

NOTES OF SEPTEMBER 10, 2012 RYE BOARD OF SELECTMEN MEETING
Revised Final Revision D – Provided by the Rye Civic League

NOTE: These are not the official minutes of this meeting. They are prepared by the Rye Civic League from notes taken during the meeting by members and are not prepared after listening to recordings of the meeting. Every effort is made to ensure the accuracy of these minutes, including the review by those RCL core committee members in attendance at the meeting.

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

Goss Farm fund raising dinner

Selectman Jenness announced that a “Farmhouse Dinner” would be held at the home of Jaci Grote, 124 Washington Rd., from 4 to 7 p.m. on September 30. Cost is \$50 per person, with proceeds to go towards renovation of the Goss Farm barn.

Hot air devices

Selectman Jenness then showed a “luminary” that she had found on her lawn. The object, held open at one end by a wire frame about a foot in diameter, is shaped like a sock, about 4 feet long, and closed at the opposite end. A piece of charred material, still visible, remained in place on the wire frame, centered under the sock. Apparently the material is lit on fire, which causes the luminary to fill with hot air and rise into the sky. Fire Chief Sullivan and others present expressed the view that, when the fire burned out, the luminary, no longer having a source of hot air, would return to earth. Police Chief Walsh stated that he observed persons setting these off on Labor Day weekend at Jenness and Sawyers Beaches, but the police had no time to investigate further as they were busy writing tickets for violations of the open container law. There was a discussion about the legality of these devices. Chief Sullivan, unable initially to state that the devices were illegal, then suggested that persons igniting the devices could be charged with kindling an open fire. Chief Walsh stated that the concern was littering.

Minutes approval

The minutes of the public and non-public sessions on August 27, 2012 were approved unanimously, the former with minor changes. Selectman Musselman had a minor change to the portion of the minutes referring to an allegation of “numerous errors” in the Rye Civic News. At that point, Selectman Mills indicated to Peter Crawford, who was in the audience, that more errors had been found. Mr. Crawford replied that this issue had been addressed at the prior meeting and that there was no error in the notes of the Rye Civic League relating to the Energy Committee presentation. The exception that the Energy Committee took was with the choice of verbs.

Old Ferry Landing Road Relocation

Editor's note: This is a very complex issue. See the notes for the August 27, 2012, June 25, 2012 and May 29, 2012 meetings regarding the Schliepers and the Cavarettas. It involves the relocation of Old Ferry Landing Road, a Class VI road near Foye's Corner that is presently in disrepair, with piles of rubble dumped in it. The Cavarettas want the road to be relocated to facilitate construction on their property, which is adjacent to the road. The issue also relates to Forest Ln., a paper street which is adjacent. There is confusion at times as to whether references to "the road" are to Old Ferry Landing Rd. or Forest Ln.

Corey Caldwell of MSC spoke on behalf of the Cavarettas. He stated that, when the process was first started, they had thought that the Cavarettas were entitled to only half of the road. After he, Town Attorney Donovan and Attorney Pelich (representing the Cavarettas) researched the matter further, they discovered that the Cavarettas are in fact entitled to the full 40 foot width of the right of way. Thus, the Cavarettas are submitting a new plan, which softens the radius of one of the curves and improves the screening. Mr. Caldwell showed a new map to the Selectmen.

In response to questions from the Selectmen, Mr. Caldwell indicated that the street would be moved 10 to 12 feet. The Schliepers have not been notified of the new plan. Mr. Caldwell stated that the Schliepers have no entitlement to Forest Ln., as that paper street is entirely on land owned by the Cavarettas, and the paper street would revert to the Cavarettas under certain circumstances. He said this had been confirmed by Town Attorney Donovan. *Editor's note: The Schliepers had at one time been taxed on half of the paper street after the Town supposedly deeded them one half of the street. However, the deed was never recorded and the Schliepers, earlier this year, were refunded the overpaid taxes. See notes of the June 25, 2012 meeting.*

Selectman Jenness indicated that a new site walk and public hearing would be required. Selectman Mills suggested that the Town Attorney be consulted to determine whether the issue also needs to go to the Planning Board. Mr. Caldwell responded that a prior relocation of the road had been voted at Town Meeting in 1970 or 1972 and had not been decided by the Planning Board.

Mr. Magnant indicated that 30 days notice would be required for the hearing. Selectman Musselman expressed concern that, since issues had not yet been resolved with the abutter (*Editor's note: apparently referring to the Schliepers*), an earlier meeting date might inflame the issue. October 22, 2002 was selected. The site walk was scheduled for 5:00 or 5:30 p.m., with Selectman Jenness expressing concern regarding the advancing hour of sunset. After Mr. Crawford, a member of the audience, questioned whether October 22 would be after daylight savings time ends, Fire Chief Sullivan indicated that this would not occur until November 4. Selectman Mills suggested to Mr. Crawford that he be sure to put this in these notes.

Sign approval for Annual Christmas Fair held by Webster at Rye

After Selectman Mills indicated that they had never had any issues with the Webster, this request was quickly and unanimously approved.

Ocean Boulevard Drain Line

Dennis McCarthy, Public Works Director, addressed this issue. *Editor's note: see notes of July 9, 2012 meeting regarding a sink hole developing near Ocean Blvd.* Mr. McCarthy related how they had met with the New Hampshire DOT regarding the issue. A portion of the pipe had collapsed, and the Town had been unable to replace it. Water flow is slow and the pipe is always full of water. At Selectman Musselman's request, Mr. McCarthy drew a map showing the location of the problem. The drain line runs along the west side of Ocean Blvd., with catch basins connected to that line along the west side of the street. North of Jenness Ave., the drain line passes over two double 30 inch culverts, apparently put in place for driveways. Mr. McCarthy indicated that the elevation there is 3.75 feet and that the drain line is 1.5 feet higher than the culverts. They verified with the State that these culverts and the associated driveways had been approved. The sink hole had developed on Breakers Rd. near the intersection with Ocean Blvd.

The State has not expressed much interest in helping, apparently because Ocean Blvd. is not flooding. The issue goes back a long way. Mr. McCarthy believes that this section of the drain line was put in place during the 1960s. The catch basins are always full and it would take a high capacity pump, that the Town does not have, in order to remove the water so that the drain line could be worked on.

Selectman Musselman asked whether the solution might be to lower the driveway culverts. Mr. McCarthy replied that that would be part of the solution. The homeowner put these culverts in with State permission. Selectman Musselman asked whether the area was under water at high tide. Mr. McCarthy indicated that he didn't think so, but did not dispute that, at times, for example during a storm, it might be under water.

Letters dating back to the 1960s, a letter from John Morton (*Editor's Note: apparently on behalf of the State*) to Betty Green indicate that the State might contribute something monetarily to solving the problem. The 1960s letter takes a similar position to what the State is now taking.

The discussion then turned to how the Town might demonstrate that the State owns the drain line. Mr. McCarthy indicated that there is probably a drawing somewhere within the State's files, but finding it would require someone who knew where to look. Selectman Mills suggested that Nancy Stiles be enlisted to help. She does an excellent job, he said. *Editor's Note: Nancy Stiles is the State Senator for the area.* Selectman Jenness stated that a plan is needed with costs. It could be for expenditure this year or next.

Mr. McCarthy stated that if the pipe belongs to the State, they should fix it, otherwise a precedent would be set. He acknowledged, however, that the Town owns drain lines along the streets intersecting with Ocean Blvd. These tie into the pipe along Ocean Blvd. Selectman Musselman indicated that they had a choice between finding a plan that shows that the State owns the drain line, or fixing it themselves.

Jack Driscoll of 22 Breakers Rd. spoke. He stated that he had 55 years of experience in the area. He complimented the Rye DPW for working hard on the issue and offered his help in contacting the State. The problem has been getting worse the past 10 years. At least one other resident from the Breakers Rd. area spoke. Judging from the number of persons leaving after the issue was addressed, there appeared to be 5-8 members of the public interested in the issue. One stated that they are constantly feeling

the impact. The standing water is not healthy. Shrubs are dying as they are drowning. West Nile Virus is a concern. There is concern over cracking of their foundation and mold in the basement from the dampness. Their property value is decreasing month after month.

Selectman Mills responded that if ownership of the drain line is determined next week then they can act. They don't want to be attacked for working on a line that belongs to the State.

It was agreed that the issue would be brought back up in two weeks. Mr. McCarthy agreed to visit the State (apparently both in Concord and at Division 6, the office having jurisdiction over Rye) and attempt to find a plan.

Pole approval, Fairhill Ave.

Mr. McCarthy indicated that a new house is being built and an additional pole must be added to permit relocation of the overhead wire. He has no objection. The pole was authorized unanimously as presented.

NHMA Legislative Policy Conference

Mr. Magnant attended last year on behalf of the Town. One of the major issues was the donor communities. Selectman Jenness indicated that there are many issues such as Dam ownership and releases, and tax rate setting. After a motion was made, Selectman Mills seconded for discussion and, laughing, asked Mr. Magnant what his qualifications were to be a voting delegate. Selectman Musselman interjected that it was either Mr. Magnant or Fire Chief Sullivan. Chief Sullivan quipped "put him back on his Ritalin." The motion to appoint Mr. Magnant as the representative carried unanimously.

Coastal Conservation Association Raffle approval

Selectman Jenness questioned whether everyone understood that they need to ask for these approvals. The request indicates that raffle tickets are to be \$1 each and sold to attendees only. The request, for an event September 23, 2012 at the Seacoast Science Center was unanimously approved.

Approval for Heritage Commission to apply for Town Hall registration with the State Register of Historic Places

As the Selectmen were starting to address the KRT Appraisal matter, Selectmen Mills requested that the Town Hall registration matter be addressed first so that Sara Hall, representing the Heritage Commission, did not need to wait. Selectman Jenness complimented Ms. Hall and Rich Davis (not present), also of the Heritage Commission, for their lengthy research. Selectman Mills also complimented the group for a thorough and well done job.

Selectmen Musselman, in particular, had a number of requested changes. He referred to two prior buildings on the site, referenced in the application, including a rebuilt structure dating from 1755. He indicated that the first building is described as a

church, also used as a meeting house, and the second building is described as a meeting house, also used as a church. He said that it was obvious that the Town owned the second one, which was used by multiple denominations. Ms. Hall indicated that she was not sure of the ownership of either the first or second structure. Selectman Musselman requested that the wording reflect what was actually known.

Selectman Musselman questioned the use of the term “vestry,” which, he asserted, is now used to describe a body of persons, rather than a room, as used in the application. Ms. Hall stated that the term, as used in that era, comprehended rooms. *Editor’s note: Webster’s first definition of “vestry” is a “sacristy, a room used for church meetings or classes.”* Selectman Musselman also questioned the reference to a movable stage. Ms. Hall responded that this is the way that it was referred to in 1874 and 1875 Town reports. She stated that there was no record of a change in the stage between 1875 to 1890. Selectman Musselman asserted that the entire current stage is in the addition. Town Administrator Magnant asserted that the stage is part of the 1890 addition, which may be verified by inspection. Thus the stage must have been changed. *Editor’s note: Mr. Magnant’s office is on the stage.*

Selectman Musselman, pointing to a heading of one of the sections that refers to National and State Registry requirements questioned whether this heading needed to be as it appears. Ms. Hall replied that this is a form that is filled out, and that the heading must be as the form reflects for this item (Question 44) or the application would be rejected. Selectman Jenness interjected that the application would not be going to the National Registry. After several aggressive attempts to get Ms. Hall to change the heading or acknowledge that the application could be submitted with a different heading, Selectman Musselman finally gave up. Selectman Jenness asserted that the State Registry group is picky, and that this was known all along.

Selectman Musselman raised the issue of whether the windows were in fact original. He asserted that the architect last year had questioned whether the Great Hall windows were in fact original. He asserted that the architect had maintained that other other windows, for example those in the Court Room that the meeting was occurring in, were not original. This is something that must be known before deciding what to do with the Town Hall. He stated that the application made a positive assertion that the windows were original. He asked Ms. Hall how she knew this. She responded that Peter Michaud of the State Register of Historic Places had so stated. Selectman Musselman stated that Art Guadano had questioned whether the windows were original, thus there were two views on the issue, and it was improper to make a declarative statement in the application. *Editor’s Note: Art Guadano is the principal of AG Architects, the firm that had done the study of Town Hall space needs in 2011.*

While Selectman Musselman was enumerating the qualifications of AG Architects and their substantial experience with renovations of town halls, Peter Crawford, a town resident in the audience, smiled and chuckled inaudibly. Apparently seeing this, Selectman Musselman said “you laugh.” A discussion ensued in which Mr. Crawford pointed out that he didn’t share Selectman Musselman’s views regarding AG’s qualifications, inasmuch as AG had proposed a large brick addition to the white clapboard Town Hall, a proposal that Mr. Crawford termed a “monstrosity” that 99 percent of the people in Town disliked. Selectman Jenness responded that this was not a

final design. Selectman Mills asked Mr. Crawford whether he was an architect. Mr. Crawford acknowledged that he was not.

Returning to Ms. Halls's presentation, Selectman Jenness disputed whether the reference to "Stoneleigh Junior College" should actually be to "Stoneleigh College." She also pointed out that the Town Hall had once been used as a meeting space by the Junior Order of American Mechanics, which had a sign outside. Ms. Hall stated that she would need dates to incorporate this in the application. Cindy Gillespie interjected that she had given the sign to Alex Herlihy and that he might know. *Editor's Note: Mr. Herlihy is chairman of the Rye Historical Society.*

The Selectmen voted unanimously to permit submission of the application as corrected.

Extension of KRT Appraisal due date

Assessor Norm LeBlond was not present and Selectman Mills asked why. Town Administrator Magnant proceeded to explain the issue of the extension. They are awaiting the update on utility values from the DRA so the statistical update must be delayed in any event. The extension to October 19, 2012 was approved unanimously.

Rye Beach Sidewalks

Mr. Magnant explained that this issue had been tabled pending the return of Public Works Director Dennis McCarthy. Mr. McCarthy then spoke, indicating that the Rye Beach Precinct would be charged \$25/hour for men and \$25/hour for each piece of equipment. Thus a half a day with 3 men and a machine would be \$400. Selectman Mills commented that he saw several pieces of equipment when he observed work being performed there. Selectman Jenness asked whether the DPW was caught up. Mr. McCarthy replied that they are never caught up, they will find more work if they are. He stated that this type of work is used as a fill in, half a day here and there is provided. The motion to approve sidewalk work to be paid for by the Rye Beach Precinct was unanimously approved. *Editor's note: Frank Drake of the Rye Beach Village District reports that the Rye DPW provides only removal of the old sidewalks and backfilling of dirt after the sidewalks have been replaced by an outside contractor paid by the Village District.*

The issue of insurance then came up. The example of someone falling where the sidewalk had been torn up arose. Nobody knew whether the Rye Beach Precinct had insurance to cover this. Cindy Gillespie commented that, while she has been with the Town, they have never had a claim from the Rye Beach Precinct. The cemetery and the library have had claims that went through the Town. The approval was then unanimously amended to make sure that insurance coverage was in place.

Seacoast Science Center scholarships

Selectman Musselman addressed this issue. *Editor's note: at the August 27, 2012 meeting, a motion to request scholarship support from the Seacoast Science Center carried. The request was prompted by approval of a link to the Science Center on the*

Town's web site. Selectman Musselman stated that a response had been received to the request. It was that people in Rye donate funds to provide scholarships to people in Rye. Selectman Musselman suggested that the question be asked again, with the emphasis on whether the Science Center could do more than they are currently. Mr. Magnant indicated that he had spoken to the Seacoast Science Center director, who stated that, in the past 3-5 years no Rye children from the schools had been charged. For example, a fourth grade class can go for free.

Other business

Selectman Jenness noted that there had been another EEE problem in Massachusetts. Mr. Magnant indicated that the Mosquito Commission may need to order another spraying.

Selectman Mills indicated that there had been an issue near the Dunes. A sandwich board sign had been located at the fog line, forcing bicycles into the traffic lane. He viewed this as an abuse of the State right of way. The signs should be located within the property lines.

Selectman Mills also spoke of a problem with campers renting overnight space near there. Selectman Jenness indicated that Building Inspector Peter Rowell was addressing the issue.

Selectman Mills indicated that a food vendor reported that his business was down 50 percent after the Town required removal of a sign.

Mr. Magnant indicated that the only sign complained about was the one relating to the mattress outfit on Lafayette Rd. Selectman Mills commented about a nearby business selling exotic womens' wear nearby and chuckled with a raised eyebrow.

Fire Chief Sullivan indicated that the Eagle Exeter steamer will be present at the upcoming open house. He stated that Selectman Mills would be the only one to remember horse drawn fire equipment in Portsmouth.