

NOTES OF APRIL 8, 2013 RYE BOARD OF SELECTMEN MEETING

Final Revision B – Provided by the Rye Civic League

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

Energy Committee and Recycling Subcommittee

This matter was taken out of order. Selectman Mills made a comment to members in the audience from the Energy Committee about a “message from the Deliberative Session.” *Editor’s note: This was an apparent reference to 2013 Warrant Article 18, which increased the exemption for solar energy investments from \$15,000 to \$35,000. The warrant article was advanced by the Energy Committee; the Board of Selectmen agreed to place it on the Warrant as a Selectmen’s Warrant Article. An attempt at the Deliberative Session to amend the Warrant Article so that it would increase the exemption from \$15,000 to \$15,001 (effectively nullifying it) failed 14-24. Warrant Article 18 passed in the March 2013 election, 653-408.*

Selectman Mills continued, stating that taking the matter out of order would save the Energy Committee members present 1 ½ hours. He referred to this as “reinstating you people,” with a one year charge and the addition of a newly-formed recycling subcommittee. *Editor’s note: See notes of March 25, 2013, which included a discussion of the proposed Recycling Committee.* Selectman Mills read the charge. Selectmen Musselman then asked the Energy Committee members present whether the charge was reasonable. All responded in the affirmative. Selectman Musselman then moved to renew the charge, which motion carried unanimously.

One of the members of the Energy Committee then outlined the plans for the coming year, which included an outreach program of “stay warm, save money,” a speakers bureau, beefing up the Energy Committee’s section of the Town web site, engaging with the School Board for more energy reductions and completing the Energy chapter for the Town Master Plan.

Selectman Musselman then suggested that a new Recycling Education Committee be formed as a subcommittee. Its purpose would be to educate Town residents about maximizing the effectiveness of “source separating dropoff.” Deidre Smyrnos, a prospective member of the Subcommittee, asked that the subcommittee be responsible for more than simply education. Selectman Musselman responded that it was not intended that research be limited. However, consultation with the Public Works Department, the Board of Selectmen and the Energy Committee should occur. A deliberative process is desirable. The motion to form the Recycling Education Committee carried unanimously.

Amendment of tax map 20.2 relating to property of Patty Weathersby

All present agreed that the tax map had been incorrect. Ms. Weathersby, who was present in the audience, noted that a street shown on the map was a paper street that was never built. The change takes square feet away from lot 65, which is for sale, but adds frontage. Town Administrator Magnant indicated that Town Attorney Donovan felt that a mistake had been made. There had been a Town road to the Weathersby property as

long as anyone could remember. Selectman Jenness asked why the Pulpit Rock tower was not shown on the map. Mr. Magnant indicated that it did not appear as it was not taxed. The motion to amend the tax map so that Neptune Drive is a Town road up to lots 65 and 68 carried unanimously.

Bid openings for street sweeping, crack sealing and duct cleaning

Public Works Director Dennis McCarthy addressed these bids. On the street sweeping bid, they typically do not accept the low bid, but rather selection is made based on which company is available to do the work in the time frame requested, working from low to high bids. This year should not be as bad, as the use of sand on Town roads was curtailed. This year, there was a lot of asphalt and cold patch due to an abundance of potholes. He has spoken with Frank Drake regarding plans within the Rye Beach Village District. Selectman Mills indicated that no action by the Board of Selectmen was needed, the matter would be reserved to Mr. McCarthy's judgment.

Mr. McCarthy indicated that Superior Sealcoat had the lower price for crack sealing. This company requires more attention, but he nevertheless recommends them. About 12,000 feet would be sealed this year, Mr. McCarthy said. He wants to do Wallis and Sagamore roads this year. They will do whatever can be done within the \$15,000 budget. In the future, he wants to increase the budget to \$25,000. No motion was necessary as they are the low bidder, Mr. McCarthy said.

Fire Chief Sullivan addressed the duct cleaning bid of \$7100 from Tri State. Another bid was for more than \$16,000. The motion to approve the bid carried unanimously.

Approval of call firefighter rates

Chief Sullivan indicated that, pursuant to a March 27 memorandum, he is proposing adjustments of 2, 6.5, 8.5 and 5 percent. They are down a few people. The rates are not in the personnel policy, however the budget reflects these increases. Selectman Mills asked whether the police would be fetching donuts for the firefighters. Police Chief Walsh responded that they made their own. The motion to approve the increased rates carried unanimously.

Warrant Article 19 on posting of agendas

Town Administrator Magnant indicated that he planned to send out a memorandum on this issue, and inserted it on the agenda for that reason. After Selectman Jenness expressed confusion as to the point of the Warrant Article, Peter Crawford, a Town resident in the audience, asked to be recognized. Selectman Mills asked Mr. Crawford whether that was "his bailiwick." Mr. Crawford responded that he wasn't sure about that, but that he had been one of the signers of the petition requiring the article to appear on the Warrant. He noted that Susan Rizkalla, who spoke to the article at the Deliberative Session, was also present in the audience.

Mr. Crawford stated that the applicable statute, RSA 91-A:2 requires the posting of meeting notices, but not agendas, and does not require that notices or agendas be

posted on the Town's web site. Only 24 hours advance notice of meetings is required. While the practice has generally been to post agendas on the Town website, this has not always occurred in a timely fashion. Town residents tend to rely on the Internet and do not have time to go to Town Hall every day to see if a new meeting notice has appeared. Mr. Crawford gave the example of the Budget Committee public hearing on a \$3.4 million water main replacement, which was posted on the Town's web site only the day before the meeting. *Editor's note: The notice refers only to discussion of the budgets of the Rye Water District, the Jenness Beach Village District and the Rye Beach Village District, and makes no mention of the \$3.4 million warrant article for water main replacements that the Budget Committee approved at the public hearing.* Selectman Mills interrupted Mr. Crawford and cautioned him not to use that example, since the water main replacement had been approved by voters two weeks earlier.

Mr. Crawford noted that meeting notices and agendas of entities without their own web sites, including the Rye Water District, the Jenness Beach Village District and the Rye Beach Village District are not available on the Town's website at all. When one of the Selectmen noted that they have no control over these entities, Mr. Crawford agreed, but noted that Town employees could use the same means as the public to obtain access to meeting notices and agendas for posting on the Town's website. He continued, stating that a cooperative arrangement could be worked out between the entities and the Town employee responsible for posting notices.

Mr. Crawford pointed out that, while the warrant article had been diluted to a study, it passed overwhelmingly, by about 800-200, he said. *Editor's note: The actual vote was 848-191.* The voters want something to be done, Mr. Crawford said.

One of the Selectmen questioned whether the language in the warrant article referring to "any public board, committee or commission associated with the Town" encompassed the Rye Water District and the Village districts. Mr. Crawford responded that he believed that it did.

Alex Herlihy, a Town resident indicated that he was glad that the Rye Beach Village District had come up. Their separate authority over property had come up in connection with a recent house demolition.

Town Finance Director Cindy Gillespie indicated that, where the entity already had a website, it would be redundant for the Town to post a notice as well. One of the Selectmen noted that this was already provided for in the warrant article, which permits a link in such cases.

Police Chief Walsh cautioned that the other entities may not keep up with providing notices. This might increase the work load of Town employees who might be personally offended if the information is incomplete.

Selectmen Musselman agreed that the Town would be happy to post notices for the other entities if these are provided in a timely fashion. Selectman Jenness indicated that this would need to be 30-36 hours ahead of time so that the posting may be done 24 hours in advance.

Susan Rizkalla stated that she would encourage the Town web site to be used as one of posting locations. *Editor's note: RSA 91-A:2, II permits, but does not require, one of the two posting locations to be the Town's website.*

Beach Use Ordinance Committee

Selectman Mills indicated that he had seen a document on this for the first time the previous Saturday, and he would like to think about it. Mike Labrie, Chairman of the Beach Commission, indicated the group was becoming too large. It should be a maximum of 7 persons. Mr. Magnant stated that the warrant article was sufficiently detailed to outline the Committee's charge. *Editor's note: See 2013 Warrant Article 15.* Mr. Labrie asked what the goals would be.

Selectman Musselman stated that one outcome would be a Selectmen's Ordinance prior to the next Town meeting. There should be a streamlined process for (1) business approval, and (2) insurance approval. He is interested in protecting the Town with regard to insurance. From his perspective, the Town can have all of the surfers that are able to get here. The Town should not be limiting access to the beach.

Mr. Labrie noted that someone had plastered Old Beach Road with postings referring to parking, surfing and trash issues.

Selectman Jenness stated that liability and safety are the key issues. A meeting may be needed to come up with the charge. Selectman Musselman indicated that they would work prior to the next meeting on a draft charge.

Selectman Musselman asked about the separation of swimmers and surfers. Mr. Labrie stated that this is a problem, the question is how to deal with it. Selectman Mills stated that the largest source of calls that he receives on this issue is from grandmothers with grandchildren. Mr. Labrie indicated that this could be discussed with Summer Sessions and the surfer community.

Appointment of Judy Scott and Maggie Duffy-Durkin to the Recreation Commission

Recreation Director Lee Arthur addressed these appointments. Ms. Scott, who has been a teacher in Connecticut has children in the Rye Recreation programs. Ms. Duffy-Durkin recently left the School Board after deciding not to run for reelection. Selectman Jenness moved to appoint both persons to two year terms, which motion carried unanimously.

Letter from Peter White regarding Town Hall study

Selectman Mills read the letter, which referred to the three warrant articles relating to Town Hall (numbers 4, 5 and 8), which passed this year. The letter states that Mr. White was a member of the Town Hall Space Needs Committee in 2012. It asked whether the study relating to Town Hall should commence now, including the schematic design, with adjustments made as information from the other studies becomes available.

Selectman Musselman stated that the letter appears to misconstrue a comment made by Selectman Jenness at the last Board of Selectmen meeting. They can start now on addressing Town Hall.

Selectman Jenness indicated that they can certainly prioritize. Mr. White did not know that the Town Administrator would be in Italy for two weeks during March when he wrote his letter.

Selectman Mills asked how soon the RFPs would be needed. Selectman Musselman, in apparent jest, indicated that Mr. Magnant would work on them while he is in Italy.

Alex Herlihy, a Town resident, stated that it's not any secret that he wants this to succeed. Mr. White had been unavailable to attend this meeting, but had shown him the letter and asked him to speak to it. Mr. Herlihy asked whether the Board of Selectmen envisioned reconstituting the Space Needs Committee early in the process. He wants this to pass. He wants the voters to support it. It will help if the Board of Selectmen reappoints the Committee.

Selectman Mills asked how this should be handled. Selectman Jenness indicated that the letter would need to be filed for now.

Review and approval of updated personnel policy

Selectman Jenness noted that the personnel policy had been forwarded to Town Counsel, who had reviewed and approved it. *Editor's note: See notes of March 25, 2013 meeting. Mae Bradshaw had suggested that this be done. The Board had voted to approve the policy at that meeting.*

Steps and prescriptive easement for beach access at 32 Old Beach Rd.

Town Administrator Magnant indicated that Mr. Frost, the property owner, had indicated that he was not interested in pursuing a municipal trail, as had been suggested by Town Counsel. Following discussions with neighbors, Mr. Frost also wants the steps removed. *Editor's note: see notes of March 11, 2013 meeting in which the issues of the steps and the public's right of access were discussed.* Mr. Magnant stated that the public had established a prescriptive easement. Selectman Musselman asked whether there might also be a right acquired through adverse possession. Mr. Magnant indicated that there had been public access for more than 20 years. Selectman Mills stated that there is a box upstairs with everything relating to a suit involving Old Beach Road. Selectman Musselman stated that the Frost family had owned the property for 30 years. He questioned why they now wanted to move the steps. Public Works Director McCarthy indicated that the hand rail on those steps is not bad. The next one down is rusted, however.

Selectman Musselman stated that he understood the concern about liability, but did not understand Mr. Frost's position otherwise. Selectman Mills suggested that Mr. Frost had been pushed by the rest of the property owners. Selectman Jenness stated that the easement there had been established.

Live streaming of meetings, Town Hall Streams implementation date

Mr. Magnant indicated that he had met with Town Hall Streams and that there was a May 1 target date to go live. *Editor's note: 2013 warrant article 9, providing \$4000 for implementation of video streaming at Town Hall, passed 620-472. Prior to that vote, Mr. Magnant had indicated that the \$4000 figure had come from Town Hall Streams.* After Mr. Magnant provided this information, Selectman Jenness stated that

this “will be interesting.” Selectman Mills stated that Deb Cross will be happy. *Editor’s note: Deb Cross is a former Rye resident who has been one of the key supporters of the televising of meetings.* Mr. Magnant stated that Ms. Cross had called the prior week, just as he was getting ready to meet with Town Hall Streams. Selectman Musselman asked whether the numbers of persons viewing would be available.

Matters relating to Rye Water District

Public Works Director McCarthy stated that the Water District had requested permission to leave a trailer at public works. They don’t like to leave them at the pumping station due to possible contamination of the aquifer. They like to be 400 feet away. Mr. McCarthy continued, stating that the Town is working more closely with the water district. They have “grabbed” one of their guys to drive a plow truck. There is also discussion about them buying fuel from the Town. Selectman Mills laughed and said, “oh boy.” Mr. McCarthy stated that they would have to come see Selectman Mills about buying fuel. Fire Chief Sullivan commented that two members of the Board of Selectmen don’t get that privilege.

Selectman Musselman asked whether the water main replacements would be coordinated with roadway repaving. Mr. McCarthy stated that most of these involved state roads, however there is a connection at Dow Lane. That was recently paved. On Ocean Blvd. there is talk about direct boring. Selectman Musselman stated that a lot of patches are falling apart. A full width overlay should be requested. Fire Chief Sullivan stated that the Water District is marking the pavement and getting ready to bore. Digging should start within 6 weeks.

Non-public session

The Selectmen then voted to go into non-public session regarding a personnel matter. Selectman Mills waved a piece of paper, suggesting that it was a communication from an employee.