

TOWN OF RYE - BOARD OF SELECTMEN

**Monday, May 13, 2019
5:30 p.m. – Rye Town Hall**

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

Others Present: Town Administrator Michael Magnant and Finance Director/Assistant Town Administrator Becky Bergeron

I. CALL TO ORDER

Chair Winslow Called the meeting to order at 5:30 p.m.

**II. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (a) Personal
(2) per RSA 91-A:3, II (d) Acquisition**

At 5:30 p.m., Keriann Roman made a motion to go into Non-Public Session per RSA 91-A:3 II (a) Personnel. Seconded by Phil Winslow. Roll Call: Winslow – Yes, Roman – Yes, Epperson - Yes

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

At 6:40 p.m., Keriann Roman made a motion to go into Non-Public Session per RSA 91-A:3 II (d) Acquisition. Seconded by Phil Winslow. Roll Call: Winslow – Yes, Roman – Yes, Epperson – Yes.

At 6:58 p.m., Phil Winslow made a motion to come out of Non-Public Session. Seconded by Keriann Roman. Roll Call: Winslow – Yes, Roman – Yes, Epperson - Yes.

6:30 p.m. RECONVENE PUBLIC MEETING

III. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chair Winslow Called the meeting to order and led the pledge of allegiance at 7:03 p.m.

IV. ANNOUNCEMENTS

Chair Winslow made the following announcements:

A. Town Offices will be closed Memorial Day, Monday May 27, 2019

B. Memorial Day Ceremony, Central Cemetery, Monday, May 27, 2019, 9:00 a.m.

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- C. The Town Plan NH Charrette will be taking place on May 31st and June 1st, at the Rye Junior High School. There will be two listening sessions where the residents are asked to make any comments or suggestions regarding the town center.

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

Wyatt Davis of 420 Center Road commented about the lights on the new bathhouse at Jenness State Beach. He noted that the lights light up the whole beach and are extremely bright. He pointed out that the lights at North Hampton have half covers, which provide sufficient lighting.

Chair Winslow stated that when the design was being done, they talked about lighting and requested “dark sky lighting” where possible. He stated that he was not sure if that was followed through on.

Mr. Davis stated that he is a member of the New Hampshire Astronomical Society and he would be happy to follow up on this.

The Board agreed to have Mr. Davis do the follow-up.

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

- A. Chief Walsh – Event Permit Application: Alzheimer’s Association, Ride to End Alzheimer’s, Saturday, 6/22/19, 4:00 – 5:00 p.m.
- B. Chief Walsh – Event Permit Application: Community School Partners, Race to Educate, Sunday, 5/26/19, 1:30 – 2:30 p.m.
- C. Sign request: First of Pulpit Rock Tower, Inc. for a sign at Parsons Field announcing public tours of Pulpit Rock Tower on Monday, 5/27/19, 10:00 a.m. – 2:00 p.m. The sign is requested from Monday, 5/20/19 to Monday, 5/27/19
- D. Sign Request: Plan NH Charrette Group for a sign at Parsons Field announcing their Listening Circles 5/31/19. The sign is requested from 5/24/19 to 5/31/19.
- E. Appointment: Conservation Commission – 3 Year Term 4/1/19 - 4/1/22
 - 1. Karen Oliver: Requests appointment as an alternate member, letter rec’d 3/22/19
 - 2. Recommendation letter rec’d 5/10/19 from Sally King, chair
- F. Appointment: Conservation Commission – 1 Year Term 4/1/19 - 4/1/20
 - 1. Danna Truslow: Requests appointment as an alternate member, letter rec’d 4/8/19
 - 2. Recommendation letter rec’d 5/10/19 from Sally King, Chair.
- G. Appointment: Recycling Education Committee – 1 Year Term until 4/1/20
 - 1. Wyatt Davis: Requests appointment as a member, letter rec’d 5/8/19
 - 2. Recommendation letter rec’d 5/9/19 from John Provencher, Chair

Motion by Phil Winslow to approve and move Consent Agenda Items A through F as presented, and to pull Item G.

Vice Chair Roman asked to pull Item B.

Motion by Phil Winslow to approve and move Consent Agenda Items A through F as presented, excluding Item B. Seconded by Keriann Roman. All in favor.

Chair Winslow stated that there was a last minute request from Brownie Troop 59217 to sell Girl Scout cookies at Rye Transfer Station on May 18th from 1:00 to 3:00 p.m.

Motion by Keriann Roman to approve the Brownie Troop request. Seconded by Phil Winslow. All in favor.

Vice-Chair Roman, asked Chief Walsh if he foresees any problems with this event because it is on Memorial Day weekend from 1:30 to 2:30 at the height of the traffic.

Chief Walsh stated that it will be on Wentworth Road and it has been successful in prior years. It is all weather related and things have always gone smooth. He assured the Board that he will be around and keeping an eye on the event. He does not foresee any problems.

Motion by Keriann Roman to approve Consent Item B as presented. Seconded by Phil Winslow. All in favor.

Chair Winslow asked Mr. Davis to tell the Board a little about his back ground and his interest in the Recycling Education Committee.

Mr. Davis stated that he has lived in Rye for eighteen months. His father-in-law, Steve Clarkson grew up in Rye. Mr. Davis has been bringing his family to Rye for vacations for over sixteen years. He added that he is an avid recycler and is very appreciative of the Recycling Center and their service. He was looking on the Town website for opportunities to get involved with the community. He has attended one meeting and is scheduled to meet with Rick at the Transfer Station to learn more of what is being done. He feels that as he gains appreciation of what the Committee is already doing, he would be interested in doing some recognition programs for individual recycling incentives. He summed up by saying that he is here to learn and to help.

Chair Winslow welcomed Mr. Davis.

Vice Chair Roman stated that the Board is interested in having the Recycling Education Committee do an out-reach program regarding the decline in the recycling market and what other things could be done; like using less plastic and using the compost program.

Motion by Keriann Roman to approve Wyatt Davis as a member of the Recycling Education Committee. Seconded by Phil Winslow. All in favor.

VII. DISCUSSION ITEMS

A. PUBLIC HEARING: LEASH ORDINANCE

The purpose of the Hearing is to consider the approval and adoption of the *Town of Rye Town Forest Leash Ordinance*. This is a Selectmen's ordinance. The purpose of the ordinance is to assure that dogs are to be leashed in certain areas in the Rye Town Forest.

Chair Winslow stated that he walked the Town Forest last week and again today. He felt that just continuing the ordinance as previously stated is the appropriate way to mediate the issues of having dogs on town properties.

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Vice Chair Roman agreed and is in support of it as well. She added that she has heard some feed-back from Conservation and property owners that it has improved things, while some property owners still feel that more needs to be done. She asked if the Board had agreed to keep the small area at the cemetery entrance.

Chair Winslow confirmed.

Chair Winslow opened the Public Hearing at 7:14 p.m.

- **Shawn Joyce of 270 Washington Road**, stated that he and Mr. Tilton had asked the Board of Selectmen to apply the temporary leash ordinance zone to the entire Green Trail, until an independent wildlife biologist is retained and reports on the impact the dogs are having on the wildlife habitat in the Forest and the abutting properties. The Green Trail has historically been identified as a sensitive wildlife habitat in the Forest Management Plan dated July 11, 2003, by wildlife biologist enforcer, Mathew Ross. Mr. Joyce stated that he understands that the Conservation Commission is in the process of updating the Forest Management Plan; however, there has been no mention of the inclusion of a wildlife biologist in the update plan. He and Mr. Tilton watched the video of the Conservation Commission's meeting of April 11th. He pointed out that the Commission believes that things are working and progressing properly; however, he and Mr. Tilton do not believe that is true. He pointed out that during that meeting only four of the Conservation members actively discussed the leash zone in the Forest Management Plan to update the new plan; three of which, are open members of ROMP and publicly lobbied against leash control of dogs, in the Town Forest (Article 28). Mr. Joyce added that they had hoped that Article 28 would have passed at Town Election and the need for Ordinance 35 would have gone away and Rye citizens would have had protection from out-of-control dogs. He pointed out that Article 28 missed by 71 votes. It was a great disappointment that the RCC members lobbied against Article 28 and the recommendations of the "Dog at Large" Committee. He summed up by stating that this adds to the history of why they don't feel that they are being supported by the Board in this matter. They do not believe it was ethical that the Rye Conservation Commission has not consulted a wildlife biologist and is just able to suggest changes that shape the new Forest Management Plan, before it is revealed to the public and specially before there is any public meeting. The changes that some of the RCC members want to see, downplays the impact that unleashed dogs at large have on habitat, wildlife, abutting properties and citizens that walk in the forest. He stated that he understands that the RCC's leadership is personal against the requirement that dogs be leashed on the Green Trail because they like to walk their dogs there. However, it is not fair to continue to condone the impact that the dogs at large have on the Forest wildlife habitat and the green area that abuts their properties.

(Read by Shawn Joyce)

An email from Mr. David Tilton stated that he met with a forester last week regarding his tree farm recertification. He talked to him about the town trails destroying the habitat on his property. According to New Hampshire Wildlife Biologist, Brendan Clifford, who was quoted in the Portsmouth Herald on 3/18/19 on the number running at large in the Town Forest; Repeated behavior like that will flush the wildlife out of the area and deter the wildlife in the area. This is not natural to do this and animals will act diversely. There is typically no wildlife in them and they are certainly not going to attract wildlife. Dogs chasing wildlife think that it is playful but it stresses the animals. For the record, we had Conservation Officer, Jeremy Hawks, come to the property after we had witnessed wildlife being chased through our property numerous times. He stated that the way to solve this is to have a leash law in the Town Forest. In all respect, the RCC has no written policy on habitat and wildlife protection, deterring the dogs at large from running deer, bedding areas and nesting birds and turkeys. It is against State laws and should not be condoned. It violates the spirit of the Conservation easement that protects the Town Forest and the recommendations of the Forest Management Plan. In summary, we love dogs. We believe it is fair to have leashed areas that protect the forest, habitat wildlife, abutter's property and people that don't want to be jumped on. He asked that the Board of Selectmen extend the leash zone to the entire Green Trail that has

historically been designated as a wildlife area in the Town Forest, at least until an independent wildlife biologist has been engaged by the Town and has reported to the effects on the wildlife. To not have a wildlife biologist involved in updating this plan is not reasonable.

A copy of both documents will be included in the electronic posting of this meeting.

- **Sally King of 535 Wallis Road and Chair of the Conservation Commission**, clarified that there is a Forest Management Plan that is almost completed. There will be a public hearing for the public to weigh-in and talk to the Forester, Charlie Mareno. She added that she is very familiar with the Town Forest because she used to walk there every day with her dogs; however, she doesn't walk there anymore because she is not comfortable walking in an area with her dogs where there are baited traps.
- **Susan Shepcaro of 45 Recreation Road and member of the Conservation Commission**, asked for clarification as to what the public hearing is about. She also pointed out that right now even if there was an Animal Control Officer the ordinance could not be enforced because the old ordinance has expired. The signs are there but there is no ordinance in effect.

Chair Winslow stated that the hearing is about the current leash ordinance.

Vice Chair Roman explained that at the last meeting it was decided that if after hearing the feed-back from this public hearing, the Board decided to include the entire Green Trail, there would have to be another public hearing. The hearing tonight is what is purposed as just a portion of the Green Trail.

Chair Winslow stated that the Board needs to make a decision to improve the situation. This does not preclude further discussion for additional solutions being put in place to broaden the ordinance. He added that Ms. Shepcaro's point was well taken. If there is no enforcement, all the rules that are made are useless.

Susan Shepcaro stated that the Conservation Commission and Forester Marino are very conscience of the wildlife in the Forest and are very close to completing the update to the Forest Management Plan.

Vice Chair Roman stated that the Board's job is to protect the entire Town as much as possible. She asked why the commission would not include the Green Trail.

Ms. Shepcaro stated that the Green Trail is not as close to private property as the other trails and there is a lot less traffic on that trail than the other trails because it is longer and takes more of a commitment to walk it. Therefore, the Commission has not felt the need to include it in the leash zone.

Mr. Joyce disagreed, pointing out that Charlie Mareno is a forester and not a wildlife biologist. Matthew Ross who co-wrote the 2003 Forest Management Plan, is a wildlife biologist and is not being consulted in the updated plan. The wildlife is being run out. This is a protected conservation area that is not being protected because the dogs are allowed to override common sense.

Chair Winslow asked if Mr. Joyce could not then make the same argument of the rest of the Town Forest.

Mr. Joyce stated that the Green Area should be the protected area. He stressed this isn't an abutter issue it is a wildlife issue.

Ms. King pointed out that things have changed in Rye. It has changed because of time, use and development. That is why they are updating the Forest Management Plan. The Green Trail is much less populated than the upper area, where there is a leash restriction. The wildlife is certainly a concern of Conservation. There are other areas in

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Town that the wildlife has migrated to because of the use of the Town Forest. The Conservation Commission is very committed to protecting the Town Forest.

Vice Chair Roman asked if the Conservation Commission would agree to hire a wildlife biologist.

Ms. King agreed and stated that she would reach out to Charlie Mareno for recommendations.

Without further comments from the public, Chair Winslow closed the public comment section of the meeting at 7:39 p.m.

The Board decided to enact the ordinance as written, in order to allow for enforcement. The Board asked the Conservation Commission to move forward with hiring a wildlife biologist.

Vice Chair Roman stated that come budget season, the Board needs to take a look at hiring a full-time Animal Control Officer. There is certainly enough work for this position.

Motion by Phil Winslow to reinstate Ordinance 35 as written, effective immediately. Seconded by Keriann Roman. All in favor.

- B. Paul Chase, 1306 Ocean Blvd. requests permission for beach access for an excavator to reset some rocks in front of his home.

Mr. Chase explained that the rocks have shifted from the storms this past winter and need to be moved back into place. The excavator will be parked in the access road across the street from Petey's.

The Board told Mr. Chase that he has to get a permit from Eben Lewis at DES.

Building Inspector Rowell stated that Mr. Chase needs to touch base with DES and he can get an expedited permit.

Motion by Phil Winslow to approve Mr. Chase's request, conditioned upon Mr. Chase getting approval from DES. Seconded by Bill Epperson. All in favor.

- C. Chris and Mary Papoutsy, 2234 Ocean Blvd. requests permission for Gregg Bauer to access the beach with equipment to pull sand from the seawall in front of their property.

Mr. Papoutsy addressed the Board.

Chair Winslow reviewed the request. Mr. Bauer has done this same repair in past years. The access will be from F Street with wooden planks for a rubber-wheeled front-end loader to go onto the beach. Mr. Bauer has not set a date for the work yet.

Town Administrator Magnant also pointed out that Mr. Bauer is looking for permission to do three other property repairs accessing from F Street.

The Board agreed that the deadline for the work to be done should be by the 31st of May and not on the weekends.

Motion by Phil Winslow to approve Mr. Papoutsy's request and the work Mr. Bauer will be doing at 19, 15, and 11 F Street, conditioned upon the work being completed by May 31st and not done on weekends. Seconded by Bill Epperson. All in favor.

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D. Bryce Shultz, UNH – Presentation of their review of permitting programs for building, planning and zoning. 15 Minutes

Town Administrator Magnant reminded the Board that there is money allocated in the budget for permit, planning and zoning software. He told the Board that the problem the staff has been having is finding the time to research the products. In December, they reached out to UNH and the Town put in a proposal that was accepted. Mr. Magnant, Planning Administrator Kim Reed, Building Inspector Peter Rowell and Finance Director Becky Bergeron have been meeting with the UNH group for the last couple of months and they are ready to give their presentation to the Board this evening.

Mr. Bryce Shultz noted that they are a group of information systems and business analytic students from UNH. For their final project, they worked on finding a software program that may make the internal and external permitting program of Rye more efficient overall.

The UNH team explained their process:

- Gathering the facts - What are the challenges? What are the needs and goals?
- Research - Connecting other towns in New Hampshire and Massachusetts. What do they use for software, if any?
- Locating and Testing Software - Demos from six vendors. References from other towns. Gathering quotes for the Vendors.
- Creating a Matrix of the findings in order to come up with a recommendation.

After the process the software was divided into two different categories; high quality and cost friendly. The UNH team explained the pros and cons of their top choices. Muncity5 is at the higher end. It is easy to use, more robust, and very customizable. It is used by Lebanon, NH and Natick, MA. Both towns spoke very highly of the product. MyGov is a lower cost product that met the success criteria at the minimum level. Customer support was very good with MyGov but there were a lot of improvements the team would like to see with MyGov.

Reviewing the costs of the two products, Muncity5 costs more initially but the annual costs are comparable between the two products. The UNH team believes that the higher implementation costs of Muncity5 could help out in the long term as Rye has a limited technology department. Frontloading the costs could avoid problems in the future. As such, the UNH team is recommending Muncity5. Next steps would be to discuss the final two software's, negotiate with Muncity5 to see if they can lower the frontend implementation costs, and work with the software company to fully implement the product (2 to 4-month implementation period).

E. Chief Walsh – 2019 Beach Permit Applications 10 Minutes

1. Kathryn Londoff of Gyrotonic Seacoast

Chief Walsh stated that this application is conditioned on Kathryn being the only instructor for insurance purposes. This will be in writing on the approval form.

Motion by Keriann Roman to approve the permit application from Kathryn Londoff of Gyrotonic Seacoast. Seconded by Phil Winslow. All in favor.

2. Portsmouth Paddle Company

Chair Walsh stated that everything is in order, except for the insurance. The insurance will be available on Wednesday.

Motion by Keriann Roman to approve, conditioned upon the insurance being provided to the Police Department by Friday, May 17th. Seconded by Bill Epperson. All in favor.

3. Summer Sessions Surf Shop

Motion by Phil Winslow to approve, with parking enforcement and that the instructors are aware of other beach-goers on the beach during exercise periods. Seconded by Keriann Roman. All in favor.

F. Peter Rowell, Building Inspector – Building Dept. Office Space Layout

Mr. Rowell sent the Board a brief memo and floor plan of the changes to the office. He explained that he is trying to limit the traffic in the building assistance's area of the office. It is just a matter of the building inspector and the building assistant exchanging spaces and moving the furniture and counter around. The work will be done within the next couple of weeks.

The Board agreed to the plan.

G. Removal of old telephone poles after they have been replaced

Mr. Mark Fisher of 480 Wallis Road explained to the Board that he has been noticing that during 2018 new telephone poles have been placed along Wallis Road. Over the last two months, Eversource has been moving their lines from the old poles onto the new poles. Mr. Fisher asked a member of the construction crew when the old poles will be taken down. The crew member stated that Eversource does not own the poles. The poles belong to FairPoint and there are still communication lines on the old poles. In Portsmouth, the old abandon poles have been standing for over two years. Mr. Fisher sent an email to State Rep Kate Murray who turned it over to Jaci Grote. Ms. Grote reached out to the PUC that stated that this is an ongoing statewide problem. Mr. Fisher recommended putting forth a bill requiring these companies to take down the abandoned poles in a timely manner. Massachusetts has a law that sets a timeframe and a fine if not complied with.

Chair Winslow pointed out that this is a two-part process. First, is to see if Jaci and the State can do something long-term to get regulations in place. The second part is more immediate to the Town.

Ms. Grote stated that she called the Public Utilities Corporation. The name of the company that owns the poles is Consolidated Communications Company. PUC is contacting Consolidated Communications. Ms. Grote promised to follow through to make sure that CCC responds to the Town and takes care of this issue. She also stated that she will be happy to follow up in writing a bill; however, it will not be looked at until next season, as the legislative session is done for the year.

Chair Winslow asked Town Administrator Magnant to follow-up on this issue and to keep the Board updated on the progress.

H. Cell Tower Committee Charge

Chair Winslow read the purposed charge as follows:

Rye Telecommunication Infrastructure Committee Charge

The committee is charged with developing a plan to investigate and identify types of telecommunications infrastructure which will illuminate basic text and voice cellular dead spots throughout the Town of Rye. The

plan will identify and rank potential locations for such infrastructure, listing pros and cons, and identifying specific town actions that will ease the burden for infrastructure approvals, deployment and maintenance. The committee will be assisted by a Telecommunications Consultant hired by the Town. The committee will consist of not more than five members and shall be appointed by the Board of Selectmen for an initial term ending on September 30, 2019. The committee will present their recommendations at a Selectmen's meeting. Staff members may be appointed as non-voting members of the committee. It is the Selectmen's intent to sunset this committee at the completion of this charge, unless the Selectmen vote to continue this committee. The Rye Telecommunication Infrastructure Committee shall follow the rules of procedure. This committee is established by the Board of Selectmen.

Motion by Keriann Roman to accept the charge as written and to advertise on the town's web-site for individuals interested in serving on the committee. Seconded by Phil Winslow. All in favor.

I. Subordination Agreements for Cell Tower Access Easements

Vice Chair Roman explained that the proposed cell tower site off Port and Star Board Way is a several step process. One of which is to gain access to the site. This requires easements across private property. If these properties have mortgages on them, the Town has to get the mortgage companies agreement to the easement. The subordination agreements are entered into by the property owners, the Town and the mortgage companies. There are three currently needed and Verizon is looking at a possible fourth. She recommended that two of them need minor edits and one is ready to be signed. She suggested approving all three, in order to continue moving forward.

Motion by Keriann Roman to approve the three subordination and non-disturbance agreements that have been signed by Arik Jones, Thomas and Deborah Gosselin, and Kevin and Stephen Knapp, and their respective lenders. Also, to authorize the signature of the agreement signed by Arik Jones and Northeast Federal Credit Union, and to authorize the Selectmen to sign in the future, the agreements with the Gosselins and the Knapps, when typographical errors are corrected, and further to authorize the Selectmen to sign in the future a similar agreement with Arik Jones and Mortgage Electronics Systems, Inc., MESI, when that agreement is received. Seconded by Phil Winslow. All in favor.

J. Meeting Minutes

Motion by Keriann Roman to seal the non-public minutes from the meeting earlier with the Conservation Commission per RSA 91-A:3, II (d), Acquisition, because not sealing them may render the purposed action ineffective, until such actions are mute or completed. Seconded by Phil Winslow. All in favor.

1. Meeting, Friday, April 26, 2019, 4:00 p.m., Town Hall

The following correction were noted:

Page 2; 6th paragraph reads; Chair Winslow commented that they are talking about 100-120 people with ~~setting~~ inside the barn for 40 and the rest outside. It should read; Chair Winslow commented that they are talking about 100-120 people with seating inside the barn for 40 and the rest outside.

Motion by Phil Winslow to accept the minutes of April 26, 2019 as amended. Seconded by Keriann Roman. All in favor.

2. Meeting, Monday, April, 29, 2019, 6:30 p.m. Town Hall

Motion by Phil Winslow to accept the minutes of April 29, 2019 as written. Seconded by Keriann Roman. All in favor.

3. Meeting, Monday, May 6, 2019, 5:00 p.m., Town Hall

Motion by Phil Winslow to accept the minutes of May 6, 2019 as written. Seconded by Keriann Roman. All in favor.

4. Non-Public Session, Monday, May 6, 2019 (1) Per RSA 91-A:3, II (b) Hiring

Motion by Phil Winslow to accept the minutes of the non-public session of May 6, 2019 Per RSA 91-A:3, II (b), Hiring, per RSA 91-A:3, II as written. Seconded by Keriann Roman. All in favor.

5. Non-Public Session, Monday, May 6, 2019 (2) Per RSA 91-A:3, II (c) Reputation

Motion by Phil Winslow to accept the minutes of the non-public session of May 6, 2019 Per RSA 91-A:3, II (c), Reputation, as written. Seconded by Keriann Roman. All in favor.

Motion by Keriann Roman to seal the non-public minutes per RSA 91-A:3, II (b), Hiring, because not sealing them may render the purposed action ineffective, until such actions are mute or completed. Seconded by Phil Winslow. All in favor.

Motion by Keriann Roman to seal the non-public minutes per RSA 91-A:3, II (c) Reputation. Seconded by Phil Winslow. All in favor.

VIII. CORRESPONDENCE

- A letter was received from Karlotta Shanahan of 37 Mountain View Terrace regarding the safety and appearance of the port-a-potties on Cable Road.

Public Works Director Dennis McCarthy stated that he will look into stabilizing the units so that they do not rock, adding a step to the unit for access and installing a handlebar for handicap assistance.

Town Administrator Magnant will respond to Ms. Shanahan.

IX. NEW BUSINESS

Public Works Director Dennis McCarthy announced that on June 5th the State will be dedicating the Public Works Memorial to public works employees who have lost their lives in the line of duty. They are requesting that all public works departments send a piece of equipment (one of their newer, better trucks) to the ceremony. Mr. McCarthy requested permission from the Board to send a truck. He pointed out that one of Rye's Public Works employee's father is listed on the monument. The monument is in Concord at the Morton Building Public Works Facility.

The Board agreed to send the truck.

Chair Winslow stated that Senator Tom Sherman spoke to him regarding a landscaping company in Rye that is using water from Berry's Brook in order to do their hydro-seeding. They are often hydro-seeding over areas where there are wells. The concern is the PFOA and PAF levels in the water.

Town Administrator Magnant stated that there was water testing in 2017 by CMA Engineers on the surface water at Berry's Brook at Lange Road and Sagamore Road, Cedar Swamp Run at West Road, West Creek at Sagamore Road, Bracket Road and Clark Road and Long John Marsh at Bracket Road. Berry's Brook had very low (single

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digit) numbers. At a minimum, the Town should ask the individual to stop using the water. There is not a State law prohibiting this.

The Board agreed with asking the individual to stop the practice, because it just doesn't seem right; however, they question their authority to monitor and regulate this.

X. OLD BUSINESS – None

XI. OTHER BUSINESS – None

Motion by Keriann Roman to Adjourn the Public Session at 9:00 p.m. Seconded by Phil Winslow. All in Favor.

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

At 9:00 p.m., Keriann Roman made a motion to go into Non-Public Session per RSA 91-A:3 II (a) Personnel. Seconded by Phil Winslow. Roll Call: Winslow – Yes, Roman – Yes, Epperson - Yes

At 10:38 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.

Motion by Keriann Roman to seal the minutes from the non-public meeting earlier per RSA 91-A:3, II (a), Personnel and to seal the minutes of the non-public session just concluded. Seconded by Phil Winslow. All in favor.

Motion by Keriann Roman to adjourn at 10:40 p.m. Seconded by Bill Epperson. All in Favor.

ADJOURNMENT

Respectfully Submitted,
Dyana F Ledger

**Town of Rye Board of Selectmen
PUBLIC HEARING
May 13, 2019, 6:30 p.m., Rye Town Hall**

The purpose of the Hearing is to consider the approval and adoption of the *Town of Rye Town Forest Leash Ordinance*. This is a selectmen's ordinance. The purpose of the ordinance is to assure that dogs are to be leashed in certain areas in the Rye Town Forest.

Name (please print)	Address	Signature
Ryan McGill	21 Perkins Rd.	Ryan McGill
Susan Shepcaro	45 Recreation R	Susan Shepcaro
Val Grote	124 WASHINGTON RD	Val Grote
Sally King	535 Wallis Rd	Sally S. King
PAUL CHASE	193 CENTRAL RD	Paul Chase
Chris Papadopoulos	2234 Ocean Blvd	Chris Papadopoulos
Jim Reed	437 Washington Rd	Jim Reed
Kathryn Londoff	1134 Washington Rd	Kathryn Londoff
Peter F. Rowan	Nottingham H.H. 1	Peter F. Rowan
Mark B. Pesci	538 Wallis Rd.	Mark B. Pesci
Jean Pesaresi	528 Wallis Rd	Jean Pesaresi
Lisa Chase	516 Wallis Rd.	Lisa Chase

5-13-19 Disc Item A

TOWN OF RYE SELECTMEN ORDINANCE NO. 35

TOWN FOREST LEASH ORDINANCE

1. Applicability. This ordinance applies to the Rye Town Forest. This ordinance does not apply to service dogs as defined by RSA 167-D:1 or any dog employed by or acting on the behalf of law enforcement.
2. Authority. This ordinance is enacted pursuant to (1) RSA 41:11-a: Board of Selectmen's authority to manage town property.
3. Definitions.
 - a. Dog. Male or female dog, neutered or spayed, including puppies.
 - b. Owner/Custodian: Any person, group, association or organizations maintaining, keeping, caring for, harboring or owning a dog.
 - c. Leash. A strap or cord for restraining and guiding a dog or other animal no longer than 6 feet in length, to include a retractable leash.
4. Control of Dogs. All dogs accompanying an owner/custodian in the following parts of the Town Forest (see attached aerial photo/map) shall be secured by a leash and under the control of its owner or other custodian and which is held by a person reasonably capable of physically restraining the dog.

Zone A: from the kiosk at the entrance to the Town Forest off the Parsons Field access road (A1 on the attached aerial photo/map, 43° 0.77' N, 70° 46.08' W) to the junction of the Orange and Blue Trails (A2 on the attached aerial photo/ map, 43° 0.62' N, 70° 45.95' W).

Zone B: from a point (B1 on the attached aerial photo/map, 43° 0.51' N, 70° 45.64' W) on the trail near the Rye Cemetery parking circle that runs to and along the Green Trail to the property boundary between the Lebosquet property and the Connell Easement (B3 on the attached aerial photo/ map, 43° 0.66' N, 70° 45.48' W) and also Zone B from a point on the trail that begins in the Rye Recreation parking lot (B2 on the attached aerial photo/map, 43° 0.43' N, 70° 45.60' W) to the intersection of the Green Trail (B4 on the attached aerial photo/map, 43° 0.51' N, 70° 45.65' W).

BOARD OF SELECTMEN'S Meeting 5/13/19
See meeting of 5/28/19 for approvals/corrections

5. Enforcement.

- a. The animal control officer or any police officer shall have the authority to enforce this ordinance. The Board of Selectmen may empower the animal control officer to serve notice of forfeiture (citation) relating to animal control and may also empower the animal control officer to investigate all reports of violations involving animals in violation of this ordinance.
- b. Any duly authorized officer may seize, impound, or restrain any dog in violation of this section and deliver such dog to a person or shelter authorized to board dogs. Such dogs shall be handled as strays or abandoned dogs pursuant to applicable laws.
- c. In addition to impounding a dog found in violation of this ordinance, any duly authorized officer may issue, in the name of the owner or custodian of such dog, a notice of violation for a nuisance dog pursuant to RSA 466:31, II (a).
- d. A person found guilty of violating this ordinance shall be subject to a fine of not more than \$100 for each dog not on a leash, not to exceed \$1000 for each violation.

6. Severability. Should any section or provision of this regulation be held to be invalid or unconstitutional such holding shall not affect, impair or invalidate any other section or provision of this regulation, and to such end all sections and provisions of this regulation are declared to be severable.

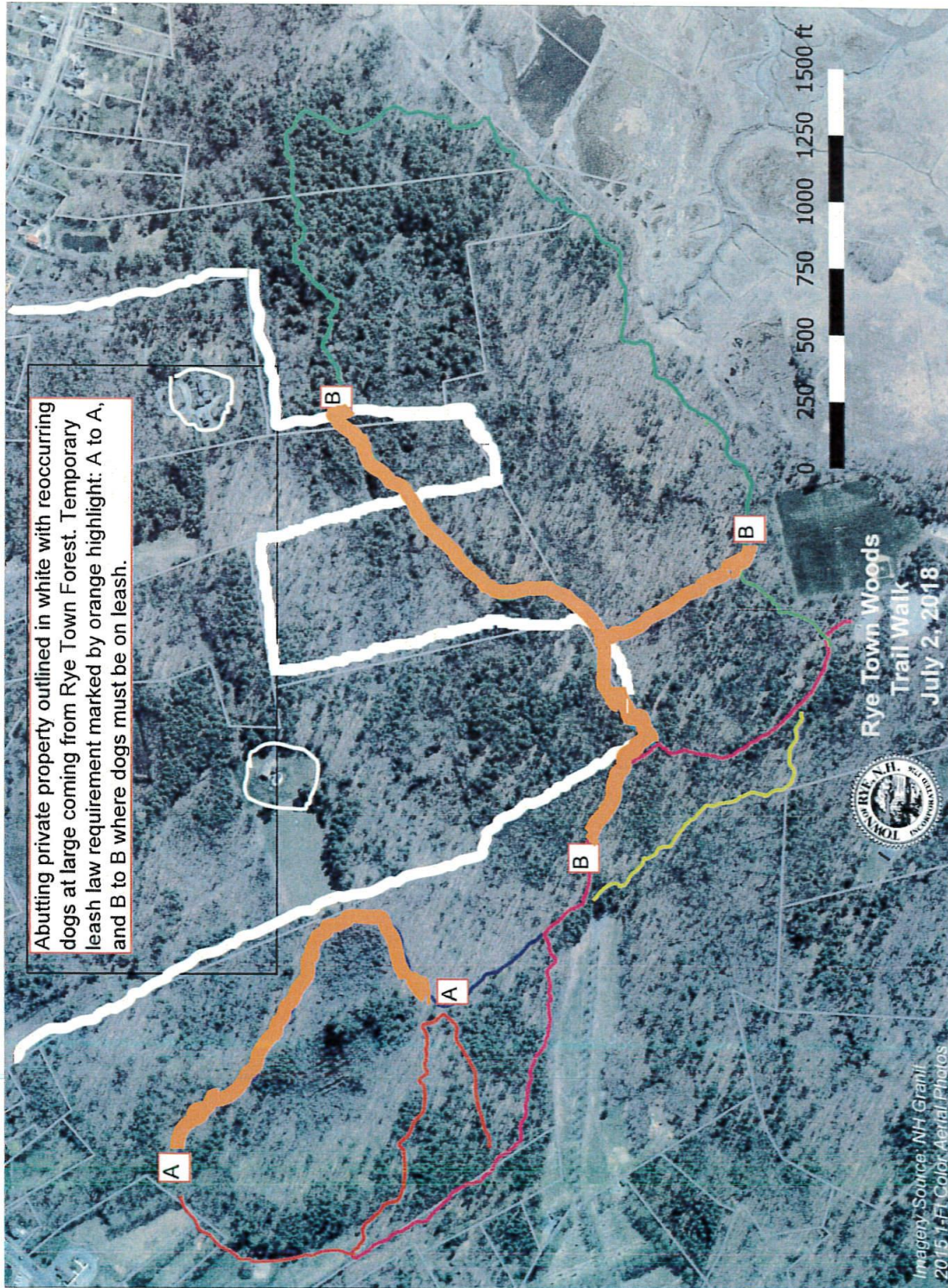
7. Effective Date: This ordinance shall be effective upon publication by the town clerk.

Attached: Aerial Photo/Map showing leash zones.

Approved by Board of Selectmen: _____

Recorded by Town Clerk: _____

Published by Town Clerk: _____



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5-13-19 Corres. A

CORRE
CC = McPartlin

April 26, 2019

Dear Town of Rye Selectpersons

I am a longtime resident of Rye having lived here all but eight years of my life. I'm a frequent patron of the beaches, particularly the Cable Road Beach.

I also avail myself of the bathroom facilities at that location. It is a situation which I feel is becoming more dangerous every year. The shed that is used to cover the porta-potties is unstable and in poor condition. It requires a large step up and step out in order to use them. The whole building rocks and the porta-potty moves when you are inside it. I have seen children fall out of the door. And for a woman 70 years as myself it is a challenge to climb up in there.

While we appreciate the provision of toilets to use while we're at the beach, these are not safe. I understand you insist on using the house around the porta-potties for aesthetic reasons. However the house itself is very unattractive and 2 modern large porta potties sitting on the ground would be more attractive than the building and much safer for the consumers.

The doors don't have to face the road. They could face the parking lot or the field behind them. At the very least you need to put in some steps for people to get in and out of them safely. I also think we need to have hand washing facilities available.

I sincerely hope that you take some action.


Karlotta Shanahan

37 Mountainview Terrace

Rye, NH 03870

603 964 8500



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Via Email

May 13, 2019

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

RE: Selectmen Ordinance No 35 – Extension Hearing at BOS Meeting 05.13.19

We ask that the BOS apply the temporary leash zone to the entire green trail until an independent wildlife biologist is retained and reports on the impact that off leash dogs are having on habitat and wildlife in the town forest and abutting private property. The green trail has been historically identified as a sensitive wildlife habitat in the Forest Management Plan dated July 11, 2003 by Wildlife Biologist & Forester, Mathew Ross. We understand that the RCC commissioned an updating of the Forest Management Plan. However, there has been no mention about the inclusion of a wildlife biologist for the updated plan.

We read the minutes from Rye Conservation Commission's Meeting on 4/11/19 and watched the video feed on the Town's website. According to the RCC, "they believe the current leash zones are working. Things are progressing properly." That is simply not accurate. During the meeting, only four of its members actively discussed the leash zone and new Forest Management Plan. Three of them are also members of ROMP and publicly lobbied against reasonable control of dogs in the town forest, Article 28.

We had hoped that Article 28 would have passed in the town election, the need for Ordinance 35 would have gone away and the entire forest, Rye citizens, would have protection from out of control dogs. However, it missed by 71 votes. It was very disappointing to learn that members of the RCC publicly lobbied against Article 28, working against the recommendations of the Dogs at Large Committee and the BOS, to sway the vote. This adds to the history where RCC members have not supported compromise with these matters, putting their personal use before the citizens of Rye.

Considering all this, we do not believe it is ethical that the RCC has not consulted a wildlife biologist and is able to suggest changes/shape the new Forest Management Plan before it is revealed to the public, especially before any public meeting. The changes some of these RCC members want seem like an effort to downplay the impact unleashed, at large dogs are having on habitat, wildlife, abutting private property and citizens who want to walk in the forest without being jumped on by dogs and the altercations that come with it. We understand that RCC leadership is personally against requirement that dogs be leashed on the Green Trail as they like to walk their dogs there. However, it is not fair to continue to condone the impact dogs at large are having in the forest.

According to NH Fish and Game Wildlife Biologist, Brendan Clifford, who was quoted in the Portsmouth Herald on 3/3/18 about the number of dogs running at large in the Rye Town Forest: "Repeated behavior like that will flush the wildlife out of the area or deter wildlife in that area." "They're not a natural thing to be there, so an animal will react adversely," said Clifford, noting that in areas where there are dog parks, there typically isn't wildlife surrounding them. You're certainly not going to attract wildlife there. You're only going to lose it." As Clifford explains, when dogs chase after wildlife, they might be curious or think they're being playful, but that "adds stress to the animals there." For the record, Sergeant Jeremy Hawkes, Conservation Officer for NH Fish & Game who visited our properties, recommend a leash law to mitigate this ongoing issue.

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In all respect, the RCC has no written policies regarding wildlife and habitat protection, deterring dogs at large from running deer and fawns out of bedding areas as well as nesting birds and turkeys. It is against NH state laws and should not be condoned. It also violates the spirit of the Conservation Easement that protects the Rye Town Forest dated 1/29/01¹ and the recommendations in the Forest Management Plan for the Rye Town Forest dated 7/11/03².

In summary, we love dogs. We just believe that it is fair to have leashed areas that protects the forest, habitat, wildlife, abutters and people that do not want dogs jumping on them. Article 28 would have done that for the whole forest without the need for leash zones. In all, fairness we respectfully ask that the BOS extend the leash zone on the entire green trail to give the most sensitive part of the forest and its users, wildlife and abutters relief from unleashed dogs that are not in control of their owners at least until an independent wildlife biologist has been engaged by the Town of Rye and reported on this well documented matter.

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
Sergeant Jeremy Hawkes, NH Fish & Game Conservation Officer
Charlie Moreno, Moreno Forestry Associates
Rye Conservation Commission

¹ 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.

² Page five, paragraph two of the **Forest Management Plan for the Rye Town Forest** states recreational activity must "not adversely affect the natural condition of the Premise. Page six refers to "reserve areas, "sections left 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.

³ At the **Rye Conservation Commission Meeting on 7/21/16**, the RCC Voted in Favor of "no further bridges be constructed, instead trail relocation be considered. It might also be necessary to close certain trails, or certain sections of trails, at various times to protect the wildlife and natural state of the forest." This was based on recommendations by the Rye Town Forest Trail Committee that met many times over six months including a site visit of the Rye Forest as well as a thorough review of the Town Forest Easement and Rye Forest Management Plan. The committee was later dissolved after members resigned due to lack of support of this vote and the committee in general by the RCC's leadership.