

RYE CONSERVATION COMMISSION
Thursday, March 10, 2022
6:30 p.m. – Rye Town Hall

Members Present: *Chair Suzanne McFarland, Vice-Chair Sally King, Susan Shepcaro, Danna Truslow, Heather Reed, and Alternates Karen Oliver and Jeff Gardner*

I. CALL TO ORDER

Chair McFarland called the meeting to order at 6:36 p.m. and led the pledge of allegiance.

II. SEATING OF ALTERNATES

Karen Oliver was seated for Jaci Grote. Jeff Gardner was seated for Mike Garvan.

III. APPROVAL OF MINUTES

❖ February 2, 2022

The following corrections were noted:

- Page 2, 2nd paragraph, 2nd sentence should read: **The areas for landscaping within the buffer were chosen because that's where some of the stormwater is being directed.**
- Page 7, 2nd paragraph, 2nd sentence should read: **There was a non-sponsored camera that took pictures of people and that was used to some extent to issue tickets.**
- Page 7, 4th paragraph, 4th sentence should read: **The Commission didn't identify that it was a big area for ground nesting birds.**
- Page 7, last paragraph, 1st sentence should read: **Member Shepcaro pointed out that closing the red trail (middle trail) and making sure it stays closed is very important.**
- Page 8, 2nd to last paragraph, 2nd sentence should read: **She and Member Reed worked on painting the White Trail and the Green Trail in the Town Forest.**
- Page 9, bottom of the page it should read: **Chair McFarland noted that the Commission received an email in regards to legislation update. emailed the legislation update to the commission. She has forwarded a copy of that email to the commission members.**

**Motion by Susan Shepcaro to approve the minutes of February 2, 2022 as amended.
Seconded by Danna Truslow. All in favor.**

IV. WETLANDS

A. 46 Pollock Drive, Tax Map 231, Lot 20

Owner: Sheryl and Jack Barnes

Green Penguin Jason Kindstedt

Patio and steps

Jason Kindstedt, Green Penguin, spoke to the Commission in regards to the project at 46 Pollock Drive. The proposal is for a bluestone patio of approximately 400 s.f., which will be installed in a permeable manner. There will be fieldstone steps leading down to the lower part of the yard. The location for the patio and firepit is between the 75ft to 100ft buffer. This is partially due to the location of the septic and to have proper clearance for combustibles. The topography limits where the patio can be located near the house. He noted that the slope of the yard is slippery and there's no easy way to traverse down to the water. By putting in some fieldstone steps, it will reduce the erosion and make it easier to traverse that slope.

Member Gardner asked if the wetland is saltmarsh.

Mr. Kindstedt replied it is not. It is non-tidal freshwater. He commented that is why it was designed up to the 75ft buffer because that is what they thought they were dealing with. When it was submitted, he was told the area is part of the Fairhill Swamp. Even though that property borders freshwater, not tidal, it puts the property into the tidal which pushes it up to the 100ft buffer.

Referring to the ledge to be removed adjacent to the patio, Chair McFarland asked if it has already been removed.

Mr. Kindstedt explained it has not been removed. The existing septic is in place. An addition was put on about 2019. At that time, they had to put a septic plan on file. Because of constraints with the lot, the leach field would be pretty much in the same spot as where a new one would go. None of the ledge has been removed. It would be removed if a new leach field and septic had to be put in. There will be no removal of ledge for the patio project.

Chair McFarland asked the size of the patio.

Mr. Kindstedt replied a little over 400 s.f. It will be permeable because the lot coverage percentage was getting close. If the patio was impervious, there would still be 3% to work with; however, it was determined to have a permeable patio, as it was an option. He pointed out that the steps are not permeable.

Member Gardner asked who owns the wetlands.

Chair McFarland noted that it's owned by the State of New Hampshire.

Mr. Kindstedt explained that best management practices will be followed for the project. The access for the project will be through the front around the side of the house. He pointed out that most of the digging will be done by a mini skid steer, which is a 36-inch wide machine with low ground pressure tracks.

Mr. Kindstedt agreed to stake out the location of the project for the site walk.

- **Site Walk scheduled for Monday, March 14th, 4:00 p.m.**

B. 691 Brackett Road
TF Moran
Planting plan

The Commission reviewed the planting plan for 691 Brackett Road submitted by TF Moran Engineering. A planting plan was requested by the Commission before the proposal moves forward to the April ZBA meeting.

Chair McFarland noted that the planting on the right side of the property, behind the proposed deck next to the wetlands, is where the Commission asked about the debris and the 75ft. That area has been filled in with Speckled Alder, gray dogwood and Viburnum, which will be 5, 3 and 2 gallons. She asked the Commission if they asked for plantings on the left side of the property near the driveway by the swale.

Member Oliver commented that they asked for plantings.

Chair McFarland pointed out that there are six varieties of plantings. On the left, there's American Elderberry, red dogwood and Heavy Metal Switch Grass.

The Commission agreed that the landscaping plan looks reasonable. However, they would like to check the depth for the plantings, as it was most likely specified by the Commission.

V. PENDING SITE WALKS AND REVIEWS

- **71 Tehias**

Chair McFarland noted that 71 Tehias was a request from the Building Department. She, Vice-Chair King and Member Garvan visited the site. The trees on the right-hand side are completely out of the 75ft wetland buffer.

- **77 Parsons**

Chair McFarland reported that she and Member Garvan visited 77 Parsons. There was a large oak tree to the right of the driveway that is two-thirds dead and there is a branch that would hit the house that needs to come down. The whole property is within the buffer.

- **27 & 29 Parsons**

Member Shepcaro stated that she, Member Oliver and Member Garvan went to 27/29 Parsons. Plantings have not been done. Member Garvan has written a letter stating that the Commission will not recommend a certificate of occupancy at this time, as the plantings aren't done. There is supposed to be a depth of 5ft of plantings along the wetland buffer.

- **80 Sagamore**

Vice-Chair King noted that the owners of 80 Sagamore have done landscaping, but it had nothing to do with the Commission's interest. The buffer plantings have not been done and they have had two years to get this completed. She pointed out that the debris in the back has been removed. There is only a rolled-up fence left in that area. She also pointed out that the drainage was done incorrectly and has to be redone.

- **0 Fairhill**

Chair McFarland reported that 0 Fairhill has been cleared. She would like the members to drive by the property to review. There is now a sight line from Ocean Boulevard all the way through to Fairhill Avenue. She commented that it looks like the work was hand done. It also looks like nothing 4.5ft and 4.5-inches in diameter has been taken down.

- **550 Washington Road**

Chair McFarland noted that she and Member Garvan will follow up with Steve Grey in regards to 550 Washington Road. She doubts that the debris in the Town Forest has been removed.

VI. OTHER BUSINESS

A. Aquatic Resource Mitigation (ARM) 2022 Grant Announcement: \$3,700,000 available for preservation, restoration, enhancement project

Member Truslow stated that the Select Board has asked her to look into a number of different funding sources to see if it makes sense to go after some of the money available. ARMS is certainly one of them. She asked if there is anything that the Commission could consider for the ARM Grant. She continued that there are also two grants; a planning grant for resiliency and construction money for resiliency. The Commission should consider whether there are projects appropriate for either of those grants.

Member Shepcaro asked what is meant by resiliency.

Member Truslow explained it could mean modifying culverts and could include restoration of certain waterways close to infrastructure.

Vice-Chair King mentioned the substandard culvert at Brown Lane Farm.

B. Update plowing conservation entrances

Chair McFarland stated that she met with Public Works Director Jason Rucker on March 4th to go over the list of all the areas that public works is already plowing.

- ❖ Cedar Run
- ❖ Jim Raynes Forest
- ❖ Goss Farm (will do)
- ❖ Brown Lane Farm (to be reviewed as the trucks may sink in that area, due to the topography)
- ❖ Rand Forest (some research is needed in regards to the road, as it is a private road; however, public works may be able to get in)
- ❖ Liberty Common
- ❖ Marden Woods
- ❖ Airfield (private road – Town cannot clear)
- ❖ Whitehorse
- ❖ Seavey Acres (to be reviewed by Director Rucker, as it is tight)
- ❖ Town Forest (the road going in off Washington has been closed, as it needs some work)

C. Schedule workday for Cedar Run trail

It was agreed that the trail should be flagged before doing other work. A date to flag was scheduled for Sunday, March 13th, 1:00 p.m.

D. 18 Whitehorse water issue

No update

E. Natural Resources Inventory (NRI), Map 15, missing parcels – point person for project

Chair McFarland noted that she is attending the next planning board meeting to talk about the NRI. The Planning Board, through it's subcommittee Rules and Regulations, is working on the Master Plan. She believes the members of the planning board have read the NRI. They have sent a list of items to discuss and questions. One of the questions was what map to use. They would like to have an accurate knowledge of where conservation land is located. She pointed out that Map 15 is missing about 50 parcels. The Planning Board and Zoning Board would like to know if there are more layers to put on the Geographical Information System (GIS).

Vice-Chair King pointed out that they are not really able to do the conservation parcel map. That information has to be given to someone who does that kind of work.

Chair McFarland agreed. She noted that there needs to be a point person to handle this project. The Commission can always go back to FB Environmental; however, there will be a cost to do it.

Vice-Chair King noted that Tracy Degnan has recommended a couple of firms who could work on the maps. She will do some preliminary work on the project.

F. F.W. Webb irrigation/well-irrigation parts are here

No update

G. Term expirations, vote by commission

Members whose terms are expiring April 1st:

- Sally King
- Susan Shepcaro
- Karen Oliver
- Suzanne McFarland

It was noted that each member with a term expiring wishes to continue on the Commission. A vote is needed by the Commission on whether to let the members continue. Letters of recommendation will be sent to the Select Board for appointment.

Motion by Karen Oliver to recommend that Sally King, Susan Shepcaro, Suzanne McFarland and herself continue their terms after the expiration of April 1, 2022. Seconded by Susan Shepcaro. All in favor.

H. Office elections

- **Clerk**

Chair McFarland stated that Member Garvan's letters have become pretty famous. The chair of the Conservation Roundtable asked for a sample of some of his letters. Corey Colwell has also complimented Member Garvan on how even-handed and detailed he is in the letters. A pretty high-bar has been set. The Commission should continue this because the ZBA and Planning Board are using the letters.

Member Shepcaro commented that one thought is to ask Member Garvan to supervise the writing of the letters for a while. She pointed out the clerk doesn't have to write every letter, but they might have to follow up with the members to be sure the letters are done within two weeks. The idea would be to send the letter to Member Garvan for his edits, until the Commission feels comfortable.

Vice-Chair King suggested that each member take a month and then follow the letters through to the ZBA meeting.

Member Truslow stated that she doesn't think this is a good idea. She feels someone should take ownership and do it.

Member Shepcaro stated that she thinks there should be someone who will be the clerk, which would be writing but also management of the flow. That person would be in charge of writing some percentage of the letters. It would be more their job than everyone else, but everyone should contribute too. However, the clerk would be managing the flow. It should be a team effort.

Chair McFarland noted that she doesn't have time anymore to manage the engineers and the distribution of the letters. Therefore, she will be asking for the clerk to manage this.

Vice-Chair King pointed out that some of the duties can be absorbed by the new land use board position.

Speaking to Chair McFarland, Member Oliver asked if she thinks the clerk should be handling the correspondence.

Chair McFarland clarified that when someone says they don't have the letter, and DES and the ZBA need it, she will personally go searching for it. She no longer has the time to do this and would like the clerk to take on that responsibility.

Vice-Chair King stated that the oversight of this would be great for the land use person to take on. This would make the clerk's position much easier.

Member Shepcaro agreed to take on the role of clerk with help from Member Oliver.

- **Chair & Vice-Chair**

Motion by Danna Truslow to re-elect Suzanne McFarland as chair of the Conservation Commission, Sally King as vice-chair and Susan Shepcaro as clerk. Seconded by Heather Reed. Vote: 4-0-3 Abstained: Suzanne McFarland, Sally King and Susan Shepcaro

I. Bob Glowacky – Wildlife Photographer

Vice-Chair King stated that she was contacted by Bob Glowacky who is a wildlife photographer. He has worked with Southeast Land Trust (SELT). He was also on the conservation commission in Brentwood, but now lives in Rye. Mr. Glowacky is interested in putting up cameras on conservation land to photograph wildlife on the property. This is not for profit. It's an educational tool that he posts on social media. She told Mr. Glowacky that the Commission may need to have a contract or disclaimer saying that no pictures of people will be used. The Commission would also have to be comfortable with the placement of the cameras. She commented this is a great way to get information for the NRI, as they are supposed to have photographs of wildlife on conservation property. She pointed out that Mr. Glowacky seems reasonable. He seems to be a nature lover who just enjoys doing this.

Member Oliver stated that she thinks it fits in with the Commission's mission of doing outreach about the results of their efforts. Pictures of wildlife would be great.

It was agreed that Vice-Chair King should speak with him about a trial period and to see if he has a proposal for the project.

J. Duck Blind

Member Gardner reported that the platform was left and the metal they used was lying on the side of the marsh. It was disassembled, but not removed. Member Garvan said that he could reach out to them.

Vice-Chair King stated that Member Garvan wanted the Commission to talk about whether he should follow the procedure that he always does.

The Commission agreed that he should reach out to them, following usual procedure, asking them to remove the materials. The Commission agreed that a time frame of not more than two weeks should be given for removal.

K. Dumping at Rye Recreation

Vice-Chair King reported that she had a complaint about dumping across the end of Rye Rec. Apparently, the neighbors are piling up debris. That area is a conservation access point and people use that for hunting.

Member Shepcaro noted that she has already contact NH DES.

Vice-Chair King pointed out that "no dumping" signs will be going up in that area. She suggested they also send a letter to the people in that neighborhood.

Member Shepcaro stated that she left a message for Jason Rucker about installing the signs, at least the sign post. She also asked if public works could clean the debris out of that area.

Vice-Chair King will work on a letter to the neighbors.

VII. CORESPONDENCE

Chair McFarland noted that the Building Department does not receive notice of NH DES Permits. All shoreland and wetland permits go through the Conservation Commission and need to be disbursed to departments that need them.

- a. 2022.02.11.41 Appledore Ave, Tax Map 19.4, Lot 48 & 49 NHDES-PERMIT_SHORE-2022213295**

b. Arik Jones Rye Water District – Brown Lane Farm – geophysical survey request – vernal pool work Tracy Degnan

Chair McFarland stated that the Rye Water District is looking to see if a well is feasible for Brown Farm Lane. They would like to perform a geophysical survey, which was asked for in the fall. This was put off until spring because the vernal pools have to be marked, along with the 75ft buffer. She pointed out that when the Water District and Wright-Pierce walked the Rand parcel, they actually marked an area right next to a vernal pool.

Member Truslow clarified that a geophysical survey is not marking where wells are going to be located. A geophysical survey is a broad evaluation to get a big picture view of the land. To say they can't go in certain areas doesn't really make sense.

Chair McFarland explained she was told to wait until the spring so the vernal pools and wetlands can be marked.

Member Truslow further clarified that a geophysical survey is going to show what is in the ground and what the characteristics are. They may need to go through a wetland in order to complete a line. There may be some need to go into a wetland. She commented it's a little early to preclude them from going through a wetland. However, it's reasonable to say that a well should not be sited within 75ft of a vernal pool or wetland.

Referring to the letter, Chair McFarland stated that Arik Jones said it shouldn't impact the vernal pools. Rye Water would just like to move forward with this effort in 2022. She continued that Tracy Degnan from RCCD thought the areas should be flagged before this work happened.

Vice-Chair King suggested asking National Resources Conservation Service (NRCS) first.

Chair McFarland noted this is on the list before anything happens. She continued that Tracy Degnan received an estimate from Soil Scientist Mike to flag outer limits of the vernal pools with appropriate buffers. The Conservation Commission will be doing vernal pool restoration with Mr. Cuomo in that area anyways. The estimate was for \$1,105.

Vice-Chair King stated that as part of the purchase of that property, the Commission obligated the vernal pool fund, which is about \$42,000., towards that land.

Chair McFarland stated that she thinks the Commission should say "yes", if they can, to the Water District for the geophysical survey. They should just keep in mind that vernal pool restorations are going to be done and the area will need to be flagged.

Member Truslow commented that she is not saying the flagging shouldn't be done. She is just saying that one doesn't have to come before the other.

Referring to the NRI, Member Oliver pointed out that one of the items was that Rye has not flagged vernal pools. This would be a good starting point.

Motion by Susan Shepcaro to move forward with Rockingham County Conservation District's (RCCD) proposal for Mike Cuomo to flag the vernal pools at Brown Lane Farm, as set forth in the March 9, 2022 correspondence from Tracy Degnan. Seconded by Jeff Gardner. All in favor.

c. Aquarion Water notification

Aquarion Water will be performing a source water wellhead protection inspection of local businesses. A map of Aquarion's Wellhead Protection Area, as delineated by NH DES, was sent along with the notification. This is a program that is conducted every three years. The notification is sent to businesses and homeowners within the Wellhead Protection Area. Over the next few months, potential contaminant surveys will be performed by GeoSphere Environmental. It was noted that this pertains to Aquarion Well 5A in Rye, which is located close to the intersection of Central and Cable. Most of Aquarion's wells are located in North Hampton.

d. 2022.03.03 30 Lamer Drive, Tax Map 13, Lot 44 NHDES-PERMIT_WETLAND-2022213805

e. Newsletter NHDES Drinking Water & Groundwater Bureau

f. SBA Communications

g. NH Preservation Alliance letter

h. Tilton/Joyce email February 23, 2022

- *Please see attached Tilton/Joyce email, dated 2/23/22, with attached RCC response, dated 3/07/22.*

VIII. BILLS

- ❖ \$12,950.25 James Verra Surveying – Town Forest
- ❖ \$88.00 Cintas Fire Protection – Goss Farm Barn
- ❖ BCM – Inv. #07442, \$1,766.00 and Inv. #07439, \$1,1012.50

Motion by Susan Shepcaro to pay the bills as listed. Seconded by Heather Reed. All in favor.

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

At 8:10 p.m., Karen Oliver made a motion to go into non-public session per RSA 91-A:3, II (d) Acquisition and RSA 91-A:3, II (e) Legal. Seconded by Danna Truslow.

Roll Call: Heather Reed – Aye; Danna Truslow – Aye; Sally King – Aye; Suzanne McFarland – Aye; Karen Oliver – Aye; Jeff Gardner – Aye; Susan Shepcaro - Aye

At 8:47 p.m., the Commission came out of non-public session.

Motion by Sally King to seal the minutes of the non-public session. Seconded by Heather Reed. All in favor.

ADJOURNMENT

Motion by Sally King to adjourn at 8:48 p.m. Seconded by Danna Truslow. All in favor.

Respectfully Submitted,
Dyana F. Ledger

Dear RCC and BOS Members:

We read the minutes from the 2/10/22 RCC meeting regarding continuation of the dog leash requirement in the wildlife reserve area of the Town Forest. There was discussion among long term RCC members who believe there is a lack of data regarding the effectiveness of the dog leash zones with protecting wildlife and habitat. We would like to offer the following:

On 9/28/21, there was an excellent presentation at the Rye Library called "Rye's Wild Neighbors," which focused on living with wildlife and preventing conflicts. Bob McGrath, Rye's former Animal Control Officer, and Sgt Jeremy Hawkes of New Hampshire Fish & Game did a nice job educating residents. It was an excellent opportunity for RCC members to have participated, supported, and attended yet they can still watch the livestream. https://townhallstreams.com/stream.php?location_id=66&id=40145.

At 1:14:41 into the presentation, Mr. McGrath recounted the saddest moment of his tenure when last spring he had to pick up a freshly killed fawn by an off-leash dog on Rye conservation land. The majority of these kind of incidents are not reported. Mr. McGrath went on to say that dogs should be leashed on town land during breeding season. Sgt Hawkes, who has made many visits to the Town Forest and bordering private land, recommends that dogs always be leashed to protect wildlife and habitat.

On 3/11/21 the RCC received a letter from NH Fish & Game regarding resources for protecting wildlife and habitat. The RCC has never had a public discussion about the letter, its resources and the importance of wildlife and habitat conservation. Last year we respectfully asked that all RCC and BOS members watch the Trails for People and Wildlife Webinar at <https://wildlife.state.nh.us/trails/>. It is an excellent overview of best practices included in the Trails for People and Wildlife Guidebook, authored by well-respected wildlife biologists. It can also be downloaded at the webinar link. We again ask that RCC members utilize this valuable, credible resource.

It was obvious from last year's public Town Forest discussions that a few long term RCC members had not read the guidebook and/or sought input from competent wildlife biologists. They lobbied against protecting wildlife and sensitive habitat from unleashed dogs. It was great that selectperson Roman was involved at that time. She had done her homework, reviewed the forest easements that protect wildlife and habitat. She brought a level of transparency and fairness to the discussions resulting in the RCC majority voting to do the right thing, requiring that dogs be leashed on the green trail at least during breeding season.

Moving forward, it would be great if the RCC conducted a public discussion as to how it intends to educate its members, follow best practices as outlined in the guidebook for all Rye's conservation land and seek residents' comments, feedback and assistance. That would preclude future needs by citizens to continue to engage selectmen, easement holders, wildlife biologists and advocates for their support with the protection of wildlife and habitat in Rye. We love dogs. However, with all the communities with leash laws, Rye has become the seacoast's dog park for personal and commercial off-leash use at the expense of wildlife, habitat and other users of the land. Sensitive, wildlife and habitat reserve parcels deserves protection.

In closing, we respectfully request that this email be noted as received on the 2/28/22 BOS and 3/10/22 RCC meeting agendas and it be included with their public minutes that are circulated by email and posted on the town's website. This allows residents to also be aware of this great resource and the RCC being asked to have a public discussion about it. If discussions are open, honest, transparent, based on facts and best practices, more people will want to get involved, help the RCC and the town. If you would like any help from us with conservation efforts, please let us know. We are very willing to do the work and glad to help. Above all, we sincerely appreciate folks doing the right thing for conservation, protecting wildlife and habitat, and ensuring that all uses are compatible. Sincerely – Shawn & Dave

Shawn Joyce
PO Box 5
270 Washington Rd
Rye, NH 03870

David Tilton
390 Washington Rd
Rye, NH 03870



**RYE CONSERVATION COMMISSION
10 CENTRAL ROAD
RYE, NH 03870**

March 7, 2022

**Response to an email from Shawn Joyce and David Tilton dated 2/23/2022, Subject RE:
2/10 RCC Minutes**

Mr. Joyce and Mr. Tilton's email referred to a discussion during the February 10, 2022 regular meeting of the Rye Conservation Commission (RCC) regarding the extension of a policy to require leashes on dogs on the Town Forest's Green Trail during the nesting season (March 15 – July 15).

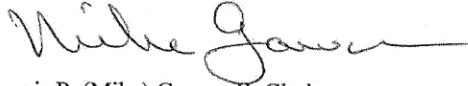
The RCC discussion referred to in the email was not about the effectiveness of dog leash zones. The discussion was referring to the fact that no study of the area in question had been done. The RCC members involved in the discussion mentioned that there were no data to indicate which specific birds or wildlife would be protected in the Town Forest. It was pointed out that NH Fish and Game Sgt. Jeremy Hawkes had been contacted by the RCC last year and that he endorsed leashing during nesting season. After the discussion, the RCC voted unanimously to continue seasonal leashing to protect any and all birds, mammals and amphibians that may nest or breed in the area inside the Green Trail and the surrounding forest and marsh.

The "Rye's Wild Neighbors," presentation referenced was attended by an RCC member via Zoom as the meeting room only had 17 seats. While interesting and informative, the program was not geared toward wildlife management, but toward educating people about how to and how not to interact with wildlife that they might encounter in town. The incident mentioned by Rye Animal Control Officer Bob McGrath occurred when an unleashed dog near Ahleson Road entered Rand Woods and killed a fawn. This is a tragic incident that occurred on a property managed by the Conservation Commission, but not by a dog walker on conservation trails.

The Rye Conservation Commission has been using the Trails for People and Wildlife Guidebook since we received it early last year. Every member has read it and some members have watched the video describing it. On February 19, 2022 several members of the RCC marked a new trail in the Cedar Run conservation property. Not only were recommendations of the guidebook considered by the work party, several pages of the guidebook were copied, present and used that day. It should be noted that this was several days before the Joyce/Tilton email was sent.

The Rye Conservation Commission welcomes public discussion of policies on conservation managed properties in Rye. Recent meetings have discussed permitted and prohibited uses on conservation properties. RCC meetings are open to the public and we encourage participation by the public as we work to protect Rye's natural resources.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Garvan". The signature is written in dark ink and is positioned above the printed name.

Francis P. (Mike) Garvan II, Clerk