

TOWN OF RYE – CONSERVATION COMMISSION

**Thursday, May 9, 2019
7:00 p.m. – Rye Town Hall**

Present: Chair Sally King, Vice-Chair Suzanne McFarland, Jaci Grote, Mike Garvan, Jeff Gardner, Susan Shepcaro and Heather Reed.

I. CALL TO ORDER

Chair King called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

II. APPROVAL OF MINUTES

- **April 11, 2019**

The following corrections were noted:

- First page, under members present: **Vice-Chair** Suzanne McFarland was not present. **Member** Jaci Grote was in attendance.
- Page 5, under bills: The name listed as Pokorney should be **Pokorny**.
- Page 2, paragraph 3, line 4 should read: **He stated the job will not be done until the late fall.**
- Page 3, paragraph 5, 1st line should read: **Member Shepcaro pointed out that Mr. Marino talks a lot in the original plan about “reserves” for non-cutting and managed reserve cutting areas.**
- Page 5, paragraph 5, 1st line should read: **A letter was received from Southeast Land Trust for our easement monitoring.**
- It should be noted that the Conservation Commission **voted in favor to come out of non-public session, with a roll call vote, at 8:50 p.m.**
A motion to seal the minutes of the non-public session was made, seconded and approved unanimously.
A motion was made, seconded and approved unanimously to adjourn at 8:51 p.m.

Motion by Mike Garvan to approve the minutes of April 11, 2019 as amended. Seconded by Jaci Grote. Vote: 6-0-1 Abstained: Suzanne McFarland

III. WETLANDS

- A. Ray's Seafood
1677 Ocean Blvd.
Tax Map 013, Lot 12,13,14
Owner: Andy Widen
Installing a septic system

- **Not heard as the applicant, nor his representative, showed up to present.**

IV. OTHER BUSINESS

A. Updates:

- Surveying – Jim Verra & Associates
Marden Woods is completed. It is at the Rockingham Registry for review and the mylars will then be completed.

Porkorny Property (three properties in back of the Fergusons) is still in progress, as there are some questions with regards to the deed. Conservation has put this back to Attorney Donovan for his legal opinion.

The monuments at the Porkorny Property (Appledore Ave) are being checked to make sure nothing has changed.

An easement off Washington Road (Map 11, Lot 2) is being verified.

- Budget

Funds from 2018 were encumbered for Charlie Moreno's work on the Town Forest Management Plan and for land acquisition. The survey for Marden Woods done by James Verra was also encumbered in 2018. Member Grote will follow up with Finance Director Becky Bergeron on the exact number for the encumbrances. Member Grote noted that surveys would normally fall under property maintenance in the budget.

Member Grote reported that approximately 20% of the 2019 Conservation Commission Budget has been spent to date. Many of the commission's costs come in the summer. She reviewed the budget line items.

- Leash zone ordinance in the town forest

Member Garvan has put together a detailed package on what the commission has been doing over the last two to three years and what they would like to do moving forward. The select board has scheduled a public hearing.

Member Garvan noted that it seems the public hearing will be on renewing the ordinance as it existed last year, whereas, the commission wanted to remove a 180ft section. At this time, he feels they should just keep it simple and keep the same zones, instead of trying to make the change.

Member Shepcaro stated it is imperative that the commission holds a site walk with the Board of Selectmen.

The commission agreed that Member Shepcaro should request a site walk with the Selectmen through Janice Ireland, Selectmen's Secretary.

B. Communication between ZBA and RCC – Form and revisiting properties

The Board of Adjustment has created a new form for applicants applying to the board for a variance. Planning/Zoning Administrator Kim Reed added a line;

“If relief regarding wetlands is required from RZO Section 301, then the applicant should file concurrently with RCC at the time of filing with ZBA and a request with the RCC to be placed on their next agenda should be made at that time”.

Chair King stated this is a good idea and helps to clear up some confusion for applicants.

Member Garvan noted that some applications are submitted to the ZBA that never go to Conservation. This happened at the last ZBA meeting. RCC was not able to comment on the proposal because the plan did not come before the commission. The applicant felt that by dropping off the package they had met their commitment. It's onerous for the CC members to have to call an applicant to see if they want to present it.

Vice-Chair McFarland commented that she and Chair King talked about having three people on the list for submittals so the applicant would be responsible for sending it to three members; chair, vice-chair and clerk. In the rare case that two of the members are not available, someone else will also have “eyes” on it for scheduling. She continued that when someone revises a plan substantially, the commission is not getting the plan back for a second review.

Member Grote asked if the wording is strong enough for people to come back.

Chair King noted that she spoke with the ZBA Chair and she felt the wording would cover it. She continued that she is going to speak with Patricia again about adding another line about revised applications.

Additional Conservation Updates:

Member Shepcaro spoke about the conservation parcel on Hunterville Ave and the idea of putting down a conservation mix. Tracy Degnan has said that using this mix near the wetlands is fine. She noted that she is going to seed the area at the recreation area that was cleared of grass clippings. This area is near the pond so she will use the same mix. She spoke with Lee Arthur about doing this work and she felt that the area belonged to the Conservation Commission anyways and had no issues with the work. Member Shepcaro commented that for now she will treat the area as conservation, unless she is told differently. She commented there is also rolled up chain-link fencing in the area that she will have DPW dispose of.

Vice-Chair McFarland asked about the mowing at Goss Farm.

Member Shepcaro stated that two-thirds of the property was mowed, by Alan Bucklin, before it started raining last Friday.

Chair King pointed out that she has asked Mr. Bucklin to let her know before he starts mowing so they can manage it a little more this year.

Member Shepcaro reported that the student intern is working out very well. She is a hard worker and it is great to have her.

Chair King noted that a dump truck load of organic compost was delivered to the Goss Farm by Seacoast Farms Compost Products. The dump truck operator backed into a “rut” and got stuck at the property. DPW was called in to pull the truck out. The operator dumped the compost in the parking lot and it has since rained. DPW offered to move the compost to the garden area, which they have done and it has been spread.

Vice-Chair McFarland asked what happened with the new proposal at 140 Harbor Road. She noted that Member Garvan had written three letters to ZBA for RCC. They knew the intent of the commission’s thoughts.

Chair King read an email from ZBA Chair Patricia Weathersby stating; *“The ZBA heard the new application and decide to not continue it until RCC could provide comments. The board did so reluctantly. They were persuaded by the fact that the applicant had provided the application to RCC in March but it had not yet been reviewed. The board had RCC’s letter from the first application which set forth proposed condition for native vegetation, the desire for it to be on the same footprint and not to have the expanded patio on the property”*.

Member Gardner asked about the Wentworth application.

Chair King noted that the application will be coming back to the commission in the fall.

V. NEW MEMBERS

Chair King stated there are three applicants who have expressed interest in becoming alternates:

- **Travis Billingham** – New resident of Rye with an interest in conservation. He has sent a letter to the select board stating his interest. He works as a realtor in New Hampshire, as well as New Mexico.
- **Danna Truslow** – Long-time resident who works as a hydrologist. She has been very active with conservation in the area. She was one of the founders of Seacoast Land Trust, which became Southeast Land Trust.
- **Karen Oliver** – Who is a member and past chair of the Southeast Land Trust. She is also a member of the Southeast Land Trust Outreach Committee.

Chair King stated that she would like to propose Danna Truslow for the one-year alternate position, which will require a vote of the commission.

Member Grote stated that she is leaning towards the people that the commission already knows. If Mr. Billingham would like to do some work with the commission on a volunteer basis, he can

get to know what they do and what the priorities are, as every conservation commission is different.

Member Gardner suggested that Mr. Billingham attend a meeting.

Member Shepcaro pointed out that Karen and Danna already know what they do and have been involved with the commission.

Vice-Chair McFarland stated the water issues are getting bigger and bigger. For Mrs. Truslow to put up her hand to be on the commission is quite a big deal.

Chair King commented it is important timing to have someone with that kind of knowledge.

The commission agreed.

Chair King agreed to reach out to Mr. Billingham to ask him to be involved with the commission in some way to become familiar with what they do. Positions will come up for members in the future if he remains interested.

Motion by Jeff Gardner recommend Danna Truslow for the one-year alternate position.

Seconded by Suzanne McFarland. All in favor.

Roll Call Vote: Jeff Gardner – Yes, Mike Garvan – Yes, Jaci Grote – Yes, Suzanne McFarland – Yes, Sally King – Yes, Susan Shepcaro – Yes, Heather Reed – Yes

Motion passed.

Chair King recommended Karen Oliver for the open three-year alternate position.

Motion by Jaci Grote recommend Karen Oliver for the three-year alternate position.

Seconded by Suzanne McFarland. All in favor.

Roll Call Vote: Jeff Gardner – Yes, Mike Garvan – Yes, Jaci Grote – Yes, Suzanne McFarland – Yes, Sally King – Yes, Susan Shepcaro – Yes, Heather Reed – Yes

Motion passed.

Chair King will send an email to the select board regarding the commission's recommendations.

Chair King stated there is a pollinator area at Sea Glass Lane that had sawdust spread on it and it spread into the wetland buffer. It was not an approved use for getting rid of the sawdust. It has completely prohibited that area for growth and it is a mess. She reached out to Ed Hayes who owns the property and he said he would reach out to the other developers. She has not heard back from anyone at this time. She noted that the commission has purchased pollinator seed to do the project but they need help with an excavator.

Member Grote asked if Ed Hayes is supposed to own the land or Conservation.

Chair King explained that Conservation does not own it. They are supposed to have an easement on the land. Ed Hayes and John O'Neil were supposed to transfer the land to Sea Glass Lane Condominium Association but that has not happened.

Member Grote stated this agreement was all part of the negotiations. The commission purchased the conservation land for 1.2 million dollars. In exchange, the commission had expectations. One was that they were going to honor their transfer and take care of the buffer. She does not see why the commission has to take care of that. The commission paid for that property with the expectation that the easement was going to be taken care of and it is not being taken care of.

Chair King stated the homeowner's association is not remotely concerned that it has not gone into their ownership. She noted that she has tried a number of times. Conservation holds an easement based on them being the owners.

Vice-Chair McFarland suggested having an attorney's letter sent stating that they have not kept the agreement of the terms with the town.

Chair King commented they also agreed to put up wetland buffer signs, which has not been done yet.

There was some discussion about who should be responsible for removing the sawdust.

Member Garvan commented that the homeowner's association is not going to go in with an excavator to remove the sawdust. It is not their sawdust. He thinks the commission should get Ed Hayes to remove the sawdust.

Chair King replied that she made that point to Mr. Hayes.

The commission agreed to have Attorney Donovan follow up on this issue with a letter to the developers.

Surveying of properties:

Vice-Chair McFarland reviewed Jim Verra's estimates for work on properties to determine if there is sufficient monumentation of the conservation parcels.

- Cedar Run Conservation Parcel (DD Cook)
South Road Estimated Fee: \$400.00
- Stoneleigh Conservation Parcel (Jenness/Chisholm piece – Falzone)
South Road Estimated Fee: \$1500.00

Vice-Chair McFarland noted that Jim Verra has walked the Falzone land. It is his opinion that the back portion has never been surveyed. She thinks it is worth the estimate to get an opinion, especially since the commission was thinking of naming this land. They may end up spending more but it might be an easy project and stay at fifteen hundred.

The commission agreed that Jim Verra should move forward on these parcels once Marden Woods and the Pokorny property is completed.

Plan N.H. Update:

Member Grote spoke about Plan N.H., which is an organization of professional architects, preservationists and engineers who donate their time to help communities with town planning and design. Plan N.H. will be bringing their services to the town on May 31st and June 1st. The project, known as a charrette, was initiated by a group of citizens who held fundraisers and sought donations to cover the cost of Plan N.H. Listening sessions will be held on Friday, May 31st, at the Rye Junior High School. Residents are encouraged to attend to express their thoughts for the town.

Chair King will be attending the “stakeholders” meeting to represent the Conservation Commission. Other members are also encouraged to attend.

Plan N.H. Charrette Schedule:

- **Listening Sessions:**
 - **Friday, May 31st, 3:30-5:00 p.m. and 6:30-8:00, Rye Junior High**
- **Final Public Read-Out:**
 - **Saturday, June 1st, 3:00 p.m., Rye Junior High**

Goss Farm Event:

Chair King spoke about the Selectmen’s plan to hold a Rye Day, which would be a town celebration for the residents to gather and celebrate Rye. It was decided that there was not enough time to plan that kind of event for this year. Instead, an event will be held at the Goss Farm on Sunday, September 22nd for tours of the farm. A picnic will also be held that day at the farm. Volunteers will be needed.

VI. PENDING SITE WALK – REVISITS, PHOTOS AFTER EACH PROJECT IS COMPLETE

- **Duplisea Property – 31 Parsons (UPDATE)**

The commission had concerns about the boulders and the pipe on the property. The owners claim that those were there when the plan was reviewed by the commission. Member Grote will take another look at the property and follow up with the property owners. This will need to be done before the building department will issue an occupancy permit.
- **Riley Property – 1313 Ocean Blvd**

The property owner is ready for the commission to do a follow-up site walk.
- **Rye Recreation Field**

A site walk needs to be scheduled to review the proposed changes to the parking lot.

- **Ray's Seafood – 1677 Ocean Blvd** (*See agenda above*)
Vice-Chair McFarland noted that the plans were submitted to Conservation and she followed up with the applicant to confirm that the project would be on the agenda for this meeting. The project has also been submitted to DES and they are asking for the commission's comments. She will send a message to the building department, ZBA and DES about the applicant missing the meeting with the commission. She will also follow-up with the applicant to reschedule the presentation for next month's meeting. A site walk will be scheduled at that time.
- **Independence Farm - 1090 Washington Road**
A site walk should be scheduled for land monitoring.
- **Brouillette Property - 14 Fairhill Ave**
The owners sent photos showing the plantings. The area that was planted can be viewed by members from the road but it would be best to wait until June. Vice-Chair McFarland will check with the building department to see what else they need from the commission for the certificate of occupancy.
- **1611 Ocean Blvd**
A site walk should be scheduled.
- **705 Brackett Road**
Plantings have not been done yet. Waiting for a certificate of occupancy. Owner applied for septic and leach field inspection. Chair King emailed the owner asking for a date for completion.

Site Walk schedule:

- May 21st, 2:00 p.m. – Independence Farm
- May 16th, 2:00 p.m. – Rye Rec
- May 16th, 2:30 p.m. – 1313 Ocean Blvd

VII. NEWSLETTER DEADLINE MAY 13, 2019

The commission discussed ideas for an article for the upcoming Town Newsletter. A draft from the commission is due May 13, 2019. Some ideas included; survey work being completed, Town Forest Management Plan, planting of blueberries by students and farming projects at Goss Farm.

VIII. CORRESPONDENCE

- A letter was received from Chris Safford, NH DES, regarding the start of landscaping at 17 Brackett Road owned by Elizabeth Hoffman.
- NH Preservation Alliance Preservation Conference is being held May 31st.
- Information on a workshop was received for the NH Stream Crossing Initiative.
- An informational report was received from Southeast Land Trust.

IX. BILLS

Bills were received for the following:

- Tom King - \$695.69 (total) for blueberry planting at Goss Farm
- Seacoast Farm Compost - \$650.00 – Goss Farm
- Alan Bucklin - \$49.25 – mowing
- James Verra & Assoc. - \$756.65 – survey work

Motion by Jeff Gardner to pay the bills listed. Seconded by Susan Shepcaro. All in favor.

Chair King noted that a bill was received from Rye Water District for water usage at the Goss Farm; however, there has not been any usage at the farm for 2019. The usage is listed as 150,000 gallons for the first three months.

Member Grote agreed to follow-up with the water district office in regards to the bill.

- Susan Shepcaro - \$436.56 – for signs

Motion by Jaci Grote to pay the receipts submitted. Seconded by Suzanne McFarland. All in favor.

X. OTHER BUSINESS

Member Garvan noted that he went to a presentation on the Right-to-Know Law. He learned that minutes that have been sealed can be unsealed if there is no longer a reason for them to be sealed. He will review the past non-public session minutes to determine if any of them can be unsealed by a vote of the commission.

XI. NON-PUBLIC SESSION per RSA 91-A:3, II (d) Acquisition

At 8:50 p.m., Mike Garvan made a motion to go into Non-Public Session per RSA 91-A:3, II (d) Acquisition, for the specific purpose of discussing an acquisition. Seconded by Jaci Grote.

Roll Call: Jeff Gardner – Yes, Mike Garvan – Yes, Jaci Grote – Yes, Suzanne McFarland – Yes, Sally King – Yes, Susan Shepcaro – Yes, Heather Reed – Yes

Jaci Grote made a motion to come out of Non-Public Session at 9:04 p.m. Seconded by Suzanne McFarland.

Roll Call: Jeff Gardner – Yes, Mike Garvan – Yes, Jaci Grote – Yes, Suzanne McFarland – Yes, Sally King – Yes, Susan Shepcaro – Yes, Heather Reed – Yes

Motion by Jaci Grote to seal the minutes of the Non-Public Session. Seconded by Suzanne McFarland.

Roll Call: Heather Reed – Yes, Susan Shepcaro – Yes, Sally King – Yes, Suzanne McFarland – Yes, Jaci Grote – Yes, Mike Garvan – Yes, Jeff Gardner – Yes

Member Grote explained Senate Bill 306 which forms a new grievance board, for housing appeals, with three members appointed by the governor. The board hears appeals of decisions of municipal boards, committees and commissions regarding questions of housing and housing development. Member Grote noted that her concern is that this board will have the ability to make decisions about Rye without having any knowledge of the town. This is in the Senate Budget and the house passed the budget. There is still an upcoming budget negotiation between the House and the Senate. She is going to speak with the planning people on the House side to encourage them to take this out of the budget. She stated that it would be helpful to speak with other groups in neighboring towns to have them write letters in opposition of this bill.

Chair King agreed to reach out to some other conservation commissions.

ADJOURNMENT

Motion by Jaci Grote to adjourn at 9:10 p.m. Seconded by Suzanne McFarland. All in favor.

Respectfully Submitted,
Dyana F. Ledger