

MINUTES OF JULY 9, 2012 RYE BOARD OF SELECTMEN MEETING

Final Revision B – Provided by the Rye Civic League

Present: Selectmen Jenness, Musselman and Mills. Also present: Michael Magnant and Cindy Gillespie.

Town Hall Space Needs Ad Hoc Study Committee

Selectman Jenness announced the formation of this committee. She will launch the committee and then it will appoint a chairman. The members of the prior Needs Assessment Committee were asked to rejoin, and additions were made. Members are:

Priscilla Jenness, Selectman
Michael Magnant, Town Administrator
Cynthia Gillespie, Finance Director
Kim Reed, Planning and Zoning Administrator
Dennis McCarthy, Public Works Director
Gregg Mikolaities, Appledore Engineering (Civil Engineering Consultants)
Paula Merritt, Historic District Commission
Mel Low, Planning Board
Elizabeth Yeaton, Town Clerk
Curtis Boivin, Planning Board
Ned Paul, Budget Committee
Phil Winslow, Historic District Commission
Peter White, Heritage Commission
Tom McCormick, CIP Committee
Paul Goldman, Budget Committee
Peter Kasnet, Sewer Commission

Announcement in Harbor Road case

Selectman Jenness announced that the Town prevailed in Superior Court in the case involving Peter Gordon and a property on Harbor Rd.

Approval of Minutes

The meeting minutes for the June 11, 2012 and June 25, 2012 meetings were approved. Selectman Musselman abstained from voting on the latter as he had not been present. Approval of the June 11, 2012 minutes had been deferred due to his absence at the June 25, 2012 meeting.

Utility Pole Assessments

Mr. Magnant handled the issue as Assessor Norm LeBlond was unable to attend. Apparently the assessed value of the utility poles in Town is being increased by \$1,116,300. There are multiple methods of valuing these poles so it is expected that Verizon will contest the assessment (some poles

are apparently jointly owned). Mr. Magnant requests that the Board of Selectmen hire a utility appraiser next year. The Board of Selectmen will await a formal request.

Condo conversion proposal, Keenan property at 1497 Ocean Blvd.

Editors note: This issue came before the Zoning Board of Adjustment at its June 6, 2012 meeting. The issue is a property with 4 units, one of which must either be owner occupied or combined with a unit below according to a 1986 agreement with the Town. The owner at that meeting sought a conversion to 4 condominium units. At that time, the ZBA tabled the application due to that and various issues, including septic requirements.

Selectman Musselman addressed the issue. There is a current revised proposal for 3 condominium units (reduced from 4 units previously), plus an additional unit that could be rented by the owner of one of the condominiums. The matter has come before the Board of Selectmen so that the Planning Board and the Zoning Board of Adjustment could decide what to do. The Selectmen have evaluated the issue with Town Counsel and determined that the new proposal is a virtual match with the 1986 settlement agreement with the Town. A motion to view the proposal as consistent carried with Selectman Mills abstaining.

Paving Bids

Dennis McCarthy addressed this issue. Six bids were received, ranging from \$76 to \$87.25 per ton of asphalt. Bourassa Construction, the vendor last year, was the low bidder, although it had a higher price for paving using a less frequently used method. For the upcoming year, the last section of Washington Rd. will be completed (including widening), along with the section of Brackett Rd. from Marsh/Parsons to Clark, Winslow Way, and Fairhill Ave. This should all cost approximately \$125,000.

A general discussion ensued about inadequate spending on roads. Mr. McCarthy asserted that the Town should be spending \$300,000 per year given the number of miles of roads in Town. Selectman Musselman nodded his head in apparent agreement with this assertion, noting that the Town had been spending approximately \$200,000 annually until recently. Mr. McCarthy stated that a lot of side roads needed to be done. He recommends against issuing bonds to cover the cost, as some towns do. The Selectmen appeared to agree. The voters might reject the proposal or, if they accepted, the roads would all be done at once and would need redoing while the bonded indebtedness was still outstanding.

Raffle Approval, Webster at Rye

The request to do a raffle was approved unanimously, Selectman Mills thanked the Webster for requesting in advance, unlike another recent request. The request was approved unanimously.

SAFER grant \$343,760 for Fire Dept. training

Fire Chief Sullivan announced that this federal grant had been approved. No additional full time personnel will be required. The grant can be expended over 3 years. Approximately 10-12 persons

can be recruited and trained as firefighters or EMTs. Although the Town pays them no salaries, they are eligible to receive \$100 gift cards (how frequently is unclear). Anyone over 18, even those without prior experience, would be eligible for the program. The Chief indicated that the call firefighters are a revolving door, with personnel often leaving to work for nearby towns.

It was agreed that a public hearing would be required to accept the funds. Chief Sullivan requested that one be scheduled in two weeks. The Town has 1 month to accept or reject the grant.

Selectman Musselman, who apparently had a copy of the detailed provisions, revealed that the Town must pay the staff for the time that they spend out on calls, and the trainees are required to sleep one night a week at the fire house. It also appears that if people leave part way through the program that part of the grant money could be lost. There is apparently also a requirement, as a condition of the grant, that engines have 4 people on them when they leave the building. Selectman Musselman asked whether the Town could withdraw if it determined that it was unable to meet that requirement.

When asked, Chief Sullivan revealed that the Town handled about 800 calls per year, of which 600 are medical. The remaining 200-250 are fire related, but these could be gas spills rather than actual conflagrations.

Nancy Weiland resignation

Nancy Weiland, Executive Assistant to the Selectmen, has submitted a letter of resignation, read into the record, effective October 1, 2012. The Selectmen noted that she would be nearly impossible to replace, but voted unanimously to accept the resignation with regret. Mr. Magnant was granted permission to begin searching for a replacement.

Benjamin King resignation from the Zoning Board of Adjustment

Editor's note: The issue of Mr. King's reappointment in March, 2012, after the Town had voted to elect ZBA members, was a hotly contested issue, with three letters sent to the Board of Selectmen on the issue from Rye Civic League members, the first two prompting a response from Town Counsel defending the legality of the Selectmen's action. At the June 11, 2012 meeting, the Board of Selectmen voted to file the last such letter from RCL members.

Mr. King's letter of resignation from the Zoning Board of Adjustment was read into the record. Mr. King's letter did not discuss any reason for his resignation, but noted he hoped to seek another vehicle for public service. The Selectmen voted unanimously to accept the resignation with regret.

Selectman Mills suggested that selectmen can "move up" to the ZBA. When Selectman Musselman asked whether he wanted to do so, Selectman Mills indicated that he is considering it. *Editor's note: While many of Selectman Mills' comments of this nature are offered in jest, and this one may have been, this one appeared to be serious.*

Benjamin Brady e-mail regarding bicycle ordinance

This e-mail was read into the record. Mr. Brady indicated that he has ridden bicycles for many years and has been hit numerous times by cars. He is supportive of the single file requirement. He is a second year law school student and understands the ambiguities of state law on the issue. He praised Chief Walsh for his polite and calm manner.

Judy Tan e-mail regarding use of Pirates Cove Beach photograph

Ms. Tan requested use of a photograph of this beach in a color guide to be published in French. A proposed letter by Michael LaBrie corrected the reference to Wallis Sands Beach. The Selectmen voted to allow use of the photograph, Selectman Jenness noting that it could probably not be prohibited in any event.

Sink hole on Breakers Rd. near Ocean Blvd.

Dennis McCarthy, Public Works Director, indicated that a sink hole had developed at this location. There is a drainage pipe in the area of Ocean Blvd. from Perkins Rd. to Jenness Ave. The sink hole was caused by a portion of the pipe having collapsed due to disintegration. Public Works was unable to repair the line. The Selectmen debated who had installed the drainage pipe. It is apparently old and does not appear on any records. The speculation is that it is state owned. This area and part of Rye Beach have drainage problems. Many of the pipes are only a few feet above sea level, with no place to drain to. After a major ocean storm, the water accumulates and does not drain away. Selectman Musselman indicated that, in the late 1970s, people were indicating that the pipe did not flow. Selectman Jenness questioned the value of replacing the pipe given the proximity to sea level.

Ben Clark letter regarding stairs over shale pile

This is Old Business from the June 25, 2012 meeting. Selectman Jenness noted that the stairs on the ocean side of the shale pile ended 4 feet before the sand, and questioned whether someone with a cane could negotiate this, raising safety issues associated with creating a handicapped parking spot on the other side. In addition, Police Chief Kevin Walsh indicated that once a space is designated handicapped, it cannot be restricted to Rye residents. The consensus appeared to be that the request could not be granted.

28 Old Beach Blvd. FEMA compliance

Michael Magnant indicated that an agreement had been reached with the owner of this property. *Editor's note: there are ten properties in town that are causing issues with FEMA, and potentially the ability of residents to obtain flood insurance. For background see the May 29, 2012 minutes.*

Lifeguard hours

Selectman Mills raised the issue of the lifeguards leaving early. Chief Sullivan indicated that they are paid through 5:15 p.m. Selectman Mills indicated that he is getting daily reports. Multiple ways of making sure that the lifeguards are on station until quitting time were discussed. Selectman Mills

views this is a liability issue if an accident occurs prior to the time of lifeguard shift ending. The lifeguards are also expected to keep dogs off of the beach, but are not always doing so.

Shark sighting

There was a shark sighted earlier that day by one person at the jetty at Wallis Sands which separates the state and town beaches. Chief Walsh believes that it was a sand shark, given past experience. Selectman Jenness commented that this had been on Channel 9. *Editors Note: The issue was covered on Channel 5, WCVB in Boston that evening and also picked up by the Portsmouth Herald.*

Church Road Right of Way enforcement

Editor's Note: See June 11, 2012 minutes. This appears to be a reference to the Bournival property at 2575 Ocean Blvd. where the owner was infringing on the Town's right of way. Mr. McCarthy reported that Public Works has moved the irrigation and lights back and created a 3 foot shoulder. The bark mulch will be scraped away.

Other encroachment situations were discussed, in general terms. At times owners have placed granite blocks, or installed plantings, to limit parking where parking is permitted in the Town right of way.

Selectman Mills asked whether the state could grant permission to trim the vegetation blocking the no parking sign at Cable Rd. and Ocean Blvd. Chief Walsh indicated that the State does not like to do so, while Dennis McCarthy indicated that the state has become more cooperative lately.

Advertising in Heritage Commission mailing

Editor's note: The Heritage Commission did a recent mailing to all town residents seeking funding for Town Hall and other programs. The Heritage Commission has received only \$1 in funding from the Town. The mailing includes a 1/3 page ad from Tate and Foss Real Estate. Selectman Jenness also serves on the Heritage Commission.

Selectman Musselman indicated that he viewed the advertisement in the Heritage Commission mailing done a month ago as inappropriate. This is a local realtor that may be coming before the Historic District Commission. Selectman Mills indicated that this is a broader issue. The Fire Department is not permitted to display Coke signs at their open houses. Selectman Musselman indicated that a Town policy may be needed. Selectman Jenness asked whether this would need to go to the voters. Selectman Musselman replied that a policy, as opposed to an ordinance, would not need voter approval.

Old Ferry Landing Rd. Soil Samples

Editor's Note: See May 29, 2012 minutes. At one of the hearings on the relocation of Old Ferry Landing Rd. an issue was raised in a letter as to the source of soil deposited near the location.

Mr. Magnant reported that soil samples had been taken the prior Wednesday and that he was in attendance. Selectman Jenness indicated that two individuals, at two different meetings, had

questioned the source of the soil, so that it was felt prudent to make a determination of any issues with the soil as the issue might bear on the relocation of the road. Mr. McCarthy indicated that there is asphalt contained in the soil.

Town Hall geothermal system

Mr. Magnant announced that the Town Hall is now being cooled by the new geothermal system. He informed the Selectmen that the noise in the meeting room (the biggest concern relating to noise) is what was currently being observed. The Selectmen expressed satisfaction. Mr. McCarthy reported that the heat pumps had also been run in heating mode but that it was not possible fully to test the heating function until winter.

Mr. Magnant indicated that the grant also includes solar powered vents at the top of the roof line, which the Historic District Commission may not be keen on. Mr. Magnant indicated that venting through the cupola may be an option. The solar panel (26x24, presumably inches) will need to be mounted somewhere, perhaps on the side of the building. Selectman Musselman suggested that Historic District Commission be involved. Although their decision may not be binding, a lot of communities voluntarily comply.

Unfortunate incidents

Chief Sullivan indicated that a number of unfortunate incidents had occurred over the past two weeks and that the Town should be proud of its Police Department. *Editor's Note: these are apparent references to a standoff on Pioneer Rd., a suicide at Rye Harbor, and a hand injured by fireworks at Wallis Sands Beach, all reported in the press.* Chief Sullivan reported that the 14 year old boy from Lawrence will probably lose the use of his right hand. The helicopter from Manchester arrived on scene within 10 minutes, and transported the boy to Mass. General in 35 minutes. The "cert" team had just finished the first incident (*Editor's Note: apparently on Pioneer*) when it went to Rye Harbor for the second incident. Unfortunately, the hostage negotiating team was unsuccessful and the individual took his own life. Selectman Jenness commented that the summer was not yet 3 weeks old, and already an entire summer's worth of events had occurred. She asked Chief Walsh how they could handle such tragedies. He quietly responded that the department hires outstanding people and that the townspeople have a right to expect such professionalism.