

## **TOWN OF RYE – BOARD OF SELECTMEN**

**Monday, January 14, 2019**

**6:30 p.m. – Rye Town Hall**

***Present: Chairman Priscilla Jenness, Vice-Chair Phil Winslow and Selectman Keriann Roman***

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

### **I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairman Jenness called the meeting to order at 6:30 p.m. and lead the Pledge of Allegiance

### **II. ANNOUNCEMENT**

Vice Chair Winslow congratulated Police Chief Kevin Walsh for obtaining a grant to pay for half of the data line that will run between the Safety Building and the Town Hall. The total cost of the project is \$13,780 and the grant will be in the amount of \$6,890.00.

### **III. 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.)**

- **Karen Allen, 81 Grove Road and Rye Public Library Trustee**, presented the Board of Selectmen with copies of the 2018-2023 Library Strategic Plan. She stated that it is also available in hard copy at the library and electronically on the library's website.

The library hosted the Jr. High's robotics diadromous display. The students of the eighth grade worked on coding and creating robotic dioramas following the five staves of Dickens Christmas Carole. Various scenes were selected and students coded motion, lights, voice and music into their moving dioramas. These projects were on display for the library patrons through December and the beginning of January. As a cumulating activity, students were asked to attend the Rye Public Library adult book club meeting. The selected title for December was A Christmas Carol. Four students attended and a lively and exciting discussion ensued. Several of the adults had not read the book before, and for those that did, the students provided a fascinating prospective on the story that many of them had not considered. The four students were articulate and expressed their opinions thoughtfully. It was quite wonderful and the adults loved the interaction with the young people

Ms. Allen also announced that there is an "Awesome Fantastic Beast Escape Room", planned for tomorrow night at 6:30. Anyone in 6<sup>th</sup> grade and above is welcome to join.

- **Peter Crawford, 171 Brackett Road**, reported that the Budget Committee voted last week to remove the \$1,200 from the budget for the port-a-potty at Sawyers Beach. He thanked Selectman Jenness for her support.
- **James Cassin, 17 Perkins Road**, spoke in support of the Beach Committee's Report. He stated that the area should be restricted to allow residents parking only and the ticket prices should be higher.
- **Lori Carbajal, 18 Tower Ave and Member of the Beach Committee**, asked if the public will be allowed to comment later in the meeting.

Chair Jenness confirmed this.

- **Dan Philbrick, 1393 Ocean Blvd.**, addressed the Board regarding the problems he is having with his building permit applications at the Crown Colony Cottages. The Board had asked Mr. Philbrick to meet with them in closed session. Mr. Philbrick declined the offer because he feels that part of the problem with the Town is that too much is done behind closed doors. He stated that he realizes that the Board calling it a personnel matter and this is the justification for not speaking in public about the issues. He stated that it is not a personnel matter. It's a building department matter. It is about issuing permits in accordance with the ordinances of the Town. He asked permission to give his presentation in open session. He added that as a result of not being heard on December 3, 2018, he filed a "Right-to-Know" request regarding any information pertaining to his relationship with the Town and why he keeps running into road blocks. He reported that he was discouraged that on discovery he found no e-mails by the Town Manager or any of the Selectmen, or past Selectmen, regarding him and this issue. He pointed out that he and the Town have been involved with litigation twice so there being no e-mails does not make sense. Mr. Philbrick referred to a letter from Town Attorney Michael Donovan to Peter Rowell that states that Mr. Philbrick is not subject to site review. The letter outlines all of the proposals that are being planned but now the building department is opposed to what is outlined in the letter. He presented the Board with a copy of the letter. He asked the Board to authorize the Town Administrator to tell the building inspector to sit down with him to go over the ordinances.
- **Elizabeth Sanborn, 16 Dow Lane**, stated that she applauds the efforts that are being made regarding controlling the traffic on Dow Lane.

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

**A.** Letter rec'd from Peter Crawford re: The Control of Dogs Ordinance

**B.** Letter rec'd from Babs Dallmeyer re: High Rises in Rye

- C. The Rye Fire Department requests permission to accept and expend a \$1,000 donation made for the Rye Ambulance Fund in memory of Poppy Carbee.

Vice-Chair Winslow requested that consent Item C be pulled for discussion.

- C. The Rye Fire Department requests permission to accept and expend a \$1,000 donation made for the Rye Ambulance Fund in memory of Poppy Carbee

Vice-Chair Winslow stated that he would like to thank the New Hampshire Charitable Foundation for the \$1,000 donation that was made in memory of Poppy Carbee.

**Motion by Keriann Roman to recognize items A and B and recognize and approve item C on the Consent Agenda. Seconded by Phil Winslow. All in favor.**

## **V. DISCUSSION ITEMS**

- A. PUBLIC HEARINGS:** The purpose of the hearings is to receive public comments on the following proposed bond issues and proposed lease/purchase:

**Chair Jenness read the warrant article as follows:**

### **Public Hearing #1: Salt Shed Storage Facility Bond Issue**

To see if the Town will vote to raise and appropriate the sum of seven hundred thousand dollars (\$700,000) to replace the existing salt shed with a larger more efficient salt storage facility to allow all salt operations to be under cover, and authorize the withdrawal of eighty thousand dollars (\$80,000) from the Salt/Shed Storage Building Capital Reserve Fund created in 2005 for this purpose, and authorize the borrowing of up to six hundred twenty thousand dollars (\$620,000) through the issuance of not more than six hundred twenty thousand dollars (\$620,000) of bonds or notes in accordance with the provisions of the Municipal Finance Act (N.H. RSA Chapter 33 as amended) and to authorize the Selectmen to issue, negotiate, sell and deliver such bonds and notes, to determine the rate of interest thereon and the maturity and other terms thereof, and to take such actions or to pass any vote relative thereto as may be necessary to effect the issuance, negotiation, sale and delivery of such bonds or notes as shall be in the best interest of the Town of Rye, and further, to apply for, obtain, accept and expend Federal and State Grants or other aid and any private donations that may be available towards this purpose and to comply with all laws applicable to said project. (3/5 ballot vote required.)

**Public Works Director Dennis McCarthy** addressed the article. He stated that sodium chloride road salt is essential to the town roads. The Town uses approximately 1,200 tons per year. Currently, only 120 tons can be stored under cover. Usually, the deliveries are 250 tons each so much of it is not under cover. In winters where there is a lot of snow and ice events, there can be issues even getting salt. The storage of road salt can be problematic. The Town's storage facility is in the Town's aquifer protection district. As such, the proposed facility will be designed to protect the aquifer as well as

providing the Town with a reasonable amount of storage. The department will be able to work the pile and load the trucks under cover and no salt will be handled outside of the structure. Mr. McCarthy stressed that this proposal is the most cost effective way to solve this issue. The bond will be for a 10 year term and needs a 60% approval from the voters. This proposal is the same as last year's proposal with no changes; however, there is more information and education regarding the issues being given out to the public. The idea is to cut the trees in the area where the facility will go. The grade on the site will be lowered 6 feet so that it is level with the rest of the area. It will slope in and the area will be paved. It will have 8 foot concrete push walls with a fabric dome that is about 30 feet high. There will be fencing around it, and by cutting the site, it will lower the profile so as not to be offensive to the neighborhood.

Chair Jenness opened the Public hearing at 6:53 p.m.

- **Sharon Consentino, 32 Powers Ave.,** noted that there is a concrete knee wall and an asphalt floor. She asked how the fabric is connected to the foundation.  
**Mr. McCarthy** answered that there will be a galvanized steel frame that is bolted down to the top of the knee wall so that no salt will come in contact with the steel. The fabric is affixed to the steel frame.
- **Ms. Consentino** asked if any consideration was given to adding onto the existing shelter.  
**Mr. McCarthy** explained that the existing facility was built in the mid-1980s. It is extremely small and because it was built out of raw concrete it is in very rough shape. It has a lean-to roof that is not conducive to adding on. It is the old salt shed design where the salt is dumped on the ground and then pushed into the shed. The other obstacle is the height. The trucks that deliver need 30 feet to dump. When the salt is loaded there is a similar height but there is a ramp that the truck goes down in order to make the truck lower so that the loader can reach the back of the dump trucks.
- **Ms. Consentino** asked how many tons there are in each delivery.  
**Mr. McCarthy** stated that each truck is approximately 33 tons.
- **Ms. Consentino** asked what the typical amount of usage is for an ice or snow storm.  
**Mr. McCarthy** replied that there is no typical usage but it is less than 33 tons per round. A full application for the Town is about 20 tons; however, it depends on how long the storm is, the temperature, the amount of accumulation and if it is ice or snow.

There being no other questions or comments Chair Jenness closed the Public Hearing at 6:58 p.m.

**Town Administrator Michael Magnant** told the Board that the Budget Committee has voted on this article with a favorable vote of 9-1. However, they asked that the Board of Selectmen consider taking the Capital Reserve account down to zero or just leaving a small amount.

**Finance Director Becky Bergeron** stated that there is a balance of \$90,735 in the Capital Reserve Fund. She recommended taking \$90,000 from the fund this year as partial funding. The Budget Committee would like the fund to be dissolved. Ms. Bergeron stated that will require another warrant article and that could be done next year with the balance of the fund going back into the General Fund.

**The Warrant Article was amended to read:**

To see if the Town will vote to raise and appropriate the sum of seven hundred thousand dollars (\$700,000) to replace the existing salt shed with a larger more efficient salt storage facility to allow all salt operations to be under cover, and authorize the withdrawal of ~~eighty~~ ninety thousand dollars (~~\$80,000~~) (\$90,000) from the Salt/Shed Storage Building Capital Reserve Fund created in 2005 for this purpose, and authorize the borrowing of up to six hundred ~~twenty ten~~ thousand dollars (~~\$620,000~~) (\$610,000) through the issuance of not more than six hundred ~~twenty ten~~ thousand dollars (~~\$620,000~~) (\$610,000) bonds or notes in accordance with the provisions of the Municipal Finance Act (N.H. RSA Chapter 33 as amended) and to authorize the Selectmen to issue, negotiate, sell and deliver such bonds and notes, to determine the rate of interest thereon and the maturity and other terms thereof, and to take such actions or to pass any vote relative thereto as may be necessary to effect the issuance, negotiation, sale and delivery of such bonds or notes as shall be in the best interest of the Town of Rye, and further, to apply for, obtain, accept and expend Federal and State Grants or other aid and any private donations that may be available towards this purpose and to comply with all laws applicable to said project. (3/5 ballot vote required.)

**Motion by Keriann Roman to recommend the Salt Shed Storage Facility Bond Issue and place it on the ballot as Amended. Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

**Chair Jenness read the warrant article as follows:**

**Public Hearing #2: Pumper/Ladder Truck Lease/Purchase**

To see if the Town will authorize the selectmen to enter into a long-term lease/purchase agreement in the amount of five hundred thousand dollars (\$500,000) payable over a term of five (5) years for a new pumper/ladder truck for the Fire Department with the first payment due in 2020 and to raise and appropriate the sum of four hundred ninety-two thousand dollars (\$492,000) for the down payment on the lease-purchase due in 2019 with \$123,000 to come from the Ambulance and Fire Vehicle Special Revenue Fund and to authorize the withdrawal of \$369,000 from the Fire and Vehicle Capital Reserve Fund (total of \$492,000). The total cost of the pumper/ladder truck is \$992,000. This article is in addition to the operating budget. (3/5 vote required).

**Fire Chief Mark Cotreau** addressed the article. He stated that the Capital Improvements Program had the purchase of this vehicle on for last year; however, since he was new to Rye, he felt that a needs assessment should be done prior to the purchase so it was postponed. The needs assessment took a good part of last year, which included evaluating all the apparatus that the department currently owns, what is needed, what is right for Rye and what is not right for Rye. The results of the needs assessment is a 20 year Capital Plan for the department that feeds into the 6 year Capital Plan for the overall Town. Currently, the Town has three Class A pumpers, which is what is used for a structure fire. This is typical for town's the size of Rye. The current pumper/ladder truck is 30 years old. Two truck manufacturers put this truck together. The pumper was manufactured by Simon Duplex and the aerial ladder was manufactured by LTI. Both companies are long out of business. Parts are very

difficult, if not impossible to find. The last time there was a major repair to the aerial ladder the parts had to be custom made. The truck is a 1988 so it was prior to a big safety upgrade in the industry in 1993. It lacks standard safety equipment such as; three point seatbelts and ABS brakes. The truck also has some unresolved braking issues. The aerial ladder part of the truck is out of service, due to a main lift piston that is leaking. It had been repaired once about three years ago. The part has to be custom made and it is a \$20,000 repair. The truck is worth about \$5,000 on the market at this time. The truck is not dependable enough to run on the front line. The problem with that is, that when the truck gets to a building that is involved, the ladder truck needs to be at the scene first to get close enough to the building. In Rye there are a lot of places where there is only one place to put the truck. Also, in Rye there are many houses that have windows on the third story. Right now, the Town does not have a ladder that will reach a third story. In many areas, the truck cannot get close enough to the structure and the ladder will be used at full reach capacity. The Chief referred to a report that was done by an independent expert that rated the vehicles on condition and serviceability. The ladder truck was rated 3 out of 10 for condition and 1 out of 10 for serviceability. He read the last sentence of the report as follows:

*Given the large body of information and dangers published about older fire apparatus, like Ladder 1, there is little ability to operate this truck in good conscience.*

The Chief projected that the Town will get 25 years of service from a new ladder/pumper.

Chair Jenness opened the Public hearing at 7:17 p.m.

- **Elizabeth Sanborn, 16 Dow Lane**, asked the Chief how to help educate the public. She stated that the Chief's presentation was very good.  
**Chief Cotreau** stated that all this information will be on the Fire Department's website soon. Also, he is available anytime to talk to people. He stated that if you see a value in what is being done, please tell others about it. He announced that the department is holding a second public forum at the Library on January 31<sup>st</sup> and another one in March. The presentation will be about two hours long.
- **John Brack, 7 Bernard Drive**, asked why the bond is only for 5 years.  
**Chief Cotreau** explained that it is a lease/purchase and this was the least expensive way to finance it. The Town will save on interest.  
**Peter Crawford, 171 Brackett Road**, reported that he was at the first public forum. The meeting was about 2 ½ hours long. He was able to get the audio recording and it is available on the Civic League website if anyone would like to hear it.
- **Mr. Crawford** asked if there should be wording in the warrant article regarding the \$60,000 in interest that will be paid.  
**Finance Director Becky Bergeron** stated that she has consulted with Michelle Clark at the DRA regarding the wording and she has approved the article as written.
- **Mr. Crawford** stated that it seems to be misleading to the public not to at least mention that there will be interest. He pointed out that with a bond it says that the Selectmen have the authority to negotiate the interest. Even if it is not required, he feels that it should be stated.

- **John Loftus, 108 Straws Point Road**, commented that for about 40 years he did fire training. It is a tough job. He has been in smoky houses and fires. It is not anyplace that you should be sending someone without the best equipment. He stated that he is on board with this and hopes that the Board approves it.

There being no other questions or comments Chair Jenness closed the Public Hearing at 7:23 p.m.

Vice Chair Winslow stated that the Board cannot push or advocate for any article, as they can only educate. However, he feels that this issue is so important that he would like to see the truck in front of the fire station with a banner that reads: **This truck is thirty three years old. We can't get parts and it is out of service.** He pointed out that people can be asked to come to meetings but that is not always successful. The banner will get the word out and get people's attention.

Town Administrator Magnant said that if the Board wants to do this, he will get legal counsel to weigh in on it.

Selectman Roman suggested just advertising the facts, with NO personal opinions, may be okay. She would be in favor of doing this.

The Board agreed to have Mr. Magnant follow up with legal counsel.

**Motion by Keriann Roman to add the words "plus interest" to the sentence; *The total cost of the pumper/ladder truck is \$992,000.* To read; *The total cost of the pumper/ladder truck is \$992,000, plus interest; pending DRA approval, and to recommend this article and place the article on the ballot as amended. Seconded by Phil Winslow. Vote: 3-0. Motion passed.***

### **Public Hearing #3: Town Hall Bond Issue (By Petition).**

To see if the Town of Rye will vote to authorize the Rye Selectmen to raise and appropriate the sum of three million five hundred thousand dollars (\$3,500,000) gross budget for the purpose of building a new Town Hall Structure on its current site, along with equipment and furnishings, along with some changes to foundation location, and to raze the old Town Hall building. Passage of this article shall override the 10% limitation imposed on this appropriation if not recommended by the Budget Committee.

To construct, pursuant to the design for a new Town Hall, as developed by Rye resident John Loftus, and licensed New Hampshire Architect Robert A. Schaefer, AIA, LEED BD+C from the firm of R.A. SCHAEFER & D.M. WHITE ARCHITECTS.

To authorize The Rye Selectmen, to go forward with the completion of "contract Documents", including required and necessary engineering, by licensed New Hampshire Architect Robert A. Schaefer, AIA, LEED BD+C from the firm of R.A. SCHEAFER & D.M. WHITE ARCHITECTS, and with further project design input by Rye resident John Loftus. The "contract documents" will take into account all applicable codes and ADA requirements. (Please note: Mr. Loftus has not been offered, has not asked for, and will NOT accept any remuneration for any of his design work.)

To authorize The Rye Selectmen, to seek competitive bidding for the physical construction of a new Town Hall, as per the prepared contact documents, and to choose the best bid.

To authorize the borrowing of up to three million five hundred thousand dollars (\$3,500,000) of bonds and notes, for a 30 year term only, in accordance with the provisions of the Municipal Finance Act (N.H. RSA Chapter 33 as amended).

To authorize the Selectmen to issue and negotiate such bonds or notes, for a thirty year term only, to determine the rate of interest of thereon, and to take such actions as may be necessary to effect issuance, negotiation, sale and delivery of such bonds or notes as shall be in the best interest of the Town of Rye, and further, to apply for and accept and expend Federal and State Grants and any private donations toward this purpose. (60% vote required) This appropriation is in addition to the operating budget.

Chair Jenness opened the Public hearing at 7:28 p.m.

- **John Loftus, 108 Straws Point Road**, addressed the article. He pointed out that this is a continuation of the design that was proposed last year. The cost has increased due to the increase in construction costs. He feels that the \$3.5 million is over what it will cost but he does not want to get caught short. The design takes into account all of the problems that are inherit with the current Town Hall. It takes away all the code and ADA violations. He announced that he has the list of the specifications that will be published on the website for review. They have already been given to the budget committee. Mr. Loftus added that the proposal is for a bond with a 30 year term. The reason is to spread the payment over multi-generations. The new building will have an economic life of approximately two hundred years. He stated that the carrying cost is just about three million dollars. He has discussed this with the NH Municipal Bond Bank and talked about a level debt payment. The Bond capability for the Town of Rye is \$62 million. Even with this bond issue, the Town will be under \$10 million. Based on \$100,000 of assessed value, the tax payer will pay \$10.00 per year. The payment will remain steady for the thirty years.
- **Elizabeth Sanborn, 16 Dow Lane**, pointed out that this project is not a three million dollar project, as Mr. Loftus stated. There is also three million in interest that will be paid making it \$6 million. However, more concerning is the historical value that will be lost. Ms. Sanborn stated that she volunteers for the Portsmouth Historical Society as a walking tour guide. What they have found over the years, is that they have been too late in saving many of the historic properties. She added that because of that, she joined the Rye Heritage Commission and she now serves as an alternate. She stressed the love of Historic Preservation, rather it is the pocket grave yards or the Town Hall. Ms. Sanborn pointed out that Rye is facing a big celebration in 2023. To think that the Town Hall, that has been a part of the community for so long, will not be here is just staggering. She asked the Board of Selectmen not to endorse this article. She pointed out that this issue has been going on for five years and that even though every issue deserves a second chance, the voters have spoken over and over again.



- **Sharon Consentino, 32 Power Ave.,** stated that she agrees with Ms. Sanborn. It's time to respect what the voters are saying. She researched the history of the votes on this subject and they were as follows:

	<u>YES</u>	<u>NO</u>
▪ 2015 Article 5	575	877
▪ 2016 Article 11	703	856
▪ 2017 Article 7	340	1,233
▪ 2018 Article 9	723	878

Ms. Consentino stated that it seems that this issue is going to keep coming back until they get a "yes". The citizens are frustrated. This is an amazing building and with all the technology that is out there, such as scanning, there is no need for all the storage issues. She summed up by stating she is opposed to seeing this issue on the ballot again.

- **Bev Giblin 120, Locke Road and Chair of the Heritage Commission,** stated that the Heritage Commission has tried very hard over the years to save the Town Hall. She pointed out that recently, the Board of Selectmen had a historic structure study done by the Ground Roots organization. There was a public session held back in December, where the Ground Roots people gave a presentation. They explained what was going on with the Town Hall and what needs to be done. She stated that she sat on the Buildings and Grounds Committee for the Governor's Academy for eleven years, during which time the Committee saved twelve buildings all older than the Town Hall. She stressed that it is possible to save the building. It may take time and money. It may require fund raisers and grants. She summed up by pointing out that Ground Roots stated that the "Rye Town Hall is safe and sound and good for yet another century." Once it's gone, Rye can't get it back.
- **Peter Crawford, Brackett Road,** stated that he agrees with Elizabeth Sanborn, Sharon Consentino, and Bev Giblin. He read a few quotes from the Ground Roots report that was commissioned by the Board of Selectmen.
  - *The Rye Town Hall exhibits typical, relatively minor presentation concerns for a building of its age.*
  - *Life Safety and Code compliance corrections areas are relatively simple and technically feasible.*
  - *Structurally the building can accommodate its current level of occupancy and use.*

Mr. Crawford referred to the report and pointed out that it contains recommendations to make the building ADA compliant, which carries an approximate cost of \$257,000 which includes an elevator. The total cost estimated in the report was approximately \$858,000. Mr. Crawford pointed out that having adequate space for the workers can be solved by using space at the Public Safety Building for about \$400,000. He recommended putting a small building of about 2,000 square feet on the back of the same lot and to keep it separate, not attaching it to the existing building. He suggested that there would be more than enough space. Mr. Crawford also agreed with the idea of doing the scanning and shredding. He added if that was done there may be no need for the expansion. Mr. Crawford summed up by saying it is really frustrating having this issue come up year after year. This is the second year that Mr. Loftus has presented

this. He added that later in the meeting there is a second article by Mr. Loftus called a Warrant to Stop the Waste, which will forbid any further expenditures on the existing Town Hall, excluding emergency repairs, until either the passing of his new Town Hall article or the passing of an article to renovate the building, providing an addition for all projected additional employees and complying with all existing codes. This will lead to an expensive renovation that has already been voted down many times. This is basically holding the Town's people and the employees hostage until Mr. Loftus gets his way. He encouraged everyone to vote against it. Mr. Crawford reported that the vote of the Budget Committee last week was 6-4 against the new Town Hall article and a unanimous recommendation not to recommend the second warrant article.

- **John Loftus, 108 Straws Point Road**, pointed out that the reason this issue came into existence was originally because of the space issues for the employees. He added that this article has not been around for the whole five years. This is only the second year of this proposal. He asked how to resolve what started the issues, which was the workability of the employees of the Town and the conditions that they work under. He stated that there are known carcinogens in the building, which are going to be exposed. He also pointed out that other proposals, such as a second building, are going to run up close to the same cost as this proposal. He added that 45% of the voters want a new building. He stressed that his plan is a good workable plan that solves the problems. The Ground Roots plan not only does not address the space needs, it reduces the space the employees have. The elevator shaft will be stuck on the north side of the building and will look like a sore thumb. He summed up that it will come down to renovate or build new because all the intermediate options will not work. He stressed they should not spend the money on something that is not going to work.
- **Denis Lipman, 484 Brackett Road**, spoke against the article and expressed the feeling of frustration of trying to defend the rights of the majority of the people of the Town that voted against tearing down this beautiful old building. He stressed that this proposal is frivolous, irresponsible, and unnecessary. He added "Let's spend our money wisely, on something meaningful." To say that this building does not function is nonsense.
- **Frances Erlebacher, 484 Brackett Road**, pointed out that there are two things that are different from last year. First, the report shows that there is no mold in the building. Second, Mr. Loftus's stated last year that \$3.5 million was highway robbery. Now this year, his project is \$3.5 million to \$6 million. She pointed out that 45% of the people voted for this last year but 55% voted against it. She recommended that the Board of Selectmen be responsive to the people, and 55% said "No". She asked the Board not to recommend the article.
- **Dennis Foss, 47 Foss Circle**, stated that he believes in democracy and appreciates the importance of letting people speak their will; however, democracy relies on people participating. People that participate generally care but in order for them to continue to care, we need to listen to them, and not wear them down by continually bringing up the same topic. They express their will and then they feel like their vote doesn't count. If their vote doesn't count, why are they wasting their time? He asked the Board not to recommend this article.

- **Peter Crawford, 171 Brackett Road**, stated that last year there seemed to be a lot of uncertainty as to what was going to happen to the Town Hall if Mr. Loftus's article did not pass. Mr. Crawford asked the Board to review the Ground Roots Report prior to the deliberative session this year and let the people know that there is a plan in place and what that plan looks like.

There being no other questions or comments Chair Jenness closed the Public Hearing at 8:15 p.m.

Vice-Chair Winslow pointed out that the Historic District Commission was established in 1968. As part of that the Historic Center of the Town of Rye was established. Selectman Winslow chaired the Historic District Commission for five years. As such, it was his and the Commission's responsibility to protect the historic integrity of the Town. He stated that the numbers are close on both sides of the issue but the historic issue should be the deciding factor, as to whether to vote for or against this article.

Selectman Roman stated that the Ground Roots report has brought to light information that was not available before. Given the cost of this proposal and for those reasons, she will vote to not recommend this article as a Selectman. That being said, the final decision will be up to the voting public.

Chair Jenness stated that the Board has heard from several speakers this evening comparing each year that this issue has come before the Board; however, every vote is different. It depends on who shows up to vote and what they are feeling at the time. Whatever happens will be the result of that vote on that day. She stated that for her part, she is absolutely opposed to tearing down the building, as she always has been.

The Board agreed that they all have a tremendous amount of respect for John Loftus and thanked him for his efforts and time.

**Motion by Phil Winslow to not recommend the New Town Hall Bond Issue Warrant Article as presented by Mr. Loftus. Seconded by Keriann Roman. Vote: 3-0. Motion passed.**

**Motion by Phil Winslow to move the New Town Hall Bond Issue Warrant Article, as presented by Mr. Loftus, to the ballot. Seconded by Keriann Roman. Vote: 3-0. Motion passed.**

At 8:18 p.m. Chair Jenness called for a short recess.

Chair Jenness reconvened the meeting at 8:21 p.m.

Chair Jenness moved the approval of the minutes to the end of the meeting.

#### C. Scott Bogle, Rockingham Planning Commission – Rails to Trails

**Scott Bogle, Transportation Planner for Rockingham Planning Commission**, addressed the Board with a presentation on the East Coast Greenway Rail Trail effort. This proposed rail trail is on the Hampton's branch rail right-of-way and is the New Hampshire's segment of the East Coast Greenway.

It is envisioned as a non-motorized, multi-use path, running three thousand miles from the Canadian border in Calais, Maine to Key West, Florida. It is about thirty percent complete. The National Mall, the Hudson River bike path on the west side of Manhattan, and the Newburyport Rail Trail are all part of this. This has been in planning in New Hampshire for 10 years. During 2008 and 2009, Rockingham Planning Commission worked with each of the corridor host communities on a conceptual design and implementation plan. There were representatives from the seven corridor communities, from three State agencies and neighboring trail groups from north Massachusetts and southern Maine. That plan recommended putting the trail on the old Hampton branch corridor. It used to be the Eastern Railway. It was the first railway that ran north from Boston to Portland. It still carries the Newburyport MBTA line. However, from the T station north, it has been developed as a rail trail in Newburyport and halfway through Salisbury. They currently have funding and just went out to bid to complete the trail to the New Hampshire boarder in Seabrook in 2020. Similarly, most of the trail has been built in southern Maine, called the Eastern Trail, from Kittery to Portland and The DownEast Sunrise Trail from Portland north. The State already owns the southernmost 4 ½ miles from the Mass boarder to just south of Foss Manufacturing in Hampton. They have been in negotiations with Pan AM Railways for five years to buy the 9.6 miles from Foss Manufacturing to Portsmouth. The understanding now is that the State has finally come to terms with Pan Am but do not want to close that deal unless they know they have partners among the towns to maintain the trail once it is built. When Pan Am first abandon the rail corridor in 2012 and took up the rails, the towns worked with the Planning Commission to get the DOT to set aside federal funding to buy the right-of-way and build the trail. The estimate to build the trail has increased; however, the DOT has secured additional federal funding. The idea is the DOT will purchase the land, build the trail and then it will be turned over to the towns to handle the maintenance. There have been multiple adaptations of a trail management agreement that is being worked on between the towns and DOT. The Commissioner met with all the town and city managers in December to go over the latest adaptation. The feedback from the towns has resulted in multiple additions and changes to the agreement. One of which is that the towns will only be responsible for routine maintenance. In the event of a major washout in a storm, the DOT would be responsible. Other agreements were:

- Hampton has some municipal drainage that goes through the corridor and language was inserted that states that the town can maintain and expand it.
- They have allowed the towns, if they wish, to install mileage markers on the trail, as a way to generate revenue. The markers are 4X4, adopt a trail signs that people and businesses buy for a couple hundred dollars a year. This creates a stream of funding to offset the maintenance costs.
- There has been clarification of what oversite will be required and what the local responsibility will be for any subsequent construction. There was concern in Hampton that the taxpayers would be responsible for the construction from Foss Manufacturing southward. The wording has been clarified to say that the towns will work together to pursue federal grants or private funding to continue the construction south of Foss.

Mr. Bogle stated that this proposal was approved by the Greenland Board of Selectmen last Monday night.

Selectman Roman asked if they approved the "Red Line" version.

Mr. Bogle stated that they approved a clean version from DOT that included all of the changes that were discussed with the Commissioner on December 11<sup>th</sup>. The "Red Line" version is a comparison to the DOT's latest version to what was seen previously. Mr. Bogle pointed out that there were two different versions of the liability insurance indemnification section. There was the original DOT version that is consistent with all of the other rail trail agreements around the State. The alternate version was proposed by the Town of Hampton that the DOT stated would need to get approval from the Attorney General's Office. Greenland approved the agreement with the original DOT language.

Town Administrator Magnant stated that he has sent the agreement to Primex and they have approved the Hampton language.

Mr. Bogle stated that it was his understanding that Primex has also reviewed the original DOT language and either one of them were acceptable to them. There was some question regarding coverage of \$2 million per occurrence but that was for construction.

Chair Jenness pointed out that the trail is for non-motorized vehicles. She asked who would be responsible for policing them, as when an ATV goes on the trail. She also asked about snowmobiles.

Mr. Bogle stated that it would be the Town's responsibility for the enforcement. On many of the trails around the State, snowmobiles are allowed in the winter but no other motorized vehicles are allowed any other time of year. Because there is less snow accumulation on the Seacoast, there will be less demand on the trails for snowmobiles. He also stated that part of the design is removable bollards to prevent motorized vehicles from accessing the trail, which can be removed for emergency and maintenance vehicles.

Chair Jenness asked what the additional cost of the annual insurance would be for liability.

Town Administrator Magnant stated that the Town provides Primex an inventory of assets each year and the premium is based off of that. It is not known at this time. He added that he felt any increase would be minimal.

Mr. Bogle stated that from a maintenance point, the rule of thumb is typically \$1,000 per mile per year. That assumes that there is a department of public works that is doing the maintenance. However, what is seen in New Hampshire usually, is a local volunteer group that will maintain the trail. He also reported that there is only about ¼ of a mile (1200 feet) of the trail in Rye. Rockingham County Planning Commission is in the process of establishing a regional trail non-profit organization that could do fund raising and do the volunteer mobilization. Mr. Bogle stated that he has talked to Windham, NH, which has just over 4 miles of rail trails. They estimate that they spend about \$800 per year of town funding and use about 2,500 hours per year in volunteer hours.

Selectman Roman expressed concern in regards to spending town funds on this project. She stated that if the Town's people want to fund it, she has no issue with it. She asked if it has come up with other towns where at Town meeting someone zero lines the budget for this expense. Then "No" means "No" and the town cannot spend any money on the trail. Would the town then be in breach of the

agreement? She asked if there could be a provision that states, "depending on funding by the legislative body."

Mr. Bogle stated that he was not aware of that happening. However, what could happen is that a group of volunteers could step in for the year and it could go back on the town's budget the following year.

Selectman Roman referred to section seven that states: If the town breaches any provision of the agreement, which includes maintaining the trail and policing it, the town will have to compensate the DOT for its damages, including consequential damages of the breach which arise out of the breach and attorney fees and costs. She asked what the State's damages would be if there was a washout that the town didn't repair. She also asked if the State has ever held anyone in breach.

Mr. Bogle replied "no". This is just "boiler plate" language that is on every State trail agreement that he has seen. The damages would be if the Town didn't repair the trail and the DOT came out and repaired it, the DOT could seek compensation or reimbursement for their expense. Basically, it is a clause that if the Town does not meet its responsibility, then the State can close down the trail until the trail work has been done. All repairs must be replaced in kind.

Mr. Bogle went on to explain that originally \$5 million was set aside for this project in a federal grant program called "Congestion Mitigation Air Quality Finding", which included \$1 million for construction. DOT, on further inspection and assessment, has upped their estimate to construct this, in particular to address drainage needs. The estimate is now at approximately \$2.5 million for construction. The expectation is that the drainage needs in the corridor will be addressed and resolved during the construction phase. The towns will be taking ownership of new infrastructure.

Selectman Roman asked if the Town has any authority to negotiate this agreement at this time.

Mr. Bogle answered that the DOT needs to get approval from the towns this month in order to respond to the latest counteroffer from Pan Am.

Chair Jenness asked who is responsible for removing the railroad ties. She stated that it was her understanding that they were just going to rot in place. Even though Rye has only twelve hundred feet. It's a lot of railroad ties.

Mr. Bogle agreed it represented a lot of ties. He stated that the removal of the railroad ties is part of the scope of the Sea Mac Project. It is his understanding that the State is responsible for the removal. He acknowledged that on some corridors, the State has pulled up the ties and stacked them at intervals along the corridor. Environmentally, DES has approved this. Where the ties become a problem is when they are taken to an incinerator or a commercial disposal site. It can become extremely expensive, usually about \$5.00 per tie. Ties are generally treated with creosol; however, the disposal method of deteriorating in place has been used by the State and it has not become an environmental regulatory problem yet.

Vice-Chair Winslow expressed concern regarding the rail road ties. He questioned whether the state is going to take them out or not. He explained that if there were a water storm that moved the ties around, it would become the Town's responsibility to dispose of them.

Mr. Bogle answered that it is his understanding that it is written into the project that the State will remove them. He was not sure if the State will just stack them in the corridor, like they have done in other corridors of the State, or if they will dispose of them.

Vice-Chair Winslow expressed his concern regarding the culvert between Greenland and Rye. He explained that on the site-walk last spring, they could not find the culvert. He does not want the Town to be responsible for putting in a culvert.

Mr. Bogle explained that this will be part of the construction phase. He added that the culvert does show up on the old B&M valuation map. He said that it is possible that there is a buildup of organic material over the top of the culvert.

Vice-Chair Winslow said that he also had concerns about safety. However, Chief Walsh did not see a major issue with it. Vice-Chair Winslow stated that he would like to keep the trail strictly for non-motorized traffic year round and to not allow snowmobiles so that it could be used by snowshoers and cross country skiers.

Mr. Bogle stated that the reference in the agreement states that the permittee, (being the Town), shall limit motorized vehicle assess per... and then goes into the federal regulatory reference. The federal regulatory reference includes exemptions for maintenance and emergency vehicles. It then states snowmobiles at the discretion of the local management agency.

Vice-Chair Winslow pointed out that the Coakley Landfill is close by. If at some point in time, scientist find that the water on both sides of the rail trail is polluted, how will this issue be handled by the State?

Mr. Bogle stated that Karen Anderson of Greenland brought up the same point. She had asked that DOT build fencing along the corridor across Berry's Brook and similarly have fencing pass Coakley Landfill as well, at least on the east side.

Selectman Roman re-expressed her concern regarding spending town funds on this project. She stated that if the Town's people want to fund it, she has no issue with it. However, this document does not allow for the Selectmen to put this before the voters. She would be in favor of the proposal if there was a provision at the beginning of section two that states: The following obligations of the permittee are dependent upon funding by the legislative body or by volunteer funding. She stated that she feels that as it is written now, the Town would be in breach of the agreement, if the Town's people objected to the funding.

Vice-Chair Winslow stated that he would like to see something in writing regarding the fencing.

Mr. Bogle pointed out that this will be a federally funded construction project and there will have to be a public process for the design and implementation of it. The Town will have an opportunity to weigh in on it at that time.

Selectman Roman suggested the Board agree to the proposal with the indemnification language as proposed by Hampton and if the State is willing to add a provision to paragraph two that states; "The permittee's following obligations are depending upon funding by the legislative body or private funding." She said that if the State will not agree to it, then she would want the damage clause taken out of the document. (Section 7.4) She agreed that it is a great project but in order to protect the Town this is worth asking for.

The other Board members agreed that they would set up a meeting with Mr. Bogle as soon as he has the answer.

Mr. Bogle asked that the Town to put something in writing that he can submit to the Commissioner.

Town Administrator Magnant agreed.

#### **D. Rye Mosquito Control Commission Recommendations for 2019 Mosquito Services**

The Board was provided with the Mosquito Control Commission's recommendation to award the 2019 mosquito contract to Dragon Mosquito.

**Motion by Phil Winslow to award the 2019 Mosquito Contract to Dragon Mosquito. Seconded by Keriann Roman. All in favor.**

#### **E. Beach Committee 2018 Report**

**Larry Rocha Chairman of the Beach Committee** addressed the Board with a presentation of the 2018 Beach Committee Report. He announced the members of the Beach Committee as follows:

- Steven Hillman      Vice-Chair
- Lori Carbajal      Clerk
- Keper Connell      Member
- Brad Fulkerson      Member

He reported that during 2018 the Beach Committee held four meetings. He presented a slide show to the Board showing pictures of Labor Day, Sunday, September 2<sup>nd</sup> at 6:30 a.m. He explained that Jenness Beach Parking lot was already full, Route I-A was congested, and all the parking was already taken on Perkins Road.



Mr. Rocha contrasted this by pointing out that when he got into Hampton there were hardly any cars there. The Beach Committee feels that the parking issue is the number one problem that needs to be addressed. Mr. Rocha outlined the report and the Beach Committee's recommendations as follows:

- **Parking Issues**

- Increase Parking Fines
  - No Parking \$ 75.00
  - Permit Fine \$200.00
- Hire a towing company.
- No loading and unloading at Sawyer's Beach.
- Misstatements in neighboring communities, vacation guides regarding parking at Rye Beaches must be addressed by contacting these people/companies that prepare the advertising.
- Perkins Road – ground zero for parking issues, due to the location near Jenness Beach and the Surf Shop.
  - Recommendation: Permit/Residential Parking only on Perkins Road (only on one side)
  - Box off areas near driveways like on Ocean Blvd.
- Partition the State for No Parking of RV's and large vans on Route 1-A and in Jenness Beach State Park parking lot.

Mr. Rocha reported that the Beach Committee has done a traffic and parking survey over the last four years. He reported that the numbers have not changed a lot. They are pretty consistent with New Hampshire at 45%, Massachusetts at 20%, and Quebec at 35%.

Mr. Rocha added that another issue that came before the committee in 2018 was the request for a port-a-potty at Sawyer's Beach. The Beach Committee felt that it was environmentally unsafe and that it would contribute to the parking and traffic issues in the area. He acknowledged that he felt this issue had been resolved.

Vice-Chair Winslow noted that the Budget Committee had met earlier in the week and had voted not to fund the \$1,200. He also reported that the proponent of the request has withdrawn her request.

Mr. Rocha addressed the issues of dune grass being planted by home owners that is encroaching onto public property. He and Ms. Carbajal met with Eben Lewis of the DES regarding one property where the dune grass is 15 feet beyond the property line. He stated that the Beach Committee recommends that the Town more closely monitor all planting of dune grass.

Mr. Rocha read a statement from the Beach Committee regarding the 2019 Charge. The requests are:

- ***The Rye Beach Committee has full input regarding all Rye Recreation Beach Permits.***
- ***The Rye Beach Committee should be consulted in unison with the Conservation Commission in aspects of requests on all Rye beaches.***

- ***The Rye Beach Committee to be involved with the State RSA, to explore and formulate regulations to pay to park on Route 1A and to eliminate oversized vehicles, RV's and campers from parking at Jenness Beach parking lot and Route 1A.***

**Q&A:**

**Peter Brotchie, 67 Old Beach Road,** stated the report does not seem to mention anything beyond Rye General Store, around Old Beach Road, Locke Road or Straw's Pointe. He asked if that was an oversight.

**Mr. Rocha** stated that the committee has actually done site walks through that area. The committee noticed that people will be parking along Old Beach Road and the Wallis Sands parking lot will only be half full. The committee feels that the RVs should be parking at Wallis Sands where there is RV designated parking.

**Mr. Brotchie** asked if the committee would consider adding these areas in their report. The quality of life has gone down precipitously in the last three to five years in relation to the parking.

**Mr. Rocha** agreed. He stated that one of the ideas that came up during the meetings was, as you look at Sea Road to Locke Road, there should be no parking on everything west of Route 1-A. The same thing when you get down by Locke Road to Old Beach Road.

**Mr. Brotchie** commented he would be happy with just resident only parking.

**Mr. Rocha** explained that the committee is in discussions in regards to having more areas open for resident parking, such as Cable Road and Old Beach Road. What has been presented is the first step to see how it works and then expand to other places.

**Mr. Brotchie** stated that he is very supportive of the recommendations but would like Old Beach Road to be included as well.

**Mr. Rocha** noted that it can be added to the annual report, if the Beach Committee members agree.

**Shawn Frank, 47 Old Beach Road,** stated that when people park on the side of the road, they disembark and take up almost the entire lane. The people who are trying to walk have to walk in the road. Old Beach Road becomes a one lane road. The people that come from Quebec, park their campers along the road and stay for the entire day and are living there for the day. Old Beach Road needs to be resident parking only or no parking at all. There should be a couple of safe designated loading and unloading areas. Maybe there should be a few out of town permitted spaces, where people can pay to park by buying a permit. It was recommended that motor homes park at the Wallis parking lot, which is fine, but the surfing is across the street on Old Beach Path. Surfers are not going to park there and walk all that way carrying a surf board. Maybe a trolley would be a good idea.

**Mr. Rocha** noted that the committee has discussed having remote parking; however, it is not feasible.

**Ms. Frank** pointed out that the population is not going to decrease. Rye needs to have a long term plan.

**Mr. Rocha** replied that the committee has been addressing these issues for years. The committee knows they have to be pro-active, not re-active, or not acting at all. It seems to be at a place where it is out of control. This is not a matter of denying access but if there is no place to park they will have to go someplace else.

**Lori Carbajal, member of the Rye Beach Committee**, spoke regarding the recommendations of the report. She stated that there were four parts to the recommendations that came from all the issues that the committee has heard about from the residents during the year. She pointed out that there is more than one business and the State of New Hampshire that are bringing tourists to Rye. They are giving zero manpower or funding to the Town of Rye to manage it. Ms. Carbajal stated that one part of the Beach Committee's recommendations is to get assistance from the State. She explained that the Beach Committee has put together a warrant article to restrict RVs and oversize vehicles off of Route 1-A with the assistance of the State. The RV and oversized vehicles parking on 1-A is the biggest problem that has, as far as safety and the availability of access. She added that the committee also talked about a metered system for paid parking. Ms. Carbajal stated that with today's technology, it would be feasible to do Pay-to-Park and maybe the Town could administer extra parking staff to monitor that high congested area. This problem needs to be reeled in by allowing residents to have a little more parking and managing the parking a little better. She stated that the Beach Committee has four warrant articles on the ballot that she hopes will get through the deliberative session.

**Elizabeth Orlando, 103 Old Beach Road**, stated that they have owned their cottage on Old Beach Road for twenty years. The demeanor of the attitudes of the people coming to the beach has changed dramatically over the years. The people that are coming act like it's their territory and the home owners are the outsiders and unwelcomed. Her neighbors behind her bought a place on a lake to get away from the congestion of the summer. It is ridiculous for someone that lives by the ocean to have to go to a lake to use a beach. She stated she would love to have residents parking on her street because she knows they will have respect for the area.

**Robert Vose, 79 Old Beach Road**, referred to the Tighe and Bond report that outlined the parking as:

- **1,925 Total Parking Spaces**
  - **876 Free**
  - **150 Private**
  - **767 State**
  - **132 Rye Residents Permit**

Mr. Vose pointed out that there are approximately 80-100 spaces on Locke, Cable, Old Beach, Perkins and Baker. If these were turned into resident only parking, it would almost double the amount of parking for the residents. He added that from Maine to Miami, he does not know of another beach town that has free parking at a beach front for non-residents. Currently there are over 2,000 permits being sold and there are only 132 spaces. That is less than 7%. This needs to be fixed.

Chair Jenness stated that it is encouraging to have so many people in favor of resident parking. She added that it will make a resolution so much easier knowing that people are in favor of it.

**Ryan McGill, 21 Perkins Road**, stated that it may be better to not have these people here and it may be better to have more resident parking. However, all through Massachusetts there is free parking at all the beaches. He explained that he goes to those beaches to surf. He pointed out that the Tighe and Bond study said that the Town has more than enough parking. The study recommended to look at other options for further parking. He pointed out that there has never been any more parking given. Parking has just been taken away. He is against putting all parking as resident only parking because that is taking away access to the beaches for generations to come. There are both sides to this story and he asked the Board to look at both sides before making any decisions.

**Tyler McGill, 22 Perkins Road**, referred to the Tighe and Bond study that was hired to be done by the Town three years ago. He read:

*To address comments that there is insufficient beach parking available for residents, we conducted periodic observations over a two month period of the resident only parking areas. Over all, we noted that there were spaces available within the designated resident only parking area.*

Mr. McGill added that the Town paid to have this study done because the residents in these areas were specifically asking for there to be no parking in front of their houses. He stated that before he lived on Perkins, he parked there because he did not want to pay for parking. People that come from Portsmouth, Newington and Greenland have a right to access the beaches. This is a public trust land. It is all of our rights, as New Hampshire residents and US citizens, to be able to visit the ocean. He stressed that he has been hearing people say they came here 20 years ago or so. There are very few people that can say that they were born and raised here. Everyone came at some point to enjoy this amazing place. Having a property in this community does not mean that the residents should limit access to the next people that come. It will affect property values and the businesses. Mr. McGill pointed out that in the last ten years, from Rye Harbor to the Beach Club, the Town has lost The Wild Flower Café, Saunders, Joseph's, The Rye Motel and The Pagoda Colony to name a few. The Town is losing commercial spots and 10% of parking. The new bath house at Jenness State Park has also taken away parking. He acknowledged that the problems that are being talked about exist; however, taking away more parking is not going to solve the problems.

**Steven Hillman, member of the Rye Beach Committee**, explained that not everything that was presented was unanimously decided on. What the committee is dealing with is something that is not going away because this is an area where people are going to come to the beach. When the committee talked about Perkins Road, they also talked about the fact that putting permit only parking there was not solving the safety issues that the residents are concerned about. He pointed out that what happens is that when people can't get a spot at Jenness Beach, their next logical spot is to go up Perkins Road. The traffic going up Perkins is always going to be consistent because of the proximity to the State Park. There may be other ways and ideas that the committee can bring to the table to help mitigate the situation. Mr. Hillman stated that the ideas that are presented to the Selectmen are discussion points. They are the committee's suggestions and thoughts. Some of them are worthy and some may need more work. He stressed the need for getting State help.

After a lengthy discussion on both sides of this issue it was agreed:

- The Beach Committee would meet again on the parking issues.
- People need to go before the Beach Committee and make their arguments there.
- The Board of Selectmen have agreed that they are not going to take any actions unless they have a vote from the Beach Committee as to what they want to be made "No Parking".
- The Board of Selectmen will review all recommendations with the Police Chief.
- The issue needs to be presented again at the next Selectmen's meeting.
- This issue must go on the ballot for the voters to decide.

Chair Jenness announced that the Board will accept the Beach Committee's report.

At 10:27 p.m. Chair Jenness called for a short recess.

Chair Jenness reconvened the meeting at 10:32 p.m.

- A. Chair Jenness announced that the Board will be taking two items out of order at this time. Under the section on the Agenda: **SELECTMEN'S 2019 BUDGET WORK SESSION, B. Petition Warrant Articles**, there are two articles. First, is the Skateboarding and Roller Blading article and the second is John Loftus's petition article.

**ARTICLE \_\_\_\_.** (By Petition) To see if the Town will vote to amend Ordinance #3 Skateboard, Roller Skate, Bicycle, Pedestrian Regulations as follows (changes illustrated in **bold/italic/underlined font**):

SKATEBOARD, **ROLLER SKATE ROLLERBLADING/IN-LINE SKATING** BICYCLE AND PEDESTRIAN REGULATIONS

1. Skateboards **and Roller Skates**. The use of skateboards **and roller skates** on all public highways, sidewalks and commons within the Town of Rye is prohibited, provided however, that the Chief of Police with advice and consent of the Selectmen, may designate certain streets, roads and ways upon which the use of skateboards **and roller skates** may be permitted.

2. Bicycles. Any person propelling a bicycle on any public highway shall ride single file and shall ride as near to the right side of the road as practical.

3. Pedestrians. Any person running, jogging or walking on the traveled way of any public two-way highway, shall run, jog or walk single file and shall do so as near to the left side of the roadway as practical.

**4. Rollerblading/in-line skating. Any person rollerblading/in-line skating, on the traveled way of any public two-way highway, shall do so single file and as near to the left side of the roadway as practical.**

4. Violation of this regulation shall subject the person convicted to the maximum penalty provided for violation of Town Ordinance provided that person be over the age of seventeen (17) years. For the first violation of this regulation by any child seventeen (17) years of age or under, the parents or guardian of such child shall be notified. Upon any subsequent violation, the parents

or guardians of such child shall be guilty of a violation as defined by the New Hampshire Revised Statutes Annotated.

**NOTE: The current section 4 would become section 5.**

**Kristen Umlah, 45 Locke Road, sponsor of the petition**, spoke to the Board of Selectmen regarding the proposed amendments. She pointed out that the amendment to Section 1 is to remove the references to roller skates but continue to prohibit skateboarding. She added that there will be no changes to Section 2, bicycles and 3, pedestrians. She is recommending to add a new Section 4 addressing rollerblading and in-line skating, which will permit in-line skating, the same as bicycles and pedestrians, on any of the public roads in single file and to the left side of the roadway.

Chief Walsh pointed out that the current ordinance is not prohibiting rollerblading altogether. It states; the use of skateboards and roller skates on all public highways, sidewalks and commons within the Town of Rye is prohibited, provided however, that the Chief of Police with advice and consent of the Selectmen, may designate certain streets, roads and ways upon which the use of skateboards and roller skates may be permitted. He added that injuries sustained during rollerblading often happen due to poor road conditions. A lot of Rye's roads are in need of repair, especially in the spring. This ordinance is just a tool for the officers to be pro-active in regards to safety. If there is a road that is appropriate, that is safe and not congested, no one is going to object to rollerblading.

**Motion by Keriann Roman to recommend the article as presented and to move it to the ballot. Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

**ARTICLE \_\_.** (By Petition) To see if the Town of Rye will vote to limit the Rye Selectmen from expending any further money on the existing town hall as delineated below.

To date, over approximately the last five years, the town taxpayers have funded well over \$400,000 while seeking a solution for renovation of the Town Hall, with little to show for the expenditures.

Therefore, no further expenditures on the current Town Hall Building shall be made, excluding emergency repairs, until such time as the Town has voted, and passed, a "Warrant Article" to ***either: 1.*** Build a New Town Hall on the existing site, OR, ***2.*** Renovate the existing building adding the required square footage to house current, and projected additional, employees. In ***either*** case, the project must comply with all current existing codes (Building, Electrical, Plumbing, Energy, Fire & Life Safety), ADA requirements, and provide a working environment free from health hazards.

The intent of this article is to stop wastage, and also to keep the Town Hall located on its current Historic Site, in the center of Rye, without further bifurcation of Town Hall employees. This will allow our town workforce to work together, in the most efficient manner, for the best benefit of town residents!

**John Loftus, 108 Straws Point Road, sponsor of the article**, stated that the genesis of this article was twofold. Number one, is it is going to come down to renovating the building or building something new. The committee of the new Town Hall 2019 would like to see some finality; either to build a new town hall or renovate. Whichever way it goes, the committee would like it done to a

certain standard, not piecemeal as in what has been happening. Mr. Loftus stressed the issue of this article is strictly "Stop wasting money, until a decision is made."

**Motion by Phil Winslow to not recommend the article as presented but to move it to the ballot. Seconded by Keriann Roman. Vote: 3-0. Motion passed.**

#### **F. Grant for Fiber Optic Cable**

**Town Administrator Michael Magnant** reminded the Board of Selectmen that the main data line cable between the Public Safety Building and the Town Hall needs to be replaced. He reported that Police Chief Kevin Walsh reached out to New Hampshire Emergency Management to see if there were any available grants to help with the cost of this project.

Chief Walsh thanked Perry Plummer the Director of NH Emergency Management and Field Representative Heather Dunkerley for their help. The grant will pay for half of the data line that will run between the Safety Building and the Town Hall. The total cost of the project is \$13,780 and the grant will be in the amount of \$6,890.00.

Chair Jenness asked where the balance of the money will come from.

Town Administrator Magnant stated that it will be taken from the Town-wide Municipal Buildings Maintenance Capital Reserve Fund.

Selectman Roman asked if anyone had talked to Primex regarding the indemnification provision.

Town Administrator Magnant stated that he had. At the time the Town enters into a contract with the vendor, Primex will work on the language to pass the indemnification to them.

**Motion by Keriann Roman to accept the terms of the Emergency Management Performance Grant, as presented, in the amount of \$6,890 for the purchase and installation of network cabling in the Town's Emergency Operation Center. Furthermore, that the Board acknowledges that the total cost of this project to be \$13,780.00 in which the Town will be responsible for a 50% match of \$6,890 and also that the Board authorizes Town Administrator Michael Magnant to sign all documents related to this Grant. Seconded by Philp Winslow. All in Favor.**

#### **G. Verizon Lease Agreement**

Town Administrator Magnant explained that the Town Attorney sent the latest version of the Verizon Lease Agreement. There has been one change to the agreement. At the end of paragraph five, which states; *The Lessor agrees to plow, sand and salt a portion of the easement area between Parsons Road and the driveway on Tax Map 19/Lot 113, now owned by the Kornechuk Family Irrevocable Trust.*

Mr. Magnant further explained that the lease has a 5 year renewable term, annual rental to the Town of \$24,000 with an escalator of 2% and an additional 25% from the lease of the tower itself.

**Motion by Keriann Roman to approve the Verizon Lease Agreement subject to ratification by Town Meeting. Seconded by Phil Winslow. All in favor.**

#### **H. Cancer Cluster Commission Representative**

Chair Jenness explained that Dr. Tom Sherman was Rye's representative to the Cancer Cluster Commission. Now that he is on the Senate, his position on the commission is open. Senator Sherman has suggested that Mindi Messmer be appointed.

Selectman Roman pointed out that the appointment needs to be done by the end of the month but the Board has one more meeting in January.

Vice-Chair Winslow pointed out that Rye currently has two other residents that are on the commission; Janet Stevens and Julie Tucker. He added that whoever is appointed, the Board should ask them to keep the Selectmen up to date on the progress of the commission at least twice a year. Secondly, if there is a vote coming up, they are representing the Board and need to confer with Mike Magnant on the Board's position on that vote. Third, the Board should not restrict themselves from not being able to replace a representative that the Board feels is not representing the Town properly.

After a brief discussion, the Board agreed that Ms. Messmer is very well qualified and a good candidate. However, it is appropriate to allow other residents to voice their interest and to take it up at the next meeting.

Mr. Magnant will have the position posted on the Town's website.

#### **VI. CORRESPONDENCE - None**

#### **VII. NEW BUSINESS - None**

#### **VIII. OLD BUSINESS – Sawyer's Beach Port-a-Potty**

Vice-Chair Winslow updated the Board on the Sawyer's Beach port-a-potty issue by stating that the Budget Committee had met earlier in the week and had voted not to fund the \$1,200. He also reported that Ms. Pavlas has withdrawn her request.

**Motion by Keriann Roman to not install a Port-a-Potty at Sawyer's Beach. Seconded by Priscilla Jenness. Vote: 2-0 Abstained: Phil Winslow.**



**IX. SELECTMEN'S 2019 BUDGET WORK SESSION**  
**B. Warrant Articles**

**NOTE: This Article was previously reviewed and amended to read as follows:**

**ARTICLE \_\_\_\_.** To see if the Town will vote to raise and appropriate the sum of seven hundred thousand dollars (\$700,000) to replace the existing salt shed with a larger more efficient salt storage facility to allow all salt operations to be under cover, and authorize the withdrawal of eighty thousand dollars (\$90,000) from the Salt/Shed Storage Building Capital Reserve Fund created in 2005 for this purpose, and authorize the borrowing of up to six hundred twenty thousand dollars (\$610,000) through the issuance of not more than six hundred twenty thousand dollars (\$610,000) of bonds or notes in accordance with the provisions of the Municipal Finance Act (N.H. RSA Chapter 33 as amended) and to authorize the Selectmen to issue, negotiate, sell and deliver such bonds or notes, to determine the rate of interest thereon and the maturity and other terms thereof, and to take such actions or to pass any vote relative thereto as may be necessary to effect the issuance, negotiation, sale and delivery of such bonds or notes as shall be in the best interest of the Town of Rye, and further, to apply for, obtain, accept and expend Federal and State Grants or other aid and any private donations that may be available towards this purpose and to comply with all laws applicable to said project. (3/5 ballot vote required.)

**Motion by Keriann Roman to recommend this article as amended. Seconded by Phil Winslow. All in favor.**

**Selectman Roman pointed out the following corrections:**

**ARTICLE \_\_\_\_.** To see if the Town will vote to raise and appropriate the sum of ten thousand (\$10,000) to be added to the Library Employees' Accumulated Leave Fund established by Article 22 at the 2018 Town Meeting under the provisions of ~~RSA 31:19-1~~, RSA31:19-a for the purpose of funding Library Employees' accumulated leave. This appropriation is in addition to the operating budget. (Majority vote required.)

**ARTICLE \_\_\_\_.** To see if the Town will vote to raise and appropriate the sum of Fifty Thousand Dollars (\$50,000) to be placed in the expendable general trust fund known as the Town Employees' Accumulated Leave Fund, established pursuant to ~~RSA 31:19-1~~, RSA31:19-a by Article 14 of the 1990 Rye Town Meeting for the purpose of funding Town Employees' accumulated leave accounts. This appropriation is in addition to the operating budget. (Majority vote required.)

**NOTE: This Article was previously reviewed and recommended by the Board of Selectmen but was amended by the Budget Committee to remove the \$1,200 for the Port-a-Potty as Sawyers Beach to read as follows:**

**ARTICLE \_\_\_\_.** Shall the Town raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein totaling nine million seven hundred eighteen thousand one hundred forty-six dollars (\$9,718,146)? Should this article be defeated, the default budget shall be nine million one hundred fifty-two thousand ninety-one dollars (\$9,152,091) which is the same as last year, with certain adjustments

required by previous action of the Town or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only. (Majority vote required.)

**NOTE: This operating budget warrant article does not include appropriations in any other warrant articles.**

**Motion by Phil Winslow to recommend this article as amended. Seconded by Keriann Roman. All in favor.**

**ARTICLE \_\_.** To see if the Town will vote to accept as town roads, Autumn Lane and Signature Drive in the Stoneleigh Preserve Subdivision as shown on a plan entitled "Subdivision Plan of Stoneleigh Preserve (Rye Tax Map 4, Lots 25, 27, 21 & 32) for WNRV, LLC South Road, Rye New Hampshire", recorded in the Rockingham County Registry of Deeds as Plan No. D-40857. This acceptance is conditioned upon the final approval of the Public Works Director, the Board of Selectmen and the Planning Board. The Planning Board has approved the subdivision creating Autumn Lane and Signature Drive as identified on the above-referenced plan. (Majority vote required.)

**Motion by Keriann Roman to recommend this article as presented. Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

**Selectman Roman pointed out the following corrections:**

**ARTICLE \_\_.** To see if the Town will vote to retain, pursuant to ~~RSA 80:80 IV~~, RSA 80:80 V, the ±14 acres Tax Map 23/Parcel 1, which was acquired by the Town of Rye by tax deed in 1995, for the purposes of lease of a 10,000 square feet cell tower site to Cellco Partnership d/b/a Verizon Wireless and for open space preservation and further to authorize the Board of Selectmen to convey the parcel to the Conservation Commission for open space preservation subject to the cell tower lease.

**NOTE: This Article was previously reviewed and recommended by the Board of Selectmen but the Budget Committee was concerned about the language:**

**ARTICLE \_\_.** If Article \_\_ above is approved, to see if the Town will vote to raise and appropriate the sum of up to four thousand dollars (\$4000) for payment of any damages sustained by each owner of land taken for such road as required by RSA 231:15 which may be assessed as a result of the road layout approved by Article \_\_. This article is in addition to the operating budget. (Majority vote required).

Town Administrator Magnant explained that as it is written it seems like the Town would be liable to all the homeowners on the road. This is not the case, as there is only one homeowner that is affected. The Town Attorney has recommended replacing the word any, with all as follows:

**ARTICLE \_\_.** If Article \_\_ above is approved, to see if the Town will vote to raise and appropriate the sum of up to four thousand dollars (\$4000) for payment of ~~any~~ all damages sustained by each owner of land taken for such road as required by RSA 231:15 which may be assessed as a result of

the road layout approved by Article \_\_\_\_\_. This article is in addition to the operating budget. (Majority vote required).

The Board made an additional amendment as follows:

**ARTICLE \_\_\_\_.** If Article \_\_\_\_ above is approved, to see if the Town will vote to raise and appropriate the sum of up to four thousand dollars (\$4000) for payment of ~~any~~ all damages sustained by ~~each~~ all ~~owner~~ owners of land taken for such road as required by RSA 231:15 which may be assessed as a result of the road layout approved by Article \_\_\_\_\_. This article is in addition to the operating budget. (Majority vote required).

**Motion by Keriann Roman to recommend this article as amended and to move it to the ballot.**  
**Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

**ARTICLE \_\_\_\_.** Shall the Town adopt the following ordinance regulating dogs in the town forest, on town beaches and town property and in other public places? (Majority vote required).

TOWN OF RYE ORDINANCE NO. \_\_\_\_

CONTROL OF DOGS IN TOWN FOREST, ON TOWN BEACHES AND  
TOWN PROPERTY AND IN OTHER PUBLIC PLACES

1. Applicability. This ordinance applies to the Town Forest, Town Beaches, Town Property and other public places.
2. Authority. This ordinance is enacted pursuant to (1) RSA 41:11-a: Board of Selectmen's authority to manage town property; and (2) RSA 31:39, I. (b): Authority of towns to make bylaws for the prevention of going at large of horses and other domestic animals in any public place in the town.
3. Dog Control. It shall be unlawful for any dog to run at large in the Town Forest, on Town Beaches, on Town Property or in other public places.
3. Definitions.
  - a. "Run at Large" means the dog is off the premises of the owner or responsible party and is not under the voice control and sight control of any persons responsible for the dog.
  - b. "Voice control" of the dog means a dog returning within 3 calls to and remaining by the side of the responsible party, in response to the responsible party's command for the dog to return.
  - c. "Sight Control" of the dog means the dog always being within the sight of the responsible party.
  - d. "Responsible Party" means any person or persons accompanying a dog, whether or not said person(s) is the owner of the dog.
4. Other Unlawful Acts. It also shall be unlawful.
  - a. For a dog to jump on an unwelcoming party.
  - b. For a dog to show aggression to another dog and not be under voice control of the responsible party.
  - c. For a responsible party to refuse to call their dog through voice control when requested to by an authorized Town of Rye official.
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 found to be in violation, not to exceed \$1000.
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. Conflicts. To the extent this ordinance may conflict with the Town Forest Leash Ordinance, the Town Forest Leash Ordinance shall govern. To the extent this ordinance may conflict with Section 11, Part 1 of the Beach Ordinance this ordinance shall govern.
8. Effective Date: This ordinance shall be effective upon publication by the town clerk.

**Motion by Phil Winslow to recommend the article “Control of Dogs in Town Forest, on Town Beaches and Town Property and in Other Public Places” as a definition of “Dog At Large” as presented and to move it to the ballot. Seconded by Keriann Roman. Vote: 3-0. Motion passed.**

**ARTICLE \_\_\_\_.** To see if Town will vote to adopt a Voice and Sight Control Tag Program at the Town of Rye Forest and abutting Town property, Parsons Field Conservation land, and to enact a leash law in and around the Town Forest for all dogs. The Voice and Sight Control Tag Program allows dogs to be off leash at Town Forest and abutting Town land, if the dog (s) display a participating tag and the dog (s) are under “Voice and Sight Control” of the dog (s) guardian at all times. The participating Voice and Sight Control tag signifies the dog (s) guardian has registered in the program, has been given guidelines of program, watched the online video of what it means to control a dog (s), and the dog (s) meets vaccination requirements. The money from fees will pay for the expenses of the Voice and Sight Control Tag Program. Voice and Sight Control Tag Program expires every December 31<sup>st</sup> of each year. Voice and Sight Tag Program privileges must be renewed annually.

A guardian who participates in the Voice and Sight Control Tag Program may still be issued a violation of the rules including but not limited to the following infractions:

- The dog guardian is walking more than three dogs
- The dog guardian is not carrying a leash for each dog and dog waste bag (s)
- The dog guardian fails to display a voice and sight tag on dog
- The dog guardian has a dog under voice and sight control and is not registered in the Voice and Sight Tag Control Program
- The dog is not within the guardian’s sight and under voice control at all times
- The dog does not come to and stay with guardian immediately after (3) requests by guardian
- The dog jumps on, charges, chases or otherwise displays aggression toward any person, or behaves in a way that any reasonable person may find harassing or disturbing

- The dog charges, chases or otherwise displays aggression toward any dog or person
- The dog chases, harasses or disturbs wildlife or livestock
- The dog is on private property without permission of the landowner
- The dog guardian does not carry dog waste bags and does not immediately pick up their dog's waste, carry it with them (does not leave it to be pick up at later time) and dispose waste in waste can (at home)

Dog is automatically defined as out of control and in violation of this Ordinance if dog (1.) is on private property without permission, (2.) jumps or knocks down an unwelcoming person, (3.) fights with or shows aggression to another dog(s), (4.) A responsible party refuses to attempt to call their dog (s) when requested by an authorized Rye official is automatically in violation of this Ordinance.

#### Penalties

Offenses related to not meeting the requirements of the Voice and Sight Tag Program, off-leash or voice and sight control violations, and dog at large circumstances are subject to a maximum penalty first violation of up to \$100.00 and/or loss of one year of Voice and Sight Tag Program privileges for the dog and its guardian. For a second violation, the maximum penalty is a fine of up to \$200.00 and/or loss of one year of Voice and Sight Tag program privileges for the dog and its guardian. A third violation will result in a fine of up to \$300.00 and/or a permanent loss of Voice and Sight Tag Program privileges for the dog and its guardian. Additional fines may be applied \$50.00 up to \$1,000.00 for dog waste violations.

To the extent the Voice and Sight Control Programs conflicts with the Ordinance on Control of Dogs in Town Forest, on Town Beaches and Town Property and in Other Public Places, (Article \_\_ if enacted), the Voice and Sight Control Tag Program shall govern.

**Motion by Keriann Roman to recommend this article as presented and to move it to the ballot.  
Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

#### **C. Petition Warrant Articles**

**ARTICLE \_\_.** (By Petition) To see if the Town will vote to establish a committee in accordance with the 2006 Master Plan vision. Such committee, under the guidance of a telecommunications consultant, will be charged with developing a plan to investigate and identify types of telecommunications infrastructure which will eliminate 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. After a public hearing and acceptance of this plan by the Select and Planning Boards, the town can then move forward and enter into agreements for infrastructure deployment beyond the current Grove Road cell tower.

**Motion by Keriann Roman to recommend this article as presented and move it to the ballot.  
Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

**ARTICLE \_\_.** (By Petition) Establishment of Clean Fill/soil standards within the Town of Rye, which are protective of human health.

These standards would apply to commercial and residential development projects, which require fill to facilitate construction of a new building (residential and commercial), from outside of property boundaries.

Use of fill to facilitate construction of a new building (commercial or residential) and imported would be free of: chemical oils, fuel, heavy metals, volatile organic chemicals (VOC's), polychlorinated biphenyls (PCB's), perfluorinated chemicals (PFC's) 1,4 Dioxane and any constituent that would designate the soil as a hazardous waste or cause the soil to come under regulation requiring special handling.

Vice-Chair Winslow recommended referring this article back to the Planning Board.

Selectman Roman pointed out that this article is an amendment to the Building Code or the Zoning ordinance. Even if this article is passed, the Board of Selectmen could not enforce it. It is not a Selectmen's ordinance.

**Motion by Keriann Roman to not recommend this article as presented and ask the Planning Board to look into it for next year but to move it to the ballot. Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

**ARTICLE \_\_.** (By Petition) Shall the Town of Rye increase parking fines in Resident Only Permit Parking areas, from \$50.00 to \$200.00 to include tow zone and fine/tow signage at all Resident only parking areas. To increase fines in all NO PARKING areas from \$30.00 to \$75.00 to include signage for towing zone.

This warrant article is recommended by the Rye Beach Committee.

Vice-Chair Winslow pointed out that the Board of Selectmen are currently holding workshops to work on all town-wide fees. The Board felt that it was appropriate to address these fees as part of that process.

Selectman Roman pointed out that the Police Chief's recommendation was; Permit Parking from \$50.00 to \$100.00 and No Parking from \$30.00 to \$50.00.

Police Chief Walsh noted that if the court finds the fine excessive, they will reduce the fine. The court will find the fine excessive if they feel it is more than what is reasonable to cover enforcement expenses. Also, if the fine is too high, more people will not pay and the costs of collection will increase. Also, a towing ordinance would have to be presented as a separate ordinance article.

**Motion by Phil Winslow to not recommend this article as presented but move it to the ballot. Seconded by Priscilla Jenness. Vote: 2-1. Opposed: Keriann Roman. Motion passed.**

**ARTICLE \_\_.** (By **Petition**) Shall the Town of Rye make the Rye Beach Committee a standing committee to continue to manage town beaches working with municipal town departments to include: Police, Fire and DPW as well as the select board to vet all issues regarding Rye beaches. To implement best beach practices for safety, conservation per the Rye Master Plan, environmental soundness in compliance with NH DES, State and Federal impact law and recommendations by these agencies. The Beach Committee is due to sunset March 31, 2019. This warrant article is recommended by the Rye Beach Committee.

Chair Jenness read the current charge of the Beach Committee. She pointed out that the committee is to provide advice and counsel to the department heads, and research and advise as needed by the Board of Selectmen.

Vice-Chair Winslow pointed out that the words “manage” and “implement” are problematic.

Selectman Roman stated that part of this article is that the committee become a standing committee. She is in favor of that. This article could be amended at the deliberative session.

**Motion by Keriann Roman to not recommend this article as presented but move it to the ballot. Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

**ARTICLE \_\_.** (By **Petition**) In order to comply with New Hampshire Department of Environmental Service regulations, uphold sound beach management and environmental practices, preserve the adjoining Eel Pond wetlands, and maintain the natural aesthetic beauty of the Sawyers Beach conservation land, shall the Town prohibit the placement of portable toilets (Porta Potties) at Sawyers Beach? Nothing herein shall affect the existing portable toilets at Cable Rd. Extension or Wallis Rd. Extension. This article is recommended by the Beach Committee.

**Vice-Chair Winslow pointed out the following correction:**

**ARTICLE \_\_.** (By **Petition**) In order to comply with New Hampshire Department of Environmental Service regulations, uphold sound beach management and environmental practices, preserve the adjoining Eel Pond wetlands, and maintain the natural aesthetic beauty of the Sawyers Beach conservation land, shall the Town prohibit the placement of portable toilets (Porta Potties) at Sawyers ~~Bach~~ Beach? Nothing herein shall affect the existing portable toilets at Cable Rd. Extension or Wallis Rd. Extension. This article is recommended by the Beach Committee.

**Motion by Keriann Roman to recommend this article as amended and move it to the ballot. Seconded by Phil Winslow. Vote: 2-0. Abstained: Phil Winslow. Motion passed.**

**ARTICLE \_\_.** (By **Petition**) Shall the Town of Rye, with the assistance of the State of New Hampshire prohibit the parking of campers and RV's along Route 1a/Ocean Blvd., Fine of \$100.00 and/or tow. Signage to be posted along Route 1a “NO RV NO CAMPER PARKING – FINE \$100.00”. This Warrant Article is being proposed due to the hazardous conditions large vehicles pose to pedestrians and bicyclists. This article is recommended by the Rye Beach Committee.

Town Administrator Magnant pointed out at even if this article is passed, the Board of Selectmen could not enforce it as Route 1-A is under the State's jurisdiction.

Selectman Roman stated that she is not against the concept but feels that the statement of "No RV or Campers are allowed to park" is too broad. She recommended that it be regulated by size restrictions.

**Motion by Keriann Roman to not recommend this article as presented but move it to the ballot. Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

**ARTICLE \_\_\_\_.** To see if the Town will vote to authorize the Selectmen to sell to the highest bidder at public auction, or sealed bid, such surplus Town equipment as is not traded in on new equipment in 2019.

**Motion by Phil Winslow to recommend this article as presented and move it to the ballot. Seconded by Keriann Roman. Vote: 3-0. Motion passed.**

**ARTICLE \_\_\_\_.** To transact any other business which may legally come before this meeting.

**Motion by Keriann Roman to recommend this article as presented and move it to the ballot. Seconded by Phil Winslow. Vote: 3-0. Motion passed.**

## **X. OTHER BUSINESS**

- Peter Crawford announced that Jim Katkin, retired business manager of the School District passed away on Friday.
- Selectman Roman stated the she wants to acknowledge and enter into the record letters from other residents on Old Beach Road that have been received, which echoes what was already been discussed:
  - Cindy Sorrenson
  - Helen And Richard Campobasso
  - Brenda and Frank McDermont
  - Frank and Pat Breslin
  - Linda Laporta

### **Meeting Minutes**

1. Meeting, Thursday, December 6, 2018, 11:30 a.m., Town Hall

**Motion by Phil Winslow to approve the minutes of December 6, 2018 as presented. Seconded by Keriann Roman. All in favor.**



2. Meeting, Thursday, December 27, 2018, 7:00 p.m., Town Hall

The following correction was noted:

Page 8; last sentence of the Warrant article reads: This article is addition to the operating budget. It should read: This article is in addition to the operating budget

**Motion by Phil Winslow to approve the minutes of December 27, 2018 as amendment. Seconded by Keriann Roman. All in favor.**

3. Public Hearing, Thursday, January 3, 2019, 10:00 a.m., Starboard Way

**Motion by Phil Winslow to approve the minutes of January 3, 2019 as presented. Seconded by Keriann Roman. All in favor.**

**ADJOURNMENT**

**Motion by Phil Winslow to adjourn 12:05 a.m. Seconded by Keriann Roman. All in favor**

Respectfully Submitted,  
Dyana F Ledger

1-14-19 Consent Item A

Peter A. Crawford  
171 Brackett Rd.  
Rye, NH 03870

December 21, 2018

Ms. Priscilla V. Jenness  
Ms. Keriann Roman  
Mr. Phil Winslow  
Rye Town Hall  
10 Central Rd.  
Rye, NH 03870

Dear Mr. Winslow, Ms. Jenness and Ms. Roman:

I request that this letter be added to the agenda for the December 27, 2018 meeting of the Board. I will unfortunately not be able to attend.

At the December 10, 2018 meeting, the issue of the proposed Control of Dogs ordinance came up. The agenda for the meeting specifically states that this is a Selectman's ordinance. At the meeting, Mark Epply questioned the authority of the Selectmen to implement this ordinance. The face of the proposed ordinance specifically states that it is enacted pursuant to RSA 41:11-a and RSA 31:39, I(b). At the meeting, I agreed with Mr. Epply regarding RSA 31:39, I(b). That statute can provide no authority for the Selectmen as it is beyond dispute that when an RSA refers to "the town" it means the voters, not the Selectmen. I said, however, that I would look at RSA 41:11-a.

I support the excellent work that the Dogs at Large Committee has done under the leadership of Ritchie White and had hoped that this would lead to a town-wide consensus on the issue of unleashed dogs. The attendees at the December 10 meeting demonstrates, however, that there is major opposition to the proposed Selectmen's ordinance. I share the Selectmen's frustration that, on at least three occasions, including the past two years, a majority of voters present at the Deliberative Session has amended a proposed dogs ordinance to eliminate the intent so as to largely preserve the status quo. Eliminating the intent is, however, perfectly legal, as RSA 40:13, IV(c) prohibits only the elimination of the subject matter.

We do not in fact know whether the voters as a whole would support increased restrictions on unleashed dogs. Nevertheless, the fact that a majority of the approximately 100 persons present at the Deliberative Session has been able to overcome what may well be the will of a majority of the 1500 or so voters at the polls in March in no way justifies having an even smaller subset of the electorate, the three selectmen, make the decision for the rest of us. If it is believed that a majority would support increased restrictions, the solution is to get more of them to attend the Deliberative Session, not usurpation of our powers by the Selectmen.

The RSAs provide a number of specific ways in which restrictions may be placed on dogs at large. RSA 47:17, XI allows city councils to enact such restrictions. RSA 41:11 grants the Selectmen authority to exercise some, but by no means all, of the powers of city councils enumerated in RSA 47:17. These relate largely to traffic and parking issues. RSA 41:11 lists a number of subsections of RSA 47:17, but RSA 47:17, XI is notably absent. The Legislature knew how to give the Selectmen of towns the authority to do enact ordinances relating to dogs at large, but failed to do so. As a general rule, the expression in the law of one thing necessarily excludes the other (*expressio unius est exclusio alterius*). The legislative intent is even more clear because the power to regulate dogs at large is specifically given to the voters by RSA 31:39, I(b).

RSA 466:39 gives governing bodies the authority to enact regulations relating to the licensing and restraining of dogs. The proposed ordinance, however, is not limited to dogs kept in Rye, and the \$100 penalty imposed exceeds the \$50 limit of RSA 466:39. It may therefore not be enacted under this provision.

The implementation of selectmen's ordinances requires specific statutory authority. 13 N.H. Practice, Local Government Law s. 494. Authority may not be implied under the Selectmen's authority to manage the prudential affairs of the town. Gordon v. Rye, 162 N.H. 144, 150 (2011). The fact that the legal opinion asserting that the Selectmen have the authority to implement an ordinance relating to dogs at large appears to have come from the same attorney whose expansive interpretation of the Selectmen's powers was rejected by the New Hampshire Supreme Court in Gordon should give the Selectmen pause before respecting his opinion here.

RSA 486:30-b would allow the town to enact an ordinance relating to dogs at large, either by adopting the language of RSA 486:30-a or through some other ordinance. However, RSA 486:30-b, II(a) makes it clear that the voters, not the Selectmen, would need to do this.

That brings us to RSA 41:11-a, the authority cited in the ordinance itself. That statute, subsection I, permits the Selectmen to regulate the use of town property, unless the regulation "is governed by other statutes." (emphasis supplied). With respect to dogs at large, the legislature has specifically enacted other statutes governing this issue, and none of them authorize the Selectmen to implement the proposed ordinance, in fact they make it clear that the voters must take such action. Even without the exception in RSA 41:11-a, I, "[i]t is a well-recognized rule of statutory construction that where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way, the latter will be regarded as an exception to the general enactment where the two conflict." State v. Bell, 125 N.H. 425, 432 (1984). The more specific statutes governing dogs at large therefore overrides the general catch-all provisions of RSA 41:11-a, I.

I request, therefore, that the proposed ordinance not be enacted by the Selectmen, but rather that the issue be presented to the voters for decision.

Sincerely,

/s/ Peter A. Crawford

Peter A. Crawford

1-14-19 Consent Item B

January 2, 2019

Babs Dallmeyer  
20 La Mer Drive, Rye, NH 03870

Town of Rye,  
Planning Board(use of land board, assessing department)  
Rye Conservation Commission(Wetlands)  
Town Administrator  
Rye Board of Selectmen(safeguard rules, regulating properties)

RE: HIGH RISES in Rye, NH

Rye, NH is a family oriented residential community. Rye residents would like to keep the community as private and quiet as possible. The building of High Rises would compromise the quality of life now feasible within the community as it now exists.

This issue of building such structures in Rye has been carried-out under-handedly and seemingly dishonest. The residents seem to either know nothing about such a construction and/or are surprised that there is no informed consent and neighbor/abutter notification.

Everyone is asking:

"How did this get passed"??? By the Town of Rye administration.?

There are many, many rules in place concerning preserving the WETLANDS. Drainage, sewerage, all affect the integrity of the life of the marshlands. These rules and regulations seem to be by-passed.

Registered letters of notification should go out to all abutters. This has not happened. The information is defined in legal terms and sent to those across the street, across the marsh, stream of land under consideration by the local Rye land of use board.

Thank-you for reading this.

*Babs Dallmeyer*



1-14-18 Disc. Ham E

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## **Rye Beach Committee Report - 2018**

The Rye Beach Committee consists of Larry Rocha, Lori Carbajal, Keper Connell, Steve Hillman and Brad Fulkerson. During the summer the Committee had four meetings where they discussed various issues and exchanged ideas based on their observations and conversations with residents and other beach goers. Chief Walsh, Chief Cotreau and Selectman Keri Roman attended many of those meetings.

Below is a list of the Committee's thoughts and recommendations:

- As the number of visitors to the beaches in Rye increases the issue of parking is a major concern with many of the residents of Rye. The parking issue must be addressed and not put off. The town of Rye must take some serious steps to deter people from parking illegally. The committee received numerous e-mails and many residents expressed their frustration of cars parking "everywhere". **The Committee recommends:**
  - **Increasing the parking fines** to \$75 and \$200 for illegally parking in permit parking only.
  - **Hire a towing company to tow cars that are parking illegally.** Some residents have used signs saying, "NO PARKING, CARS WILL BE TOWED AT OWNERS EXPENSE". Those signs are very effective, and the town should use similar signage. Towing a few cars that are parked illegally would send a message that parking illegally will not be tolerated in the Town of Rye.
  - There needs to be **NO LOADING/NO UNLOADING** signage at places like Sawyers Beach. When non-residents load and unload it takes up a parking spot for residents. The Rye Beach Committee recommends this ordinance should be strictly enforced.
  - The Rye Beach Committee discovered that the **HAMPTON BEACH GUIDE** lists Sawyer's Beach as being owned by the Town of Rye and that a special resident sticker is need to park along Rt 1A but then goes on to say, "you can find beach access either along wooden planks laid atop the rocks in season, and a path next to the Rye Beach Club. ... Don't head to Sawyer's for the bathrooms. There are none. But there's also no crowd. Which can be a beautiful thing." This means that to have access to the beach people would need to park in the Resident Sticker only area and UNLOAD and LOAD. As mentioned above, this is not acceptable. **The Committee believes publications like this have contributed to the concerns at Sawyer's Beach and recommends the Town of Rye should ask the state to change the wording in the Hampton Beach Guide to read: "The only way for visitors to access Sawyer's Beach is by way of Jenness Beach and walking south."**
  - **Perkins Road has become "ground zero" for parking issues** due to its proximity to Jenness Beach State Park. Many residents on Perkins Road have expressed concerns of safety issues. We would like the state's assistance to post a sign or have an attendant direct people to Wallis Sands Sate Park when Jenness Beach parking lot is full. Perkins Road needs a solution. The Rye Beach Committee discussed having NO PARKING on Perkins Road but in the end the **committee is recommending that parking on**

**Perkins Road be for Rye residents with a Beach Parking Permit and "boxing off" the driveways on Perkins Road.** The Rye Beach Committee also recommends that side roads west of Route 1A should also be No Parking and/or Rye Permit Parking.

- The Committee was charged with "counting and documenting" the number of cars that are parked while enjoying the beach. After four years of documenting car count, the data has been consistent: New Hampshire plates 40%, Quebec plates 35% and Massachusetts plates 20%. Another problem was the considerable number of large vans and RVs that park in the parking lot at Jenness Beach and along Route 1A. **The Rye Beach Committee recommends:**
  - The Town of Rye and the Board of Selectmen make a formal request for the support of the State for **eliminating RV parking** at the parking lot at Jenness Beach and along Rt. 1A.
- **The Rye Beach Committee recommend not placing a Port-o-Potty at Sawyers Beach** for the following reasons:
  - Environmental Risk: Does not conform with RSA 485A Water Pollution/Waste Disposal
  - Parking: Car pulling over on both sides of Rt. 1A to use the Port-o-Potty. This is a safety issue.
  - Aesthetically Unpleasant: The smell and visual of a Port-o-Potty along a beautiful scenery of Sawyers Beach.
  - The Rye Beach Committee believe the people suggesting the need of a Port-o-Potty because of the times when it is not possible to walk to Jenness Beach to use the bathroom facilities can use another beach on those days when they cannot walk along the beach to Jenness Beach.
- Another major concern of the Rye Beach Committee was the planting of **DUNE GRASS** by private homeowners that encroaches on public space beyond their property line. The Committee would **recommend that the Town of Rye be diligent in monitoring any planting of dune grass on our beaches and remove any dune grass that encroaches on public space.**
- Lastly the Rye Beach Committee would like the following be part of their **CHARGE for 2019:**
  - The Rye Beach Committee have full input regarding all recreational beach permits.
  - The Rye Beach Committee should be consulted in unison with the Conservation Committee in aspects and request on all Rye beaches.
  - Be involved with the state RSA to explore and formulate a pay-to-park along Rt. 1A and eliminating oversized vehicles, RVs and campers from parking in the Jenness Beach parking lot and along Rt 1A.