

**TOWN OF RYE - SELECT BOARD  
MEETING  
Monday, November 14, 2022 – 5:00 p.m.  
Rye Town Hall**

**Present:** *Chair Phil Winslow; Vice-Chair Tom King; and Selectman Bill Epperson*

**Others Present on behalf of the Town:** *Town Administrator Matt Scruton and Finance Director/Asst. Town Administrator Becky Bergeron*

**5:00 p.m.**

**I. CALL TO ORDER**

Chair Winslow called the meeting to order at 5:00 p.m.

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

At 5:00 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, King - Yes.

At 5:30 p.m., Phil Winslow made a motion to come out of Non-Public Session. Seconded by Tom King. Roll Call: Winslow – Yes, Epperson – Yes, King - Yes.

At 5:30 p.m., Phil Winslow made a motion to go into Non-Public Session per RSA 91-A:3 II (b) Hiring. Seconded by Tom King. Roll Call: Winslow – Yes, Epperson – Yes, King - Yes.

At 6:24 p.m., Phil Winslow made a motion to come out of Non-Public Session. Seconded by Bill Epperson. Roll Call: Winslow – Yes, Epperson – Yes, King - Yes.

**6:30 p.m. RECONVENE PUBLIC MEETING**

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

Chair Winslow reconvened the public meeting at 6:32 p.m. and led the pledge of allegiance.

**IV. ANNOUNCEMENTS**

- A.** The Rye Holiday Parade and Candlelight Stroll is on Sunday, December 4<sup>th</sup>, starting at 3:00 p.m.

**B.** The Select Board would like to thank the Fire Department, Police Department and volunteers for distributing water to residents during the Boil Water Order. The Board also thanked the Public Works Department and DPW Director Jason Rucker for their help during this time.

**C.** Office of the Select Board of the Town of Rye, N.H. Proclamation:

*Whereas:* Rye Police Chief Kevin Walsh has been a police officer for over 35 years; and

*Whereas:* Chief Kevin Walsh has served Rye for over 28 years as a police officer; and

*Whereas:* Chief Walsh has been Rye's Police Chief for 15 years; and

*Whereas:* Chief Walsh has been on the Board of Directors of the Seacoast Emergency Response Team for 15 years and has served in multiple leadership roles in this organization; and

*Whereas:* Chief Walsh is currently the President of the Seacoast Emergency Response Team that has proudly resolved many seacoast crisis situations; and

*Whereas:* Chief Walsh has been a member of the Rockingham County Chiefs Association for 15 years; and

*Whereas:* Chief Walsh has developed a culture, within the Rye Police Department, for Rye Officers never compromise their responsibilities and never fall short of their knowledge and skills; and

*Whereas:* Chief Walsh consistently works for the best interests of the Town of Rye; and

*Whereas:* Chief Walsh consistently demonstrates ultimate professionalism in performing his duties for Rye; and

*Whereas:* Chief Walsh took the office of Interim Rye Town Administrator in 2022 and effectively and professionally performed those duties.

Now, therefore, we the Selectmen of the Town of Rye, on behalf of the residents of Rye, do hereby proclaim

The week of November 14, 2022 as  
"Chief Kevin Walsh week"

in the Town of Rye and we ask everyone, this week, to congratulate Chief Walsh and thank him for all his hard work on behalf of the Town of Rye.

Philip D. Winslow, Chairman  
Thomas King, Vice-Chairman  
William Epperson, Selectman

- D. NH DES is holding a meeting this evening, Monday, November 14<sup>th</sup>, at the Bethany Church in Greenland regarding the Coakley Landfill.
- E. The next Pease Authority Development Meeting is being held on Thursday, November 17<sup>th</sup>, 8:30 a.m. at 55 International Drive, Portsmouth. One of the Selectmen will be attending the meeting to keep the Town updated.
- F. The Town Offices and Transfer Station will be closed Thursday, November 24<sup>th</sup> & Friday, November 25<sup>th</sup> for the Thanksgiving holiday. The Transfer Station will be open regular hours Saturday, November 26<sup>th</sup>.
- V. **PUBLIC COMMENT** – (at the beginning of meeting, for any comment by any Rye resident on any topic. Requested time limit, up to 5 minutes each person.)

**Don Cavallaro, 6 Random Road, stated that at the Water District Meeting,** he had expressed his concern that due to the chemistry change by chlorinating, there may be some lead that breaks free somewhere. He sent for a test and the lead was fine. He did this as a result of Rye Country Day having lead higher than expected. There was a statement in the email that the lead was fine, but there was elevated arsenic. The results were .13 milligrams per liter, which is twenty-six times the recommended maximum for arsenic in the water. In doing research with EPA, sometimes when changing the chemistry of water, it can cause a shock and the arsenic absorbs to the iron. The scale comes off the iron and the arsenic and gets in the water. Even if the levels coming out of the wellhead are less than, it can play out over the years and cling. He commented that it's unsettling when it was said that the water is safe to drink and is free of E. coli. The chlorination could cause another concern because arsenic is harmful. He will be following up with another test to see if it's declining. It seems like the Water District should do additional testing.

Chair Winslow suggested that this be taken up with the Water District directly.

Rye Water District Commission Ralph Hickson confirmed that Mr. Cavallaro's letter was received. There have also been other emails with questions that the commissioners are attempting to address. The next Water District meeting is being held on November 30<sup>th</sup> at 9:00 a.m. at the Water District Office. Anyone is certainly welcome to attend. Commissioner Hickson noted that the commissioners will be working on a response to Mr. Cavallaro's letter.

- VI. **CONSENT AGENDA ITEMS** - (to be discussed at the meeting only if pulled off the consent agenda by one of the three Selectmen.)
  - A. Heritage Commission – Term ending April 1, 2024
    - 1. David Choate: Appointment as a member – letter rec'd 11/10/2022
    - 2. Recommendation letter rec'd 10/24/2022 from Bev Giblin, Chair
  - B. Energy Committee – Unlimited Term
    - 1. Rob Spork: Appointment as a member – letter rec'd 11/10/2022

2. Recommendation letter rec'd 11/10/2022 from Howard Kalet, Chair
  3. Silas Proft: Appointment as a member – letter rec'd 11/10/2022
  4. Recommendation letter rec'd 11/10/2022 from Howard Kalet, Chair
- C. Chief Cotreau requests permission to accept and expend funds received from a donation made by Local 4411 in the amount of \$1,500.00 to go towards the purchase of a portable ventilator for the Fire Department.
- D. The Rye Heritage Commission requests permission to accept and expend funds received from donations made in the amount of \$5,950.00
- E. Email rec'd from Dominique Winebaum re: Planning and Zoning Administrator Scope of Responsibilities
- F. Select Board's Meeting Schedule 2023
- G. Holiday Schedule 2023 – Policy Directive

Consent agenda items B, E. and G were pulled for discussion.

**Motion by Phil Winslow to accept Consent Agenda Items A, C, D, and F. Seconded by Bill Epperson. All in favor.**

- Energy Committee:

**Howard Kalet, Co-Chair Rye Energy Committee**, introduced Robert Spork and Silas Proft who have submitted their interest in being members on the Energy Committee.

**Rob Spork** recently moved to Rye and wanted to become part of the community, so the Energy Committee was an obvious fit. He has worked in investment management for twenty-five years. Most recently, he worked as a portfolio manager and partner as an asset manager in Boston, which included energy assets. Bringing the investor mentality and financial skills to the Committee seems to be a benefit. He is an MIT graduate and has been on the east coast ever since.

**Silas Proft** is a 2010 graduate of the University of New Hampshire. He has worked with a managing consulting firm in Boston, which focuses on corporate strategy and asset management firms. He also has experience with solar energy. He wanted to get involved with the community and the Energy Committee seems like the best opportunity and is the most interesting to him.

The Select Board thanked Mr. Spork and Mr. Proft for volunteering and welcomed them onto the Energy Committee.

**Motion by Phil Winslow to accept Rob Spork and Silas Proft as members of the Energy Committee. Seconded by Bill Epperson. All in favor.**

Mr. Kalet reported that the solar panels at the Junior High are under construction and will be going online mid-December. The Elementary School has to vote on repairing the roof of the building before the solar panel work can be done. If that is approved in March, the work will probably be done over the summer. He also reported that Community Power is progressing as well. The Select Board will be hearing from the Energy Committee as different agreements come forward for review with the Town.

- Email rec'd from Dominique Winebaum: Planning/Zoning Administrator Scope of Responsibilities

Vice-Chair King stated that it looks like part of the issue is process. The Rye Zoning Ordinances are working their way through the committees. There is going to be a public meeting. He asked if there is an opportunity to change things at that meeting.

Selectman Epperson replied it's basically a presentation. This will be the second vetting of the ordinances. The Planning Board, and Long Range Planning Committee spend a lot of time going over these to make sure they're legally correct and obtainable. He's very proud of the work they have done. The public is invited to every meeting. The public has an opportunity to speak and bring up any issues they feel are important. He commented there's nothing going on that would be secret or subversive.

Vice-Chair King stated that he heard that the Planning Board turned down the irrigation restrictions. The Water District had asked for that to be in there and now it's not. He thinks that some of these things should be taken up at the Select Board level.

Town Administrator Matt Scruton explained that Attorney Maher determined that Rye Water District already possess the authority to implement such changes without having to go through a meeting.

Selectman Epperson asked if it's correct that the Select Board cannot impose restrictions on irrigation systems, unless there's a declared drought.

Chair Winslow confirmed.

Town Administrator Scruton noted the Rye Water District possess the rules for their system.

Vice-Chair King commented that when the Select Board had their joint meeting with Rye Water, that was the first time he learned that RWD even has their own ordinances. When Rye Water said they wanted the Town to do it, it seemed to be two parallel sets of zoning ordinances and seemed redundant. There would be the potential for the ordinances to be out of sync. The Rye Water District had asked the Town to do that and now that's not being done.

Selectman Epperson stated the Water District is certainly aware of the issues surrounding irrigation systems. He trusts they will make the right recommendation to the residents and they will be approved based on RWD's recommendations.

RWD Commissioner Ralph Hickson explained the intent was to require a building permit through the Town Building Inspector. That way, RWD would be able to track when new irrigation systems were being put in. RWD has its own by-laws and rules can be set. However, it would be easier to enforce if a building permit is required.

Vice-Chair King clarified that RWD can't enforce it but the Building Inspector could.

Town Administrator Scruton commented that he thinks Attorney Maher would disagree that RWD can't enforce it.

RWD Commissioner Hickson explained the Town Building Department has more visibility than RWD.

Vice-Chair King stated this is something the Select Board should have an idea of what's happening.

Selectman Epperson noted that he will speak with the Planning Board Chair to follow up.

**Motion by Bill Epperson to accept Consent Agenda Item E as written. Seconded by Tom King. All in favor.**

- Holiday Schedule

There was clarification on the number of holidays for the Town versus the Police and Fire Departments. There were no issues.

**Motion by Phil Winslow to accept Consent Agenda Item G as written. Seconded by Bill Epperson. All in favor.**

## **VII. DISCUSSION ITEMS**

Note: *The following public hearings were taken out of posted agenda order (as shown in minutes).*

### **A. PUBLIC HEARING – CAPITAL IMPROVEMENT PLAN 2023-2028**

The purpose of the hearing is to consider accepting the Capital Improvements Plan (CIP) 2023-2028.

**Kevin Brandon, Ralph Hickson, Matt Curtin, and Mae Bradshaw, representatives from the CIP Committee,** met with the Select Board to present the 2023-2028 Capital Improvements Plan. The CIP is compiled by the CIP Committee, an advisory committee appointed by the Select Board. The Committee meets every year pursuant to RSA 674:5. The Committee's charge is to prepare and recommend a program of municipal capital improvement projects over a period of at least six years. The Committee met regularly in public sessions from August through November 2022. The Committee strongly encourages public attendance and welcomes public comments. The CIP document can best be addressed by reading pages 1 through 33 and then

turning to projects of interest on pages 34 to 105. The largest project submissions within the Town for 2023 to 2028 are Conservation Commission \$3,500,000.; Fire Department \$1,485,760.; a number of significant Rye Water District projects \$2,525,000. and a possible water treatment plant in 2024 of \$11,150,000.; and Public Works culvert projects \$550,000 and road paving projects \$3,075,000.

The project sheets are separated into data sheets for 2022 projects and project request sheets for the 2023-2028 program. The major projects listed constitute \$22,285,760 of proposed expenditures for the Town of Rye over the six year period of the CIP. This represents an increase of \$3,696,760 over last year's CIP projections. Town departments, boards and commissions provide the Committee most of the information found in the CIP. The Committee recommendations are focused on the assignment of a priority of 1, 2, or 3 to each project based on information submitted. Approval of funding and scheduling of projects are beyond the charge of the Committee. The Town's Capital Improvements Program is responsive to changes in the Town's environment. The CIP continues to inform town residents, guide the budget process, and help reduce fluctuation of the property tax rate. As such, the CIP remains an essential town planning component. Although the CIP Committee recommends to the Select Board, it is the town voters who approve or disapprove the capital outlay at the annual election. Members of the CIP Committee include: Chair William Roach, Vice-Chair Kevin Brandon, Mae Bradshaw, Ralph Hickson, Matt Curtin, and Selectmen's Rep Phil Winslow.

The Select Board reviewed the Capital Improvements Plan.

At 7:16 p.m., Chair Winslow opened to the public for comments or questions. Hearing none, he closed the public comment.

**Motion by Phil Winslow to accept the Capital Improvements Plan 2023-2028 contingent upon the changes noted at this meeting, as well as the approval of the tax rate from the N.H. Department of Revenue. Seconded by Bill Epperson. All in favor.**

**B. PUBLIC HEARING - LOCALITY EQUIPMENT MATCHING PROGRAM GRANT**

The purpose of the hearing is to consider acceptance and expenditure of eighteen thousand five hundred forty-six dollars (\$18,546.00) from the State of NH for the Locality Equipment Matching Program Grant to partially fund the Lucas Chest Compression System that was purchased this year for the Rye Fire Department.

Finance Director Bergeron noted that the Lucas Chest Compression System was appropriated in capital outlay for 2021 and those funds were encumbered due to supply chain issues. In June, the Governor's Office for Economic Recovery advertised locality grants. The parameter was for equipment that the locality used as a result of Covid. The Fire Department presented the idea of presenting the Lucas System for the grant. The Governor's Office awarded Rye partial funding.

At 7:18 p.m., Chair Winslow opened to the public for comments. Hearing none, he closed the public comment.

**Motion by Phil Winslow to accept the Locality Equipment Matching Program Grant in the amount of eighteen thousand five hundred forty-six dollars (\$18,546.00) from the State of NH to partially fund the Lucas Chest Compression System that was purchased this year for the Rye Fire Department. Seconded by Tom King. All in favor.**

**VIII. CORRESPONDENCE**

*None*

**IX. NEW BUSINESS**

*None*

**X. OLD BUSINESS**

**A. Pump Out Update**

The Select Board agreed that letters should go out to the 26 residences that are not in compliance reminding them that the three-year period has lapsed and asking them to take action to address compliance.

**B. Town Center Committee**

*No report at this time*

**XI. OTHER BUSINESS**

**A. Meeting Minutes**

**1. Site Walk, Wednesday, September 14, 2022, 10:00 a.m., 90 Locke Road**

**Motion by Bill Epperson to approve the minutes of September 12, 2022 as presented. Seconded by Tom King. Vote: 2-0-1 Abstained: Phil Winslow**

**2. Meeting, Thursday, September 15, 2022, 7:30 p.m., Rye Jr. High School**

**Motion by Phil Winslow to approve the minutes of September 15, 2022 as presented. Seconded by Tom King. All in favor.**

**At 7:33 p.m., Phil Winslow made a motion to adjourn the meeting. Seconded by Tom King. All in favor.**

Respectfully Submitted,  
Dyana F. Ledger



11-14-22 Consent Item E

Dominique Winebaum  
52 Cable Road  
Rye, NH 03870  
[dominiwine@comcast.net](mailto:dominiwine@comcast.net)

Rye, November 9<sup>th</sup>, 2022

Board of Selectmen  
Town Administrator, Matthew Scruton  
10 Central Road  
Rye, NH 03870

RE: Planning and Zoning Administrator Scope of Responsibilities

Dear Board of Selectmen and Town Administrator, Matthew Scruton,

I attended on Monday, November 7<sup>th</sup> at 9:30 am, the very first Rules and Regulations meeting open to the public to discuss "Changes to the Rye Zoning Ordinance."

In an email dated November 1<sup>st</sup> addressed to Planning and Zoning Administrator, Kim Reed, I requested an electronic copy of the "changes made to the Rye Zoning Ordinance" as it had not been posted on the Town of Rye website. I did not receive a reply to my email.

However, when I checked on Nov. 3<sup>rd</sup>, I saw that a link to the document had been posted next to the upcoming Nov. 7<sup>th</sup> Rules and Regulations meeting agenda. Please take note that as the writing of this letter, it is almost impossible to find the link as one has to go back to that Nov. 7<sup>th</sup> past agenda via the calendar with no link to the changes to the Zoning Ordinance readily accessible by anyone.

As noted in Attorney Roger Wiegley's letter to the Town, dated September 4<sup>th</sup>:

It is not a sufficient to say that the revised ordinances will later be presented to the public in a public meeting before they are voted upon. It is the very process of review and amendment that the public is most interested in. The logic of, and need for, and wording of, and relevance of, and alternatives to, revisions to ordinances is exactly what public participation is for. It is the public that is affected, so the public should be allowed to comment at the early planning stages, not merely at the final vote.

Clearly, as pointed out by Attorney Wiegley, "the public should be allowed to comment at the early planning stages," [of the RZO updates], however, what was presented on Monday, November 7<sup>th</sup>, were changes that had already been made without public participation and without any explanation as to why some of changes or even full comprehension by the chair of the Rules and Regs of what the changes could mean.

For instance, as per statement by Chair Steve Carter in response to my concerns in regards to decreasing off-street parking for ADUs from two to one space, is that "there are only "600 square

feet" for ADU's (when in fact they can be up to 1,200 square feet) and that "normally it is just going to be for a mother-in-law or a father-in-law, we did not anticipate having more people" (Planning Board meeting on November 8<sup>th</sup>). Really!

Even though it is not under the purview of the Select Board to review the RZO, it was stated during the meeting, that "Section 190-8.3 Administrative Decisions" had been done "internally" after I had raised concerns about shifting responsibilities, such as reviews of applications requiring variance relief, from the Building Inspector, Chuck Marsden, to the Planning and Zoning Administrator, Kim Reed.

Ms. Reed stated that the decision had been made with Assistant Town Administrator, Becky Bergeron, and Building Inspector, Chuck Marsden. It is unclear when the decision was made, however, it appears it may have been made when Chief Kevin Walsh was acting as our interim Town Administrator.

I understand why Chuck Marsden might be happy to lighten his workload considering the "backlog" of cases; however, an additional building inspector was hired last year. But more to the point, there are many reasons to feel concerned by shifting some of his responsibilities to the Planning and Zoning Administrator, considering known conflicts of interest as Ms. Reed is a Rye resident. Likewise, the Town has not addressed complaints and concerns by residents, such as me, in regard to Ms. Reed, sent via emails and letters.

I would ask that the Board of Selectmen and our new Town Administrator, Matthew Scruton, review "Section 190-8.3 Administrative Decisions" and to seriously consider reverting to having our building inspector, Chuck Marsden, who "goes by the book", who can be trusted to do a thorough job, and without any bias. It has been our experience that the Town is not always fair, however, Chuck Marsden can be trusted to thoroughly review applications for variance relief. If this is a matter of aligning with practices done throughout the State where applications are handled by a Planning Department, land use assistant, Kara Campbell, would be another person who could take on the task.

Further and in the same vein at the November 8<sup>th</sup> Planning Board meeting, Chair Pat Losik suggested to Kim Reed to reach out to land use assistant, Kara Campbell, to assist with grant writing in lieu of Ms. Reed reaching for outside help, which I felt made sense, however, Ms. Reed responded with a categorical "No."

I hope my time and efforts help shed light on these issues and are not in vain. There are many issues facing the Town and it is time for across-the-board competence, fairness, transparency and accountability to move us forward in these challenging times.

Sincerely,



Dominique Winebaum

Cc Planning Board

11-14-22 Consent Item F



**2023**  
**TOWN OF RYE**  
**SELECT BOARD**  
**SCHEDULE OF MEETINGS**

Unless otherwise noted, Selectmen's Meetings are held:  
**The 2<sup>nd</sup> and 4<sup>th</sup> Monday of every month at 6:30 p.m.**  
**In the Town Hall Courtroom, 10 Central Road**

January 9  
January 23  
February 13  
February 27  
March 13  
March 27  
April 10  
April 24  
May 8  
May 22  
June 12  
June 26  
July 10  
July 24  
August 14  
August 28  
September 11  
September 25  
October 10 - Tuesday (Monday is Indigenous Peoples' Day and the Town Offices are closed)  
October 23  
November 13  
November 27  
December 11  
December 26 - Tuesday (Monday, December 25, 2023, the Town offices are closed for the Christmas Holiday)

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***Meetings are subject to change.***

*Agendas are posted at Town Hall and on the Town website: [www.town.rye.nh.us](http://www.town.rye.nh.us)*

*Requests to be placed on a meeting agenda are accepted until noon on Thursday prior to the Monday meeting. Please call the Selectmen's Office: (603)964-5523 or email [jireland2@ryenh.us](mailto:jireland2@ryenh.us)*

11-14-22 Consent Item 6



## 2023 Holiday Schedule

### POLICY DIRECTIVE

Effective immediately, the Town of Rye will observe the following holidays in 2023:

*New Year's Day 2023	Monday	January 2, 2023
Martin Luther King Civil Rights Day	Monday	January 16, 2023
Presidents Day	Monday	February 20, 2023
Memorial Day	Monday	May 29, 2023
Independence Day	Tuesday	July 4, 2023
Labor Day	Monday	September 4, 2023
Indigenous Peoples' Day	Monday	October 9, 2023
**Veterans Day	Friday	November 10, 2023
Thanksgiving Day	Thursday	November 23, 2023
***Day after Thanksgiving	Friday	November 24, 2023
Christmas Day	Monday	December 25, 2023

The Town Hall, Highway Department and Recycling Center will be closed each holiday.

- \* New Year's Day falls on Sunday, January 1, 2023. The holiday will be on Monday January 2, 2023.
- \*\* Veterans Day falls on Saturday, November 11, 2023. The holiday will be on Friday November 10, 2023.
- \*\*\* The Fire and Police Departments do not get the day after Thanksgiving, Friday, November 24, 2023.

The Fire and Police Associations observe ten (10) holidays per year.  
Those employees covered by Collective Bargaining Agreements will observe only those holidays specified in such Agreements.

### RYE SELECT BOARD

Philip D. Winslow, Chairman  
Thomas King, Vice-Chairman  
William Epperson, Selectman