

Bylaws and Rules of Procedure for the Chichester Planning Board

Section 1: Authority

These rules of procedure are adopted under authority of New Hampshire Revised Statutes Annotated (RSA) 676:1. The responsibilities of the Planning Board (also known as “the Board”) shall be as enumerated in RSA 673 and RSA 674.

Section 2: Purpose

- 1) This document establishes rules governing Planning Board functions and activities; including but not limited to organization, conduct of meetings, duties of officers and committees, and conflicts of interest.
- 2) Each member and alternate shall have his own personal copy of these Rules of Procedure, and become familiar with their content, and endeavor to act within them.
- 3) A copy of this document shall be on file for public inspection in the Town Offices.

Section 3: Members

- 1) The Chichester Planning Board shall consist of seven (7) members.
 - a) Six members shall be appointed by the Board of Selectmen, as provided under the authority of RSA 673:2, II (a).
 - b) One member shall be designated by the Board of Selectmen as an ex-officio member with power to vote as provided under RSA 673:2, II (a). The ex-officio also will have the power to vote provided under RSA 672:5. The ex-officio member is a full, voting, member of the board, with all powers of other board members except that he or she may not serve as the chairman. RSA 673:9, II.
 - b)c) All members seated at a given meeting, including any seated alternates and the ex-officio member, shall have full voting powers for the duration of that meeting.
- 2) Alternate members of the Planning Board shall be appointed as follows:
 - a) The Board of Selectmen shall appoint up to three (3) alternate members to serve staggered terms of three years, as provided under RSA 673:6, I.
 - b) The Board of Selectmen shall appoint one (1) alternate Selectman member who will sit for the ex officio member, as necessary, in accordance with RSA 673:6, III.
- 3) Terms of Planning Board members and alternate members shall conform to RSA 673:5 and 673:6 respectively. Each position of the regular members shall be numbered 1 through 6. If a position number becomes vacant, an alternate shall be moved to that position number and shall serve the remaining term associated with that position.
- 4) Each newly appointed member or appointed alternate shall be sworn in and take an oath of office as required under RSA 42:1.
- 5) After an appointed member has had four (or three consecutive) unexcused absences in one year, the Secretary shall send a notice to the member stating s/he may be removed from the Planning Board by the Board of Selectmen after a public hearing.
- 6) Members shall be entitled to a minimum of two hours training annually.

7) Members serving on other local boards shall comply with RSA 673:7, I.

Section 4: Officers

1) Officers:

- a) Officers of the Board shall be elected annually at the first meeting following the Town Meeting by a majority vote of the Board including all appointed alternate members. If requested by one or more of those members present, voting shall be by written ballot.
- b) Officers of the Board shall be as follows:
 - i) Chair
 - ii) Vice Chair

2) Duties

a) Chair:

The Chair shall preside over all meetings and hearings of the Board; shall be the official spokesperson for the Board; shall prepare the annual report of the Board; and shall perform other duties customary to the office, including but not limited to appointing members to such temporary committees as s/he deems necessary or as directed by the Board or acting on behalf of the Board on matters authorized by the Board. The Chair may vote. The Chair will appoint an alternate to sit in place of an absent member or abstained member.

b) Vice Chair:

The Vice Chair shall preside in the absence of the Chair and shall have full powers of the Chair on matters that come before the Board in the absence of the Chair. S/he shall also have the full powers of the Chair in all instances when emergency action (as defined by RSA 91-A:2.II) by the Chair is required, and the Chair is inaccessible for 24 hours or more.

c) Chair Pro-Tempore

In the absence of the Chair and Vice-Chair, the members present at any such meeting shall elect a Chair Pro-Tempore to preside over the meeting. The Chair Pro-Tempore shall have the full powers of the Chair for the purposes of the meeting in which prescribed.

d) Secretary as appointed by the Board of Selectmen:

The Secretary shall be a separate person hired by the Board of Selectmen and not be a regular Planning Board member. The Secretary shall administer official correspondence, subject to these rules and at the direction of the Board; shall issue the proper forms, request proper fees from applicants, compile all information, maps, and records for the Board's review; shall send all notices required by law; shall keep the minutes of all Board actions and proceedings; shall file signed final Plats with the proper authorities; shall prepare reports and perform other duties as directed by the Chair; and, shall keep records of its examinations and other official actions. The secretary shall take complete and accurate minutes, tape record all meetings if necessary, to prepare in writing the official minutes of all meetings; to show the vote of the members upon every motion, or if member is absent, disqualified, or failing to vote so indicate; list voting alternates so appointed by the Chair for that meeting; to include in the minutes the names of all abutters present, a summary of the facts on which the decision is based and the decision rendered; and to deliver to the Town Clerk within five (5) business days, the completed document for submission to the Board for acceptance for the proper posting as required in RSA 91-A:2,II. All attendance must be verified by a roll call at the beginning of the meeting.

The Secretary, in consultation with the Chair, shall prepare the agenda for each meeting, provide all supportive documentation, and distribute said materials to each Member no later than the Thursday preceding any scheduled Thursday meeting. The Secretary shall also make public notice of the agenda of each meeting in accordance with the appropriate regulations. Any Member may request and have placed on the agenda, any item for discussion.

- 3) Term of Office: As provided by RSA 673:9, I., all officers shall serve in that position for one year and shall be eligible for re-election.

Section 5: Committees

- 1) Authorization.

The Chair is authorized to appoint Committees to study and to report upon such matters as directed by the Chair which is germane to the purpose of the Board.

- 2) Definition.

A group of Board members delegated by the Chair to perform a function.

- 3) Membership.

All Committees shall consist of not more than four Board members and may have members of the public from the Town.

- 4) Duties.

The duties of any Committee shall be defined by the Board at a regular meeting.

- 5) Committee Chair.

The first member named on the Committee shall be the Chair thereof.

- 6) Meetings.

The Chair of a Committee shall call the same at such time and place as he or she may deem proper whenever there is any business requiring the attention of the Committee.

- 7) Investigations.

If necessary for the proper consideration of any matter referred to the Committee, the Committee is authorized to make investigations and call upon the Town staff for such surveys, plans, estimates, and recommendations as may be deemed necessary.

- 8) Longevity.

The Committee shall remain in place until a final report is adopted by the Planning Board or voted on by the Town.

- 9) Record Requirements.

The Committee shall maintain all records of any meetings in accordance with RSA 676:3,11 and RSA 91-A:2,II.

Section 6: Codes of Conduct

- 1) Chichester Planning Board members (and staff, if any) shall not use their position for a purpose that is, or gives the appearance of being, motivated by a desire for personal benefit or private gain for themselves or others, particularly those with whom they have family, business, organizational, or other ties.

- 2) Board members who are abutters to a property (as defined by RSA 672:3), or who have a financial interest in a property matter that is to be considered by the Board, shall not as an official Board member participate in any discussion, hearing, or other consideration by the Planning Board which involves that property, but may participate as a member of the audience.
- 3) Board members shall not participate in the preparation or administration, monitoring, approval, or payment of any grants or contracts made to, or by, the Planning Board, if a real or apparent conflict of interest would be involved.

In conformance with New Hampshire RSA 673:14, no member of the Board shall sit upon the hearing of any question which the Planning Board is to decide, if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law.

- 4) Any member of the Board who may have an actual conflict of interest with respect to any deliberations or matters before the Planning Board, shall recuse himself or herself from the board while such matters are being considered or acted upon. The Board member recusing shall leave the table.

Section 7: Meetings

- 1) Regular Meetings:
 - a) Regular meetings shall be held at least monthly in the Chichester Safety Building at 6:30 p.m. on the first Thursday of each month. A schedule of all regular meetings and the application submission dates for the following year shall be posted by November 10 of each year.
 - b) Additional meetings or changes to the regular schedule shall be allowed provided that proper notice is given in accordance with RSA 91-A:2.
 - c) It shall be the policy of the Board to adhere to the agenda. Normally, no new public hearing or new discussion shall commence after 10:00 p.m. but will be continued until the next scheduled Board meeting. The Board may, at its sole discretion, waive this provision by majority vote.
 - d) The Board may deviate from its regular meeting schedule in a particular month for any cause, such as conflicts with holidays or other meetings of local interest or an anticipated unavoidable absence of a quorum.
- 2) Other Meetings:
 - a) The Board may meet at times other than its regular meeting date at the call of the Chair or on request of at least four (4) members, provided that requisite notice is given.
 - b) Nonpublic sessions shall be held only in accordance with RSA 91-A: 3.
- 3) Quorum:
 - a) A quorum shall be constituted if at least four (4) members or alternate members are in attendance.
- 4) Disqualification:
 - a) If any member finds it appropriate to disqualify her/himself from sitting on a particular matter, as provided under RSA 673:14, he shall endeavor to notify the Chair at least 24 hours in advance so that the Chair can ensure that an alternate is available to sit for the disqualified member.
 - b) Either the Chair or the regular member, before deliberation or the public hearing on the matter begins, shall announce the disqualification.

- c) If uncertainty arises as to whether a Board member should disqualify himself/herself or be disqualified, on the request of that member or the request of another member of the Board, the Board shall vote on the question, in accordance with RSA 673:14, II. Such request and vote shall be made prior to or at the commencement of the particular public hearing. Such votes are only advisory.

5) Designation of Alternates:

- a) If one or more regular members is/are absent from a meeting or disqualifies her/himself, the Chair shall designate alternate members, if present, to sit in their places, in accordance with RSA 673:11.
- b) In order to ensure that each alternate gets as much experience as possible, the Chair shall designate available alternates in an equitable fashion.
- c) Only a Board of Selectmen alternate representative shall sit in place of the ex-officio Board of Selectman member and shall have all the powers and duties of a regular member.
- d) An alternate designated to sit on the Board as a voting member for any reason shall be in all respects a full member of the Board while so sitting.
- e) To ensure that alternates are prepared to sit on the Board as a voting member as the need arises, they will prepare for and attend all meetings possible and may contribute to any deliberation. They will sit at the Planning Board table to hear all discussions.

6) Role of Alternate Members:

At Planning Board meetings, alternates who are not activated to fill the seat of an absent or recused member or who have not been appointed by the chair to temporarily fill the unexpired term of a vacancy may participate with the board in a limited capacity. During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, and actively participate and interact with other board members, the applicant, abutters and the public. However, they shall not be allowed to make or second motions and but may participate in any way during deliberations of the board upon which formal action is to be taken. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made. At all times, the chair shall fully inform the public of the status of an alternate present and identify the members who shall be voting on the application.

7) Order of Business:

- a) The general order of business shall be as follows, but the Chair shall have discretion to reorder business:
 - i) Call to order by the Chair
 - ii) Introduction of members and designation of sitting alternates
 - iii) Read to the public the agenda
 - iv) Review/approve Minutes of previous meeting(s)
 - v) Committee reports
 - vi) Continued design reviews/ public hearings
 - vii) New applications/public hearings
 - viii) Conceptual Reviews/New Discussions

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- ix) Reading of correspondence
 - x) Other old business
 - xi) New Business
 - xii) Adjournment
- 8) Rules of Order:
- a) The Board will endeavor to follow and the Chair will endeavor to enforce parliamentary procedure, except that the Chair will vote on motions. To the extent practicable the Board will follow generally accepted rules of parliamentary procedure. In any event, failure to strictly follow standard rules of procedure shall not invalidate any action taken by the Board.
- 9) Minutes:
- a) All minutes of meetings will be completed within specified periods in accordance with RSA 91-A: 2 and 3. Minutes will normally be reviewed, amended, and approved by the Board at the next meeting.
- 10) Notices of Decision:
- a) A Notice of Decision formalizing the Board's actions including any conditions of approval shall be prepared, signed by the Chair, and available for the public within five (5) business days, in accordance with RSA 676:3 II. In cases of notices of denial, reasons shall be stated and the applicant's right to appeal shall be noted. This will be emailed to all Planning Board Members.

Section 8: Application Procedures and Notices

- 1) Any applicant is allowed a Preliminary Conceptual Consultation in the discussion phase. They may present a conceptual plan no more than twice. The Board may state concerns for the potential plan and the public may give their input when asked by the Chair. No advice or decisions from either party shall be binding.
- 2) The applicant may return to the Board for a Design Review Phase, if an applicant desires.
- 3) Board to review their proposal beyond discussion in only conceptual form as provided above, a request may be made to the Board for a Design Review Phase as per RSA 676:4, II (b). The Board shall give proper formal public notice, at the applicant's expense of such a review.
- 4) The Board may review the proposal in detail and receive testimony in person or in writing from the applicant, any abutter or any other person as permitted by the Board. Such a conceptual review shall bind neither the applicant nor the Board.
- 5) An applicant desiring to pursue a home occupation, subdivision or requiring a site review or other venture requiring the Board's approval shall acquire the proper application and pay the required fees.
- 6) All major subdivisions, as defined by the Chichester Subdivision Regulations, and major site plans, as defined by the Chichester Site Plan Regulations, shall participate in a mandatory Technical Review Committee (TRC) review meeting prior to making formal submittal of an application. Failure to do so will result in the application being deemed incomplete at the time of formal submittal. The TRC meeting is optional for minor subdivisions and minor site plans (as defined by the Chichester Subdivision Regulations and Site Plan Regulations) but is highly encouraged. Applicants participating in the TRC review meeting shall signal their intent to do so, in writing, to the Planning Board Secretary no later than noon (12:00 PM) two Mondays before the first Thursday of the month (see below). Materials submitted shall include those materials that would be included in their complete

formal submittal and include, but are not limited to, full plan sets, completed applications, escrows as needed (see below), and any other studies or exhibits.

7) The TRC meeting shall be held on the Monday prior to the first Thursday of the month, and shall be listed as such on the Town's online calendar. Specific TRC agendas shall also be posted online and in two public places the Thursday before the TRC meeting. TRC participants will include the Planning Board Chair (or other Planning Board representative), the Planning Board Secretary, the Building Inspector, and all Town department heads (exceptions will be those department heads who have emailed "no comment" to the Planning Board Secretary), a representative from the Conservation Commission, the applicant and/or the applicant's agent. At the Planning Board Chair's discretion, a Central New Hampshire Regional Planning Commission (CNHRPC) representative. The Town's engineer will be required to attend all TRC meetings when wetland crossings, drainage improvements, or roads are proposed, or, as requested by the Planning Board Chair. Applicants shall provide an escrow fee of \$200 if a CNHRPC representative attends. If the Town's Engineer attends the meeting, an escrow fee, as identified by the Town's Engineer, shall be provided by the applicant. The Planning Board Secretary or the CNHRPC representative will issue a memorandum outlining deficiencies in the proposal to the applicant within five business days. The applicant then has the opportunity to revise and submit additional materials to the Town between the TRC Review meeting and the date formal submittal is made. No additional materials will be reviewed or considered between the formal submittal and the date of the first Planning Board meeting at which the application is placed on the agenda.

~~6)8)~~ All applications for hearings shall be noticed and held in accordance with Section VI of the Subdivision Regulations, Section VI of the Site Plan Review Regulations, and RSA 674:35-44 and 675:7.

~~7)9)~~ Applications to be placed on an agenda for public hearing must be received at the Town Office at least 21 days prior to the public hearing, as provided in RSA 676:4, I., (b).6. The Board will either accept jurisdiction over a completed application or deny it for specific reasons. The Board may continue the design review to allow the applicant time to complete the application, after which the Board must accept or deny it. The applicant may bypass the Preliminary Conceptual Consultation and/or Design Review Phase if they have a completed application. However, the application shall be reviewed to ensure completion by a designated person on the Planning Board, or a consultant so chosen by the Board, within the 21 days prior to the Board accepting jurisdiction or the public hearing. The Board will not accept or consider any materials submitted between the 21 day submittal deadline and the date of the meeting for which the application is first scheduled. Such materials will only be considered after said meeting. The opportunity submit additional information and revise plans is between the TRC Review meeting and the date formal submittal is made.

Section 9: Public Hearing Procedures for Completed Applications

The Board shall endeavor to conduct public hearings according to the following rules:

- 1) The Chair shall call the hearing to order, inform the public of the subject matter and ask if any abutters to the proposed project are present.
- 2) If the issue has been raised, the Chair shall ask whether any member of the Board has reason to disqualify her/himself from sitting with the Board on the matter in question, as provided under RSA 673:14.
- 3) The applicant or designee shall be asked to present her/his plan and explain it to all members present.

~~3)4)~~ The Board shall consider waiver requests, if any, and determine if the application is complete.

- ~~4~~5) The Board shall consider Regional Impact and take an official vote.
- ~~5~~6) As appropriate, consulting engineers, and other consultants may be asked to report on the subject matter of the public hearing.
- ~~6~~7) As appropriate, Town officials, such as representatives of Town departments and other Town boards, shall be allowed to present comments in person or in writing.
- ~~7~~8) Board members may ask questions for clarification at any time during the hearing, provided they are properly recognized by the Chair.
- ~~8~~9) After all questions from the Board have been answered, the Chair shall endeavor to conduct the public hearing in accordance with the following rules:
- a) Each person who speaks shall be required to state her/his name and address.
 - b) For hearings on applications, each person who speaks shall state her/his interest in the application. In accordance with RSA 676:4, I(e) the Board may limit testimony at hearings on applications to applicants or their designees, abutters or residents of Chichester.
 - c) The Chair shall first ask for questions from the public about the subject matter of the hearing. All questions shall be addressed through the Chair.
 - d) The Chair shall next ask for statements from those opposed to the application or proposal in whole or in part.
 - e) The Chair shall next ask for statements from those in favor of the application or proposal being considered.
 - f) The Chair in her/his discretion may then permit rebuttal testimony in the order set forth above, beginning with the applicant.
 - g) The Chair may adjourn a public hearing when there is no further testimony from the public, when the public is out of order, when testimony has become unduly repetitive, or time does not permit further testimony.
- ~~9~~10) When the Chair has determined that all appropriate questions, testimony, and comments have been heard, the Chair shall close the public hearing and request that the Board take action on the matter in question.
- ~~10~~11) By majority vote of those members present, the Board may continue a hearing to another specific time, date, and place, provided that statutory time requirements are met or that the applicant agrees to waive any applicable time requirement.
- ~~11~~12) If the applicant inexcusably does not appear before the Board for three consecutive continuances they must start the application process again unless the Board agrees unanimously otherwise.

Section 10: Decisions

- 1) The Board shall render a decision within sixty-five (65) days of the date of acceptance of a completed application, subject to extension or waiver, as provided under RSA 676:4, I., (c)(1).
- 2) The Board shall act to approve, conditionally approve, or disapprove.
- 3) The Board shall send to the applicant or his designee a written notice of decision -- including reasons for denial, as appropriate -- that reflects action taken by the Board as recorded in the meeting minutes.

- 4) Notice of decision shall be made available for public inspection in the Town Offices within five (5) business days after the decision is made, as required under RSA 676:3.
- 5) Each notice of decision shall include information about the right to appeal decisions of the Board.

Section 11: Communications Procedures

1) Communications between board members and applicants/potential applicants, and the public:

- a) Board members are encouraged to limit application-specific communications with applicants, potential applicants, and the public outside of meeting settings. In the event such an instance cannot be avoided, members are encouraged to indicate that they cannot speak for the board and refer individuals to Town staff for specific questions.
- b) If communications cannot be avoided content of any communication can include, and is limited to conveyance of application procedures, citing regulations and regulation sections, as well as zoning requirements citing relevant sections.

2) Communications between staff and applicants/potential applicants, and the public:

- a) Staff are encouraged to provide information to applicants, potential applicants, and the public. Staff should also indicate that they cannot speak for the Board as a whole or suggest what the Board "might" do on discretionary items pertaining to applications. Staff should try to be as helpful as possible and limit such communications to application process and zoning requirements.
- b) Staff should provide citations of the various regulations and ordinance when providing specific information to the public.

3) Plan review memorandum content and distribution:

a) Memorandum Content:

- i) Basic information about the proposal, including: overview of the proposal, map and lot, street address, owner, applicant, professionals involved in the plan development, materials submitted, and any details on ZBA actions;
- ii) A discussion on any outstanding TRC meeting issues;
- iii) A list of waivers submitted, if any, with recommendations regarding their reasonableness;
- iv) A description of zoning issues, if any;
- v) A description of missing checklist items, if any;
- vi) A description of missing site plan and/or subdivision regulation items, if any;
- vii) A recommendation regarding regional impact (regional impact is to be considered for all Planning Board applications in accordance with RSA 36:56, as may be amended from time to time);
- viii) An overview of any other issues, observations, or other permits/approvals needed, comments by the Town's Engineer or other officials;
- ix) A recommendation regarding the completeness of the application;
- x) Any other recommended courses of action; and,
- xi) Recommended conditions of approval.

b) Memorandum Distribution:

- i) Planning Board, as part of the Planning Board packet
- ii) Applicant's designer, or if no such professional is being used, the Applicant. It shall be delivered via email by Town staff at the same time that the Planning Board's packet is distributed.

- 4) Planning Board “packets” for each application shall be distributed in the following manner and shall include the following:
 - a) Packets shall be distributed to Planning Board members, via email, one week prior to the meeting. Review memorandums shall be shared with Applicant representatives at that time.
 - b) Paper copies of the packet shall be provided by the Planning Board Secretary the night of the meeting only. Such packets will only include the agenda, a reduced copy of the plans, review memorandum(s), any key documents, and any meeting minutes.
 - c) Digital Planning Board packets shall include the following items:
 - i) Meeting agenda;
 - ii) Meeting minutes from prior meeting(s), as needed;
 - iii) Any application materials, including review memorandums and correspondence from other officials, if any; and
 - iv) Other correspondence, as needed.
 - d) Application-specific materials submitted between the 21 day submittal deadline and the date of the meeting shall not be included in Planning Board Packets.

Section 12: Filling Chairman and Vice-Chairman Vacancies

- 1) Elected Positions:
 - a) The remaining members of the Planning Board shall appoint by majority vote a Board member to fill a vacant elected position on the Board to fulfill the unexpired term or start a new term, as appropriate.
- 2) Regular Positions:
 - a) The Board of Selectmen shall appoint a qualified candidate (as recommended by the Planning Board) as a regular member to fill the unexpired term or start a new term, as appropriate.
- 3) Ex-Officio and Alternate Members:
 - a) In accordance with RSA 673:6, III. the Board of Selectmen shall appoint a Selectman to fill the unexpired term of a vacant ex officio position on the Planning Board.
 - b) The Board of Selectmen, which under RSA 673:6, I, is the appointing authority choosing alternate members, and shall appoint someone to fill a vacant alternate position on the Planning Board for the unexpired term, or start a new term, as appropriate.

Section 1213: Removing Members

- 1) Action to remove a member shall follow RSA 673:13.

Section 1314: Joint Meetings

- 1) As provided by RSA 676:2, the Planning Board may hold joint meetings or hearings with other local land use boards.
- 2) The Planning Board Chair shall chair all joint meetings or public hearings when the subject matter falls under the jurisdiction of the Planning Board.
- 3) The rules of procedure for joint meetings or hearings on matters under the jurisdiction of the Planning Board shall be the same as required in the Sections above, as appropriate.
- 4) Each local land use board shall be responsible for rendering a timely decision on the subject matter which is within its jurisdiction.

Section 1415: Site Visits

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- 1) The Board may coordinate with an applicant, a visit to the site of their proposed subdivision/site review for the purpose of gathering data.
- 2) All official site visits that are to be conducted by a quorum of the Board shall be properly noticed. General minutes shall be kept and available in accordance with RSA 91-A:2.
- 3) The visit shall be open to concerned members of the public and all attendees shall be allowed to walk the property during that specific meeting.
- 4) If an attendee is present and is abiding by all applicable laws, but will not be allowed on to the property for any reason, the whole visit shall be terminated.

Section ~~15~~16: Amendments

- 1) Amendments:
 - a) Proposals for amendments to these rules may be made by motion at a meeting of the Board. Such motion, if seconded, shall be tabled until the next regular meeting, and all members shall be notified of the pending motion.
- 2) Enactment:
 - a) Amendments may be enacted upon the affirmative vote of a majority of sitting members of the Board after a properly noticed public meeting for such amendments.
 - b) The rules of procedure and any amendments shall be filed with the Town Clerk and available for public inspection.

Adopted by a majority vote of the Chichester Planning Board on July 11, 2019.

Stan Brehm; Chairman

Michael Williams; Vice-Chairman

Tom Houle

Richard Bouchard; Ex-Officio

~~Ann Davis~~

Tom Jameson

Kevin J Mara, DVM, Alternate

Daniel Humphrey

John Healy, Alternate