

**RYE WATER DISTRICT
MEETING MINUTES
Water District Office – 60 Sagamore Rd.
November 3, 2021 – 9:00 a.m.**

Attendance:

Ralph Hickson, Commission Chair
Tom Clifford, Commissioner
Art Ditto, Commissioner

Others Present:

Arik Jones, Superintendent
Dyana Ledger, Business Manager
Attorney Justin Richardson
Selectman Phil Winslow (joined the meeting at 9:40 a.m.)

Others Present via Zoom:

Zack Malpass
Johanna Silkowski

I. Call to Order

Chair Hickson called the meeting to order at 9:00 a.m.

**II. Discussion with Zack Malpass, Johanna Silkowski
With Attorney Justin Richardson**

Chair Hickson opened the discussion by stating that the Water District has been looking at the proposed replacement well situation and are probably going to go in a different direction. The potential replacement well doesn't yield enough water for the District's needs. The Commissioner's thoughts are to keep the old Cedar Run Well. It is expected that with the new State regulations, coming out next summer, the Water District will have to treat its water. It's expected that the District will have to put in a new treatment plant, which would bring the existing Cedar Run Well within specs.

Johanna Silkowski commented this makes things easier for them.

Attorney Justin Richardson stated they came to the meeting thinking that they could talk about a way to do this. He asked if the well is something that the District wants or if it is irrelevant at this point.

Superintendent Arik Jones stated it's irrelevant at this time. The volume of water is less than half of the existing Cedar Run Well. Cost effectively, it doesn't make any sense and there's no guarantee that the total organic compounds are going to continue at the level they are at this point in time. The existing Cedar Run Well is producing 360 gallons per minute versus less than 150. If the District goes with the replacement well, the existing well will be decommissioned. If treatment is eminent, which most likely it is, it makes sense to stay with the infrastructure that's already in place.

Chair Hickson pointed out that currently the replacement well would meet the standards, but it's uncertain if it will have the same issue as the current well, once it gets put into production.

Attorney Richardson stated that they were planning to make an offer to say "we'll support your application if you'll support our DES Wetlands Permit". He knows that DES has reached out to ask what the District's position is about whether the pond affects the groundwater levels. He pointed out that this is something they would like. If the District is not doing their application, then the offer to support it is not all that valuable. He noted that they have the right to know case still pending. He thinks if the District is willing to say they are not pursuing that well, there is really no desire to be in court and a stipulation could be filed.

Ms. Silkowski agreed. She stated that it's a relief the District is not going forward because she and Zack are not interested in being in a battle with anybody or having to have negotiations. It makes things easier on their end. She continued that they are still moving forward with their permit. They would appreciate the District's comments, good or bad, so they are aware of them. Or, if there is still no position, the District should let DES know there is "no position".

Commissioner Ditto noted that the District is working on giving input on the permit now. Something has to be drafted and sent back to Eben Lewis (DES).

Ms. Silkowski stated that if there is no well, she doesn't think the lawsuit has to continue. She noted there are legal expenses from just trying to get that information. There are still costs, but depending upon where it goes with the District supporting or not supporting their project, hopefully, it can all be figured out.

Attorney Richardson stated that even a response saying that the District takes no position or has no comment on the criteria that Eben forwarded in his email is good enough. He continued that they have spoken with Tim Stone. He's given a letter saying that he doesn't think there is any connection. The pond is too small. It just doesn't have the influence on groundwater quality or quantity levels. He thinks Eben Lewis is prepared to rely on Tim Stone's letter. He thinks Eben is just waiting to hear from the Water District, as he's never done a permitting process adjacent to a water supply. Attorney Richardson asked the commissioners their thoughts.

Commissioner Ditto stated that they are putting their response together now. They really don't have anything to put out now because they are still discussing it and working on a letter.

Ms. Silkowski asked if this means there are concerns that the commission is putting together to present to Eben.

Commissioner Ditto commented they are just putting together their thoughts. When the letter is put together, it can be forwarded. However, they haven't gotten far enough down the road to give any type of input or direction of where this will be going.

Attorney Richardson noted that it's expected that Eben will be issuing a permit the week after next.

Commissioner Ditto pointed out that in Eben's October 20th letter, he gave sixty days to reply to those particular comments. The District could send an email to Eben stating that they will be responding.

Attorney Richardson explained that he has sixty days to respond. Based on the meeting today, he's going to respond that it was discussed and the District didn't have any comments yet. That will trigger a thirty-day deadline for Eben to render a decision; however, he doesn't have to wait the thirty days. Eben has said that he's committed to doing this the week of November 15th.

Commissioner Ditto stated that the District can get in contact with Eben and tell him they will be providing comments. If he chooses to not wait for those comments, that's his decision. Eben has been looking for the Water District's input, so he thinks he will wait for it. He reiterated that Superintendent Jones will give Eben a call to give him a timeline for the response.

Attorney Richardson stated that they were before the Water District in January with the same proposal; "you support our application, please support ours". He noted that they have been looking for comments for a long time. When they were on site in June of 2020 with the District, it was the understanding that the pond and the well were different projects. He noted that the Malpass' application has been pending for two years.

Commissioner Ditto pointed out that the first identification about DES's rules about the comments wasn't identified to the District until July. The District was kind of waiting for a formal request and then they received an email. He reiterated that the District will provide comments, but this is where it's at today.

Attorney Richardson commented there's a risk that Eben is just going to proceed. He continued that they told Eben that if the permit is not issued soon, because of the trial with the Town coming up, the pond will probably just be removed. If it goes to trial without the DES permit, they will lose. He continued that they were prepared to stop the whole process but he told Zack and Johanna to have this meeting to try to resolve the issue, as he feels there is an opportunity to do that. It's been communicated to Eben that if he doesn't issue the permit, they are just going to submit a restoration plan and pull out the pond. They are done fighting with the Town, as it's just going to go on forever. He encouraged the commissioners to get their comments to DES now because Eben has committed to rendering a decision.

Ms. Silkowski noted that they had a meeting with people from DES who actually presented that the impoundment was beneficial. They were trying to encourage it as an enhancement project because there were so many benefits. She commented that it's unfortunate if it has to come out; however, they are really at the point where they don't have the time, money or mental wherewithal to keep going. She stated that if the commission is saying that they need more time and are working on a response, it doesn't sound like the District is going to say everything is good. It sounds like the District is compiling a list of data with issues. She commented that it would be nice to know what these issues are up front, so they can start the dam restoration plan and move forward. She doesn't see any reason why this has to be pushed out another sixty days.

The commissioners agreed that they need time to discuss this amongst themselves. They will work on a response and get it to Eben in a reasonable timeframe.

Attorney Richardson stated that he would like something stating that the Water District is not pursuing its application. If Attorney Quinn tells him that, he will file something with the court to pull the lawsuit. However, he wants to rely on what the commissioners have said about not pursuing the well anymore. He asked if there is something in writing that they can rely on.

Commissioner Ditto stated that as far as pursuing the new well, the commissioners are evaluating all their positions. He doesn't think they are going back to that well.

Commissioner Hickson stated that they need to keep all options open. However, in discussions with the engineers, the commissioners think the direction of keeping the old Cedar Run Well, and not pursuing the new well, is the direction to go.

Superintendent Jones noted that at this point in time, the hole is in the ground. It can stay there for twenty years. Twenty or thirty years down the road, it may be looked at but definitely not in the near future.

Chair Hickson stated they don't plan to pursue the permitting of the well with DES.

Attorney Richardson asked if the District's application before the DES is going to be withdrawn. If there's a statement saying that the application has been withdrawn, he could talk to Zack and Johanna about maybe pulling the lawsuit. He knows Johanna is concerned about what has been spent on it. Under the Right-to-Know Law, it says if the lawsuit was necessary to get the information, the person is entitled to recover attorney fees. He pointed out that he is confused on whether the application is pending or not.

Commissioner Ditto explained that nothing has changed, as far as the application. The District hasn't written a letter to DES. He thinks this would have to be done through the Water District's engineering firm.

Chair Hickson stated that he wants it to be clear that what was said today about abandoning the new well and going back to the old one, is the current thinking, but it's not hard and fast. The commissioners are going to discuss it further with the District's engineers.

Attorney Richardson, Zack Malpass and Johanna Silkowski ended their discussion with the commissioners.

III. Approval of Meeting Minutes

- October 6, 2021

**Motion by Art Ditto to accept the minutes of October 6, 2021 as written.
Seconded by Tom Clifford. All in favor.**

IV. Treasurer's Reports

No issues or concerns were noted.

**Motion by Art Ditto to accept the Treasurer's Report for the month of July 2021.
Seconded by Tom Clifford. All in favor.**

**Motion by Art Ditto to accept the Treasurer's Report for the month of August 2021.
Seconded by Tom Clifford. All in favor.**

**Motion by Art Ditto to accept the Treasurer's Report for the month of September 2021.
Seconded by Tom Clifford. All in favor.**

V. Cash Flow Reports

No issues or concerns were noted.

**Motion by Tom Clifford to accept the cash flow reports for the month of October.
Seconded by Art Ditto. All in favor.**

VI. Superintendent's Monthly Report, Pumping Chart, and Data Report, and Bacteria Tests for October

Superintendent Arik Jones presented the pumping chart and data report for the month of October.

- The pumping totals were just short of 11 million gallons for October. Last year, the total was just over 11 million gallons. Everything is pretty much falling back in line with last year. Those numbers do not reflect the numbers for unaccounted water.
- Flushing has been completed for the Rye Water District. The District is still waiting on Portsmouth, as they have been delayed due to winterization of their hydrants.
- Bacteria samples for November will be pulled within the week.
- Hydrant pump-out for winterization has been completed, except for the Portsmouth served area of Rye.

- 1244 Washington is starting to water establish service. The contractor bought the meters for the development through the Water District's vendor. The meters meet the District's requirements.
- The field operators have been preparing the snow plows for winter.
- Greg Vaillancourt will be sitting for his operators 1 and 2 licensing on Friday.
- The project at Airfield Drive seems to be moving forward. The intent is to get the piping across the street and the two hydrants proposed for the end of the street installed before December/January. Superintendent will follow up with the town's building inspector to give him an update. Wright-Pierce will be overseeing the work at Airfield Drive.
- Chris Berg is working on getting the District a rate quote study quote, which should be ready within a week.
- Jamco is interested in starting the Wallis Road main replacement project in the spring of 2022. They will be updating the proposal for the work. A special application will have to be submitted to increase the amount of the bond.
- For 2022, Superintendent Jones recommends focusing on tank 1 for paint restoration. The Breakfast Hill tank does not need a full rehab.
- A Rye/North Hampton/Portsmouth interconnect meeting is scheduled for October 15th at the Town Hall.

Superintendent Jones gave a quick update on the Garland pumphouse upgrade. He also spoke to the commissioners about the replacement of the Bailey pump.

Motion by Art Ditto to accept the Superintendent's Report for October. Seconded by Tom Clifford. All in favor.

VII. New Business

a. Garland Well Upgrade Discussion

Addressed earlier in meeting

b. Bailey Pump Upgrade Discussion

Addressed earlier in meeting

c. Interconnection Meeting November 15th

Addressed earlier in meeting

VIII. Old Business

None

IX. Other Business

a. Seacoast Drinking Water Commission

Commissioner Ditto reported that a Seacoast Drinking Water Commission meeting was held on October 21st. Stratham gave a briefing on their water system. The town has a little bit of water coming from Exeter; however, most of the homes are serviced by private wells. Stratham has a lot of condominium association wells, which are hard to manage as the size of the system is small. There's no real drive in Stratham to establish a water system, even though it impacts the corridor of Route 33 coming in from Exeter.

Now that all the different water systems in the seacoast area have given a briefing on their systems, the next step is to visit towns to educate people about sampling private wells, as most don't know that they should be testing the quality of their well water.

The committee will also be working on a final report of all the work they have done over the year.

b. Rate Study

Wright-Pierce is working on a quote for a rate study, which should be ready for the next meeting.

The commissioners reviewed a report submitted by the Business Manager showing water usage broken out by rate categories for the past year.

c. Meeting with Select Board

There was discussion about scheduling a time to meet with the town's Select Board. Superintendent Jones will work on possible dates/times and will follow up with the commissioners.

d. Possible Budget Meeting Date

The commissioners will be working on the 2022 Budget at their workshop meeting on November 17th. If another meeting is needed it will be scheduled at that time.

e. Late Payment Policy

Business Manager, Dyana Ledger, presented an update to the Late Payment Policy addressing late payments to the District for water services.

The commissioners did not have any issues or concerns with the proposed updates to the policy.

Motion by Tom Clifford to accept the revised Late Payment Policy as presented. Seconded by Art Ditto. All in favor.

X. Town Planning and Zoning Minutes
There were no issues or concerns noted.

XI. Correspondence

- Email rec'd from Phil Winslow re: ARPA FRF – Water Infrastructure
 - Grant & Loan Sources for Public Water Systems
- Adjournment

Motion by Tom Clifford to adjourn at 11:00 a.m. Seconded by Art Ditto. All in favor.

Respectfully Submitted,
Dyana F. Ledger