

**TOWN OF RYE – BOARD OF SELECTMEN
Monday, April 13, 2020
6:00 p.m. – via ZOOM**

Present: Chair Phil Winslow, Vice-Chair Keriann Roman, and Selectman Bill Epperson

Others Present: Town Administrator Becky Bergeron

6:00 p.m.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

II. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (a) Personnel

At 6:00 p.m., Keriann Roman made a motion to go into Non-Public Session per RSA 91-A:3, II (a) Personnel. Seconded by Bill Epperson. Roll Call: Winslow – Yes, Roman – Yes, Epperson – Yes.

At 6:20 p.m., Keriann Roman made a motion to come out of Non-Public Session. Seconded by Bill Epperson. Roll Call: Winslow – Yes, Roman – Yes, Epperson – Yes.

6:30 p.m. RECONVENE PUBLIC MEETING

III. CALL TO ORDER

Chair Winslow called the meeting to order through video conferencing at 6:30 p.m.

Statement by Phil Winslow:

As chair of the Rye Zoning Board of Adjustment, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are providing public access to the meeting by telephone, with additional access possibilities by video and other electronic means. We are utilizing Zoom for this electronic meeting. All members of the board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting by clicking on the following website address: www.zoom.com ID #490-867-9230. Password: BOS03870

Public notice has been provided to the public for the necessary information for accessing the meeting, including how to access the meeting using Zoom telephonically. Instructions have also been provided on the website of the board at: town.rye.nh.us go to the Board of Selectmen page and click on the agenda for this meeting.

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be done by roll call vote.

Roll call attendance of select board:

- Phil Winslow
- Keriann Roman
- Bill Epperson

Chair Winslow led the Pledge of Allegiance.

IV. ANNOUNCEMENTS

A. Transfer Station Announcement

The following operational changes have taken effect at the Transfer Station and will continue until further notice:

- Household trash and all recyclables shall be deposited into the rubbish compactor together. Recyclables consist of plastic, glass, bottles, cardboard, newspapers, tin and aluminum.

This operational change is being implemented to reduce face-to-face encounters with the public and reduce the workload for the transfer station staff, which has been dramatically reduced due to sickness and injury. In addition, the swap shop, general construction and bulky dumpsters, tire shed and waste oil building also remain closed.

B. Route 1A Parking and Short-Term Rentals

Parking on Route 1A from the North Hampton/Hampton border to the Portsmouth/Rye border is closed. Rye Officers, along with State Police assistance, are patrolling Route 1A and vehicles will be ticketed if parked along the corridor. A letter is being sent from the Town to hotels, motels, and real estate companies reminding them that there are no short-term rentals from now through May 4th under the Governor's order.

C. Rye Water District

The Rye Water District will be conducting a financial stress test to determine its status. Annual billing for the Water District will be going out within the next week. The test is being done to give an estimate of how payments to the District might be affected during this time. This may give the select board a sense of what the Town might be facing with regard to property taxes.

V. PUBLIC COMMENT – (Public comment is limited to 5 minutes per person.)

Steven Borne, 431 Wallis Road, commented that when there is discussion about the shut down of the transfer station, he hopes there will be some discussion about innovative and creative ways to not have to throw the recyclables into the trash compactors.

Shawn Joyce, 270 Washington Road, noted that he would like a chance to speak about the letter he sent to the Selectmen, which is on the agenda under 'Correspondence'.

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

A. Appointment: Heritage Commission – 3 Year Term

- 1) David Choate: Requests appointment as an alternate, email rec'd 04/06/2020
- 2) Recommendation letter rec'd 04/10/2020 from Phil Walsh, Chair

Motion by Phil Winslow to accept the Consent Agenda Item. Seconded by Keriann Roman.

Roll Call: Bill Epperson – Aye; Keriann Roman – Aye; Phil Winslow – Aye
Motion passed.

Motion by Keriann Roman to take Correspondence B out of posted agenda order. Seconded by Phil Winslow.

Roll Call: Keriann Roman – Aye; Phil Walsh – Aye; Bill Epperson - Aye
Motion passed.

- **Email rec'd from Shawn Joyce** re: Fair & Transparent Appointment Process to Rye Conservation Commission

Vice-Chair Roman noted that this letter was received a little bit late for the last Selectmen's meeting so it was not officially addressed; however, the Board did talk about it. She continued that this same issue was raised a few months ago. At that time, when there were openings on the boards and commissions, the position was going to be advertised on the town's website and Facebook page. With town meeting and the situation with COVID-19, this was overlooked. At the last meeting, the select board talked about whether there was time to advertise these positions now and wait on appointing anyone to those positions. There was discussion on this because it was a fair point that people should know there are positions open. It was determined that given what is going on right now and the State of Emergency, the select board would move forward with the appointments and the recommendations they had. The process will be corrected for next year. Whenever there are openings on boards, committees or commissions, they will be advertised on the website and Facebook page. The Town will do a better job of advertising so people will know how to apply.

- **Email rec'd from Shawn Joyce** re: Selectmen Ordinances 35 & 36, Keeping Rye Town Forest Open During COVID-19 & Wildlife Protection in Rye Town Forest

Chair Winslow noted that this letter has been forwarded to the Conservation Commission, as they are the stewards of the Town Forest. A letter was also received from Karen Stewart an abutter to the Town Forest. Mrs. Stewart indicated that she walks the forest daily and she has not seen an increase in activity, as a result of COVID-19. He also noted that a response letter has been received from the Conservation Commission.

Town Administrator Becky Bergeron asked members who were attending the meeting if they have sent a copy of that letter to Mr. Joyce.

Mike Garvan, Conservation Commission Member, stated that the letter was sent to the Board of Selectmen. He thought the commission's letter would be discussed at this meeting. Mr. Garvan read the response letter from the Conservation Commission.

A copy of the commission's letter was forwarded to Mr. Joyce.

Speaking to Police Chief Walsh, Vice-Chair Roman asked if he has any information from the animal control officer with regards to the number of calls for the Town Forest.

Police Chief Kevin Walsh replied that the animal control officer has said that the activity for the forest is normal for this time of year. He has been seeing the same number of vehicles and pedestrian traffic. The officer has been asked to keep an eye on the Town Forest to see if closing the beaches makes a difference in traffic.

Vice-Chair Roman stated that when the Board discussed closing the beaches, there was discussion about leaving the Town Forest open. That is a location where people are walking and not stopping. However, she would like to keep an eye on this in case people start to flock to the area and it becomes a problem for social distancing.

Shawn Joyce pointed out that some land trusts have made their conservation properties "leashes only". He read the conservation easement and it specifically says that fences cannot be used. The Conservation Commission has tried putting fencing in the Town Forest so they can get rid of the leash zones. In his opinion, they are not acting in the best interest of Rye Citizens. No competent wildlife biologist would say that 533-yards of fencing is better than leash zones. He commented that the RCC did the Town Forest Management Plan and finalized it without any public comment or input and that is absolutely wrong to have done that. The RCC refuses to listen to best practices and decent reasoning. He noted that deer and other animals come through his property and they have been chased by dogs in the past. It is wrong if this continues. Putting dogs on leashes in that area is the right thing to do. There are people who have not been able to use the forest because they don't want to be jumped on by dogs.

Chair Winslow noted that the Conservation Commission is holding a meeting on May 14th, which is a public hearing on the Town Forest Management Plan. The consulting forester will be

at the meeting. Speaking to Mr. Garvan, he asked if the wildlife biologist will be at the meeting also.

Mr. Garvan replied that the commission was not planning to have him there at that time. The wildlife biologist reviewed and approved the plan. Mr. Marino has prepared plans for over twenty towns in New Hampshire and will be capable of speaking to Mr. Joyce's concerns.

Vice-Chair Roman asked if the select board could get a copy of what Forester Marino put together.

Mr. Garvan replied that there is a link to the Forest Management Plan on the Town's website under the Conservation Commission's page.

Vice-Chair Roman asked if RCC sent a memo to Mr. Marino on what they wanted to have done.

Mr. Garvan explained the RCC met with Mr. Marino on several occasions and discussed the issues with the Town Forest. Mr. Marino prepared the previous Town Forest Management Plan so he was very aware of the forest and the issues surrounding it.

Mr. Joyce pointed out that the plan that was written in 2003 was co-authored by a wildlife biologist. The new plan was not. The only thing the wildlife biologist did for Mr. Marino was to look back and say the assessment was done correctly for Tier I and Tier II habitat, which is some of the best in the State of New Hampshire. There was total disregard for the RCC to do anything with the wildlife habitat. The guide 'The Trails for People and Wildlife' by N.H. Fish and Game lists all the best practices. It says that during breeding season, March 15th to September 15th, dogs should not be allowed on trails, unless they are on leashes, in sensitive wildlife areas.

Chair Winslow encouraged Mr. Joyce to attend the RCC meeting on May 14th and to express his concerns to them as well.

A representative for David Tilton (who was also present) stated that they cannot express how shocked they are that the commission would encourage fencing about a quarter of a mile along the border of Dave's land. David has spent the last fifty years encouraging wildlife in the area. To put up a fence and stick a few holes in it, so maybe some of the wildlife can continue to cross one property to another, is absolutely absurd. This is being done all for the sake of a few people who would rather have their dog run free than be on a leash.

Dave Tilton, 390 Washington Road, stated he has been a resident of Rye for fifty years and owns a total of 56-acres. In the beginning, people and the wildlife got along fine. Hunting was allowed and the wildlife was there. The RCC has gotten into the forest and now there is no more hunting. There are trails everywhere. The wildlife is completely gone because there are too many trails and dogs. The Chief of Police requested a leash law and the Selectmen would not approve it.

Vice-Chair Roman stated she is disappointed that everyone cannot find a way to work together and come to a compromise on this issue. She continued that conservation land should be for conservation. That should be the primary goal. Secondary benefits that can be had, the Town should have. She hopes that everyone is looking towards conservation and all that entails being the primary goal of the Town's conservation land. She asked if the Conservation Commission could have more of an open conversation and see if a compromise can be reached. This is not going to go away for Mr. Tilton or Mr. Joyce. It would be really nice to put conservation and whatever that entails on this land first. She would like to see this happen. She would be happy to be a part of a small group conversation.

Mr. Garvan stated that he would be amenable to anything that would help move this forward in a collaborative fashion.

Chair Winslow suggested that Vice-Chair Roman take the lead with Town Administrator Bergeron in setting up a meeting with the RCC, Mr. Joyce and Mr. Tilton.

Vice-Chair Roman agreed.

VII. DISCUSSION ITEMS

A. Return April meetings to 2nd and 4th Monday, Next Meeting would be April 27th

The Selectmen agreed to hold the next select board meeting on April 27th.

B. Financial Stress Test

Town Administrator Bergeron presented the financial stress test that was prepared at the Selectmen's request because of the current situation with COVID-19. The Town's financial status was reviewed to determine what the revenue might be for town operations given the possibility of residents delaying their payment of property taxes, due to being out of work because of the pandemic. There is also a strong possibility of a reduction in payment from the State for the Town's share of the Meals and Rooms Tax. The financial stress test also took into consideration the possible delay of the State Highway Block Grant and the possibility of fewer people registering vehicles.

The Select Board agreed that review of the financial stress test should be done on a monthly basis.

C. Discussion of Capital Outlay Projects and Warrant Articles

Speaking to Vice-Chair Roman, Chair Winslow asked if warrant articles that were passed at town vote could be encumbered for next year.

Vice-Chair Roman explained that special warrant articles can be encumbered for next year. The real question is in regards to the capital reserve and expendable trust funds. State law says that by a specific date the Town has to turn over money to the Trustee of the Trust Funds from the general fund. It does not take into account situations where the Town may be short on revenue. She is not sure if the Town can decide to not fund some of those individual warrant articles, outside of the regular operating budget, this year. If so, can the Town choose which articles to not fund? She noted that she sent a message to the Department of Revenue and should hear back this week. She continued that two large warrant articles are the salt shed and the TAP Grant. The TAP Grant does not move forward if it is not funded by the State anyways. Another warrant article was for \$100,000 for the Highway Equipment Capital Reserve Fund. In her opinion, the other articles should be funded because they are smaller amounts. She will send Town Administrator Bergeron any information she receives from the DRA.

There was discussion with department heads about what projects could be put on hold with priority being placed on capital expenses for things related to safety needs.

Police Chief Walsh noted that the new cruiser expense will come out of the Revolving Detail Account and is based on what the balance is in that account. He anticipates that a cruiser will not be ready for the Town until November or December because of manufacturer's being shut down at this time. There is not a real issue with pushing back that expense. The current fleet is in good shape. The three main cars are under 100,000 in mileage but one is fast approaching that mark. The goal is to keep the three main cars under 100,000 in order to keep the maintenance budget flat and level funded. He stated that the Police Department has other significant expense items that could be deferred. He reiterated the cruiser is going to be delayed because of availability. The parking software in the amount of \$30,000 can be deferred. This was an expense to help improve efficiency but could be moved back to December. The purchase of two portable radios could be deferred back to October in the amount of approximately \$6,000. The purchase of the tasers in the amount of \$1,400 could be deferred for about two months. The digital speed limit sign in the amount of \$6,000 can also be deferred until the fall.

The Selectmen were in agreement with Chief Walsh's proposed deferrals.

Public Works Director Dennis McCarthy noted that his department has three capital outlay items, three warrant articles and one operational item that are significant expenses. The capital outlay items are in the operational budget and include the second compactor for \$50,000; town-wide pavement analysis for \$30,000; and MS-4 assistance for \$25,000. The total of these projects is \$105,000 and could be deferred to later in the year or not done at all this year. He continued that the replacement of the truck is \$70,000 and does not have a budgeting impact because it is coming out of CIP Funds. There is the question of whether the \$100,000 to put into the fund has to be funded but that does not have to be done until November. The salt shed storage facility site prep is \$350,000. This is being bid later in the year but the engineering work needs to be completed, which is a cost of about \$20,000. If the Town is going to move forward on the salt shed site project, the engineering work should be done now with the bidding being held off as long as possible. He suggested that it might be possible to get bids in order to get the price to

encumber the funds for next year. He stated that the only item that is significant in the Public Works Operational Budget is road paving in the amount of \$400,00. He noted that the paving is currently out for bids but the work could be deferred or roads could be cut from the list and not done this year.

Vice-Chair Roman suggested that they wait to make a decision about moving forward on the engineering for the salt shed site until they hear from DRA on whether the special warrant articles have to be funded or not and whether they can be partially funded this year. The Selectmen agreed.

Chair Winslow noted that part of the collection of taxes includes a payment to the Water District, which is reasonably substantial. He asked if that payment could be delayed.

Town Administrator Bergeron replied that she does not think the Town can delay the precincts' tax funding at all, which includes the Water District, Jenness and Rye Beach. The precincts will be looking for the money because that is their cash flow. Like county taxes, she does not think that they can legally defer those payments.

Speaking to Director McCarthy, Selectman Epperson asked how far behind the Town will be on road paving if the paving budget is cut by \$100,000.

Director McCarthy replied that the Town is just not catching up. Some of the longest roads in town need to be done, such as Washington, Sagamore, Wallis and South Road. The intent was to pave two-thirds of Sagamore Road this year and finish some of the smaller outlying roads. This would move the paving onto Wallis, Washington and South for next year or the year after.

Selectman Epperson asked if \$400,00 would fund all those paving projects.

Director McCarthy explained it would not fund them but would start those areas. If enough money is funded next year, the Town could get started with those roads then.

Chair Winslow asked what would happen if the cash flow is not as bad as anticipated in September and the Town can fund the \$400,000.

Director McCarthy replied that if a decision can be made by December, the work could probably still be done. It really depends how busy the year is going to be for pavers. That is why the Town was trying to get started early this year. He noted that road striping is already scheduled to begin, street sweeping is completed and crack sealing is contracted in the amount of \$20,000. He stated that he can try to delay the crack sealing but the road striping should be done because it is a safety issue.

The Selectmen agreed that both striping and crack sealing should remain on schedule and move forward.

Fire Chief Mark Cotreau stated that the Fire Department has two warrant items and a capital outlay item. The Public Safety Apparatus Fund is to be funded with \$100,000 in November. The capital plan calls for the replacement of a truck but the Town could get another year out of it if needed. There was a warrant article for the Jaws of Life. This is important for the department because the current Jaws of Life will not work on most of the newer cars on the road today. The expense for the Jaws of Life is \$35,000 but could wait until the end of the year.

The Selectmen agreed that the Jaws of Life purchase should move forward as this is a safety issue.

Chief Cotreau continued that the Life Pack 15 is also something the department needs now to replace Life Pack 12, which is outdated and not able to be serviced. This expense will be approximately \$40,000.

The Selectmen agreed the Life Pack 15 was a necessary expense.

Vice-Chair Roman asked if there are any trainings or other expenses that could be deferred.

Chief Cotreau noted that the department can hold off on the Jet Ski training in the amount of \$10,000. The training can be done internally with the staff that was trained last year. He stated that the Coronavirus is impacting the Fire Department Operating Budget. The department has bought a lot of personal protective equipment (PPE) over the past several weeks. With what has already come in for orders and what is due to come in, it is probably \$10,000 worth of PPE. Some of it is reusable and much of it is not. He stated that this expense was offset a bit budgetarily because of a recent retirement in the department. He is in the process of interviewing for a new fire fighter and fast tracking the process to get someone on board as soon as possible, given the present situation. He commented that there is no non-essential spending from his budget at this time. Some of the equipment purchases are generally done in the last quarter. These purchases may come in to play as the Selectmen see how the revenue comes in.

Vice-Chair Roman asked if he knew of any areas that could be cut right now.

Chief Cotreau replied that he did not.

Vice-Chair Roman asked if he knows of any other expenditures related to COVID-19.

Chief Cotreau reviewed the personnel costs related to ordering and stocking PPE, and necessary training. He also reviewed the PPE costs. He noted that all expenses related to COVID are being documented.

Vice-Chair Roman asked Town Administrator Bergeron to track any lost revenue that might be COVID related.

Chair Winslow asked if there are any departments that have significant reductions in revenue.

Town Administrator Bergeron replied that the Recreation Department is really the only one at this point in time. She has met with the Recreation Director and Recreation Commission Chair to go over projections. Right now, they are still planning for summer events.

Chair Winslow stated that the schools are permanently closed for the rest of this school year. He asked if this will have any impact.

Town Administrator Bergeron replied that the after-school program for the 2019/2020 year is done also. She will be having a conversation with the Recreation Director as to how they will proceed. She noted that any program revenue decline is offset by a reduction in expense from the Recreation Revolving Fund. She continued that the Library is still closed indefinitely. Library staff is working remotely on the outreach program and checking in with the Town's seniors to be sure they are supported during this time. The Library will also be issuing their newsletter more often to help maintain contact with the community.

Chief Walsh spoke to the Selectmen about some of the outreach and services the Library staff is providing for the community, which is something that would otherwise be provided by the Police and Fire Departments.

The Selectmen agreed that the service the staff is providing is appreciated and much needed. They asked Town Administrator Bergeron to reach out to the Library Director and ask him to take a look at the staff hours to see if there is any area that could be cut without undermining the great work that they are doing. The Selectmen also agreed to meet again once information is received back from DRA to decide how to proceed. A brief statement about what the Selectmen are doing to manage expenses during this time will be posted on Facebook in order to keep the residents informed.

Vice-Chair Roman pointed out that taxes paid late accrue interest. There is a Governor's order that says the Selectmen can decide that any interest for late payment of taxes for this upcoming tax bill is automatically abated. She does not think this needs to be decided right now.

The Selectmen agreed to keep this in mind each time they meet and see what the impact is going to be moving forward.

VIII. CORRESPONDENCE

- A.** Email rec'd from Shawn Joyce re: Fair & Transparent Appointment Process to Rye Conservation Commission
(Addressed earlier in the meeting. See minutes above.)

- B.** Email rec'd from Shawn Joyce re: Selectmen Ordinances 35 & 36, Keeping Rye Town Forest Open During COVID-19 & Wildlife Protection in Rye Town Forest
(Addressed earlier in the meeting. See minutes above.)

IX. APPOINTMENTS: BOARDS, COMMITTEES, COMMISSIONS

A. Recycling Education Committee – 1 Year Term expiring 03/31/2021

- 1) John Provencher – reappointment as member, letter rec'd 03/07/2020
- 2) Joan Provencher – reappointment as member, letter rec'd 03/07/2020
- 3) Wyatt Davis – reappointment as member, letter rec'd 03/13/2020
- 4) Recommendation letter rec'd 03/23/2020 from John Provencher, Chair

Motion by Bill Epperson to accept the reappointments to the Recycling Education Committee for the four individuals listed. Seconded by Phil Winslow.

Roll Call: Keriann Roman – Aye; Bill Epperson – Aye; Phil Winslow – Aye

Motion passed.

B. Mosquito Control Commission – 3 Year Term expiring 03/31/2020

- 1) Tom Aspinwall – reappointment as member, letter rec'd 03/09/2020

Motion by Phil Winslow to accept the reappointment of Tom Aspinwall to the Mosquito Control Commission. Seconded by Bill Epperson.

Roll Call: Keriann Roman – Aye; Bill Epperson – Aye; Phil Winslow – Aye

Motion passed.

X. NEW BUSINESS

Chair Winslow asked Chief Walsh for an update on the beach closures and parking on Ocean Boulevard.

Chief Walsh stated that he has information from a call that Commissioner Sheehan (NH DOT) held on April 9th with regards to Route 1A and the current conditions. The call was held specifically for Rye, New Castle, Hampton, North Hampton and Seabrook. Chief Sawyer from Hampton reported that things were under control because all the town's parking lots are closed. Chief Parker from Seabrook reported some issues. North Hampton and Rye were having the most significant issues. Chief White in New Castle was able to close off the commons with one state road leading to Fort Star. Captain Vetter and Lieutenant Hennessey of the State Police made reports about the chaos that was going on at the Rye/North Hampton line with surfers and people parking wherever they wanted to park.

Chief Walsh noted that North Hampton has implemented "no parking" along the causeway and other areas; however, along Ocean Boulevard was challenging. He was the Chief to recommend that "no parking" be implemented along Ocean Boulevard. Chief Walker agreed with it but Chief Sawyer did not. Both Chief White and Chief Malone also agreed. The commissioner put an emergency order in place and notified the Governor that it was recommended by the seacoast chiefs that Route 1A be "no parking" until the Governor's emergency order is lifted. He continued that the message boards he has put out are not working too well. Director McCarthy had his staff put up some temporary barriers and "no parking" signs in some of the beach lots to

try to divert the traffic from pulling into the lots. The State is going to pick up the one-hour parking signs and put barriers up, which will consist of traffic barrels. He noted that the traffic along Route 1A has been heavy like it is during the summer. There are also people walking, running and bicycling. There have been many challenges with people parking and traffic speeding on 1A, but the State Police have been there to assist. The goal of the two agencies is to flood the area with officers to reinforce "no parking" and to move the vehicles along. With the reduction in parking tickets that have been issued recently, he can see that some of this is working. It is also working because there are not large groups of people gathered on the beach. He commented that all-in-all he believes this is working and is dramatically reducing the number of people coming to Rye.

Chair Winslow noted that the State is going to be putting up signs stating that New Hampshire's beaches are closed to dissuade people from going off I-95 into town to the beaches. Speaking to Town Administrator Bergeron he asked that a thank you letter be sent to Mrs. Leary because she has done a good job barricading her parking lot to preclude people from parking. He asked Dennis McCarthy to give an update on the transfer station.

Director McCarthy stated that reluctantly he had to shut down a lot of the operations at the station. The transfer station staff was getting a thin due to injuries and health reasons. It was also felt that it was time to limit the contact between the public and staff. He is hoping the transfer station will be able to open on May 4th. He noted that the changes that have been made at the station seem to be working and residents have been understanding.

XI. OLD BUSINESS

Vice-Chair Roman stated that the lease extension with The Housing Partnership for the Parsonage expires on May 31st. There are two tenants in the building that will most likely not be out by then. In order to evict tenants, a process has to be followed which starts with a notice to vacate. It was expected that The Housing Partnership would be the ones to do that since they are the landlords at this moment. They were not able to get out a notice to vacate, which would have started the process. This could have been done before the COVID orders came out from the Governor but now evictions are all halted. A tenant cannot be evicted through the courts during a state of emergency. Given that these two tenants have not yet left voluntarily, it is most likely the Town will become landlords as of June 1st. This is problematic because there will have to be certain standards of maintenance and it will have to go on the Town's insurance with Primex. The other issue is that the Town has committed to Dan Philbrick that they would deliver a vacant building under the Purchase and Sale Agreement.

Vice-Chair Roman summarized her thoughts on what they can do at this time. She suggested that a letter to the tenants could be issued telling them that as of June 1st the Town is going to be the landlord. The Town does not have an interest in being a landlord and does not know how to be a landlord, so it is probably in their best interest to work with The Housing Partnership to be relocated.

Selectman Epperson asked if the tenants have been offered alternative housing by The Housing Partnership and have declined.

Vice-Chair Roman confirmed. She continued that the letter should be reviewed by Attorney Donovan. She pointed out that they are going to be holdover tenants. She asked the select board if they want to talk about increasing the rent. There are two reasons for doing this. First, there is no budget to maintain that building specifically to the level that is required for tenants. It could be added to the letter that rent is going to increase and to what amount. The letter should also state that The Housing Partnership will help them to relocate and the Town will do whatever they could to help that process. She also thinks that the select board should ask The Housing Partnership for some money for this last year's extension.

Town Administrator Bergeron explained the understanding was that the lease extension consideration was one dollar. The theory behind that was the amount of money The Housing Partnership was paying to the Town was going to be used as expenses to help the tenants relocate.

Vice-Chair Roman stated that since there are two tenants that have not relocated, whatever that would equate to in terms of money that would have been paid to the Town by The Housing Partnership, should be requested back to the Town. In theory, that money could be used for maintenance while these two tenants are in the building. There is also the issue with delivering a vacant building to Mr. Philbrick. The agreement says that the Town has thirty days from the last date of the lease. The Town technically has until June 30, 2020 to turn the vacant property over to Mr. Philbrick. The agreement also says that the Town would not extend the lease agreement with The Housing Partnership. That cannot be done anyways because the one-year lease extension says that any further extensions would have to go to town meeting vote. She stated that it comes down to whether Mr. Philbrick would be willing to extend the agreement to give the Town more time to vacate the building.

Chair Winslow stated that he thinks a letter should be sent to the tenants. It should also be noted in the letter that the relocation fees through The Housing Partnership will only be good until the end of May. He also thinks the rent should be increased to \$900 which would be a 20% increase.

Chief Walsh asked what responsibility The Housing Partnership has at the end of the contract. It should be put back on The Housing Partnership to deliver the building empty. He can see that there are going to be significant challenges with the tenants that are there. It is really The Housing Partnership's tenants and it should be up to them to have that building empty by June 1st.

The Selectmen agreed.

Vice-Chair Roman pointed out that the lease extension was signed before it was known that Mr. Philbrick was going to come forward. It was kind of left that if more time was needed, the lease could be extended for another year and pressure could be put on The Housing Partnership to get the tenants out. However, the scenario with Mr. Philbrick came about. It does not expressly say

that The Housing Partnership is responsible in the lease. With that said, that was part of all the discussions with The Housing Partnership. She suggested that in the letter to The Housing Partnership, they ask for some of the money back and in addition state this was all premised on the fact that they would deliver an empty building. It is in everyone's best interest that The Housing Partnership do everything possible to relocate these people. Additional pressure should be put on The Housing Partnership to do this.

Selectman Epperson agreed to reach out to Marty Chapman of The Housing Partnership to get some clarification on moving forward. He will speak with Mr. Chapman about the importance of finding adequate housing for those tenants by the end of May.

The select board agreed to move forward with sending a letter to the tenants as well. Vice-Chair Roman will craft a letter and send it to Town Administrator Bergeron for Attorney Donovan's review. The Selectmen also agreed with Chair Winslow's suggestion of increasing the rent to \$900.

XII. OTHER BUSINESS

A. Meeting Minutes

- 1) Meeting, Monday, March 2, 2020, 5:30 p.m., Town Hall

Motion by Phil Winslow to accept the minutes of March 2, 2020 as written. Seconded by Bill Epperson.

Roll Call: Bill Epperson – Aye; Keriann Roman – Aye; Phil Winslow – Aye

Motion passed.

- 2) Meeting, Wednesday, March 4, 2020, 5:30 p.m., TD Building
To be voted on at next meeting.

- 3) Meeting, Saturday, March 7, 2020, 10:00 a.m., Library

Motion by Bill Epperson to accept the minutes of March 7, 2020 as written. Seconded by Keriann Roman.

Roll Call: Bill Epperson – Aye; Keriann Roman – Aye; Phil Winslow – Aye

Motion passed.

- 4) Meeting, Monday, March 16, 2020, 4:00 p.m., Town Hall

Motion by Phil Winslow to accept the minutes of March 16, 2020 as written. Seconded by Keriann Roman.

Roll Call: Bill Epperson – Aye; Keriann Roman – Aye; Phil Winslow - Aye

ADJOURNMENT

Motion by Bill Epperson to adjourn at 8:40 p.m. Seconded by Keriann Roman.

**Roll Call: Bill Epperson – Aye; Keriann Roman – Aye; Phil Winslow – Aye
Motion passed.**

Respectfully Submitted,
Dyana F. Ledger

4-13-20 Correspondence A
Received too late for
3-23-20 Meeting

Katelyn Drago

From: sjoycemail@comcast.net
Sent: Monday, March 23, 2020 11:23 AM
To: selectmen
Cc: Katelyn Drago
Subject: Request for Fair & Transparent Appointment Process to Rye Conservation Commission for All Citizens

March 23, 2020

Board of Selectmen
Town of Rye
10 Central Road
Rye, NH 03870

Ref: Request for Fair & Transparent Appointment Process to Rye Conservation Commission for All Citizens

I read the agenda for tonight's BOS meeting. It is disappointing that the BOS is considering the reappointment of RCC members tonight when there has not been any public posting that the terms were coming up and no other residents have been afforded the opportunity to apply. Considering the following, it seems prudent that the BOS interviews and appoints RCC members based on diversity, objectivity, skill set and experience:

1. The RCC is entrusted with millions of dollars of taxpayer money, yet the BOS has little authority over the RCC. No governing body does so it's imperative that it is a well-balanced group of diverse, objective people who respectfully challenge each other, not all vote the same and require that members who have conflicts of interest to recuse themselves and not push personal agendas.
2. Although required, yet waived by the BOS, the RCC does not always get appraisals, land surveys and/or conduct public hearings for acquisitions. This has resulted in use of funds that may not be supported by taxpayers, overpayment for land that has little or no development potential, easements that have no value, lack of adequate access to conservation land and, in some cases, deals that benefited individuals.
3. The RCC files are disorganized, in some cases files cannot be found, are missing important information such as appraisals, land surveys, easements, final signed documents related to purchase and sale, etc. If Rye residents ask to review the RCC files, they are often rebuffed, told that files are at a member's home, they cannot find them, or given incomplete files, etc.
4. The RCC does not follow best practices outlined by the NH Association of Conservation Commissions, has no bylaws, written policies and procedures, even though they have been asked for years by voters to ensure there is a transparent and fair process for all Rye residents.
5. For years there has not been a fair process for Rye residents to be considered to serve as an RCC member. Several RCC members have dominated, controlled the commission for over a decade, and at times been disrespectful, dismissive to others that are not like them and/or do not agree with them and have acted on behalf of the RCC when there is clearly a conflict of interest. When members' three-year terms are up, they are just reappointed without any chance for any other Rye residents to be interviewed by the BOS and considered for appointment. This is a missed opportunity to appoint diverse, objective members who have stronger skill sets that would benefit the town and all its citizens. Members who would also have the time and ability to ensure the town does not overpay for land, best practices, procedures and bylaws are put in place and followed, files are complete, etc.

In other NH communities, there is transparency and fair process for appointment to Conservation Commissions. There also bylaws that stop people from dominating a commission for decades, allowing fresh ideas, new skill sets and innovative ways of doing things. I ask that the BOS take the lead with this glaring issue, postpone the reappointment of the members tonight, ensure that a fair, transparent process is put in place, so all Rye citizens have an opportunity apply, be interviewed by the BOS and serve based on

DRAFT MINUTES of the Board of Selectmen's Meeting 4/13/2020

qualifications. In closing, I ask that this email be read at tonight's meeting during the public comment section. I also ask that this email be included in the minutes of the meeting that are sent out electronically as well as posted to the town's website. Thank you.

Respectfully - Shawn

Shawn Joyce
PO Box 5
Rye, NH 03870

Katelyn Drago

From: sjoycemail@comcast.net
Sent: Monday, April 6, 2020 8:17 AM
To: selectmen; Katelyn Drago; 'Danna Truslow'; 'Dyana Ledger'; 'Heather Reed'; 'Jaci Grote'; 'Jeffrey Gardner'; 'Karen Oliver'; Kim Reed; 'Mike Garvan'; 'Sally King'; 'Susan Shepcaro'; 'Suzanne McFarland'; 'Phil Winslow'; 'Keriann Roman'; 'Bill Epperson'; cmforestry@metrocast.net; r-dwhite@comcast.net; 'Kevin Kobylinski'; r-dwhite@comcast.net
Cc: 'David Tilton'; Kevin Walsh; ye603aco@gmail.com; Shawn Joyce
Subject: Town of Rye Selectmen Ordinances 35 & 36, Keeping Rye Town Forest Open During Covid 19 & Wildlife Protection

April 6, 2020

Board of Selectmen
Rye Conservation Commission
Town of Rye
10 Central Road
Rye, NH 03870

RE: Town of Rye Selectmen Ordinances 35 & 36, Keeping Rye Town Forest Open During Covid 19 & Wildlife Protection in Rye Town Forest

Dear BOS & RCC:

With the closing of all state and local beaches, the Rye Town Forest has become the go-to place for unleashed dogs from the surrounding seacoast communities, all of which have leash laws. We appreciate all that the Dogs at Large Committee, BOS and Rye PD have done and respectfully request the continued support of Town of Rye Selectmen Ordinances 35 & 36 ¹. We also respectfully request, with the number of unleashed dogs increasing, that the RCC & BOS immediately extend leash zones for the entire forest (same as Southeast Land Trust has done for all its conservation lands <https://seltnh.org/help-keep-selts-lands-open/>) at least through the entire green trail, through July 15, to protect wildlife during the nesting season for birds and deer as they are bedding down to give birth and raise fawns. The green trail and abutting private land have been historically identified as sensitive wildlife habitat in the past and current Forest Management Plans.

As support for our request for wildlife, please see page 41 of the new Rye Town Forest Management Plan ². It shows the Wildlife Action Plan Assessment where most of the Tier 1 & 2 habitat (highest ranks in NH) is along the green trail. Also please see Trails For People and Wildlife, *A Guide to Planning Trails that Allow People to Enjoy Nature and Wildlife to Thrive* ³, which was produced by highly respected wildlife biologists at NH Fish & Game along with folks from the US Fish and Wildlife Service, NH Audubon Society, Great Bay Resource Protection Partnership, etc. It is the go-to resource in NH as to best practices for trails and wildlife management and confirms that dogs be leashed in sensitive wildlife areas, especially during breeding seasons. Furthermore, it is against NH state laws to allow dogs to disturb wildlife and violates the spirit of the Conservation Easement that protects wildlife in the Rye Town Forest ⁴, as well as the 2003 Forest Management Plan ⁵. Given all the facts, we ask that the RCC & BOS be objective, do the right thing for wildlife, and protect the sensitive habitat area. We love dogs and they could still be walked on leash on the green trail. After Covid 19, they can also be walked off leash on the many other trails in the forest as well as Parsons Field. In short, everybody wins, people who do and do not like dogs, most importantly wildlife.

We respectfully request that RCC members King, Grote and Shepcaro be recused from any further discussion, decision or vote regarding the Rye Town Forest as they have lobbied against the recommendations of the Dogs at Large Committee, BOS and Rye citizens concerning the reasonable control of dogs, reasons why we

DRAFT MINUTES of the Board of Selectmen's Meeting 4/13/2020

continue to have to include the BOS in this plight. According to the Handbook for New Hampshire Municipal Conservation Commissions, a conflict of interest impairs the credibility of the commission and any vote could be declared void ⁵. We need to move past any personal use and relationships that condone the impact unleashed dogs have on other users of the forest as well the protection of wildlife. Had folks been reasonable and collaborative over the last few years, it would have saved everyone a lot of time, resources and writing of letters such as this. If necessary, we will reach out to wildlife professionals and advocates to address this matter further for the fairness of wildlife.

In closing, we are waiting for the RCC to conduct a public hearing for the new Forest Management Plan that was completed October 2019, five months ago. When that time comes, we will be in attendance as we have many questions. The most pressing of which is we do not understand why the RCC did not have a wildlife biologist co-author and sign the new plan as was done with the 2003 plan ⁵; and how the forester, unless influenced, could recommend using up to 1,600 ft (533 yds, the length of over five football fields) of fencing to be installed along the Tilton property (that is what the scale shows) and never address the use of leash zones ⁷. We have a hard time believing that any objective person or wildlife biologist would support the use of any fencing over leash zones to control dogs. We believe that Rye's taxpayers would not support the funding of fencing and the legal issues it could create.

We ask that this email be placed on the discussion items for the next public BOS meeting and that it also be included in that meeting's minutes that are sent out electronically as well as posted to the town's website. We ask the same of the RCC. In the past we have been met with dismissiveness and they have never made our letters to them public. We are hoping that will change in light of the facts and spirit of Fair Process and Transparency that is needed on Rye' Government. If you would like to discuss any of this and/or would like our help, please let us know.

Respectfully,

Shawn Joyce
PO Box 5
270 Washington Rd
Rye, NH 03870

David Tilton
390 Washington Rd
Rye, NH 03870

cc: Chief Kevin Walsh, Rye Police Department

References:

¹ Town of Rye Selectmen Ordinances 35 & 36:

https://www.town.rye.nh.us/sites/ryenh/files/uploads/35_bos_dog_leash_ordinance_town_forest.pdf

https://www.town.rye.nh.us/sites/ryenh/files/uploads/36_control_of_dog_ordinance.pdf

² Forest Management Plan for the Rye Town Forest Dated October 2019:

https://drive.google.com/file/d/16vGe3CjcR7_eHbCCs4DRsD9BZf3pOnkL/view

³ Trails For People and Wildlife, *A Guide to Planning Trails that Allow People to Enjoy Nature and Wildlife to Thrive*:

<https://wildlife.state.nh.us/trails/documents/trails-for-people-wildlife.pdf>

⁴ Page one of the Conservation Easement under Purposes: The purpose of this Conservation Easement is to assure that, while permitting the forest management and public recreation uses described in Section III herein, the Premise will retain IN PERPETUITY predominantly in its natural, scenic, undeveloped, and open condition as Town Forest for fish and wildlife conservation, habitat protection.

⁵ Page five, paragraph two of the Forest Management Plan for the Rye Town Forest dated July 11, 2003 and co-authored and signed by Wildlife Biologist & Forester Matthew D. Ross states: recreational activity must "not adversely affect the natural condition of the Premise. Page six refers to "reserve areas," "sections left

DRAFT MINUTES of the Board of Selectmen's Meeting 4/13/2020

permanently to the course of nature and generally free from human intervention. The Forest Management Plan for the Rye Town Forest. Page twelve notes wildlife habitat enhancement, high importance, protect and enhance wildlife habitat for species diversity.

⁶ Handbook for New Hampshire's Municipal Conservation Commissions, NH Association of Conservation Commissions by Marjory M. Swope. Chapter 2-page 2.4 *Conflict of interest*: Many conservation commission votes will be on recommendations to another body with decision-making power. A commission member with a conflict of interest who participates in a discussion or recommendation could impair the credibility of the commission. Also, a court could declare a vote void if a member with a conflict of interest participated in the decision, regardless of whether that person's vote affected the result (Winslow v. Holderness Planning Board, 125 NH).

Town meeting or city council may adopt an ordinance "defining and regulating conflicts of interest for local officers and employees, whether elected or appointed." (RSA 31 :39-a) If such a local ordinance exists, a conservation commission must comply with it. If no local ordinance exists, a commission must use as guidelines the standards for jurors contained in RSA 500-A: 12. A juror is not regarded as neutral if he or she would gain or lose as a result of the outcome of the case, is related to anyone involved, has advised or assisted either party, or has given or formed an opinion.

⁷ Pages 8, 29 & 30 of the Forest Management Plan for the Rye Town Forest Dated October 2019:

https://drive.google.com/file/d/16vGe3CjcR7_eHbCCs4DRsD9BZf3pOnkL/view