

**TOWN OF RYE - SELECT BOARD
MEETING
Monday, May 8, 2023 – 6:00 p.m.
Rye Town Hall**

Selectmen Present: Chair *Tom King*, Vice-Chair *Bill Epperson*, and *Bob McGrath*

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

6:00 p.m.

I. CALL TO ORDER

Chair King called the meeting to order at 6:00 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 6:00 p.m., Tom King made a motion to go into Non-Public Session per RSA 91-A:3 II (a) Personnel. Seconded by Bill Epperson. Roll Call: Epperson – Yes, McGrath – Yes, King – Yes.

At 6:12 p.m., Tom King made a motion to come out of Non-Public Session. Seconded by Bob McGrath. Roll Call: Epperson – Yes, McGrath – Yes, King – Yes.

Motion by Bill Epperson to seal the minutes of the non-public meeting that just occurred, because it was determined that divulgence of this information likely would affect adversely the reputation of any person other than a member of this board. Seconded by Bob McGrath. All in favor.

At 6:13 p.m., Tom King made a motion to go into Non-Public Session per RSA 91-A:3 II (a) Personnel. Seconded by Bill Epperson. Roll Call: Epperson – Yes, McGrath – Yes, King – Yes.

At 6:25 p.m., Tom King made a motion to come out of Non-Public Session. Seconded by Bill Epperson. Roll Call: Epperson – Yes, McGrath – Yes, King – Yes.

Motion by Tom King to seal the minutes of the non-public meeting that just occurred, because it was determined that divulgence of this information likely would affect adversely the reputation of any person other than a member of this board. Seconded by Bob McGrath. All in favor.

6:30 p.m. RECONVENE PUBLIC MEETING

III. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chair King reconvened the public meeting at 6:30 p.m. and led the Pledge of Allegiance.

IV. ANNOUNCEMENTS

- Police Chief Kevin Walsh announced that Officer Joshua McAllister and his wife Ashley welcomed a new baby into their family. Chief Walsh is proud to welcome another family member into the Rye Police Department.
- Selectman McGrath stated that since the last meeting, there have been a lot of questions and confusion, especially when it comes to the right-to-know policy. He would like to go over a few things regarding right-to-know. First, the right-to-know that was in question at the previous meeting was regarding 120 Garland Road, in which the Rye Conservation Commission is in a legal dispute with the owner of the property. The right-to-know request from two citizens was basically asking for the legal costs that the Town has occurred over the past three years, as well as professional costs for the case. As the case continues, the information that was requested had to go through a lawyer for any redactions because it's an ongoing case. That's why the Town incurred a \$1,2000 expense outside of Rye's team of employees.

Right-to-Know. Transparency and Accountability:

The Right-to-Know Law promotes transparency in government operations. It allows our citizens the ability to access information about how their tax dollars are to be spent, decisions made by local officials and the functioning of various government departments. The primary focus and objective of the employees in this town is to provide the highest level of service possible to the residents of Rye. This involves fulfilling specific roles within each department, which come with expenses typical to government operations.

Selectman McGrath continued that when a resident wants something done, there's always a cost associated, but the Town is prepared to pay it because there's a staff of professionals that provide those services. Any task that any department performs for one of the Town's citizens could be broken down into numbers.

Selectman McGrath read from the RSA: The motives of the person requesting the information are irrelevant and should never be questioned. If the requested information is subject to disclosure under the Right-to-Know Law, it belongs to everyone. The act of requesting information and the resources required to deliver it, should not lead to criticism, intimidation, or guilt imposed on the citizen. It's a fundamental right-to-know.

Selectman McGrath pointed out that the goal of the government is to be sure everyone gets all the information they need to know. However, sometimes, it needs to go through a legal process which is a legal expense to the Town.

V. PUBLIC COMMENT – (at the beginning of the meeting, for any comment by any Rye resident on any topic. Requested time limit, up to 3 minutes each person.)

- **Lisa Sweet, Rye Energy Committee Member**, gave an update to the Select Board regarding Rye Community Power.
- **Joann Hodgdon, 63 Cable Road**, commented that it was mentioned by Selectman McGrath at the last meeting that he represents 564 people that voted for him. Being elected has consequences and being an official does as well. There are 566 other voters who didn't vote for Selectman McGrath and there's probably 3,000 to 4,000 that didn't vote at all. She pointed out that RSA 42:1 says to faithfully and partially discharge and perform all the duties incumbent. She thinks it needs to be taken seriously. The Select Board serves all the citizens of Rye.
- **Steven Borne, 431 Wallis Road**, spoke about the April 24th select board meeting and read from a prepared statement (attached to these minutes). He also commented on RSA 91-A, Right-to-Know Law, that gives the Town the ability to push back and let the person know the costs that are going to be incurred for any right-to-know request.
- **Howard Kalet, Rye Energy Committee Member**, noted that the Town is extremely well represented in the Community Power Coalition of New Hampshire. He announced that Lisa Sweet is now on the executive board.
- **Jim Cassin, 17 Perkins Road**, spoke about Perkins Road, which has become a very busy road. He asked the Select Board to consider no parking or other options for the road to make it safer for pedestrians and residents.
- **Joe Cummins, 990 Washington Road**, thanked the Select Board for establishing a Municipal Records Committee. He requested that the Town Administrator start the meetings soon for the committee. He expressed his concerns about records being destroyed before they get digitized.

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

A. Email rec'd from Cybele Grier re: her resignation from the Beach Committee

The Select Board requested a letter of thanks be sent to Cybele Grier for her service on the Beach Committee.

Motion by Bill Epperson to accept the resignation of Cybele Grier from the Beach Committee. Seconded by Bill McGrath. All in favor.

VII. DISCUSSION ITEMS

A. FY2024 Congressionally Directed Spending Request – Sewer on Route 1

Town Administrator Matt Scruton noted that a proposal requested for ten million dollars was sent to Senator Shaheen's office for a congressionally directed spending request for 2024. It's a very competitive appropriations process. Over the next few months, the Senate Appropriations Committee will review the proposals submitted by Senator Shaheen, alongside several competitive requests from across the country. Following this review, Senator Shaheen's office will reach out directly to N.H. applicants to share whether or not their projects were selected by the committee for inclusion in it's fiscal year 2024 appropriations bill. Administrator Scruton noted the application would require twenty percent cost share, which would be \$2,000,000. This would be through a warrant article that would be presented to the voters at town meeting in March next year. He pointed out there has been some preliminary design work done by Altus Engineering. This work has been shared with the Town, so that gives a small step forward in advancing the septic along that four-mile stretch on Route 1. In addition, an intermunicipal agreement would have to be finalized with Portsmouth, who had capacity concerns previously. Also, the Sewer Commissioners must be supportive of the proposal, as they have control over the municipal sewer.

Administrator Scruton noted that there was also the thought of bringing the water lines down Route 1 at the same time. It was noted that representation from the Rye Water District is present at the meeting.

Chair King commented that it's good to know that Rye made the first cut and got on Senator Shaheen's list. He noted that Portsmouth has a request on the list for \$4,000,000 for the replacement of a pumping station. He pointed out that part of Rye's request would require a new pumping station. Rye's project and one of Portsmouth's sewer projects are both on the list right now.

Vice-Chair Epperson explained that back in 2018, the Town was successful with a warrant article to bring the sewer from the corner of Washington Road to Portsmouth at no charge to the Town. Money was being raised privately and 2.7 million was raised for that particular project. About 1.7 million dollars was verbally raised. However, Covid happened and the project fell apart. He continued this was prior to the development on Route 1 that is going on right now; Washington Green, old Hector's site, and Airfield Drive. The idea was to build the sewer first, so they would be required to connect to the sewer, thereby, abating a lot of potential long-term pollution. The \$10,000,000 was an estimate. There has already been \$180,000 spent on the design. Hopefully, the Town will get the appropriation to work on the sewer and water at the same time. In the future, the Town can work on getting the developments on Route 1 to attach to the sewer system. He commented they have been working hard for years on the proposal and will continue.

Administrator Scruton acknowledged the people who wrote letters of support for the project: NH Representative Jaci, Grote; State Senator Tom Sherman; Carolyn Bilodeau; and RCC Chair

Suzanne McFarland. He also acknowledged Finance Director Becky Bergeron, and Selectman Epperson for their contribution in submitting the application.

B. Boiler Replacement at the Public Safety Building

DPW Director Jason Rucker spoke to the Select Board about the replacement of a boiler at the safety complex due to an unexpected failure. He requested emergency replacement funding for the failed boiler. The intent is to sole source the replacement using Dowling HVAC Mechanical Services. Dowling is currently the provider for the mechanical provider for the safety complex and have done a lot of HVAC work for the Town. Director Rucker spoke about the replacement options recommended by the contractor to provide efficiencies in the system and reviewed the costs of each.

Motion by Tom King to waive the bidding requirements due to the emergency nature of the boiler replacement at the Public Safety Building and allow the replacement of the boiler under Option #1, along with recommendations #1, #2, and #3, not to exceed \$35,000. Seconded by Bill Epperson. All in favor.

It was noted that the funds will come from the Building Maintenance Capital Reserve Fund.

C. Jason Rucker, Public Works Director – MS4/Stormwater Management Plan Update

DPW Director Jason Rucker gave an MS4/Stormwater Management Plan update to meet the requirements of MS4 for the yearly filing of the Town's report. All reports are available to the public on the Town's website, as well as at the DPW Office. He noted that MS4 stands for municipal separate storm sewer system. An MS4 system is a series of pipes, drains, ditches, manholes, catch basins, and other structures owned by the municipality. It's designed to hold, collect, and convey stormwater. It is not part of the sewer system. It is regulated by the federal government and the EPA. Rye is permitted to discharge into the surrounding water bodies.

Director Rucker continued that this year, Rye's stormwater management program is slated for an update. A new publication will be on the Town's website with an updated stormwater management plan. Currently, the Town has nitrogen source identification reports, salt use reports, salt reduction plans, illicit discharge identification, spill prevention evaluations and control, chloride impairment studies, and other reports available for the public. He noted that outside support will be hired for the update of the plan, as well as some of the sampling for this year.

D. TAP Grant Committee

Chair King noted that he is working with the TAP Grant Committee. The Committee would like to have an understanding with the Select Board, Administrator Scruton, Director Rucker, and Finance Director Bergeron with regards to responsibilities and chain of command. The Committee is getting ready to send out an RFQ for engineering firms for the project. Comprehensive reports are required once a month for the project. The Committee suggested that

this be started with a monthly report to the Select Board stating the work that has been done and any costs that are anticipated. This will be a way to track the project, which is projected for construction in 2027.

VIII. CORRESPONDENCE

- A. Letter rec'd from Carol McNeil** requesting parking at Sawyers Beach for 3 non-residents for her niece's wedding ceremony on Saturday, June 17, 2023 from 4:30 – 6:00 p.m.

The Select Board agreed this is a reasonable request for this one event. Chief Walsh will work with parking to ensure there are no issues for these three cars to park at Sawyers during the wedding.

Motion by Bill Epperson to approve the request for three non-resident parking slots from 4:30 to 6:00 p.m. on June 17th to accommodate a wedding. Seconded by Bob McGrath. All in favor.

IX. NEW BUSINESS

None

X. OLD BUSINESS

None

XI. OTHER BUSINESS

A. Meeting Minutes

1. Meeting, Wednesday, April 19, 2023, 9:00 a.m., Rye Town Hall

The following was noted:

Page 4, it should read: **The Recreation Department is looking for war veterans to be honored at the Memorial Day Celebration.**

Motion by Tom King to approve the minutes of April 19, 2023 as amended. Seconded by Bill Epperson. All in favor.

ADJOURNMENT

Motion by Bill Epperson to adjourn at 7:38 p.m. Seconded by Bob McGrath. All in favor.

Respectfully Submitted,
Dyana F. Ledger

While it's a short agenda, I do need to be home for a customer call at 8pm.

I need to talk about what transpired at the April 24th meeting.

Shawn Joyce's April 21st LTE ended with *"Residents are also encouraging others to attend the meeting at 6:30pm to speak in support of this fair process and hopefully to do the right thing for the Town of Rye"*.

So, I made sure I listened to the RCC recording and read minutes. I was not surprised to see the RCC people there to defend its process. The many others? I assumed they would be in support of Mr. Joyce's LTE and request this change in process.

The Chair made it clear that the time to speak was during Public comment. There was no need for the RCC people to speak unless there were questions. However, what did we get from all the other people there? Crickets – I just did not understand why they were not speaking up, based on the LTE. That was the first red flag. The LTE said that people should speak in support of the Select Board considering all RCC position candidates, but they did not make this request, but the LTE wording implies that is what will happen, but no one made the request that all candidates be considered.

The discussion starts with questioning the two RCC recommendations, that makes sense. The Select Board had questions ready for these two appointments. Then the Select Board started to question the other RCC applicants.

I did not know why this was happening. Going back to the April 10th meeting minutes.

Vice-Chair Epperson noted that in his thirty years in business with hiring and recruiting, he had people he relied on to recruit, interview and make recommendations. Unless there was some overarching reason why this person should not be hired, he would leave it to that committee.

He continued that in looking at the resumes, there are unique qualities in every one of the candidates and they would all bring something to the Library Trustee. However, he also trusts the Trustees to make a recommendation to the Select Board on the person who they see as most qualified and most favorable to work with.

Selectman McGrath pointed out this is not a business. This is a town and fair should count. Chair King stated there are five people who are qualified to do this job. He tends to agree that the tradition has been to not get involved on the board or commission level. The Select Board trusts the Board to be the subject matter experts and the people that have been "hired" for those committees, commissions, and boards. He thinks they need to be given a certain amount of leeway to do what they've been asked to do.

Chair King explained "..... He noted that whether it's for hiring employees for town departments or for the boards, the Select Board is not on the hiring panel doing the interviews. The Select Board takes

the recommendations, unless there is a reason to overrule it. That is the philosophy the Board works with."

It was clear – the Select Board relies on that "team" LBOT or RCC to figure out who they need to best complete its responsibilities. Why is this? Its not that a single brilliant Select Board member came up this idea, but from practicality. On Boards/Commissions/Committees that the Select Board does not have a rep or have not served on that Board, Committee or Commission, the Select Board has little knowledge of where the gaps are and the most pressing needs based on the current team.

When the RCC made its first recommendation for the 1 year term, they explained for the last opening, that Mike Boursseau had been attending RCC meetings and preparing to take a larger role. However, there was a greater team need for Hydrology support, so Danna Trustlow was recommended over Mr. Boursseau.

Under the same rational, everyone seems to be in agreement on Karen Olivers appointment for the three year position. Why, well she was like a highly valued 6th Man/Person during her 3 years as an alternate, leveraging her legal expertise and years of leading the LBOT.

We hear a lot of chirping about other applicants' qualifications. Kyrie Irving is one of the most qualified basketball players in the NBA. I don't care how qualified he is, he has shown himself to be cancerous to a teams ability to perform as a unit.

This is why Select Boards stay out of the weeds, as they don't know if a point guard is needed, Center, power forward, shooting guard, etc.. or what kind bench players are needed considering the current challenges.

After the RCC recommendations, there was NOT a discussion of why these two appointment recommendations should not be approved. There was no explanation for the 180 degree shift from the last Select Board meeting.

From the additional applicant questioning, we learned more. Either all the Select Board members are natural integrators who can develop lines of questioning on the spot, or there was forethought about these additional applicants. To me, it appeared there was forethought about the questions/points made.

Here is the worst part of the Select Board actions. While I knew something had caused Mike Boursseau to withdraw and he sent a letter. We learned that the ugly and dark side of Social media descended on Rye. The specter of the corelated nastiness we see around our country, drove a resident away from serving in a volunteer position.

There should have been unanimous outrage. Leaders could have taken the high ground. That is not what happened.

Instead, with no explanation of what was wrong with the RCC 1 year nomination, Member McGrath recommends one of the interviewed applicants. Think of this as a qualified Kicker for a basketball team. Then Member Epperson suggests another applicant – a qualified Punter for a basketball team.

I was e-mailed a FB post of Member McGrath calling this a great compromise.

Besides never discussing why the RCC recommendation was not acceptable, what the Board did not choose to do, was to put this on pause and say, more discussion with the RCC is needed.

How did this happen? Well Member McGrath was clear, he let us know that he was representing the 500 or so people who voted for him. What about the 500 or so who did not vote for him or the 3000 plus residents who did not vote?

From my seat in the back row, I saw the Select Board **buckle** and it was disappointing to watch. What was done can be undone and I do suggest you go back to a board, committee or commission figuring out what that team needs to be the most effective. If process, procedures, or our traditions need to adapt, fine, lets have an open public discussion.

RSA 91-A:4, IV(d) permits the Department to charge requestors a reasonable fee to cover the costs of producing/reviewing/redacting records. If the information you are requesting is readily available, you will not be charged a fee. However, if the information you are requesting needs to be compiled, reviewed, and redacted, you may be charged for the cost of producing those records. DHHS will always notify you of the projected costs before fulfilling your request.