

**TOWN OF RYE – SELECT BOARD  
MEETING, December 27, 2021  
6:00 p.m.  
Rye Town Hall & Zoom**

**Present:** *Chair Bill Epperson, Vice-Chair Phil Winslow and Selectman Tom King*

**Others Present:** *Town Administrator Rebecca Bergeron*

**6:00 p.m.**

**I. CALL TO ORDER**

Chair Epperson called the meeting to order at 6:00 p.m.

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

**At 6:00 p.m., Bill Epperson made a motion to go into Non-Public Session per RSA 91-A:3 II (a) Personnel. Seconded by Phil Winslow. Roll Call: Winslow – Yes, Epperson – Yes, King - Yes.**

**At 6:31 p.m., Bill Epperson made a motion to come out of Non-Public Session. Seconded by Phil Winslow. Roll Call: Winslow – Yes, Epperson – Yes, King - Yes.**

**6:30 p.m. RECONVENE PUBLIC MEETING**

**III. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

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

**IV. ANNOUNCEMENTS**

- A. The Town Offices will be closed Friday, December 31, 2021 for New Year's Day Holiday.
- B. The Transfer Station will be open regular hours Friday, December 31, 2021, but will be closed Saturday, January 1, 2022, New Year's Day.
- C. Chief Cotreau reported that the duty crew rescued a person outside of Rye Harbor who had tipped over a sail boat. The individual was in the water, but luckily had on a wet suit. The crew responded with the seadoo, helped the person upright the sail boat and assisted them to shore.
- D. Chair Epperson reported that the cell tower should be up and operating by mid-January. T Mobile is looking for two items; a fiber circuit and some new technology is being installed into their radio cabinet.

- E. There will be another vaccine clinic at the Public Safety Building on Saturday, January 23, 2022 from 11:00 am to 7:00 pm.
- F. Rye Covid statistics: 78.5% or about 4,200 residents have had one dose.  
69.3% or about 3,742 residents are fully vaccinated.  
33 active cases for a total of 551 cases or 10.1%.

**Chair Epperson made a motion to move DISCUSSION ITEMS B; Unmerger Request 62 Cable Road to the top of the agenda. Seconded by Phil Winslow. All in favor.**

The attorney representing the property owner asked for a continuance on this matter until the meeting of January 24, 2022, due to an illness.

**Motion by Phil Winslow to grant a continuance on the unmerger request for 62 Cable Road until January 24, 2022. Seconded by Tom King. All in favor.**

**V. 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.)

- **Jeff DeRosa, soon to be Rye resident**, spoke to the Board regarding a Southeast Land Trust easement on 22 Hunters Run. He explained that he had his attorney working on it and is now in possession of an e-mail from Southeast Land Trust stating they have no interest in the easement. He would like to have the Select Board sign off.

Town Administrator Bergeron asked the Board to address this issue during the Old Business section of this meeting.

- **Jeff Ross of 333 West Road and Chair of the Rye Public Library Board of Trustees**, spoke to the Board about the wearing of masks in town buildings. He explained that the library has gone through three stages of mask protocol:

- Masks required – when they first opened back up after the pandemic
- Masks recommended if not vaccinated
- Masks strongly recommended even if fully vaccinated

They require masks in the children's room. Staff and board members will continue to wear masks during work and meetings. They strongly recommend that all patrons wear masks. They acknowledged that changing conditions, may require changes to their policy and practices, including mandatory masks for all patrons. The trustees feel that a consistent approach within the Town of Rye, as a whole, would facilitate compliance with respect to any mask requirement. Currently, it appears that conditions are going into another changing of deterioration, so the Board of Trustees believe it would be appropriate for them to reevaluate masking requirements at the library to protect the health of the patrons and staff. The Trustees support the Select Board's initiative to do the same for all Town Buildings for a period of thirty days.

- **Joanne Hardin of 32 Shoals View Drive**, sent the Board a letter with supporting documentation regarding the issue of having the Town plow the west end of Shoals View Drive.

Chair Epperson explained that the Board just received the letter and the documentation. They have not had time to review everything. He will get in touch with the Public Works Director to ride out to Shoals View to take a look at the issue in order to come up with a favorable solution. He promised to have an answer for Ms. Hardin very quickly.

Chair Epperson and Public Works Director Rucker made arrangements to meet at 11:00 a.m. the following morning.

## **VI. 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 Steven Borne re: Multiple Topics
- B. Appointment: Recreation Commission – 3-year term ending 4/01/24
  - 1. Marlene Veloso: Appointment as a member – letter rec'd 12/05/21
  - 2. Recommendation letter rec'd 12/07/21 from Cory Belden, Chair

Both Consent Agenda Items A and B were pulled for discussion.

Chair Epperson addressed Mr. Borne regarding his letter. He recommended that Mr. Borne go back to the Planning Board to discuss the items that are pertinent to them and whatever he can't get done there, bring back to the Select Board.

Mr. Borne responded that this document is posted on the Civic League website for those who are interested. His concern is that there is no money in the budget or in the CIP for a complete re-write of the Master Plan.

Chair Epperson asked Ms. Veloso to talk about her experience.

Ms. Veloso stated that she worked in an afterschool program in New York City for ten years. She also worked in performing arts and arts education. She has two young children who attend Rye Elementary.

Chair Epperson thanked Ms. Veloso and welcomed her.

**Motion by Bill Epperson to appoint Marlene Veloso as a member of the Rye Recreation Commission for a term of three years ending 4/01/2024. Seconded by Phil Winslow. All in Favor.**

## **VII. DISCUSSION ITEMS**

### **A. 79D – Barn Assessment**

Administrator Bergeron explained that RSA 79D is a tax incentive to encourage owners of historic barns and other agricultural buildings to preserve their structures by authorizing municipalities to grant property tax relief.

She turned the floor over to Ed Tinker, Rye's assessor for further information.

Mr. Tinker explained that an application would be filed in which the stipulations are that the property owners (a) can demonstrate the public benefit of preserving their barns or other historic farm buildings, and (b) agree to maintain their structures throughout a minimum 10-year preservation easement. The structure must be a least 75 years old or have a significant historical history. After a review of the property by the Assessing Department, a recommendation will be made regarding the reduction in tax on the addition to the property.

Mr. Tinker reported that the Town has 153 barns. The majority does not meet the criteria for this tax incentive, so there will not be a significant impact on the Town's overall valuation and tax base.

**Motion by Bill Epperson to adopt the provisions under RSA 79D. Seconded by Phil Winslow. All in Favor.**

**B. Unmerger Request – 62 Cable Road - Already addressing at the beginning of this meeting. Continued until the Select Board Meeting of January 24<sup>th</sup> 2022.**

**C. Mask Mandate in Town Owned Buildings**

Chief Cotreau reported that Dr. Snow, Chief Walsh, Jack MacGlashing and he met to discuss the current conditions of the latest variant of Covid. As such they are advocating for the return of the mask mandate for all town owned buildings. He explained the reason for this:

- Hospitalizations are very high
- Workforce protection
  - particularly in town hall which has poor circulation
- The impact from Christmas and New Year's gatherings
- There are 9 towns in New Hampshire that have mask mandates
- As of the 24<sup>th</sup> of December, there has been 42,140 cases and 375 deaths in Rockingham County
- In the last three days the cases have increased by 375

This mandate will be in effect for thirty days, at which time it will be reevaluated.

**Motion by Phil Winslow to institute a thirty-day mask mandate for all public buildings in the Town of Rye pursuant to the previous mask mandate policy, to be reviewed at the 2<sup>nd</sup> Select Board meeting of each month by the emergency management team and Dr. Snow. Seconded by Tom King. All in Favor.**

**D. Rye Mosquito Control Commission Recommendation for 2022 Mosquito Service**

Chair Epperson reported that the Board has a recommendation from the Rye Mosquito Control Commission that the Town stay with Dragon Mosquito for the 2022 season. Dragon was not the

low bidder; however, the recommendation was based on the relationship the Town has had with Dragon Mosquito for at least the last five years and the quality of the work they have done during that time.

**Motion by Phil Winslow to accept the bid from Dragon Mosquito for 2022. Seconded by Bill Epperson. All in Favor.**

**E. Chief Walsh – Memorandum of Agreement with the State of NH Parks and Recreation for Police Enforcement on State Beaches**

This agreement has been in effect for many years and is signed every three years by the Board. This agreement covers Odiorne State Park, Ragged Neck State Park, and Jenness Beach State Park. It allows the Rye Police Officers and the Animal Control Officer to enforce state and town ordinance rules within the parks. The State does not have the staff to support enforcement in these parks. Having the agreement with the State allows enforcement by local authorities, which enhances quality of life issues in a positive manor, due to less property damage, less trespassing, less littering and less disorderly conduct.

**Motion by Phil Winslow to accept the Memorandum of Agreement with the State of New Hampshire Parks and Recreation for Police Enforcement on State Beaches. Seconded by Tom King. All in Favor.**

**F. Chief Cotreau – E-One Mini Pumper Proposal**

Note: Chief Cotreau was called out of the meeting to a structure fire

Town Administrator Bergeron explained that this was an encumbrance that the Board voted on at their last meeting. The document is the contract for the new pumper that was approved in the amount of \$300,000. The contract will be reviewed by town counsel. The purpose for signing the contract tonight is to prepay for the vehicle. With the prepayment there is a saving of \$7,000.

**Motion by Phil Winslow to approve the contract for the mini-pumper, conditioned upon recommendations on additional warrantees by Chief Cotreau and review by town counsel. Seconded by Tom King. All in Favor**

**G. Town Hall Annex RFP**

Town Administrator Bergeron explained that the proposal package presented to the Select Board contains all the information going out with the RFP for the renovation of the town hall annex. Unfortunately, town counsel has not completed his review of the proposal. She made two recommendations to the Board. Table the approval until town counsel has completed his review, and possibly have a special meeting to discuss and approve it, or approve it this evening conditioned upon a favorable review by town counsel.

The Board made a few minor recommendations in wording in the RFP.

**Motion by Phil Winslow to approve the RFP for the town hall annex renovation documents with the amended changes, to include construction pricing for Phase II and Phase III and request one digitized copy, conditioned upon the approval of town counsel. Seconded by Bill Epperson. All in Favor.**

**VIII. CORRESPONDENCE – None**

**IX. NEW BUSINESS – None**

**X. OLD BUSINESS**

**A. Jeff DeRosa, soon to be Rye resident,** presented the Select Board a copy of the e-mail he received from Southeast Land Trust stating that they have no interest in the easement on his property located at 2200 Hunter's Run.

**Motion by Bill Epperson to release the easement on 22 Hunter's Run approved at the 2005 Town Meeting. Seconded by Phil Winslow. All in Favor.**

Town Administrator explained that the Select Board will sign this and she will get it back to the attorney tomorrow.

**B. Annual Report Preparer**

After a lengthy search there has been no one who wants to take on the job of preparing the annual town report. Administrator Bergeron explained that all the reports must be in from the commissions, boards and department heads by the 21<sup>st</sup> of January. The treasurer, trust funds and finance have until February 11<sup>th</sup>. Everything must be to the printer by February 16<sup>th</sup>. It has to be ready by the election. Administrator Bergeron suggested having Janice Ireland do the work and be compensated with an additional stipend.

The Board agreed.

**C. Rye 400 Anniversary Committee**

Selectman King reported that he and Administrator Bergeron have been discussing this and have not made much headway. Their initial thought was to have a regular committee, but they would like to have the ability to accept tax deductible donations, so they thought of setting up a 503C. He may have a law firm that would set it up pro bono; however, it is not a small process and there are a number of people that need to be involved. He is not sure that they really want to go that route. They are still looking into it. He suggested that perhaps they could convince the Historical Society to get involved. If there is a 503C, the Select Board will have no control over programs and funding. It would all be controlled by the 503C organization. There is no resolution yet.

Steven Borne stated that the Civic League is a 503C. If it is just a matter of accepting donations, it could go through the Civic League. He pointed out that that was how they paid for Plan New Hampshire. People were able to use PayPal or write a check.

#### **‘D. Regional Associations**

Selectman King reported that he has sent out the initial round of emails to the ones that expressed interest. He has not had any responses yet. He reported that it is in process. He pointed out that it was a 6-month charge and should be relatively easy. Once he gets the core group, he will ask for a budget book for each member, so they can review it. He reported that this is on track.

#### **E. January Visioning Session**

Selectman King stated that he heard that the Visioning Session for January has been canceled. He asked if it will be rescheduled.

Chair Epperson responded that it would not. Everyone will be responding individually. The forms will be available online. There were issues that created discomfort with the facilitators last Tuesday night that made them uncomfortable to meet with a mass of people.

### **B. SELECTMEN’S 2022 BUDGET WORK SESSION**

#### **A. Warrant Articles**

##### ***Article A.***

**To see if the Town will vote to raise and appropriate the sum of two hundred thousand dollars (\$200,00) for the purchase of a front-end loader and to authorize the withdrawal of two hundred thousand dollars (\$200,000) from the Highway Heavy Equipment Capital Reserve Fund created in 1994 for this purpose. This article has no current tax impact. (Majority vote required.)**

**Motion By Phil Winslow to accept Article A and move it to the warrant. Seconded by Bill Epperson. All in Favor.**

##### ***Article B.***

**To see if the Town will vote to raise and appropriate the sum of one hundred thousand dollars (\$100,000) to be added to the Municipal Buildings Construction and Renovation Capital Reserve Fund established by Article 9 at the 2020 Town Meeting under the provisions of RSA 35:1 for the purpose of construction or renovation of town owned buildings. This appropriation is in addition to the operating budget.**

The Budget Committee approved this with the condition that any expenditure over \$25,000 will be brought before the Budget Committee prior to that expenditure.

**Motion By Bill Epperson to accept Article B and move it to the warrant with the condition that any expenditure over \$25,000 will be brought before the Budget Committee prior to that expenditure. Seconded by Tom King. All in Favor.**

***Article C.***

**To see if the Town will vote to raise and appropriate the sum of one hundred thousand dollars (\$100,000) for the purpose of restoring Parson's Creek through property enhanceive investigation, valuation and regulation of septic systems, and to authorized the Select Board to borrow one hundred thousand dollars (\$100,000) from the New Hampshire Department of Revenue Environmental Services, (NHDES) Clean Water Revolving Fund to the entity appropriate amount of twenty thousand dollars \$20,000 for interest payments for 2022. This DES program includes principal forgiveness thus there is no cost to the Town other than a small amount of interest. This appropriation is in addition to the operating budget.  $\frac{3}{4}$  vote required.**

Administrator Bergeron explained that this is a program that she, Planning Administrator Kim Reed and the two public works directors have been working on. They have already done the preapplication with FB Environmental. The scope of work is restoring Parson's Creek Watershed. The programs include:

- A process to definitively identify what type of infiltration; animal, human or natural
- There will be septic mapping
- A process to identify areas of high concentration
- A plan for resolution

Administrator Bergeron reported that this program is being converted from a SRF loan to an Arbor Grant. She has the warrant article for the SRF loan, as well, in case it is not converted.

**Motion By Phil Winslow to accept Article C and move it to the warrant. Seconded by Bill Epperson. All in Favor.**

***Article D.***

**To see if the Town will vote to raise and appropriate the sum of thirty thousand dollars (\$300,000) for the purpose of developing a waste water asset management plan and to authorize the Sewer Commission to borrow thirty thousand dollars (\$30,000) from the New Hampshire Department of Environmental Services Clean Water Revolving Fund and to appropriate the amount of \$300.00 for interest payments for 2022. This DES program includes principal forgiveness thus there is no cost to the Town other than a small amount of interest. This appropriation is in addition to the operating budget.  $\frac{3}{4}$  vote required.**

**Motion By Phil Winslow to accept Article D and move it to the warrant. Seconded by Bill Epperson. All in Favor**



B. Capital Outlay

Administrator Bergeron explained that the change to capital outlay is for the Town Hall. They have just received the estimate to replace the boiler in the amount of \$27,741. This change will bring the total for Capital Outlay \$127,349.

**Motion By Phil Winslow to increase Capital Outlay to \$127,349. Seconded by Bill Epperson. All in Favor**

C. Encumbrances

**Motion By Bill Epperson to approve the amount to Encumber of \$32,464.69. Seconded by Phil Winslow. All in Favor**

C. OTHER BUSINESS

A. Meeting Minutes

1. Meeting, Monday, November 01, 2021, 3:00 p.m., Rye Town Hall

**Motion By Phil Winslow to accept the Meeting minutes, of November 01, 2021 as presented. Seconded by Bill Epperson. All in Favor.**

2. Meeting, Tuesday, November 16, 2021, 9:00 a.m., Rye Town Hall

The following was noted:

- Page 2, Other Business second paragraph reads: Chief Walsh explained that the Select Board created a sub-committee, which included himself, Amy, Mary Mitchell and Selectman Epperson
- It should read: Chief Walsh explained that the Select Board created a sub-committee, which included himself, Amy Thibodeau, Mary Mitchell and Selectman Epperson

**Motion By Phil Winslow to accept the meeting minutes, of November 16, 2021 as amended. Seconded by Bill Epperson. All in Favor.**

3. Meeting, Friday, November 19, 2021, 10:00 a.m., Rye Town Hall

**Motion By Phil Winslow to accept the meeting minutes, of November 19, 2021 as presented. Seconded by Bill Epperson. All in Favor.**

ADJOURNMENT

**Motion By Phil Winslow to adjourn the meeting at 8:17 PM. Seconded by Tom King. All in Favor.**

*Respectfully Submitted*  
*Dyana F. Ledger*

December 25, 2021

Joanne Hardin  
32 Shoals View Dr.  
Rye, NH 03870-2840  
603.430.7318  
[joannehardin@comcast.net](mailto:joannehardin@comcast.net)

Dear Selectman Epperson, King and Winslow,

I am writing to the BOS again to request that the west end of Shoals View Dr. be plowed by the Town of Rye. Below, you will find a 20 year history and some attachments pertinent to my request. I recently spent several afternoons reviewing town records at the Building Inspector's office and the DPW. I was looking at records of FairHill Estates homes on dirt roads to understand when those roads became accepted by the Town thus receiving town snow plowing services. I will be sharing what I learned from that research.

**History of Snow Plowing West End of Shoals View Dr (200 feet).**

**Towns' people who have been involved:**

Earl Rinker	Bud Jordan	Dennis McCarthy	Michael Donovan
Mel Low	Bruce Walker	Joe Mills	Priscilla Jenness
Bud Monahan	Leon Blaisdel	Nancy Weiland	Craig Musselman
Matt Upton	Mike Magnant	Joan Dawley	Jane Ireland

**Historical Outline:**

- 10 - 1999 - 32 Shoals View Dr. - I bought house and am the first person to live all year round on the west end of Shoals View.
- 11 - 1999 - I wrote the BOS to understand the status of the west end of Shoals View Dr. I was informed that the road was not maintained as defined in RSA 231:51: which states street will be discharged from public service if it hasn't been used for public travel. Presently, I maintain that in my 22 years of residency on the west end of Shoals View Dr. although a dead end, is used by the public: hunters, Mr. Beardsley, people hiking, snow shoeing, etc.
- 1 - 2000 - 32 Porpoise Dr. - Russ Bookholz rented house - street was plowed by the town. I called DPW to plow the west end of Shoals View. Bud Jordan came to my home and did a site exam. It was plowed once. I wrote a thank you note to Mr. Jordan for plowing and sanding the west end of Shoals View Dr. Then, all hell broke loose; I was notified that the west end of Shoals would not be plowed again. Meanwhile, Porpoise continued to be plowed and is still plowed to this day in the year 2021.
- 5 - 2000 - Received an undated letter from Matt Upton indicating that the town could no longer plow the road, as it was a private road. Matt Upton visits site and states he will look into it. He states the east and west parts of the road should be treated the same. If a service, i.e., plowing is done, regardless of town status or origin if the road, after 5 years it becomes a town street. It is accepted as a street, as is. I never hear from him again.
- 8 - 2001 - I wrote BOS indicating that I wanted the same services as Porpoise Dr., which was being plowed. Mr. Rinkler said I was alone in my pursuit; I was to get 25 signatures [attached - Exhibit Aa] and create a warrant article. I was advised to have my Atty, Thomas Keane review verbiage. Atty Keane called Atty Donovan several times and his calls were never returned. I was advised from legal council to go back to the Town.
- 9 - 2001 - Received letter from Nancy Weiland, Rye Exec Sec. informing me that the BOS adopted following policy: 'It is not in the best interest for the Town of Rye to accept as a

town road a private street that is not presently built to town road standards because of the expense that would be involved in bringing the road up to standards and because of the liability which would accrue to the Town.' I was also informed at the deliberative session the Selectman would add the following amendment to my warrant article. 'This warrant article shall not take effect until such time as the DPW and the BOS have certified to the Town Clerk that the road meets town road standards.' Note: There had never been any discussion of Shoals View Drive being a private street. My deed states my lot is a 75' by 125' square.

- 3 - 2002 - Warrant article submitted by me with 25 signatures from neighbors. Verbiage created by Atty Donovan. 'To see if the town will vote to accept as a Class V Town Rd the portion of Shoals View Dr. located west of Parsons Road, as shown on Rye Tax Map 20.3 and Subdivision Plan of Lots, Fair Hill Estate, dated June 1921 by John W. Durgan, Civil Engineer.' During my deliberative presentation, Atty Donovan was consulted and the amendment above was added to my warrant article. I did not understand that my warrant article could be changed. Shockingly, I learned that if I won, I needed to bring the west end of Shoals View Dr. to a Class V status. So, even if I won, which I did, I lost. I was set up for failure by the town. Votes - 754 yes, 449 no
- 3 - 2002 - Conversation with Bud Jordan. 'I'll need 6" of gravel. He will work with me on an ongoing basis to give me this gravel as he breaks up other roads and needs a place to dump gravel. Said to sit tight. Never heard from him again.
- 12 - 2002 - Since I never heard from Mr. Jordan, my neighbor, Paul Stankiewicz and I added crushed gravel to fill the holes and to add depth to the road. We had been told by Mr. Jordan if we did this, the road would be acceptable. The west end of Shoals View was not plowed during the snow storms in December 2002. I called and asked Mr. Rinker why, and he said it was not plowed because it was not paved. I informed him that Mr. Jordan said if we added the crushed stone he would have it plowed.
- 1 - 2003 - Received letter from Mr. Earl Rinker with diagram indicating road needs 18" of gravel and 24' width to be paved. He also indicated that the width of the road was an issue because it was too narrow. He offered to plow the west end of Shoals View if I paid the town \$280.00 a year. I am against this, as I want the same services my neighbors receive for the same tax dollar.
- My neighbor, Paul Stankiewicz and I measured the width of the other dirt roads in this section of Fair Hill Estates that are plowed. Results:
- |                                |                                  |                     |
|--------------------------------|----------------------------------|---------------------|
| Coles Noyes - 13.5 feet        | Pulpit Rock Rd - 14.5 feet       | Davis Rd. - 13 feet |
| Rye Lane - 11.5 feet           | Neptune Dr. - 12 feet            | Porpoise - 13 feet  |
| Shoals View Dr. East - 14 feet | Shoals View Dr. west - 12.5 feet |                     |
- 2 - 2003 - Mr. Monahan replaced Mr. Low on the BOS, when his term ended. Mr. Monahan visited me and indicated he would support me. He said that Mr. Mills is the person against it. I said I would speak with him personally and Mr. Monahan suggested against it.
- 8 - 2004 - Received correspondence from Atty Phoenix indicating per NH Municipal Practice Series, Vol 3, section 11:11, "Dedicated Ways", raises the possibility that Shoals View Dr. has been accepted by the Plan. He was moved that many other streets in the vicinity of Shoals View Dr are plowed although not paved, thus not up to town standards. He was troubled by the formality of the town's voting not to accept the west end of Shoals View as a public way. He spoke with Building Inspector Susan Zarlengo and, she did not see any reason why the town would not plow it when they plowed other narrow unpaved roads.
- 11 - 2004 - Letter to Mrs. Jenness requesting snow plowing west end of Shoals View Dr be revisited. She replied that the towns fear is that if they do it for me they will have to do it for everyone else. I replied that the town already does it for everyone else and would she please reconsider.

- 1 - 2005 - Attended BOS meeting with Atty Phoenix. "He explained there is confusion whether the west end of Shoals View is a private or paper street. In his opinion after his research the west end of Shoals is a 'paper street'. A paper street is defined as a street on a subdivision plan accepted by the town, yet never built. If it goes years without being used the street is 'on paper' and eventually the right of the public to use it vanishes. Daisy Lane is an example of this. The west end of Shoals View actually exists. In fact, I wouldn't have access to my home if one didn't travel Shoals View. Most homeowners who live near/on paper streets usually have additional frontage from another road. Therefore, his opinion is that Shoals View Dr. is not a 'private' road." A copy of Atty Phoenix's letter to Atty Donovan indicating his belief that Shoals View was not private is attached to the end of this document. Also attached 1997 Rye Annual Report, Article 14 that does not list Shoals View Dr. as a private Road. [Exhibit A1 and A2].
- Porpoise Dr. is plowed. There are 2 homes on that street that do not have additional frontage for access. The status of the west end of Shoals View should be exactly the same as Porpoise. Additionally, during this meeting, I was verbally scolded and shamed by Mr. Mills and Mrs. Jenness for taking up their time on an issue that per their perspective was closed.
- How is Porpoise Dr. classified? In my research at DPW, there is no documentation indicating it was accepted by the Town.
- 
- Circa 2006 - There was a large construction truck grading Porpoise Dr. I went over to speak to the driver. Driver stated: 'Russ spoke to Bud and Mike in a nasty way and asked for the road to be leveled. Originally they said no. Russ saw the truck driver on a nearby street and told him to add Porpoise Drive to his list.' It has been level and graded 3 times by the town.
- 12 - 2011 - Russ Bookholz purchases house at 32 Porpoise Dr. It has continued to be plowed for the 11 years he rented, thus based on info above, must be accepted as town road.
- 3 - 2012 - Read in town report that DPW had completed with paving roads in Fair Hill Estates, fixing the drainage problems. This seems odd to me as I live in Fair Hill Estates and there are several roads that are not paved. Additionally, storm water pours off Parsons Rd., down the west end of Shoals View. I always felt there was an elephant in the room about just snow plowing the remaining 200' of Shoals View: I now believe the elephant is the water running off of Parsons Rd.
- 2 - 2014 - Dennis McCarthy visited site to review Shoals View Dr. history. He indicated that road must have 20 years of public use. I have never restricted public use of Shoals View Dr., hunters, snow shoeing and cross country skiers use this access annually. It is a dead end street, like Porpoise Dr. and does not get much public traffic. Mr. McCarthy gave me a document from chapter 5 of 'Special Categories of Layouts and Roads, pages 85 and 86. It states: 'Municipal highway funds can be spent only on Class IV and V highways. However, in 1994 the state legislature recognized a public safety need to keep some Class IV roads and private ways passable for emergency vehicles without requiring the municipality to reclassify or accept them as Class V roads with all the maintenance and liability responsibilities'. The town declares these roads as 'emergency lanes.'
- 4 - 2014 - Memo to Mike Magnant for assistance. No response. Left messages for him, no call backs.
- 9 - 2014 - Walking back from mailbox at night tripped over large rock that circles culvert in the middle of the road and completely broke/severed my wrist. Laid there for an hour, calling for help. Realizing, I was not going to be found on a cold dark fall evening; I figured a way to roll my body while holding my wrist in place and got up, to the hospital; first doctor did not set correctly, needed surgery, was fired from my job because I couldn't type. Very difficult time, road not plowed all winter.

- 6 - 2015 - The town had a new road sign made for the west end of Shoals View Dr., removing the one that said 'Shoals View Dr.' and installing one that said 'Shoals View Dr. Ext.' Who authorized this and why? Copy of Town sent certified letter to neighbor returned to Town stating 'return to sender, as address was not deliverable as addressed.' Copy attached at end of report [Exhibit B]
- 3 - 2017 - Motion by Craig Musselman to appoint *Russ Bookholz* as a fill-in Deputy Building Inspector. Seconded by Priscilla Jenness. All in favor.
- History - Prior to 1948 - Town of Rye never discontinued service to dirt roads. - No one had been excluded to property, forest and woodlands by using any of the dirt roads. If paper street was dedicated on original plot by civil engineer, John Durgan; road is 'In kind' to others built at the time and plowed. It is an extension of a currently accepted road. Also, residents need access to Fire and Ambulance.
- Town elected to plow these dirt roads in the 70's, yet there were no winter residents at that time. Fair Hill Estates was laid out to be taken over by the Town. Much discussion by Town officers of paper versus private roads owned by residents > Shoals View Dr. residents' deeds do not list the road as their property.
- Currently - There are 3 culverts on the west end of Shoals View Dr. I have spoken with neighbors who lived here in the 50's and 60's to see if they could remember who installed those culverts. At this point, all indications are that the town did. I have requested the developers engineering plans for all the roads that comprised 'Fair Hill Estates' going back to June 1921 dated by Civil Engineer John W. Durgan from Sandra Dufresne of the Town's Building Department on 9.30.2021. I have received some info, yet no documentation on who installed culverts.
- Summary** - At this point, the west end of Shoals View Dr. is a larger issue then just having the holes filled and the road snow plowed. The water run off from Parsons Rd needs to be dealt with. The work that was done (filling drain ditch with crushed stone) at the intersection of 180 Parsons Rd. and Starboard Way, needs to be replicated at 61 Parsons Rd and Shoals View Drive. On the east side of Parsons Rd. the water forms a large puddle, creating a road and safety hazard to the motoring public and Shoals View Dr. residents. During a hard storm, this water drains down west side of Shoals View. Photos attached [Exhibit C].
- It appears that Russ Bookholz, a former employee of Rye bullied the Town into doing the gravel work and plowing of Porpoise Dr. My neighbors and I should receive the same services he created for himself: grading and leveling road, filling ruts and snow plowing. Attached Town Road Map Plan No. 753-2, File 135, which does not even list Porpoise Dr. as a Town Road. [Exhibit D].

In closing, I want to thank Mr. McCarthy for his time in reviewing the town road record system he created. All along, I have only wanted the same services as my neighbors for the same tax rate. As I age, I want to feel safe and secure that fire and ambulance can get to me, and that I can exit Shoals View Dr. if need be.

Finally, thank you for reading this history. I sincerely ask that you reconsider my request and snow plow the west end of Shoals View Dr. during snow storms so I can feel safe. Thank you for your attention and time.

Kind regards,

  
Joanne Hardin  
603.430.7318

Attachments: Exhibits A - D

cc: Dennis McCarthy

Exhibit A2

**PETITIONED WARRANT ARTICLE**

For the Annual Town Meeting

To: The Town of Rye  
Board of Selectmen

Re: Acceptance of Shoals View Drive as a Town Road

*Town Raised  
Unsigne*

Pursuant to RSA 39:3, we, the undersigned legal voter of the Town of Rye, hereby petition the Board of Selectmen to place the following article on the warrant of the 2002 Annual Town meeting.

To see if the Town will vote to accept as a Class V Town Road the portion of Shoals View Drive located west of Parsons Road, as shown on Rye Tax Map 20.3 and Subdivision Plan of Lots, Fair Hill Estates, dated June 1921 by John W. Durgin, Civil Engineer?

Signature:

Name:

Address:

1	<i>Joanne M. Hardin</i>	JOANNE M. HARDIN	30 SHOALS VIEW DR., RYE, NH 03870
2	<i>Paul Stankiewicz</i>	Paul Stankiewicz	28 Shoals View Dr. Rye NH 03870
3	<i>Don C. Kirkland</i>	DON C. KIRKLAND	24 Shoals View Dr. Rye, NH 03870
4	<i>Donna Bess</i>	Donna Bess	16 " " " "
5	<i>Bonita Jacobs</i>	BONITA JACOBS	12 Shoals View Dr Rye, NH 03870
6	<i>Walter Halko</i>	WALTER HALKO	77 PARSONS Rd Rye NH 03870
7	<i>Jeannette Halko</i>	JEANNETTE HALKO	79 Parsons Rd Rye NH 03870
8	<i>Judith Bly</i>	JUDITH BLY	7 HOLLAND DR RYE NH 03870
9	<i>Bob Jelich</i>	BOB JELICH	11 HOLLAND DR Rye NH 03870
10	<i>Alison Reichlinger</i>	Alison Reichlinger	8 Holland Drive Rye, NH 03870
11	<i>Daniel Bouscavi</i>	DANIEL BOUSCAVI	8 HOLLAND DRIVE Rye, NH 03870
12	<i>Doreen Bouscavi</i>	Doreen Bouscavi	19 Holland Dr Rye NH 03870
13	<i>Chuck Woodhouse</i>	Chuck Woodhouse	90 Parsons Rd
14	<i>Frank E. Lyons</i>	Frank E. Lyons	5 Converse St.
15	<i>Dianna Crisp</i>	Dianna Crisp	39 Parsons Rd, Rye, NH 03870
16	<i>Norman W. Raitt</i>	NORMAN W. RAITT	39 Parsons Rd Rye NH 03870
17	<i>Brian R. Weatherby</i>	Brian R. Weatherby	31 Parsons Rd. Rye, NH 03870
18	<i>R.G. Weatherby</i>	R.G. Weatherby	26 Neptune Drive Rye, N.H. 03870
19	<i>JOHN E. HOYT</i>	JOHN E. HOYT	893 Ocean Blvd Rye
20	<i>Mary L. Degnan</i>	MARY L. DEGNAN	127 Parsons Rd Rye, NH
21	<i>Robert A. Degnan</i>	ROBERT A. DEGNAN	127 PARSONS RD RYE NH
22	<i>Edith G. Pearson</i>	Edith G. Pearson	18 Cale Hayes Ave, Rye
23	<i>Martha McKenna</i>	MARTHA MCKENNA	25 Perkins Rd.
24	<i>James McKenna</i>	JAMES MCKENNA	25 Perkins Rd
25	<i>Thomas M. Sheridan</i>	THOMAS M. SHERIDAN	21 PERKINS RD
26	<i>Bridget M. Hughes</i>	Bridget M. Hughes	21 Perkins Rd, Rye



**PETITIONED WARRANT ARTICLE**

For the Annual Town Meeting

To: The Town of Rye  
Board of Selectmen

Re: Acceptance of Shoals View Drive as a Town Road

Pursuant to RSA 39:3, we, the undersigned legal voter of the Town of Rye, hereby petition the Board of Selectmen to place the following article on the warrant of the 2002 Annual Town meeting.

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Signature:	Name:	Address:
1	Richard Gately	5 Parsons Rd Rye N.H.
2	Clayce Gately	5 Parsons Rd., Rye, NH
3	John Gately	10 Cole-Royce Ave Rye NH
4	John Gately	10 Cole-Royce Ave Rye NH
5	William Gately	42 Cable Rd Rye NH
6	Robert Greenblatt	16 Myra Ave. Rye, NH
7	Oliver A. Goss	551 Cong. John Rd. Rye, NH
8	Timothy A. Goss	551 Cong. John Rd. Rye, NH
9	Donna Sparks	165 West Rd Rye NH
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23		
24		
25		
26		

Exhibit A1

HOEFLE  
PHOENIX &  
GORMLEY, P.A.

ATTORNEYS AT LAW

402 State Street, Post Office Box 4480  
Portsmouth, New Hampshire 03802-4480

Telephone: (603) 436-0666  
Facsimile: (603) 431-0879

DANIEL C. HOEFLE  
also admitted in Massachusetts and New York  
R. TIMOTHY PHOENIX  
LAWRENCE B. GORMLEY  
also admitted in New York  
SAMUEL R. REID  
also admitted in Maine  
KAREN W. OLIVER  
also admitted in Connecticut

January 11, 2005

Michael Lee Donovan  
PO Box 2169  
Concord, NH 03302-2169

Re: Joanne Hardin

Dear Mike:

Perhaps you will recall having dealt with the above captioned in the past. I represent Joanne Hardin who lives at the very end of "Shoal's View". I enclose a copy of the town tax map identifying Joanne's location. I also enclose a series of correspondence and other documents relating to Joanne's efforts to have the town recognize Shoal's view as town road and provide the same services the town provides to other similarly situated roadways, mainly plowing.

We met with the Selectmen on January 10, 2005. They suggested that I speak with you about the issue, hence this letter.

Simply put, Joanne Hardin lives at the very end of Shoal's view. Her house and that of her neighbor were apparently converted to full-time residences sometime in the mid-90's. Thus, for many years, the town did not plow this end of Shoal's View because no one lived there in the winter. The remaining portion of Shoal's View together with many other narrow unpaved roads in the vicinity are plowed by the Selectmen. The Selectmen's "institutional" memory is that those are plowed because they are "grandfathered". That is, they were plowed for many years and now the town is obligated to plow them. The Selectmen believed that there is no obligation to plow Ms. Hardin's end of Shoal's View because it is not "grandfathered".

It is my position on behalf of Ms. Hardin that she is entitled to plowing whether or not the plowing is "grandfathered". The Selectmen counter with the position that Ms. Hardin's end of Shoal's View is either a "private" road, or a "paper street".



Michael Lee Donovan  
January 11, 2005  
Page 2

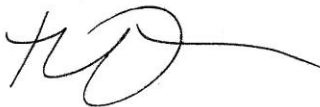
As far as I can tell, Shoal's View was created when the "Fairhill Estates" subdivision was approved back in the 1920's. To the best of my knowledge, the residences, like many in the vicinity were built shortly thereafter. The only difference between Shoal's View and many of the other unpaved roads which are provided with plowing, is that the Shoal's View residences were not converted to year-round residences until recently.

Turning first to the "paper street", I do not see how this is possible. Ms. Hardin's end of Shoal's View was created in the same subdivision as the rest of Shoal's View and all of the other roads in Fairhill Estates. Once those roads were "accepted" and considered town roads, in my opinion, Shoal's View was also accepted. The fact that only seasonal residences existed for some period of time does not change the status from an accepted roadway to a "paper street". In all other cases where I have seen "paper streets", there is no actual roadway in existence, or the roadway's use has been abandoned. In addition, I have virtually always found that the land in question has frontage or access on some other roadway. In the case of Ms. Hardin, if Shoal's View is a "paper street", she has no frontage. Following the town's usual procedure of deeding the paper street to the abutters on either side she would be completely land-locked. Obviously, this makes no sense, leading to the ultimate conclusion that Shoal's View was an accepted road and is not a paper street. If an accepted road, even with seasonal dwellings, the road is entitled to the same privileges as other roads in town and should be plowed.

Likewise, it does not appear to me that Shoal's View can be a "private" street. As mentioned above, it was part of the Fairhill subdivision and thus was accepted by the town just like the remainder of the streets in the subdivision. Accordingly, I do not see how it can be "private".

The Selectmen have asked me to follow-up with you to obtain your opinion on this matter. If my reasoning is faulty, please provide me with factual and/or legal support if not, I would ask that you advise the Selectmen that this end of Shoal's View is a town road and may be plowed without having to be brought up to "town road specifications".

Very truly yours,



R. Timothy Phoenix

RTP:lac  
Cc: Joanne Hardin

*Exhibit A2*

*KADRIE*

# **Annual Report**

**OF THE TOWN OF**

# **RYE**



# **NEW HAMPSHIRE**

**FOR THE YEAR ENDED  
DECEMBER 31**

# **1997**

**AS COMPILED BY THE TOWN OFFICERS**

*NOV 27, 2020*

Shoulda View  
Q listed as  
Private Rd.

Selectman Mills moved to waive the reading of Article 12, seconded by Selectman Herlihy. Show of Hands. Reading of Article 12 is declared Waived.

No discussion. Show of Hands. Article 12 is declared Adopted.

**ARTICLE 13.** To see if the Town will vote to accept as a public road **VICTORY LANE** (located off Rock Orchard Lane) as shown on Subdivision Plan for Glenn and Prudence Trefethen, dated April, 1994, and recorded at the Rockingham County Registry of Deeds as Plan D-23974. This acceptance is conditioned upon the Town receiving the final approval of the Town's Public Works Director, the Board of Selectmen, and the Planning Board.

Selectman Mills moved to waive the reading of Article 13, seconded by Selectman Herlihy.

No discussion. Show of Hands. Article 13 is declared Adopted.

**ARTICLE 14.** To see if the Town will vote in favor of plowing private roads in Rye and charging a fee for this service beginning this year (1997). The private roads are as follows:

Adams Trailer Park	Locke's Neck	Walker Lane
Alan Court	Port Way [Bean Alley]	Wildwood Lane
Bass Drive	Spruce Drive	Williams Street
Foss Circle	Sunset Drive	

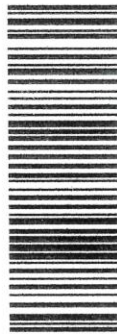
It was moved by Selectman Herlihy, seconded by Mr. Mills, to adopt Article 14.

David Kornechuk read a letter from property owners on Port Way and motioned to amend Article 14 by striking Port Way (Bean Alley) from the list, seconded by Bettey Tobey. Show of Hands. Article 14 is declared amended by striking Port Way (Bean Alley) from the list.)

Discussion ensued. Paul Schrier asked why the Town was getting into the plowing service. Selectman Herlihy offered some history on the issue, concluding by saying he felt this matter was best brought up at Town Meeting since it is this meeting which approves acceptance of roads. He felt the issues are 1) liability

Exhibit B

CERTIFIED MAIL



7019 1120 0002 0519 5324

NEOPOST

09/24/2019

US POSTAGE \$006.80



ZIP 03870  
041M147785

Paul P. Stankiewicz  
28 Shoals View Drive Ext.  
Rye, NH 03870  
Tax Map 202, Lot 36

SEP 26 2019

NOV 20 2019

NIAXE 01546 10/22/2019

RETURN TO SENDER  
NOT DELIVERABLE AS ADDRESSED  
UNABLE TO FORWARD  
SOFT IN MANUAL ONLY NO AUTOMATION  
RC: 5658899935

10-26-21-  
P.L.C. with Chief  
Mark Cotnam of the  
Rye Fire Department.  
Per all Record System  
there is no Shoals View  
Drive Extension,  
For 32 Shoals View  
is the road under my  
name - Towne Hardin's

I have problems  
with home delivery  
take out dinners  
and other products,  
Because they are  
looking for 32 Shoals  
View and not 32  
Shoals View Dr. Ext



Exhibit C

View From West End of Shoals View towards Pannons.





View From West End of Shaker View, with gravel the Stevenson, Ct  
Parsons Rd applied to Road





*East end of Shasta View, notice Road Sign, water filled Ruts in Road*







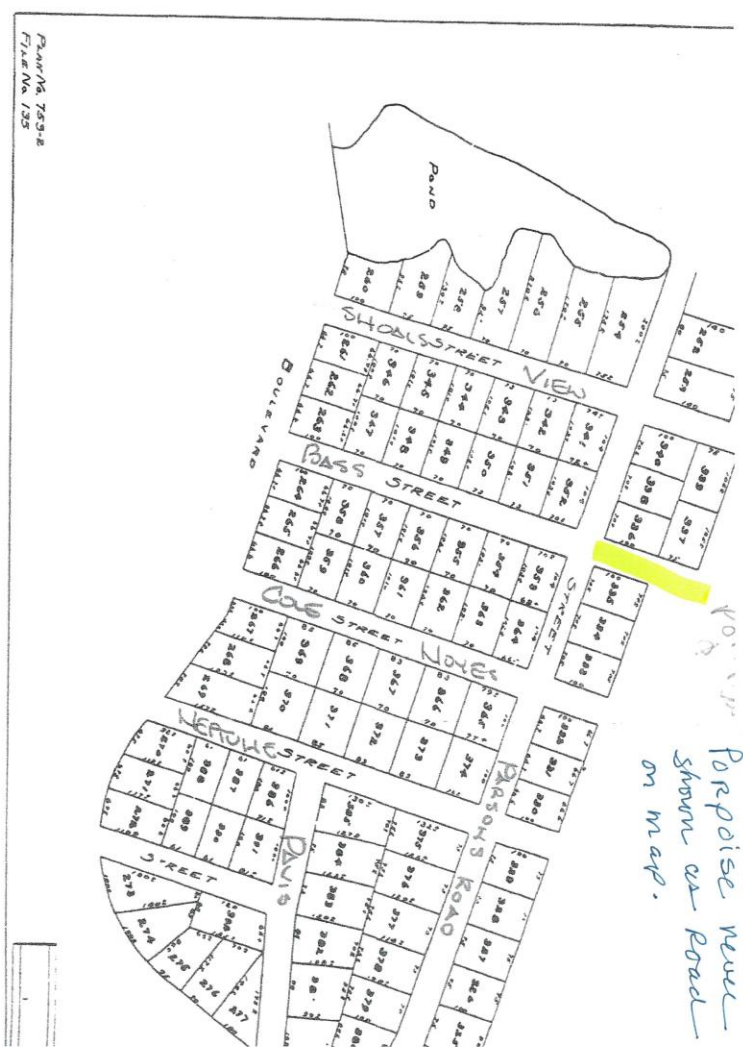
2 Days after Rain storm - Water remains on Patrow Rd,  
- Difficulty for residents to get UPS mail.





Puddle in front of Mail Box

Exhibit D



12-27-21 Consent Item A  
1-24-22 Correc. A

Steven Borne  
431 Wallis Rd

Town of Rye  
10 Central Rd.  
Rye, NH 03870

December 20, 2021

Hello Select Board,

**Topic 1: Master Plan**

At the December 16<sup>th</sup> Budget Committee Meeting, during the discussion of an additional \$20K to support the ongoing Visioning Chapter update, Select Board representative King indicated that the Select Board would be driving an update to the whole Master Plan on the heels of the Visioning Chapter update.

If that is the plan, where is the money in the 2022 budget or Capital Improvement Plan? It certainly should have been in the CIP before this year and it is not in the CIP you just accepted.

What are the chances of the Visioning Chapter getting drafted, reviewed and two public hearings completed before the March Election? This is not to say people have not been working very hard, they are doing the best they can.

My suggestion is that you put \$200K in the 2022 budget to develop a Best-in-Class Master Plan. Rye has been guilty of under investing in strategic planning. Make it a warrant article if you will not put it directly in the budget. Don't argue about what the exact amount should be, we have been penny wise and pound foolish for too many years on this topic. If Bedford spent \$163K, something north of that should be sufficient for a town with all of Rye's challenges. Only what is needed would be spent.

**Topic 2: Work Force Housing**

Rye residents are giving something up when higher density developments are allowed because they contain units priced to enable work force housing.

While the "Management" or monitoring that the units will continue to be work force housing units is being outsourced to the Housing Partnership, units can return to market pricing and there could be disbursements of funds back to the Town. Note, I can't find this approved document posted or attached to any older meeting minutes.

I would suggest that before any more developments are approved, Rye institutes a system for tracking, monitoring and reporting the work force housing granted in Rye. This information should be included in the annual town report.

**Topic 3: Parson's Creek Fecal Contamination**

From the 2016 Parson's Creek Select Board committee report how many of the actions have been completed over the last five years? Besides the Septic Pump Out ordinances, what else has been done?

What actions (zoning) have been taken to not exacerbate the problem, protect the buffer better and manage storm water in the area over the last five years?

Waiting to learn if there is a non-human contribution to the problem is a delaying tactic. I will tell you now that there will be contributions from non-humans, but we know that a large factor is the oversaturation of leach fields and not enough land to filter all of that effluent. Add in a rising water table from storms and run off and the problem is escalated. You can also factor in the failure rate and higher costs of maintaining the new septic systems approved for this area.

There are no funds in the current budget, nor the CIP to address this health and safety issue.

Who is responsible for addressing the contamination from the Parson' Creek Watershed? What are the plans and when can results be expected?

**Topic 4: Land Use Board Assistant**

I concede the point that boards and the Building Inspector's office need help, there is no argument there.

My concern is that we are using a permanent position as a band-aide. I am fine with this being an annual or temporary position, so we are not locked into a permanent position when a major re-engineering is required.

The dynamics of the best development lots long gone and migration of deep pocketed people to communities such as Rye has been with us for many years.

The question is, what should have been done to get in front of this curve? Given where we are today, what must happen to make up for lost time and not kick the can down the road any further?

For example, what must happen to figure out how to handle all of what is happening on Route 1 for the development we know about now, and for every acre of non-developed land in that watershed?

- Where is the breaking point for leach fields? While it is a function of soil type, we know from the State in 2017 that more than 0.26 Septic Systems per acre can be a problem.
- Until there is a Sewer system – that number needs to be known, communicated and managed to (i.e. not approving additional development).
- If there are no droughts, fires and people don't irrigate too much in Rye, Rye Water District says there should be enough water. However, do we have a sensitivity analysis to fully understand how far the town is from different levels of water restrictions and what residents would consider hardships for the rest of us.
- Additional water moving to and from new homes requires infrastructure that must be paid for and maintained. This should also be well known and communicated to RWD residents.

- Also, the aquifer does not restrict itself to the manmade boundaries of RWD and Aquarion, so this must be coordinated at the aquifer level

Next, look at the 420 South Rd. development. At most Planning Board meetings for the past few years, there is a comment or discussion about what has been going on there. Do we have any idea of what the total cost (include efforts of employees and board members) has been to the town from this development? Don't forget the \$400K settlement, legal fees, the properties that were taxed for years as non-buildable and the many other cost components.

How did this happen? Do we fully understand what enabled this? Has there been a lesson learned analysis and what are the actions to address the enabling causes?

What is happening on Rt 1, Parsons Creek pollution, and the million plus dollars spent since what to do with Town Hall hit the Select Board meetings all ties back to a lack of strategic planning leadership.

**What will this Select Board do, so Rye finally has strategic planning leadership?**

Sincerely,

Steven Borne