

**RYE CONSERVATION COMMISSION
MEETING**

**Thursday, July 9, 2020
7:00 p.m. – Rye Town Hall**

Members Present: Vice-Chair (acting as chair) Sally King, Mike Garvan, Jeff Gardner, Heather Reed, Susan Shepcaro, Danna Truslow and Karen Oliver

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

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

Statement by Acting Chair King:

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

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

Utilizing Zoom for this electronic meeting. All members of the Commission have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting by dialing the following phone number: 646-558-8656 with Meeting ID: 893-5192-9098 Password: 493672 or participate via Zoom.

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the Commission at town.rye.nh.us on the Conservation Commission page and click on agenda for this meeting. If anyone has a problem, please call Kate at 603-964-5523 or email: kdrago@town.rye.nh.us

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Attendance by Roll Call:

- Mike Garvan
- Jeff Gardner
- Susan Shepcaro
- Heather Reed
- Danna Truslow
- Sally King
- Karen Oliver

(All members noted that there was no one else present in the room with them for the meeting.)

Note: Danna Truslow and Karen Oliver were seated for the meeting.

II. APPROVAL OF MINUTES – June 11, 2020

- Page 8 and page 9 it should be noted that spill well should be spill way.
- Page 10, last paragraph, last sentence the word pre say should be per se.
- Page 13, 4th paragraph, 2nd sentence should read: He does not think this is an imbalance.
- Page 14, paragraph 4, RCCD should be RCC.

Motion by Susan Shepcaro to approve the minutes of June 11, 2020 as amended. Seconded by Mike Garvan.

Roll Call: Mike Garvan – Yes; Jeff Gardner – Yes; Susan Shepcaro – Yes; Heather Reed – Yes; Danna Truslow – Yes; Karen Oliver – Yes

Motion passed.

III. NEW BUSINESS

1. Ed Beckett and Lisa Phelan – 40 Signature Drive

Ed Beckett, 40 Signature Drive, spoke to the Commission about the tree cutting behind his house on conservation land. He noted that he and his wife returned to the U.S. about three weeks ago. It is apparent that some of the trees that the tree contractor cut, were on conservation land. He explained they were trying to clean out the logs and trees that tipped over during the development phase. He relied on the representation that people gave him that the blue flags were the tree cutting line and the orange stakes were the property line, which was not correct. He continued that a portion of his lawn was installed on conservation land. The entrance to the conservation land where all the grass and swale was developed, he was not involved in. He stated that he is responsible and wants to be accountable for the tree cutting. However, he does not think he is responsible for the grass planting and sprinkler system on conservation property, which was done by the builder. He noted that a surveyor has done a survey of his property. The surveyor has confirmed the conservation stakes. Mr. Beckett apologized to the Commission for cutting the trees.

Acting Chair King pointed out that the Conservation Commission has also done a survey and all the surveys are the same. She noted that the Commission would like to meet on site to discuss how to move forward. She will email the members to set a date and time and get back to Mr. Beckett.

2. John O'Brien – 23 Seaglass Lane – easement

John O'Brien, 23 Seaglass Lane, spoke to the Commission in regards to the easement on the 11-acres that surround Seaglass Lane, which is held by the Conservation Commission. He noted that the Rand Lumber Company (former property owner) created a very large pile of sawdust that was close to the conservation land. His understanding was that the owners of Wallis Road Properties were charged with hauling and disposing of that sawdust. It appears that they simply spread the sawdust around. He is not sure if it is on conservation land or the easement.

Acting Chair King noted that it is on both.

Mr. O'Brien continued that what it created was probably 8 to 12 inches of sawdust on an area that is probably 75x50 yards. The soil is impermeable with the sawdust. Since occupancy began in the development in 2016, the land is basically barren as nothing will grow. He pointed out that some of the abutters have tried to sow perennial seeds and nothing seems to be taking place there. He does not know if there is any recourse back to Wallis Road Properties. He is not sure what the conditions and agreement was between the Conservation Commission and Wallis Road Properties. He asked for the Commission's guidance on what the residents should be doing.

Acting Chair King stated that she reached out to the Town's Planning Administrator to ask if it was a planning board condition. Some more research on that is needed. She commented that her understanding was that the planning board was not at the site after the mulch/sawdust mix was spread. It is also accurate that nothing is growing there. It's thick and needs to be removed. It is part of the restoration project because that was spread in the wetland buffer right up to the wetland. Acting Chair King stated that she addressed this issue with Ed Hayes and John O'Neill, who were the developers of the property. They said that they would make it right. She pointed out that Attorney Donovan represented the Conservation Commission at that meeting; however, the work never happened. As the Rye Conservation Commission is the easement holder, she tried very hard to help out Seaglass Lane and push as far as possible. She also pointed out that the 11-acres of land was supposed to be transferred to the homeowner's association. To her knowledge, this never happened.

Mr. O'Brien confirmed that the transfer has not happened.

Member Oliver stated that she went to the land records and thought she saw that it had been conveyed. As she recalls, instead of actually conveying the common area to the homeowner's association, they conveyed a fractional interest in the common area to each homeowner. She thinks the homeowners own that land, but this would need to be confirmed with the land records.

Mr. O'Brien stated that the president of the HOA is clearly under the opinion that the easement transfer never happened. If the site remediation has not been done, the HOA does not want it transferred and have there be a problem.

Member Truslow stated she just looked at the tax assessor information and it is still listed as Wallis Road Properties, LLC. She is not sure how accurate this is, but this is on the tax card.

Member Oliver agreed to follow up on this.

Speaking to Mr. O'Brien, Acting Chair King noted that Tracy Degnan (RCCD) had offered some pollinator seed. She asked if there would be any volunteers willing to help take up the mulch/sawdust.

Mr. O'Brien replied that with a backhoe it should only be a couple of hours of work to get the sawdust up and ready to be disposed of. Before this is done, he is not going to touch anything until the Conservation Commission confirms it's okay to do.

Acting Chair King reiterated that Ed Hayes had agreed it was a mess and he would take care of it. After that discussion, there were a lot of septic issues with the development and that may have been a fair amount of cost to the developer. She is not sure if that got in the way of this being cleaned up; however, the Conservation Commission would like to see this area restored because it is right up to the wetland. It should not be terribly hard to do, just a little labor intensive.

Member Oliver asked if the intent is to make sure the correct party is responsible for the cost of the removal.

Mr. O'Brien replied it is probably no more than \$5,000 to bring in a backhoe. It would be a day or two worth of work. He is not sure what they will do with the material once it is hauled out.

Acting Chair King noted that she would speak with the Director of Public Works to see if he has a suggestion. At this point, she thinks the homeowner's association should approach Ed Hayes and John O'Neill and ask if they will pay for it, if the Conservation Commission coordinates it. She pointed out that the Commission is happy to help but cannot cover the cost.

Mr. O'Brien asked if some members of the Commission could visit the site to see what it looks like now.

Acting Chair King agreed. She pointed out that she would also like to look at the whole site because there has been quite a bit of activity in the wetland boundary from the homeowners. There could be an educational advantage in doing the walk.

Mr. O'Brien commented he would still like to have her come to the next HOA meeting to do some of that education for the homeowners.

Acting Chair King agreed.

Mr. O'Brien noted that he will set up a date and time for the site walk with the president of the HOA and get back to the Commission.

IV. PENDING SITE WALKS

- **250 Locke Road – update**

Member Shepcaro noted that the property owners are "going to town" on planting. They have put in thousands of dollars' worth of material. The work looks beautiful. The letter to the owners notes that the Commission would like to look at the site around the end of August. Member Shepcaro recommends that the Commission take a look again next spring also.

- **1311-1315 Ocean Blvd – update**

Member Garvan or Chair McFarland will reach out to Bob Gray because the plantings have not been done yet. The plantings need to be done before the Commission can visit the site. There is also a question on whether the wetland boundary signs have been posted.

- **1611 Ocean Blvd – update**

Member Shepcaro noted that the plantings were done; however, there were not as many as shown on the plan. The person doing the planting (Matt) felt that there would be too many plants. Also, the homeowners did not water what has been planted and a lot of plants have died. Member Shepcaro noted that she spoke with Matt and told him that all the plants have to be planted that were on the plan. She agreed to follow up.

- **655 Long John Road – update**

Acting Chair King noted that D.D. Cook contacted her about a house that was built on the property that was not supposed to have any wetland concerns because they were not going to be in the buffer; however, it is in the buffer. They have put a contiguous big boulder wall around the north side of the property into the wetland. She noted that some of this wall needs to be moved. Steve Riker has come up with a plan to move every third to fourth rock, which will break it up. There would then be just loose boulders on the property. She thinks this is a decent resolution. The property owner agreed to this on site. The Commission got a plan but it did not say anything about how many rocks were going to be removed. They were asked to revise the plan and show how many rocks. The Commission is going to go out to the site after the rocks are removed. Acting Chair King will make sure that a copy of the plan is sent to the commission members.

- **200 Parsons Road – July 7 and July 15 site walks noticed**

Acting Chair King will follow up with the Building Inspector with regards to 200 Parsons Road, as the work is not ready for a July 15th site walk.

- **1090 Washington Road – July 16 site walk noticed**

**Noted*

- **55 Harbor Road – July 10 site walk noticed**

**Noted*

- **Ray's Seafood**

Eben Lewis from NH DES has requested that the Commission visit the Ray's Seafood property to make sure the plants were planted. Acting Chair King will follow up with the owner to set up a date and time for a site walk.

- **4 Winslow Way**

An email was received from the property owner that the plantings are completed at 4 Winslow Way. Member Garvan agreed to reach out to Member Grote to go back to look at the site.

V. OTHER BUSINESS

- **Entrance to Cedar Run**

Acting Chair King noted that she had Ben Holmes, Rye Beach Landscaping, and Jay Lord, planning board member who is also an engineer, looked at the site to figure out how to fix the issue. There is a

raingarden that has a lot of native plantings and a couple of non-desirable plantings. The second retention area is on the conservation piece. There is also a pipe that was supposed to drain water away from the conservation trial, which is now dumping water on the trail. Ben Holmes is going to fix it so the water is not draining down the middle of the path. More importantly, it was going across the wetland crossing. Mr. Holmes has offered to contribute a little bog bridge for that area. Eben Lewis, NH DES, also visited the site and suggested a permit by notification which notes that trail work is being done.

Member Reed and Member Truslow agreed to work on the notification.

- **Burke Pond – July 8 site walk noticed**

Member Truslow noted that the site walk was well attended by the RCC members. Dania Seigle who lives at 633 Washington Road was there. The group walked on her property back towards The Nature Conservancy Conservation Land to where the beaver dams have been modified, so there are no more dams. Eben Lewis from NH DES was there and explained the wetland, beavers and what can be expected over time, which was helpful for the abutters. Member Truslow stated that Joanne Glode, who has been overseeing the work on The Nature Conservancy parcel, would prefer to have some of the ponding back on the property. Ms. Glode said the beavers will come back if they want to reestablish the dam. She would be happy to do a virtual meeting with the abutters if they are interested in more information about TNC's role and the fact that the property is not an access property. It is a "by permission property". Member Truslow pointed out that Ms. Glode is very interested in ongoing involvement with the problem.

Acting Chair King commented that she is sure Dania Seigle would welcome that. The second beaver dam that was breached by humans is actually on the Abenaki parcel; however, they say they had no part of that. It seems that there is someone who is trespassing to do this, since The Nature Conservancy is also not doing it.

Member Truslow pointed out that if there is a dam on The Nature Conservancy property, they do not want that taken down either. Hopefully the abutters who are interested in modifying water levels heard this.

Member Oliver asked for clarification on what Eben Lewis said. She asked if he said that the beaver dams are the responsibility of whoever owns the property and they can do what they want and need to do with regard to the dams.

Member Garvan explained that Eben Lewis said the property owner can maintain the dams to a certain point, but they can't be breached. The property owner would have to contact Fish and Game if they wanted to breach or remove a portion of the land.

Member Oliver commented that she got the idea that the property owner could take whatever steps they needed to. She asked if there is anything that the Commission has to do at this time.

Member Truslow explained there is nothing really required of RCC. The Nature Conservancy has agreed to do some education and talk to the abutters.

VI. CORRESPONDENCE

1. 2020.06.16 - 18 Straw's Point, Tax Map 9.1, Lot 3, NHDES PERMIT 2020-00289
2. 2020.06.17 – 941 Ocean Blvd, Tax Map 20.2, Lot 141, NHDES PERMIT 2020-01102
3. 2020.07.02 – 2220 Ocean Blvd, Tax Map 5.3, Lot 64, NHDES PERMIT 2020-01078
4. 2020.07.02 – Star Island, Tax Map 28, Lot 3, NHDES PERMIT 2020-01316
5. SELT Newsletter
6. Army Corp of Engineers – File # NAE-2019-02222, comment period 23 June – 7 July, 2020
Dredging of Rye Harbor
7. SBA cell tower
8. Newsletter NHDES Drinking Water and Groundwater Bureau – Supply Lines with The
Source – spring 2020

VII. BILLS

- **\$1221.20 – James Verra Surveying, Jim Raynes Forest, assessor parcel 004-032**
- **\$20.32 – Eversource**
- **\$471.00 – Alan Bucklin – mowing Goss Farm**
- **\$1,977.50 – BCM Legal**
 - **Inv. #2984**
 - **Inv. #2982**
 - **Inv. #2985**
- **\$200.00 – Owen Shepcaro - work at Goss Farm**

Motion by Susan Shepcaro to pay the bills presented. Seconded by Jeff Gardner.

**Roll Call: Mike Garvan – Yes; Jeff Gardner – Yes; Susan Shepcaro – Yes; Heather Reed – Yes;
Danna Truslow – Yes; Karen Oliver – Yes**

Motion passed.

ADJOURNMENT

Motion by Sally King to adjourn at 8:04 p.m. Seconded by Susan Shepcaro.

**Roll Call: Mike Garvan – Yes; Jeff Gardner – Yes; Susan Shepcaro – Yes; Heather Reed – Yes;
Danna Truslow – Yes; Karen Oliver – Yes**

Motion passed.

Respectfully Submitted, Dyana F. Ledger