

**TOWN OF RYE
HISTORIC DISTRICT COMMISSION
MEETING**

Wednesday, May 12, 2021

5:30 p.m.

Via Zoom

Present: Chair Kaitlyn Coffey, David Choate, Select Board Rep Mae Bradshaw; Alternates Tom King, and Lydia Tilsley

A. Call to Order

Chair Coffey called the meeting to order at 5:32 p.m. and led the pledge of allegiance via Zoom teleconferencing.

B. Attestation

Statement by Kaitlyn Coffey:

As Chair of the Rye Historic District Commission, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

- a) Providing public access to the meeting by telephone, with additional access possibilities by video and other electronic means. We are utilizing Zoom for this electronic meeting. All members of the board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone number: 646-558-8656 with meeting ID number: 864 6273 5956 Password: 858747 or by participating via Zoom: www.zoom.com ID # 864 6273 5956 Password: 858747.
- b) Providing public notice of the necessary information for accessing the meeting, including how to access the meeting using Zoom telephonically. Instructions have also been provided on the Town of Rye website at www.town.rye.nh.us
- c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access. If anyone has a problem, call 603-964-5523 or e-mail at Bbergeron@town.rye.nh.us.

- d) Adjourning the meeting if the public is unable to access the meeting. In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

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Roll call attendance:

- Kailyn Coffey
- Mae Bradshaw – Burt is in the room
- Tom King
- David Choate

C. Seating of Alternates

Chair Coffey seated Alternate King for Member Kent.

Selectwoman Bradshaw announced that the Historic District Commission was awarded the CLG grant again this year. CLG will be supporting Rye in having the region wide educational meeting for Historic and Heritage Commissions to learn how best to communicate with the public and discuss preservation ideals. She suggested that they talk at the next meeting about who they should invite and where to hold the meeting.

Approval of Minutes - Tabled until next meeting.

- 1/05/21
- 1/07/21
- 1/19/21
- 1/19/21
- 1/26/21
- 4/14/21

D. RJH Solar Panels

Selectwoman Bradshaw reported that town counsel has said that the school needs to give the Historic District Commission 60 days notice before they take any action on putting up solar panels. The Historic District is then required to hold a public hearing. She added that it seems like the Historic District can not prevent it.

Member Choate disagreed with Town Attorney Donovan and suggested that they get a second opinion. He reminded the Commission that in December 2019, he sent a memo to Peter Loughlin that read: *“The SAU wants to mount solar panels on the street facing facade of the junior high building and we have received mixed opinions as to whether we have jurisdiction over the application. In other words, does the SAU have the same type of immunity from local zoning as does the Town of Rye?”*. Attorney Loughlin responded that yes, essentially, they do. Member Choate suggested that the Commission first find out what the deal is between the SAU and Revision Energy for the solar panels.

Selectwoman Bradshaw noted that it is a lease/purchase agreement. She continued that Member Choate is correct. It is going to be an outside vendor's equipment on the junior high for the first six years. The SAU has the option after the first six years to acquire it. Selectwoman Bradshaw reported that she sent the RSA to Scott Marion last year and said it looks like the School Board has voted on this and is moving forward; however, it will need to comply with this RSA. She has never heard back from him.

Selectwoman Bradshaw recommended that as many members of the Historic District Commission as possible attend the Rye Energy Committee's public hearing on Tuesday, May 18th to raise the issue. They need to be told that HDC would appreciate it if they would follow protocol by coming before the HDC for a public hearing.

Member Choate raised the argument that RSA 675-54 is not clear that the SAU would not have to abide by the decision of the Commission because of the private entity (Revision Energy). The School Department is not purchasing the panels and putting them on the building.

Selectwoman Bradshaw stated that the opinion of town counsel was to the Planning Board. She said that she will look up the opinion that Attorney Donovan had shared with the Select Board as well. In that opinion, Attorney Donovan referenced a case that had to do with the lease/purchase agreement. The court sustained it as "for the benefit of that organization".

Member King explained that the front roof on the junior high is angled and is the south/eastern exposure that they want. When the SAU came before the Commission two years ago, the Commission said that they would be happy if they put the panels anywhere except that front, but that is the only place that they really want them; so, there is really no negotiation on that point. Member King also pointed out that obviously there are the social and monetary aspects. The elementary school is not in the district and the plan is to also have solar panels there. The Commission is not against the whole idea. The Commission is only against one particular place in one direction. He doesn't feel that the Commission's position is unreasonable. He suggested that there is another tactic the Commission could take, if the School Board won't agree with them, is to approach Revision Energy. Revision Energy is an employee-owned green company. If the Commission explains to them the concerns and why, they may back out of the project. He suggested that Revision would not want to be in conflict with town boards, as they may have plans to do other business with the Town. He acknowledged that this may be a nuclear option and he is not saying that they should do this, but it is just something that he wants to put out there.

NOTE: Member Tilsley arrived at the meeting at this time.

Chair Coffey seated Alternate Tilsley for Member Tegeder.

Selectwoman Bradshaw stated that this was an interesting idea and suggested that maybe Chair Coffey should copy them with her letter to the School Board.

There was discussion about doing a campaign to go against the vote. Member King stated that the Commission is not against solar and it being on the elementary school. He feels that the Commission should be careful not to come across as the bad guys and anti-solar; however, that may be one of the few options; but only if it is binding to the process.

Selectwoman Bradshaw suggested that they may want to do it on the back of the TD Bank building.

Chair Coffey stated that she doesn't recall the Energy Committee giving a concrete plan at the meeting in December 2019. It seemed that they were talking about several things and then suddenly, they had a solidified plan. She wonders if it would be worthwhile to ask the School Board to another meeting or if that "ship has sailed". They could have a friendly discussion about it and voice their concerns, while relating to them that they are not trying to sabotage the whole project.

There was conversation about using the land behind the junior high for ground mounted solar panels. That parcel was given to the school by the Herlihy Family. There was speculation that there are deed restrictions on that parcel that prohibit anything being built there.

Member Choate clarified that he just found his minutes of the last time the Commission met with the Energy Committee, which was November 19, 2018. Present at that meeting was John Loftus, Katharine Brown, Tom King, David Choate and Mae Bradshaw. Dana Truslow and Tom Pfau made the presentation. Member Choate read from the minutes; ***"There was discussion about looking at the feasibility of using the 2-acre parcel behind the school that was given to the school by Alex Herlihy or the 2-acres behind the TD Bank building. Mr. Pfau pointed out that these parcels would support an array large enough to power everything in town. However, because the meter would have to be at the school, the cost of running the cables across the road would make the parcel behind the TD Bank building cost prohibitive. The Rye Energy promised to attend the January Historic Commission Meeting with updates."***

Member King pointed out that the Energy Committee is a town board and that the Select Board could have some influence over the Energy Committee meeting with the Historic District Commission. The School Board is different. There are three units to this project; the Energy Committee, School Board and Revision Energy. He doesn't feel that all three units would ignore them, if they reach out and tell them that they would like to meet and discuss this issue.

Selectwoman Bradshaw read Rye Code 190-2.2 G:

Government uses. All publicly owner lands and buildings, including playgrounds and parks under the control of the Town, school district, county, or state, also all property which by laws of the State of New Hampshire is except from taxation in whole or in part, shall comply with the requirements of the zoning district(s) in which they are located.

She pointed out that there is conflict with this, as shown by the results of the litigation of Choate & King V Town of Rye, where the Judge ruled that the Town can do what it wants. She recommended that they try to meet with the Energy Committee before their public hearing.

It was decided that Chair Coffey would email the Energy Committee to ask them and the School Board to meet with the HDC prior to their public hearing on the 18th to discuss their concerns. Chair Coffey stated that she will get back to the HDC members as soon as she hears back from them.

E. HDC application process

Tabled at this time

F. Other Business

Chair Coffey talked about meeting scheduling changes. She stated that the plan was to meet with Dominique Hawkins on May 19th. There is a conflict with meetings on May 19th. She suggested using

the regular meeting of May 26th for the first meeting with Ms. Hawkins and then second meeting with her on June 9th. She asked if the members were ok with this or if they would like to keep June 9th as their regular meeting and find an alternative date to meet with Ms. Hawkins. She also pointed out that CLG is eager for them to continue the project for the grant. However, her vote would be to meet both times with Ms. Hawkins, in order to keep the flow of work going with her. It would also make it necessary to forgo their discussions on their application process until later in the summer.

Selectwoman Bradshaw stated that she sees the application process as part of their discussions with Ms. Hawkins.

After the members agreed, Chair Coffey stated that she would send out an e-mail about the changes.

Next Meetings: Wednesday, May 26, 2021 & Wednesday, June 9, 2021 with Dominique Hawkins

Chair Coffey shared with the members that she has spoken to the CLG and the HDC has been rewarded a grant to have someone come in to do some outside training. The location, date, and time is to be determined. Rye will be the host community and be putting together the planning.

Selectwoman Bradshaw suggested coming up with a couple of dates that seem good to the Commission. She will check with Maggi Steer who is organizing it on the Preservation Society's side.

Chair Coffey felt that September would be a good time.

Selectwoman Bradshaw stated that the plan is to have two consecutive mornings on two consecutive Saturday mornings (half day sessions). Selectwoman Bradshaw stated that they could just say that they want to have it all in one day, which may be easier for setting up for the event. They would include; the Rye Conservation Commission, Heritage Commission, Historical Society, and Rye Advocates, and also other communities who haven't signed up for CLG yet. CLG will be using it as a marketing tool for their organization. She suggested they may ask the school to use their tent and hold it in Parsons Field. They may charge a modest fee just to pay for a box lunch. There was also talk about possibly having it at the Parsonage site. They would anticipate approximately 50 attendees.

Chair Coffey stated that CLG was more interested in having it at an indoor venue. They were interested in being able to record the meeting and live stream it for those that were not comfortable in attending. So, there would be a just a registration process, rather than having a fee.

Selectwoman Bradshaw pointed out that the Preservation Alliance wants it to be recorded as well. It would be easier to have it at the library; however, they are not permitting any meeting use at this time, so they would not commit to it at this time. She stated that she would check with Andy Richmond.

Other events to plan around include: Labor Day; the Rye Lions Club Car Show; and the Goss Farm Event which is the 17th and the 18th of September.

Selectwoman Bradshaw updated the Commission on the Trolley Barn transaction. She stated that the Select Board decided to do a sealed bid sale, so as to not have to pay a commission to a broker and also so the buyer would not have to pay a commission to an auctioneer. There was a minimum bid price of \$400,000. There were also no grantees that the buyer would be able to do anything with the parcel;

other than, what it is currently zoned for which is single-family residential. The neighbors on either side were not interested at the \$400,000 price and an antique dealer that was originally interested dropped out at that level. Bruce Valley, a native of Rye, put in a bid for \$411,000., which the Select Board accepted. Mr. Valley's intent is to renovate and make it an attractive building, as his wife and his parents are buried directly across the street. He felt very strongly that he wanted to make it something that he could be proud of. He is hoping to put in a small coffee and donut shop, which the Town Center Committee seems to be happy about. This is something that the Town Center Committee wanted in the town center somewhere. Mr. Valley is away for a few weeks. The Town Center Committee is planning on doing a walk through with him when he returns in late May early June. Mr. Valley will have to get all the normal town approvals. Selectwoman Bradshaw noted that the only way that idea may be able to happen is with spot-zoning, where there is isolated zoning of an individual business that is within another district as a business district. This was the case with TD Bank. This would require a vote of the Town; however, it is too late to get it on the warrant for this year. The Planning Board could ask for a special hearing and vote. This change in the zoning law would have to be desirable for the voters to vote for it in July. This would be the only way there could be a shorting of the process. He could also go to the Zoning Board for a variance. The sale of the Trolley Barn is supposed to close the first week of June.

Library Trustee Victor Azzi joined the meeting and Selectwoman Bradshaw asked if the library would be a possible place to host the HDC 's CLG preservation seminar in September.

Mr. Azzi state that at this time they are not allowing meetings. However, as of yesterday, they started discussing the possibility of allowing meetings by September, if things keep progressing as they are now. He recommended putting in a request, as it may help them accelerate their consideration of the base of which they will be opening things up. He added that clearly things are changing. From now until September, things could change for better or worse. He also addressed the idea of using Parsonage Park. He noted that the library is doing the planning for the park. They are in the process of getting the estimates and schedules for what work can be done. They hope to have grass growing there by September. Whether it will be able to accommodate people and tents, will be based on how early they can get it planted.

Selectwoman Bradshaw stated that they will get a request into Mr. Richmond.

Mr. Azzi confirmed that would be appropriate.

ADJOURNMENT

Motion by David Choate to adjourn the meeting at 7:16 p.m. Seconded by Tom King.

Roll Call Vote: Mae Bradshaw – Aye; Kaitlyn Coffey -Aye; Tom King – Aye; Lydia Tilsley – Aye; David Choate – Aye.

Motion Passed.

Respectfully Submitted,
Dyana F, Ledger