

**TOWN OF RYE – BOARD OF SELECTMEN**  
**Monday, February 10, 2020**  
**6:30 p.m. – Rye Town Hall**

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

*Others Present: Town Administrator Becky Bergeron*

**6:30 p.m.**

**I. CALL TO ORDER**

Chair Winslow called the meeting to order at 6:31 p.m.

**II. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (b) Hiring**

**At 6:31 p.m., Keriann Roman made a motion to go into Non-Public Session per RSA 91-A:3, II (b) Hiring. Seconded by Phil Winslow. Roll Call: Winslow – Yes, Roman – Yes, Epperson – Yes.**

**At 6:46 p.m., Keriann Roman made a motion to come out of Non-Public Session. Seconded by Phil Winslow. Roll Call: Winslow – Yes, Roman – Yes, Epperson – Yes.**

**7:00 a.m.**

**III. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chair Winslow called the meeting to order at 6:48 p.m.

**IV. ANNOUNCEMENTS**

Chair Winslow announced the following:

Voting for the Presidential Primary is February 11<sup>th</sup> at the Rye Elementary School from 8:00 a.m. – 7:00 p.m.

The Town Offices will be closed, Monday, February 17, for the Presidents' Day Holiday.

The next scheduled Selectmen's meeting will be Monday, March 2, 2020. There will not be a second Selectmen's meeting in February.

**V. PUBLIC COMMENT – (at the beginning of the meeting, for any comment by any Rye resident on any topic. Requested time limit, up to 5 minutes each person.)**

- **No public comments were heard.**

Public Works Director Dennis McCarthy announced that Daniel Barren, DPW Driver Operator, will be promoted to the vacant highway foreman position. Dan has been with the Rye DPW for three years.

**Motion by Keriann Roman to promote Daniel Barren to the position of highway foreman. Seconded by Bill Epperson. All in Favor.**

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

- A. Request from Nina Parrott to hand out flyers at the Transfer Station each Saturday starting 2/15 ending 3/7. Flyers to promote the passage of Article 10.
- B. DPW – Recycling Equipment Grant
- C. Chief Walsh – Event Permit Application: Annie's Angels. 5k Walk/Run & Duathlon, Sunday, 5/30/20, 8:00 a.m. - 11:00 a.m. to benefit Annie's Angels Memorial Fund Inc.
- D. Chief Walsh – Event Permit Application: American Lung Association. Cycle the Seacoast, Sunday, 5/30/20 7:00 a.m. – 3:00 p.m. to benefit American Lung Association.
- E. Chief Walsh – Event Permit Application: The Eastern States 20 Mile Road race, Sunday, March 29, 2020 11:00 a.m. - 1:30 p.m. to benefit various charities.

Chair Winslow reminded the Rye Town Center Committee that they can not advocate for the warrant article as a group. He recommended that no more than two people be passing out the flyers at any time.

Chair Winslow asked Chief Walsh if C, D, and E, are events that have been conducted in previous years.

Chief Walsh confirmed that they were.

**Motion by Keriann Roman to accept C, D, and E contingent upon Chief Walsh resolving insurance issues. Seconded by Bill Epperson. All in Favor.**

**Motion by Keriann Roman to recognize B and to thank the Public Works. Seconded by Phil Winslow. All in Favor.**

- Request from Nina Parrott to hand out flyers at the Transfer Station each Saturday starting 2/15 ending 3/7. Flyers to promote the passage of Article 10.

Vice Chair Roman stressed that she understands that the individuals that will be handing out the flyers will be members of the Rye Town Center Committee. However, it is important that they are there as individuals and not representing the Committee. Also, Vice Chair Roman recommended that the Town Administrator and one of the Selectman look at the flyer prior to them being handed out.

**Motion by Phil Winslow to accept Consent Agenda Item A. Seconded by Keriann Roman. All in favor.**

## **VII. DISCUSSION ITEMS**

- **None**

## **VIII. CORRESPONDENCE**

### **A. Email received from Shawn Joyce re: Use of Conservation Funds**

Selectman Epperson explained that Shawn Joyce had sent an email regarding his concerns of the use of Conservation Funds. The Board of Selectman had asked the Town Administrator to look at Mr. Joyce's concerns and respond to them. He added that as part of the Board of Selectmen, he does not know what happened ten to fifteen years ago, but this Board is as transparent as it could possible be.

Selectman Epperson read as follows:

**On behalf of the Board of Selectmen, I want to address some of Mr. Joyce's most pressing concerns:**

- 1. There continues to be a history of Conservation Funds being used to settle Town lawsuits, many Rye citizens do not know this.**

Mr. Joyce makes reference to the 2018 land purchase. The Town did not use Conservation authorization funding to "settle" a lawsuit. The \$400,000 paid out in 2018 was for the purchase of the 62-acre parcel of land in the Wellhead Protection Area adjacent to the endangered Atlantic White Cedar Forest. The land has considerable public access to vernal pools and wetlands, recreation opportunities and is in close proximity to the Cedar Run Well. Of the \$400,000 paid out, \$300,000 came from the Conservation Funds with the remaining \$100,000 coming from the unassigned fund balance. At the time this property became available, Conservation was already leveraging its funds for another sufficient purchase; therefore, requiring the use of unassigned fund balance to complete the transaction.

- 2. Although required, the RCC does not always get appraisals, land surveys and/or conducts public hearings for acquisitions.**

The Selectmen has developed a comprehensive "A through Q" check list that pertains to all land that is acquired by the Conservation Commission. All the requirements must be met before the Board may authorize the purchase of the land. The only way that the requirements are exempted is by majority vote of the Selectmen. The Conservation Commission does not act independently and in all cases must receive approval from the Selectmen in order to pursue land acquisition.

- 3. The lack of appraisals, land surveys, and public hearings have resulted in the use of funds that may not be supported by tax payers, over-payments for land that has little or no**

**development potential, and easements that have no value or lack adequate access to conservation land.**

Conservation land is acquired for a variety of reasons. It is true that not all the parcels have public access or development potential, but they always have a conservation value for the Town of Rye. For example, the property recently acquired at 0 Wayne Street is a parcel of limited access. However, it is a property located in the High Priority Protection Area and abuts other conservation parcels. This parcel has an assessed value of \$37,500 and was acquired for \$10,000.

**4. The RCC files are disorganized. In some cases, the files cannot be found and important information is missing such as appraisals, land surveys, easements, final signed documents and related purchases and sales, etc.**

Conservation Commission volunteers are currently in the process of reorganizing their files. This is an ongoing project and there is still much work to be done. It is important to remember that no other commission or committee has as much required paperwork to manage with no paid staff or support. Despite that fact, all original surveys, easements, purchases and sales agreements and print documents are housed at the Town Hall or at the Public Safety Building in the archives. Any public documents are available for public inspection, in accordance with the "Right-to-Know" guidelines.

**5. There is no fair process for Rye residents to be considered to serve as an RCC member.**

In June of 2017, the Board of Selectmen adopted a policy establishing general rules of procedure for boards, committees and commissions. This policy outlines the proper procedure for residents seeking appointment or reappointment as a member or alternate to a committee. To summarize the process, the resident must submit a letter of interest to the Board of Selectmen. The Board of Selectmen in turn request a letter of recommendation from the committee, board or commission, stating that request has been considered and recommended by a vote of the full-body. The Selectmen will make the appointment during a public meeting. Members and terms are a matter of public record. The current Conservation Commission has three members that have served more than ten years. Two members have served eight years. Two members have served less than five years and two alternates have served less than one year. Coupled with their vast professional and educational experience, this is the exact diversity that best serves the Town of Rye.

**6. The RCC has no By-Laws.**

On January 14, 2020, the Board of Selectmen sent a letter to the chairs of all boards, commissions and committees requesting that they adopt by-laws. The Board will be requesting periodic updates on the process and will report the same at public meetings.

Vice Chair Roman stressed that this Board was not in place five years ago and is working very hard to do as much as they can in the public. There are some things that they just can not do, due to the nature of the issue.

**Mike Garvan, 220 Washington Road and Member of the Conservation Commission**, thanked the Board of Selectmen for such a comprehensive and precise letter. For the record, Mr. Garvan noted that he responded to the accusation in Mr. Joyce's email that some deals benefit individuals. Mr. Garvan stated that for public record he wants to make it clear that no Conservation Commission Member has ever

benefited financially or personally from any activity of the commission. Mr. Garvan suggested that Mr. Joyce be more careful about making unfounded public accusations that slander members of the Commission.

## **IX. NEW BUSINESS**

Chair Winslow stated that the Board has the Certified Government Grant application from the Historic District Commission. There is \$8,000 in the budget for the project match and the grant will be \$12,000.

Chair Winslow asked David Choate, from the Historic District Commission, if he had any comments.

Mr. Choate stated that the commission would like the Board to sign the application this evening so that they can get it submitted. The deadline is Friday. He added that there have been questions as to what will happen if it does not get voted in. Mr. Choate stated that the commission would just withdraw the application if that happens. Then they will try to privately fundraise the money.

**Motion by Keriann Roman to authorize the Chair of the Board of Selectmen to sign the CLG grant application. Seconded by Bill Epperson. All in Favor.**

Administrator Bergeron stated that the application is ready to be signed this evening and it will be sent by overnight mail tomorrow.

## **X. OLD BUSINESS**

- None

## **XI. OTHER BUSINESS**

Chair Winslow reported that he asked Joanne in assessing for a map showing all town and conservation owned property. She has provided a color-coded map showing the different parcels. This will be in Administrator Bergeron's office. He suggested that it may be of some help in the cell tower research project.

Vice Chair Roman stated that she will notify Mr. Kalet.

### **A. Meeting Minutes**

1. Meeting, Monday, December 23, 2019, 6:00 p.m., Town Hall

The following correct was noted:

- Page 3, first line reads: Mike Garvan, Conservation Commission Member, stated that in Mr. Joyce's letter he says; "RCC leadership continues to be allowed to ~~shake~~ the membership".
- It should read: Mike Garvan, Conservation Commission Member, stated that in Mr. Joyce's letter he says; "RCC leadership continues to be allowed to shape the membership".

**Motion by Keriann Roman to approve the December 23, 2019 meeting minutes as amended. Seconded by Phil Winslow. All in Favor.**

2. Non-Public Session, Monday, December 23, 2019 (1) Per RSA 91-A:3, II (a) Personnel

**Motion by Phil Winslow to approve the minutes of the non-public session of December 23, 2019 Per RSA 91-A:3, II (a) Personnel as written. Seconded by Bill Epperson. All in Favor.**

Meeting, Monday, January 13, 2020, 5:30 p.m., Town Hall

Chair Winslow made the following observation:

- Page 5, The Board agreed that this would be a great idea, but who will be paying for it. The Perkins Road intersection survey will be costing \$44,000.

The budget for this project is \$50,000.

The following correct was noted:

- Page 5, Motion by Keriann Roman read: **Motion by Keriann Roman to accept agenda item C as read, received and ~~consisted~~. Seconded by Bill Epperson. All in Favor.**
- It should read: The following correct was noted: **Motion by Keriann Roman to accept agenda item C as read, received and considered. Seconded by Bill Epperson. All in Favor.**

**Motion by Phil Winslow to approve the January 13, 2020 meeting minutes as amended. Seconded by Keriann Roman. All in Favor.**

3. Non-Public Session, Monday, January 13, 2020 (1) Per RSA 91-A:2, I (b) Collective Bargaining

**Motion by Phil Winslow to approve the minutes of the non-public session of January 13, 2020, Per RSA 91-A:2, I (b) Collective Bargaining as written. Seconded by Bill Epperson. All in Favor.**

4. Non-Public Session, Monday, January 13, 2020 (1) Per RSA 91-A:3, II (c) Reputation

**Motion by Phil Winslow to approve the minutes of the non-public session of January 13, 2020, per RSA 91-A:3, II (c) Reputation, as written and to not seal these minutes. Seconded by Keriann Roman. All in Favor.**

5. Meeting, Thursday, January 23, 2020, 5:30 p.m., Town Hall

**Motion by Phil Winslow to approve the minutes of the January 23, 2020 Budget Work Session as written. Seconded by Keriann Roman. All in Favor.**

6. Meeting, Monday, January 27, 2020, 6:45 p.m., Town Hall

**Motion by Phil Winslow to approve the January 23, 2020 meeting minutes as written. Seconded by Keriann Roman. All in Favor.**

7. Non-Public Session, Monday, January 27, 2020 (1) Per RSA 91-A:3, II (b) Hiring

**Motion by Phil Winslow to approve the minutes of the non-public session of January 27, 2020, per RSA 91-A:3, II (b) Hiring as written. Seconded by Bill Epperson. All in Favor.**

Vice Chair Roman asked how the website project was going.

Administrator Bergeron reported that she will be meeting with Rockport tomorrow.

### **ADJOURNMENT**

**Motion by Bill Epperson to adjourn at 7:11 p.m. Seconded by Keriann Roman. All in Favor.**

Respectfully Submitted,  
Dyana F. Ledger,

**Katelyn Drago**

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**From:** sjoycemail@comcast.net  
**Sent:** Saturday, February 1, 2020 9:04 AM  
**To:** selectmen  
**Cc:** Katelyn Drago  
**Subject:** Use of Conservation Funds - Fair Process and Transparency within Rye's Government

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

Dear Board of Selectmen:

I read the 1/13/20 BOS meeting minutes regarding the ***Rye Conservation Commission request for a Warrant article seeking an additional \$3,000,000 from Rye taxpayers to add to the \$1,400,000 the RCC still has in the bank.*** I thought of the late ***Peter Crawford (well respected Rye resident) and his concerns regarding the use of conservation funds as well as fair process and transparency within Rye's government and the RCC.*** He attended most BOS and RCC meetings for years and did thorough research. These are a few examples that outline his concerns.

<https://ryecivicleague.org/?p=1555>

<https://www.seacoastonline.com/news/20181008/dont-be-misled-by-new-rye-cell-tower-process>

In the first letter, he provides detailed examples on page two. In the second letter, last paragraph, he speaks of public meeting laws which must not be subverted by hiding deliberations and decisions from public scrutiny. He gives an example of how the town negotiated a settlement overturning the Planning Board's unanimous denial of a 17-lot subdivision off South Road. The deal channeled \$400,000 to the developer without any town vote, and the developer still got the subdivision. It also enabled a selectman and her sister (through their trust) to sell their land to the developer for \$1.8 million. **To date, none of the following issues have been resolved:**

- ***There continues to be a history of conservation funds being used to settle town lawsuits. Many Rye citizens do not know this.*** It needs to be made clear to the public in the warrant article or there needs to be a mechanism to ensure that does not continue to occur.
- ***Although required, the RCC does not always get appraisals, land surveys and/or conducts 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.
- ***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 members home, they cannot find them, etc.
- ***There is no fair process for Rye residents to be considered to serve as an RCC member.*** A number of RCC members have dominated the commission for years and no one will disclose how many terms they have served. When members' three-year terms are up, the BOS just reappoints them 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 members who may have stronger experience and skill sets that would benefit the town and all its citizens.
- ***The RCC 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.***

***I, like the majority of Rye residents, support land conservation and its funding. However, until the above issues are resolved, I will not be voting in favor of an additional \$3,000,000.*** Taxpayers work hard for their money and expect that it be used wisely for its intended purpose with transparent and well-documented processes. ***Hopefully, the BOS and RCC will meaningfully address these longstanding issues in the best interest of all citizens of Rye so they can support funding.***



DRAFT MINUTES of the Board of Selectmen's Meeting 2/10/20

Respectfully - Shawn

Shawn Joyce  
PO Box 5  
Rye NH 03870