done to make this better. He commented there are a lot of people using town property now and it is difficult to manage.

Vice-Chair Jenness asked what the estimated percentage is of people coming from other communities to use town property.

Chief Walsh stated that Parsons Field, the rec area and the town forest have seen an increase of people from Portsmouth that are used to using Pierce Island, which has been closed for construction. He does not see the people going back to Pierce Island after it is reopened. Rye is a hidden jewel and people like to come to visit.

Chairman Musselman asked if there are more Rye residents that have their dogs on leashes, as compared to out of town visitors.

Chief Walsh replied no; however, Rye residents control their dogs more.

Selectman Winslow stated this is not a single dimension issue. Looking at this from Police Chief Walsh's view regarding the law enforcement aspect and the time constraints this is one hundred percent correct. Also, the safety issue merits a leash. From the standpoint of life, liberty and the pursuit of happiness for people with their dogs, is the other balancing objective and has to be considered.

Vice-Chair Jenness stated that she thinks they may see a difference in the people who attend the deliberative session if safety was rethought following the incidences that occurred this past year. She thinks there is a big difference in what is voted in at deliberative session and what is voted by fifteen hundred people when it is brought to the ballot. It depends on what people do when they go to the deliberative session if they make any change to the proposal.

Chairman Musselman stated that if there is a warrant article it should go to town counsel to be drafted to make it clearer. This is a much broader ordinance than last year. Last year's proposed ordinance was only for the beach. The town forest and other town properties were unaffected by the ordinance. If it is needed, it is needed at the town forest every bit as much as it is needed at the beach.

**Frank Drake, South Road**, asked if this is something that the Selectmen could do that would be temporarily enforced until it is voted on at the election.

Chairman Musselman noted that the Selectmen have the ability to do that. On controversial issues, the Selectmen have not been so brazen. The Board has always thought it would be fairer if the town decides.

After discussion, it was the consensus of the Board to have the town attorney draft an ordinance that can be presented at the deliberative session. The warrant article can be reviewed and voted on by the Selectmen at their next meeting.

<u>Note</u>: Craig Musselman recused himself from the Board of Selectmen to make a presentation as the town's engineer on the following two items.

# **B.** Letter from CMA Engineers re: Breakfast Hill Landfill

**Craig Musselman, representing CMA Engineers,** reviewed the recent groundwater sample results taken from the monitoring wells at the Breakfast Hill Landfill on November 20<sup>th</sup>. The results have been sent to NHDES and are available to the public for review. There is nothing new with the results of the samples and levels are lower than what they had been in past samplings.

### C. Letter from CMA Engineers re: Surface Water Sampling

Craig Musselman reported on the analytical results for the surface water samples gathered from sampling locations in Rye on November 20<sup>th</sup>, which was authorized by Selectman Jenness and Selectman Winslow. Samples were taken from six locations throughout the town to determine whether any of these locations indicate concentrations of perfluorinated compounds that may pose a threat to public health and safety. Based on the sample results that were received, there was no indication of a threat to public health and safety from the concentration levels in Rye. CMA Engineers does not recommend additional sampling and analysis be considered at this time.

Mr. Musselman addressed questions regarding the results from the Selectmen and also from resident Victor Azzi, Old Ocean Blvd.

Note: Craig Musselman was reseated on the Board.

#### IX. SELECTMEN'S 2018 BUDGET WORK SESSION

### A. Library Budget

Library Budget: Proposed: \$655,289 Accepted: \$648,687 Highlights:

Library Trustees spoke to the Selectmen in regards to their proposal, which would bring four library employee's salaries up to mid-level. The proposal also includes a 1.5% increase for staff members earned upon merit.

Chairman Musselman noted that the Board's concern was that the initial budget had a 3% merit for all library employees. There was some discussion by the Library Trustees that the library did not have a salary step system like the Town. There was also discussion about putting together a salary plan; however, there is no plan at this time. The Selectmen's interest is in treating public employees reasonably. The library is talking about bringing all library staff up to median immediately based on the salary survey that came out this past fall, which the Town is not doing as it is based on qualifications, experience and performance. The Town does not have performance bonuses and there is concern with the library doing that. He reiterated that the library has not come back with a plan and a budget, which would include bringing employees up to median immediately and performance bonuses.

A Library Trustee read a letter to the Selectmen regarding the Library Budget.

After questioning the retention of library employees, Selectman Winslow stated that it seems they are not having difficulty attracting and retaining people, which seems to be the reason for the 1.5% merit pay. It would not be as much of a concern if it was separate for the library and did not impact the entire town. This is setting a precedence for town employees to be looking at something similar.

Vice-Chair Jenness stated that she has a problem with the salary plan not being developed yet. For her it has to be the \$648,687 until there is a written solid salary plan available.

The amount of \$648,687 is based on the Finance Director's calculations on the library budget with 2% COLA increases in the library salaries with no other changes.

Motion by Craig Musselman to recommend \$648,687 for the Library Budget and ask that the Library Trustees come back next year with a formulated plan for the Board of Selectmen to consider prior to the budget season. Seconded by Priscilla Jenness. Vote: 3-0

Members of the public who spoke in regards to the library budget included:

- Victor Azzi, Old Ocean Blvd
- Frank Drake, South Road
- Mae Bradshaw, Harbor Road

Note: Phil Winslow recused himself from the following warrant article vote regarding Harbor

#### **B.** Warrant Articles

Road bridge.

**ARTICLE**\_\_\_\_\_. To see if the Town will vote to raise and appropriate the sum of seventyfive thousand dollars (\$75,000) for the remedial repairs of the Harbor Road bridge deck. This appropriation is in addition to the operating budget. (Majority vote required) Motion by Priscilla Jenness to recommend the warrant article in the amount of \$75,000 for the Harbor Road bridge deck. Seconded by Craig Musselman. Vote: 2-0 **ARTICLE**\_\_\_\_. To see if the Town will vote to raise and appropriate the sum of thirty thousand dollars (\$30,000) for development of a management program for existing stormwater infrastructure, and to authorize the Board of Selectmen to borrow thirty thousand dollars (\$30,000) from the New Hampshire Department of Environmental Services (DES) Clean Water Revolving Fund and to appropriate the amount of three hundred dollars (\$300) for interest payments during 2018. This DES program includes principal forgiveness, thus there is no cost to the town other than a small amount of interest. This appropriation is in addition to the operating budget. (3/5 vote required.) Motion by Priscilla Jenness to recommend the warrant article for the development of a management program for existing stormwater infrastructure as presented. Seconded by Phil Winslow, Vote: 3-0 ARTICLE \_\_. Shall the Town raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein totaling nine million one hundred eighty-six thousand two hundred seventy-three dollars (\$9,186,273)? Should this article be defeated, the default budget shall be eight million seven hundred eighty-nine thousand five hundred seventy-three dollars (\$8,789,573) which is the same as last year, with certain adjustments required by previous action of the Town or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only. (Majority vote required.)

NOTE: This operating budget warrant article does not include appropriations in any

Motion by Priscilla Jenness to recommend the warrant article regarding the operating

other warrant articles.

budget. Seconded by Phil Winslow. Vote: 3-0

**ARTICLE** \_\_\_\_\_. To see if the Town will raise and appropriate the sum of six hundred twenty-four thousand dollars (\$624,000), gross budget, for the purchase of a 3.71 acre parcel of land and building located at 500 Washington Road, the former TD Bank, in order to relocate the Town Clerk/Tax Collector office and other Town Hall functions as may be applicable as determined by the Board of Selectmen, with due consideration of the historic, residential character of the neighborhood. Note: This appropriate includes related purchase costs, first year operating budget and potential renovation expenditures. This appropriate is in addition to the operating budget. (Majority vote required.)

### **Discussion:**

Finance Director Cynthia Gillespie noted that a bond article for the TD Bank purchase would incur another \$100,000 in expenses over the next 10 years and would cost .03 per \$1,000 in home valuation. A one-time purchase would cost .25 per \$1,000 in valuation. A \$600,000 home would pay an additional \$151.82 in taxes for one year.

Motion by Phil Winslow to present the article as a one year purchase versus a bond article. Seconded by Priscilla Jenness. Vote: 3-0

Motion by Priscilla Jenness to rescind the prior vote for a bond article to purchase TD Bank. Seconded by Phil Winslow. Vote: 3-0

**ARTICLE** \_\_\_\_. (By Petition) To see if the Town will vote to authorize the Rye Selectmen to raise and appropriate the sum of three million forty-eight thousand seventy-seven dollars (\$3,048,077) gross budget for the purpose of building a new Town Hall Structure on its current site, along with equipment and furnishings, with some changes to foundation location, and to raze the old Town Hall building.

To construct, pursuant to the design for a new Town Hall, as developed by Rye resident John Loftus, and licensed New Hampshire Architect Robert A. Schaefer, AIA, LEED BD+C from the firm of R.A. SCHAEFER & D, M, WHITE ARCHITECTS.

To authorize The Rye Selectmen, to go forward with the completion of "construction documents", including required and necessary engineering, by licensed New Hampshire Architect Robert A. Schaefer, AIA, LEED BD+C from the firm of R.A. SCHAEFER & D, M, WHITE ARCHITECTS, and with further project design input by Rye resident John Loftus. The "construction documents" will take into account all applicable codes and ADA requirements. (Please note: Mr. Loftus has not been offered, has not asked for, and will NOT accept any remuneration for any of his design work.)

To authorize the Rye Selectmen, to seek competitive bidding for the physical construction of a new Town Hall, as per the prepared construction documents, and to choose the best bid.

To authorize the borrowing of up to three million forty-eight thousand seventy-seven dollars (\$3,048,077) through the issuance of not more than three million forty-eight thousand seventy-seven dollars (\$3,048,077) of bonds or notes in accordance with the provisions of the Municipal Finance Act (N.H. RSA Chapter 33 as amended)

To authorize the Selectmen to issue and negotiate such bonds or notes, to determine the rate of interest thereon, and to take such actions as may be necessary to effect issuance, negotiation, sale and delivery of such bonds or notes as shall be in the best interest of the Town of Rye.

(60% vote required) This appropriation is in addition to the operating budget.

### **Discussion:**

Chairman Musselman suggested that this be sent to Attorney Donovan for review of the language to make sure the article is bondable. The article will also be reviewed by bond council. He continued that he does not think the taxpayers are going to vote for three million dollars when they voted down three million dollars and four million dollars every which way they had an opportunity too. He pointed out that there is an alternative in hand to spend six hundred thousand dollars to buy the bank for part of the staff. Renovating the current town hall for the rest of the staff will not add up to anywhere near three million dollars no matter what is done. He thinks they can spend far less money and they have it in hand. If the bank is voted down, they will not have that in hand. There are lots of other ideas, many of which have different flaws. He thinks they should not recommend this and move forward with the TD Bank article.

Selectman Winslow stated it would be very confusing to vote this in and present this with the TD Bank article. It cannot be both. It has to be one or the other. He feels more comfortable with the TD Bank because it is known what it is and it can be accomplished immediately.

Vice-Chair Jenness stated the TD Bank building would really solve the town's problem. The staff would have office space and the historical building could be renovated over time. It would cover both basis.

Motion by Priscilla Jenness to not recommend the petitioned warrant article. Seconded by Phil Winslow. Vote: 3-0

**ARTICLE**\_\_\_\_. Will the town vote to close the hazardous, skewed angle intersection at the juncture of Dow Lane Lafayette Road, New Hampshire Route 1, thereby making Dow Lane in the Town of Rye a dead-end. And will the town raise and appropriate the sum of \$60,000 to pay for all costs associated with the closure.

# **Discussion:**

**Police Chief Kevin Walsh** spoke in regards to actions the police department has taken in order to control the speed of vehicles on Dow Lane.

Town Administrator Magnant noted that Rockingham Planning will be concluding a traffic survey within the next week that will be forwarded to the town.

Vice-Chair Jenness commented that they have not had a chance to try the plans that were discussed to turn the end in to a right angle, which was one of the major suggestions. In terms of speeding on roads, if every road was closed because of speeders at some point during the day, there would not be very many roads open.

**Public Works Director Dennis McCarthy** stated that he has an issue with creating dead-ends. It is difficult for traffic circulation. That is why there is money in the article to make the end so the vehicles can turn around. He agrees that they have not explored all alternatives.

Motion by Craig Musselman to not recommend the petitioned warrant article to close the end of Dow Lane. Seconded by Priscilla Jenness. Vote: 3-0

- X. NEW BUSINESS
- None
  - XI. OLD BUSINESS
    - **A.** L-Chip Grant

Town Administrator Magnant noted that the town has received an L-Chip Grant in an amount up to \$12,000 for a historical structure report on the town hall. The match has been appropriated and if the money is approved by town voters the town can move forward on the report.

Chairman Musselman stated that last year the town had to apply in late June for an L-Chip Grant for this year. L-Chip has said in their grant letter that perhaps they would agree to a painting grant for next year. He asked if it makes sense to get proposals for an HSR so it could be completed by mid-June to meet the grant application deadline for next year.

Town Administrator Magnant agreed to prepare an RFP to be posted in February so the study could be started right after town vote.

### XII. OTHER BUSINESS

Town Administrator Magnant commended the Police, Fire and Public Works Departments for all their hard work during the blizzard on January 4<sup>th</sup>.

### **ADJOURNMENT**

Motion by Priscilla Jenness to adjourn at 9:20 p.m. Seconded by Phil Winslow. All in favor.

Respectfully Submitted, Dyana F. Ledger



#### Janice Ireland

From: brenda.mcdermott@comcast.net
Sent: Tuesday, January 2, 2018 12:24 PM

To: Janice Ireland
Cc: Kevin Walsh
Subject: Leash law

Dear Members of the Board of Selectmen and Chief Walsh:

We are prompted to write this letter after reading the news reports of the dog that was shot and killed in the Town Forest. We know that the issue of establishing a leash law in Rye has come up for discussion before and has been set aside due to the vocal opposition of a minority of residents, but this incident should constitute the last straw that results in a leash law being enacted in Rye. It is true that we live in the "Live Free or Die" state; however, this motto applies to persons, not to dogs.

We own a dog and walk the dog on the beach every morning. We keep the dog on a leash but most owners do not and would claim that their dogs are "under control" which most of these dogs clearly are not. Anyone who walks the beach will attest to the fact that most of the unleashed dogs on the beach are not "under control." Many times, I have had to tell an other owner's dog to get away from either me or my dog. Most times the owners of these dogs are 100 yards away from their dog and have no awareness or control over whether their dog is harassing others. They also have no concern that their dog may be defecating where the owner has no idea where the excrement is nor do many of them care.

Virtually all other towns have leash laws and we ask that one be introduced in Rye and on Rye's beaches. Some will contend that a leash law will prevent their dog from splashing in the water or running on the beach, but a dog's freedom has to give way to the safety of persons and the cleanliness of our beaches.

We would ask that this letter be read into the minutes of the next Selectmen's meeting and that a leash law be enacted before we have more incidents like the above shooting.

Sincerely, Brenda and Frank McDermott 30 F Street