

**NOTES OF JULY 9, 2013 BOARD OF SELECTMEN WORK SESSION
WITH STATE REGARDING BEACH ISSUES**

Final Revision B – Provided by the Rye Civic League

Present from Board of Selectmen: Selectmen Jenness and Mills. Present from Beach Use Committee: Tyler McGill, Mike LaBrie, Fire Chief Skip Sullivan (ex officio), Police Chief Kevin Walsh (ex officio), Tom Farrelly, Katy Sherman (in audience). Selectmen Musselman and Mills are on the Beach Use Committee, but Selectman Musselman was not in attendance. Beach Use Committee members not present were Bill Epperson and Del Record. Also present from the Town of Rye: Town Administrator Michael Magnant, Public Works Director Dennis McCarthy. State legislators present: Senator Nancy Stiles, Representatives Tom Sherman and David Borden (all three of the legislators representing Rye). Other Rye residents at the discussion table: Frank Drake, Neal Levesque, Frank McDermott, Ryan McGill, Tom Degnan, Steve Hillman. Present from the State of New Hampshire were several persons, including Doug DePorter of the NHDOT, two uniformed representatives from the State Police, Gary ____ from the state, the manager of Seacoast Parks and Beaches, the Vice Director of the State Parks and Recreation, and a representative from NHDES and Ken Loughlin, responsible for the State lifeguards.

Audience: There were approximately 25-30 persons, in addition to those at the table, in the audience. These included Joey Cresta of the Portsmouth Herald, and Deb Cross, a former Rye resident, who was videotaping the meeting.

Editor's note: This meeting occurred at the Rye Public Library which does not have video equipment. Thus, there is no video of the meeting. Times are therefore not included as they would not be of assistance in locating specific portions of the video recording

Introduction by Senator Stiles

Senator Stiles opened the meeting, indicating that it was considered to be a Selectmen's meeting as two Selectmen were present. She indicated that she had been at the June 24, 2013 Board of Selectmen meeting where beach issues were discussed. She arranged for this meeting, and attendance of a number of representatives from the State (DOT, DRED, DES and the State Police) to see if there areas in which the State can help with the problems.

The only State Beaches in Rye are Jenness and Wallis Sands. Jenness State Beach includes only the portion adjacent to the parking lot, about 800 ft. long.

Senator Stiles read the rules that apply on State Beaches. Alcoholic beverages are prohibited. Sleeping in vehicles is prohibited from ½ hour after sunset through ½ hour before sunrise. The beaches are closed from 1:00 a.m. through sunrise. Parking is limited to vehicles of 20 ft. in length or less. The State collects for parking violations, including excess vehicle length, expired meter, illegal parking (including in reserved spaces), parking at crosswalks, and parking in handicapped spaces. Inflatables and other flotation equipment, life jackets, swim fins, face masks, diving masks and snorkel tubes are prohibited, as are skim boards. Boogie boards are permitted, but straps are required.

Surfing and surfboards are prohibited on State Beaches, except at North Beach in designated areas. Safety harnesses are required to ensure that surf boards do not become separated from the users. These rules apply to both State beaches in Rye.

Ms. Stiles received an opinion from the Attorney General as to the ownership of the beaches. State beaches are under the authority of the State. Private property extends only to the high water mark. The beach beyond the high water mark is under the authority of the State. Town beaches are under the ultimate authority of the State, however regulation and enforcement is conducted by the towns. *Editor's note: Selectman Musselman subsequently has indicated that the Town is not in agreement with this position, which implies that land above the high water mark is private. A special use permit is required for those conducting business for a profit.*

Editor's note: In a follow-up e-mail communication with Senator Stiles, the RCL has learned that the Attorney General's Office has informed Senator Stiles that any beach or water use by a business for profit requires a user's permit from either the state or the Town. The permit can specify conditions established by the authorizing authority as to the amount, time, place and days of use.

Crosswalks (also skipped ahead into other issues)

There was discussion regarding parking at cross walks. Parking within either 20 or 30 feet of crosswalks is prohibited. Three crosswalks were discussed.

Selectman Mills complained of bushes at 2190 Ocean that are blocking a sign. He requested that the bushes, which are in the State right of way, be cut. The responsible person from the State agreed to look into.

There was discussion about cones in the middle of the road, which may cause pedestrians to think that they have the right of way and can cross without looking. Police Chief Walsh stated that, while there have been some close calls at the crosswalks, there have been no major injuries or property damage. Issues arise from the end of May through the end of September.

Selectman Mills asked if the speed limits on Route 1A could be reduced during the summer. One of the State Police representatives stated that DOT would need to make the change.

Frank Drake provided a detailed description of problems in the southern part of Town. The speed limit is 30 m.p.h. north of Jenness Beach, but south of there, along Eel Pond it increases to 35 m.p.h. It remains at that speed to around the North Hampton line, where it returns to 30 m.p.h. This is notwithstanding an S curve with a flasher indicating 20 m.p.h. in the middle of this stretch, which also includes a 35 m.p.h. sign in the middle of the S curve. He challenges anyone to take that S curve at 35 m.p.h.

The DOT representative indicated that this could be looked into, but emphasized that the suggested speed signs in curves are unrelated to the overall speed limit. If overall the speed limit is O.K., that would not justify lowering the speed limit in a curve. In addition, there is an 85 percent rule. Before speed limits can be reduced, it must be shown that 85 percent of the traffic is traveling at, or less than, the proposed speed limit. There are also speed limits established by statute that are a factor: 30 in business districts, 35 in rural residential areas, and 55 elsewhere.

Neal Levesque spoke about cars parked up to Rye Harbor on a busy Saturday. There are a lot of pedestrians. He slows down to 15 and watches for kids. There are also issues with motor homes that are stacked together. There are cultural and other issues with the occupants of the motor homes. He asked whether the parking could be restricted to passenger cars.

Selectman Mills stated that they should also look at Wallis Sands near the Surf Club. He also spoke of witnessing a Canadian child being killed near the Brown cottages. She wasn't looking and crossed the street.

Selectman Jenness stated that Route 1A was laid out as 100 feet wide, but there have been encroachments. David Borden stated that there is a study underway currently on this issue. Selectman Jenness referred to deed by deed research being needed. The representative from the State acknowledged that large widths had been encroached upon.

Traffic and Parking

Senator Stiles then indicated that the next issue on the agenda was traffic and parking. She asked what the position of the Selectmen was on meters and the elimination of RVs. Selectman Mills said that it depends on who does the maintenance and who gets the revenues.

Representative Tom Sherman asked why it would be considered. Selectman Mills stated that people had recommended it 3 weeks earlier. *Editor's note: He was apparently referring to discussion at the June 24 Selectmen's meeting.* Tom Farrelly explained the need for additional resources for the Police and lifeguards. These should be funded without raising taxes, he stated. Representative Tom Sherman cited the state motto "live free or die." Free parking is a component of freedom, he indicated. There is also a benefit to businesses of people coming into Town. He does not believe in limiting access. People from Exeter without a lot of money should be free to come and use the beaches.

Mike LaBrie stated that administration of the beaches is not free. Nobody is against providing access, but the Police and lifeguards cost money. There are more violations with more crowding. People are not paying to park at Wallis Sands State Beach because they can park on Route 1A for free. *Editor's note: Access to the beach at Wallis Sands (only a small portion of which is a State Beach) may be obtained only through the State Beach parking lot, or at Wallis Rd. Extension, as private residences block access at other locations. Often, it is easier for those parking along Route 1A to walk to Wallis Rd. Extension to obtain beach access than to walk to the State Beach.* Ultimately, increased enforcement costs would come out of the pockets or Rye taxpayers.

Senator Stiles stated that metered parking could be provided only in certain areas. Tom Farrelly stated that Rye is the only town from Massachusetts to Maine that provides free parking.

One of the Rye residents on the panel spoke about a substantial increase in the past 3-4 years. Overcrowding can be controlled through the use of meters and additional no parking areas. Another Rye resident spoke of his mother in New Jersey receiving brochures from the State about New Hampshire and its beaches.

Tyler McGill stated that nobody wants to limit access, but they want to control the people that come. Limiting parking is a roundabout way to do that. Summer Sessions

has 20 instructors and only 6 parking spots for the business. Are these people going to have to go out every two hours to feed the meters? *Editor's note: In many areas, including Portsmouth, and at Jenness Beach, parking is controlled with credit card operated kiosks that print stickers with expiration times indicated on them. Motorists can select how much time they want to pay for. The kiosks at Jenness Beach permit the purchase of stickers for the entire day.*

Someone suggested that a bill be introduced whereby the State would pay the tab for the additional resources needed by the Police.

Mike LaBrie stated that, unlike Hampton, Rye does not have a large business base. He has a business in Portsmouth. His employees must feed the meters.

Selectman Jenness spoke about the parking extending further and further up residential streets.

Tom Farrelly spoke about the 50-70 people from the Blue Ocean Group that come to pick up trash. These are volunteers that are constantly working to keep the beaches clean. Oftentimes, they cannot find parking.

A resident who lives on Wallis Sands spoke about his neighbors who move their cars out of their garages onto the street during the day so that people will not come.

There was a mention of 30 percent of the revenues from parking going to the State. Senator Stiles stated that that remains to be determined.

Selectman Jenness stated that the Selectman had not heard this idea on parking until the last meeting. They had not had the opportunity to discuss it.

Selectman Mills stated that there are 118 permit spaces in Town. Someone mentioned that 1500 parking permits being sold annually.

Tom Sherman asked whether there were any numbers on beach use. Police Chief Walsh provided the figures for parking tickets issued:

2009	1665
2010	1513
2011	1727
2012	1129

He cautioned, however, that one of these years experienced a lot of rain. Beach usage is highly dependent on the weather. In addition to parking in permit only areas, tickets are issued for being over the white line, or being in no parking areas. Fines run from \$30 up to \$150 to \$200 for those who default but ultimately, with follow up, end up paying.

Discussion turned to parking behind the Dunes which Mr. Leary owns. Concern was expressed regarding fluids from vehicles parked there leaking into the ground or the water. Parking there is grandfathered, Selectman Mills said. It's been there longer than he has been alive, he indicated.

The representative from NHDOT indicated that the Route 1A parking documentation is an inch thick, with documents from 1956 through 2008. He suggested that they work with the Town, get rid of the old document. and come up with a new one. Selectman Mills stated that this could probably be done in a day. He offered to take a day off and do it with them.

There was discussion about RVs. There is no RV section at Wallis Sands, unlike the RV area in Hampton. The state representative indicated that the lot, which provides

485 to 525 spaces, is not large enough to provide for RVs. There could be another 125 spaces across the road, but apparently “someone with juice” blocked that due to beach overcrowding issues. The area is now covered with trees, he said.

Selectman Mills noted 7-8 campers showing up each day. He hears that these people park at the Wal Mart in Portsmouth overnight. Surfboards are strapped to the side. Tom Farrelly showed a cardboard montage which had photographs of 8-10 vans. He noted line of sight issues arising due to the vans. It’s like Carnival down there. Mr. Farrelly also spoke of residents driving to Sawyers in order to take advantage of their Town permits, but then being unable to cross the shale pile due to mobility issues. He suggested a rebalancing, with swapping of spaces, apparently referring to resident permit areas closer to Jenness Beach being made available.

Senator Stiles asked about State Police cooperation with the Town. Police Chief Walsh stated that they come when they’re needed. They’re also seen driving through Town. One of the State Police representatives stated that there are no assigned patrols on Routes 1, 1A and 125 like there are on routes 95 and 101. Their resources are limited and Route 95 is very impacted by traffic to the beach, the mountains and Maine. However, they come down when the Chief calls.

Senator Stiles asked about State Police presence in Hampton. The State Police representative acknowledged that there are State Police Beach Patrols in Hampton. However, these amounts are budgeted, he said. Mike LaBrie suggested that Rye should have a detail budget for its beaches as well. Frank Drake argued that the Hampton generates “tons” of revenue for the State.

Alcohol on the beach and trash

Senator Stiles asked how often tickets are issued for alcohol on the beach. Police Chief Walsh responded that one was issued as recently as 6:15 p.m. the prior day. There is no tolerance on this issue.

Ken Loughlin from the State (responsible for the State lifeguards) stated that there was a particular problem with Canadian surfers. The lifeguards got even with one group that had been giving them trouble. Afterwards, when the surfers started drinking on the beach, they called the Police.

Chief Walsh stated that when they received calls for undesirable behavior they try to return to the same spot the same time the next day, when the behavior may well reoccur. That’s why it’s always important to call.

One resident spoke of Canadians in motor homes exposing themselves. That goes with the drinking, he argued. Selectman Jenness spoke about the trash left behind. The state used to have beach barrels at Jenness. When these were removed, the Town followed suit. It’s now carry in/carry out. Ken Loughlin stated that Wallis Sands and Jenness Beaches are carry in/carry out. Ryan McGill stated that the State is now removing trash from Jenness Beach, which is helping. Tyler McGill stated that people were not abiding by carry in/carry out. Ken Loughlin estimated that 10 percent were not carrying their trash out.

In response to a question from Fire Chief Sullivan, it was acknowledged that cars arriving with a dog inside were not permitted to park at Wallis Sands State Beach.

Tom Sherman suggested that those observing persons undressing should snap a photograph. Police Chief Walsh indicated that a photograph would help. People are often reluctant to press charges because of the time needed to appear in court. They also hesitate to be confrontational, and expect the police to handle issues. Mr. Sherman stated that residents of New Castle (which he also represents) would not tolerate the sort of behavior that goes on in Rye. Residents would be down taking photographs and, within a week, the problems would have ceased.

Senator Stiles asked whether Rye was also carry in/carry out. Selectman Mills stated that it was supposed to be. However, there are trash barrels at Wallis Rd. Extension and Cable Rd. Extension.

Fire Chief Sullivan stated that the State radios do not have the Rye lifeguard frequencies on them. He understands that the State lifeguards are not permitted to use public safety frequencies, but the Rye lifeguards are on a business frequency.

Action items and conclusion

Senator Stiles provided a list of the action items. These included, but were not limited to:

1. Taking care of the bushes at 2190 Ocean Blvd.
2. Looking into the crosswalks
3. Investigating whether the State lifeguards could have the Rye lifeguard frequency in their radios.
4. Asking the Attorney General whether meters would be allowed on NHDOT property.
5. The Rye Police will call the State Police when needed.

Right of Way research was also mentioned as being ongoing. A study of Route 1A is in the process of being conducted by a planning group.

Fire Chief Sullivan asked whether the striping could be done in the spring rather than the fall so that the plows do not scrape off the markings. The State representative indicated that the markings typically last for 3-5 years.

Tom Sherman stated that two concerns of the Jenness Beach group had not been addressed. These were large vehicles and behavior. He suggested that spaces be marked in accordance with passenger vehicle size, which would deter use by larger vehicles. He also suggested that residents in a particular area be educated to gather evidence and call the police at the same time. Word would get out quickly that visitors are under local surveillance.

The State DOT representative indicated that the marking of spaces in the State right of way must be done locally. Vehicles that pay gas tax cannot be restricted unless there is a safety reason, for example trucks that are too heavy to cross a particular bridge.

Frank Drake encouraged the group to meet again. The Town should not cannibalize itself as it did a couple of years ago. He has walked the beach and observed good harmony and good "karma," he said.

It was agreed that they would meet again the following September.