

TOWN OF RYE – BOARD OF SELECTMEN
Tuesday, October 13, 2020
6:00 p.m. via Zoom

Present: Chair Phil Winslow, Selectman Bill Epperson and Selectwoman Mae Bradshaw

Others Present: Town Administrator Becky Bergeron

6:00 p.m.

I. CALL TO ORDER

Chair Winslow called the meeting to order at 6:02 p.m.

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

At 6:02 p.m., Phil Winslow made a motion to go into Non-Public Session per RSA 91-A:3 II (a) Personnel. Seconded by Bill Epperson. Roll Call: Winslow – Yes, Epperson – Yes Bradshaw – Yes.

At 6:36 p.m., Phil Winslow made a motion to come out of Non-Public Session. Seconded by Bill Epperson. Roll Call: Winslow – Yes, Epperson – Yes, Bradshaw – Yes.

6:30 p.m. RECONVENE PUBLIC MEETING

Reading of Attestation

Statement by Phil Winslow:

As Chair of the Rye Board of Selectmen, 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. However, in accordance with the Emergency Order, I am confirming that we are:

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 Historic District Commission 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 and Password: 752954 or by clicking on the following website address: www.zoom.com ID #886-0340-7257.

- a) Public notice has been provided to the public for 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 town.rye.nh.us
- b) 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, please email the Town Administrator at bbergeron@town.rye.nh.us.

- c) 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 of Select Board:

- Phil Winslow
- Bill Epperson

Note: The Selectmen stated where they were located and confirmed that they were the only ones in the room for the meeting.

III. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chair Winslow called the meeting to order at 6:36 p.m. and led the pledge of allegiance.

IV. ANOUNCEMENTS

A. A Public Hearing will be held Thursday, October 15, 2020 to discuss changing the date of Trick or Treat in Rye for 2020

Chair Winslow explained that years ago the Town voted on a warrant article to always have Trick or Treating on the 30th of October. This year due to the pandemic, Dr. Snow has recommended that Rye has it on the 31st, which is the same as other surrounding communities.

This will possibly cut down on the number of individuals coming into town from other communities.

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

Steven Borne of 431 Wallis Road noted that there will be discussion later in the meeting about changing the name of the Board of Selectmen to Select Board. The Civic League changed it to Select Board a number of years ago so he supports that. Mr. Borne referred to a recent Planning Board work session. He noted that Planning Administrator Reed had put together data on the number of variances in the wetlands and impervious areas. For the past decade, there has been a steady increase in variances and encroachments in the wetlands. Also, the real issues regarding the problems at Parson's Creek were not discussed. Mr. Borne stated that Mr. McCarthy said that Parson's Creek is at the tipping point. Mr. Borne stated that he has brought this up at the Select Board meetings a number of times, since December of 2017 when the State told the Town there is an over saturation from leach fields. He also noted that at the Planning Board work session, the issues involving the Town's ordinance on cell towers was skipped over and not talked about. When the cell tower consultant talked to the Select Board, he strongly said that the Town does not have any ordinances or regulations around small cells and other towers. This was outside of the scope of the request to him, but he made it a point to let the Select Board know there is a glaring hole in the town ordinances. This has not been addressed.

Mr. Borne continued that the Beach Committee had some people in from the State regarding Parsons Creek. Their minutes indicated that they were talking about Parson's Creek, but they didn't bring in the real data about it being over saturated from the leach fields. He noted that the Select Board still hasn't talked about anything from the list of suggestions that he presented back in August.

John Bellino of 2136 Ocean Blvd, member of the Town's Communications Committee, thanked the Select Board, town staff, town committees and boards, and the residents, who are helping to move the Port Way Cell Tower initiative forward. The Communications Committee has asked Mr. Bellino to remind the Select Board that they have identified a second significant gap in coverage. The gap that was identified by Consult David Maxson runs from the center of town to Rye Harbor, north to Petey's and south from Rye Harbor to the North Hampton line. The Communications Committee would like to work with the Town, the appropriate entities and the residents to find a solution to this gap, at the appropriate time.

Chair Winslow responded that the Select Board will take him up on that offer and will be in contact with the Committee.

Note: *Mae Bradshaw joined the meeting at 6:44 p.m.*

VI. CONSENT AGENDA ITEMS – (to be discussed at the meeting only is pulled off the consent agenda by one of the three Selectmen.)

A. CIP Committee Appointment: Unlimited Term

- 1. Kevin Brandon – Appointment as a member representing the Budget Committee, email rec'd 10/06/2020**
- 2. Recommendation letter rec'd 10/09/2020, from Chair Ned Paul**

Chair Winslow stated that he had the privilege to work with Mr. Brandon on the budget committee and he totally supports his move to the CIP Committee. Mr. Brandon has done an outstanding job on the budget committee and will bring that same focus to the CIP Committee.

Selectwoman Bradshaw reported that Mr. Brandon has already attended two meetings of the CIP and has met the people he will be working with and is already doing a great job.

Motion by Phil Winslow to appoint Kevin Brandon as a member to the CIP Committee. Seconded by Bill Epperson.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Aye.

Motion Passed

B. Chief Walsh - Event Permit Application: All Sports Events/Tri ME, Sunday, 10/25/20, 7:00 a.m. – 12:00 p.m. to benefit various youth organizations

Police Chief Kevin Walsh explained there will be about 700 participants at this event. The plan was reviewed by himself, Chief Cotreau and Dr. Snow. Everything seems to match best practices. The event coordinator has listed some density reduction items; such as, walkers starting at 7:00 a.m., with another event moving through every half hour. No more than 100 participants will be starting at any one time. There will be social distancing and face masks. There will be port-a-potties, which will be sanitized regularly on a schedule. There will be no awards ceremony and they have asked the participants not to have spectators show up. Chief Walsh noted there were some challenges with the insurance. The insurance was vetted by Attorney Richter at Primex. After some discussion, the event coordinator was able to get their insurance company to supply the language that Primex was most comfortable with.

Chair Winslow point out that Rye's COVID cases have gone up from 22 to 25 with 5 active cases at this time. Rye is among the top 15 communities in the State with active cases. He is concerned about the additional exposure from having 500 people in Town from other States.

Chief Walsh responded that the event coordinators have a well laid out plan that has been reviewed by Dr. Snow, Chief Cotreau and himself. The plan meets the criteria of the CDC. Chair Winslow noted that the original application stated there will be 500 participates, but now Ms. Ginsberg is saying there will be 200 or less. He added that 200 would be preferable.

Selectman Epperson asked if there are any provisions or if it would be practical to encourage testing before the event.

Chief Walsh pointed out the problems with managing the tests; such as, monitoring if the participant had the test and when. Also, if a test was done four or five days prior, could the participant have been exposed to the virus after being tested but prior to the event? The only way that would be effective is if the participants were tested the day of the event and could get immediate results. Right now, the system for testing is not accommodating that, so it is not a practical solution.

Chair Winslow asked where the participants are from.

Ms. Ginsberg answered that 99% are from New Hampshire, Massachusetts and Maine. There are a few from Connecticut and New York. There are 2 from Minnesota and 1 from Virginia. There are currently 188 people and registration has been closed. There will be no signup allowed on race day.

Chair Winslow asked how they will enforce the no spectator rule.

Ms. Ginsberg responded that the permit from the State requires that there be no spectators. She has had this conversation with the State. If spectators show up, they will be asked to leave. She pointed out that the park is open to the public. If they come in with a participant in the morning, they can ask them to leave. However, if they are coming in to use the park, there is nothing that they can do. Part of the application that the participants had to fill out was that they agree to not bring spectators. Also, they had to state that they read the plan and agree to all the rules and regulations of the plan. There will be five water stops that will not be manned the way they normally are. They will be using bottled water. They will be spreading out trash cans. Their staff will be responsible for cleaning up the trash cans and the bottled water.

Motion by Phil Winslow to approve the All Sports Events/Tri ME, Sunday, October 25, 2020, 7:00 a.m. to 12:00 p.m. to benefit various youth organizations, with the condition that Ms. Ginsberg notifies Chief Walsh if she is made aware of any cases of COVID during the event. Seconded by Mae Bradshaw.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Aye.

Motion Passed

VII. DISCUSSION ITEMS

- A. Quitclaim Deed to Mary Alice Patton, Trustee of the Mary Alice Patton 2011 Revocable Trust for the southerly half of Atlantic Avenue, a paper street abutting her property at 45 Surf Lane, Map 084, Lot 047.** Mrs. Patton's application was completed in 2012 and a deed was never done. The Town Attorney has prepared the deed. *Motion Required.*

Chair Winslow referred to a packet provided to the Board with the back ground on this parcel. He noted that the neighbor across the street applied for ownership of the paper street back in 2012 and it was approved. The restraint on it was that there were some drainage issues that need to be reviewed.

Motion by Mae Bradshaw to authorized the transfer of ownership by the Select Board and to execute the deed. Seconded by Bill Epperson.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Aye.

Motion Passed

B. Donna DeCotis, Town Clerk/Tax Collector – Requests permission to waive interest on taxes

Tax Collector DeCotis explained to the Select Board that there was a problem with the BMSI software program. There had been an abatement on the property at 1086 Old Beach Road and the software did not carry over the abatement from year to year, which created the interest amount. She asked for permission to waive the interest in the amount of \$85.03 on property located at 1086 Old Ocean Blvd, Tax Map 19.4, Lot 75, owner Carmen Gerald P. Trust.

Motion by Bill Epperson to waive the interest on taxes in the amount of \$85.03 on property located at 1086 Old Ocean Blvd, Tax Map 19.4, Lot 75. Seconded by Mae Bradshaw.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Aye.

Motion Passed

C. Sally King, Conservation Commission Vice-Chair - Discussion regarding cell tower revenue monies

Conservation Commission Members Jeffrey Gardner, Sally King and Suzanne McFarland addressed the Select Board. Mr. Gardner, as the longest seated member of the Commission, gave a short history of the cell tower.

Ms. King pointed out that the contract for the cell tower with the communications provider is with the Conservation Commission.

Mr. Gardner stated that originally when the Conservation Commission agreed to allow the cell tower on the land, there was an agreement for a five-year plan to allow the monies to go toward a new ambulance, which at that time was truly needed. Since that time, Jim Raynes has had discussions regarding the revenue with prior Select Boards. There have been two to three other ambulance purchases with the funds. The Conservation Commission is concerned that the history of the cell tower transactions not be lost.

Selectman Epperson asked if this is just informational or if there is something that needs to be addressed in this conversation.

Conservation Chair McFarland answered by explaining that the Conservation Commission gets checks from the communication provider for the lease on the cell tower. The checks get turned over to the Town and does not go into conservation. In talking with several individuals, she realized that there are a lot of individuals that are new in their positions with the Town, including the Select Board. She felt that it was appropriate to bring everyone up to speed on just what the situation is. She added that she does not want it to get changed, she just wants it on the record.

Ms. King added that the Conservation Commission also became aware that the Select Board is considering selling the cell tower. They feel that this should be a conversation with the Conservation Commission and they should be included in anything that has to do with the cell tower.

Selectman Epperson explained that the Select Board did receive a proposal from the communications provider for a lump sum settlement. The Board did not talk about it and did not embrace the idea.

Administrator Bergeron explained that the funds are deposited into Fund 14, which is the Ambulance Special Revenue Fund.

Selectwoman Bradshaw noted that in the CIP a new ambulance is scheduled for 2025 to replace the old ambulance and they are using both ambulances.

Chair Winslow read the 2005 Warrant Article. He noted that the warrant article wasn't quite as clear. There is no wording on timing.

Chief Cotreau stated that he does not know how much is currently in the Ambulance Special Revenue Fund from the cell tower. He reminded the Board that the fire department has developed a 20-year internal capital plan. This program is based on the funds from the cell tower and the warrant article that is appropriated each year.

The Select Board acknowledge that the land is conservation land and that any discussions regarding the cell tower would include the Conservation Commission.

Conservation Chair McFarland stated that also there was a verbal time limit on the agreement. She wondered if a new agreement should be written to bring the agreement up-to-date, since fifteen years has passed.

Ms. King also added that this has not been contested in the past, because every Select Board has been very supportive of the Conservation Commission. They feel that they are all working together for what is for the best interest of the Town.

D. Annual Report Preparer Position

Chair Winslow explained that in the past, Priscilla Jenness would do the annual report, which is about 165 pages. It would take her about three months to gather and assemble the information. Ms. Jenness is unable to do it this year.

Administrator Bergeron stated that the Select Board has Jessica Stelter's resume' for the position of annual report writer. Ms. Stelter has a great deal of writing experience. Primarily, the Town is looking for an individual to compile all the department head reports, perhaps write some articles to augment them, and to format, proof, edit and assemble the report.

Motion by Phil Winslow to invite Jessica Stelter to take the position of annual report preparer. Seconded by Mae Bradshaw.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Aye.

Motion Passed

E. Instituting Mandatory Water Restrictions

Chair Winslow reported that he attended a Water District meeting last week. The Water District Commissioners have agreed that there should be a restriction on irrigation. This would not include golf courses, sod farms, or recreation facility areas. The Water Commission reported that they are running at the lowest level ever at the Grove Road wells. They have also had substantial demand this year, which was up from 16% to 22% on the three wells. This is only for Rye Water District, not Aquarion Water. Aquarion has a voluntary water restriction on currently. The request is to institute a mandatory restriction on water usage for irrigation from now until the first of November.

Selectwoman Bradshaw stated that she would be inclined to not make the exception for the golf courses and recreation areas, given the time of the year. She would exclude agricultural use. The season is already over and she would like to see the wells be replenished.

Selectman Epperson suggested that someone speak to Wentworth Country Club about the need to continue irrigation at this time of year. He agreed with Selectman Bradshaw that the season is over and there may not be a need to continue watering.

After further discussion, it was decided to institute a mandatory restriction on water usage for irrigation until the end of November, with the exception of sod farms and agricultural use.

Motion by Mae Bradshaw to give three days' notice that the Town is under a mandatory restriction on water usage for irrigation, from now until November 30, 2020, with the exception of sod farms and agricultural use. If there is a hardship, that entity may appeal to the Select Board for a review. Seconded by Bill Epperson.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Aye.

Motion Passed

Chair Winslow recommended that Rye Water District be responsible for enforcement.

F. Cable Road Ext. Trash Issue

Chair Winslow reported that the Town has pulled the trash containers at the end of Cable Road and now dog owners are leaving dog waste bags on the road. The neighbors want the trash barrels to be put back out.

Mr. McCarthy pointed out that the problem isn't trash, but dog waste. If the Town is going to put a trash barrel out every time a dog owner leaves their dog waste on the road, they are just encouraging the bad behavior. The Town would be better off addressing the issue of dog owners leaving their dog waste-bags. The Town's dog officer should be enforcing this by issuing fines. The trash barrels have always been for the summertime beach trash. When the season ends, if a single barrel is left there, what is thrown in there is household trash and dog waste. The beaches are carry-in and carry-out when there are no trash barrels. Mr. McCarthy added that he doesn't think it makes any sense to leave the trash barrels out for the dog owners to leave their dog waste.

Chair Winslow recommended asking the Beach Committee to discuss the problem and maybe come up with a solution.

Chief Walsh reported that he and ACO Bob McGrath have talked about the issue at Cable Road. ACO McGrath had put out a sign that addressed the issue and the next day there was a waste bag sitting in front of the sign. Chief Walsh explained that he is looking into installing some cameras in the area, in order to remedy the situation. He added that if this is successful, he will be going to the Board and the budget committee to have cameras placed at all the beaches entrances and exits where there is public access. The cameras will be transferring the images into the police department 24/7.

The Board agreed that cameras is a good idea.

G. Discussion on changing Board of Selectmen to Select Board

Motion by Bill Epperson to change the Board of Selectman to Select Board. Seconded by Mae Bradshaw.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Aye.

Motion Passed

VIII. CORRESPONDENCE - None

IX. NEW BUSINESS - None

X. OLD BUSINESS

Selectman Epperson explained that he is the Select Board's rep to the Beach Committee and that he had asked Frank Hwang, Chair of the Beach Committee, to hold off on their charge until he had a chance to study the litigation on Purdy versus Rye. Selectman Epperson stated that he has reviewed the documentation and a lot of it is quite complicated. He has not gotten back to Mr.

Hwang yet. Now that these new things will be coming before the Beach Committee, he will be getting back to Mr. Hwang, shortly.

Selectwoman Bradshaw reported that the Certified Government Annual Report is due on October 31st and she needs to have it approved. She explained that it is a report on all the activities of the Historic District Commission in the past year.

Chair Winslow stated that he has read the report. He is in support of Selectwoman Bradshaw signing it and sending it in.

Selectman Epperson recommended reengaging with the Communication Committee to discuss the gap in cell service.

Chair Winslow agreed.

Administrator Bergeron suggested putting this on the next agenda. She will provide a list of all town owned parcels for review.

Administrator Bergeron reported that she has received a requested from Attorney Manzelli to withdrawal representation of the Board with respect to 120 Garland Road. She asked for a motion to accept her withdrawal letter.

Motion by Bill Epperson to accept the letter of withdrawal from Attorney Manzelli with the condition that the Board does not accept the terms of the letter. They are just accepting Attorney Manzelli's resignation. Seconded by Mae Bradshaw.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Aye.

Motion Passed

XI. OTHER BUSINESS

A. Minutes

1. Non-Public Session, Monday, May 11, 2020 (1) per RSA 91-A:3II (i) Emergency Management

Motion by Phil Winslow to approve the minutes of the Non-Public Session of Monday, May 11, 2020. as written. Seconded by Bill Epperson.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Abstain.

Motion Passed

2. Meeting, Friday, September 25, 2020, 3:00 p.m. via Zoom

- Chair Winslow noted that Selectwoman Bradshaw came into to the meeting after the roll call attendance of the Select Board was taken but prior to the discussion with Lee Arthur. He asked that a notation be added to the minutes.

Motion by Phil Winslow to approve the meeting minutes of Friday September 25, 2020, as amended. Seconded by Bill Epperson.

Roll Call Vote: Bill Epperson – Aye; Phil Winslow – Aye; Mae Bradshaw – Aye.

Motion Passed

ADJOURNMENT

Motion by Bill Epperson to Adjourn at 7:53 p.m. Seconded by Mae Bradshaw. Roll Call Vote: Phil Winslow - Aye; Bill Epperson – Aye; Mae Bradshaw – Aye.

Motion passed

Respectfully Submitted,
Dyana F. Ledger