

**TOWN OF RYE SELECT BOARD
MEETING
Thursday, October 26, 2023 – 9:00 a.m.
Rye Town Hall**

Select Board present: *Chair Tom King, Vice-Chair Bill Epperson, and Bob McGrath*

Others present on behalf of the Town: *Town Administrator Matt Scruton, DPW Director Jason Rucker, and Finance Director Becky Bergeron (via Zoom)*

I. CALL TO ORDER

Chair King called the meeting to order at 9:01 a.m. and led the Pledge of Allegiance.

II. PARSONS CREEK

Jennifer Rowden, Land Use Project Manager Rockingham Planning Commission, met with the Select Board to discuss the proposal submitted by FB Environmental for the Parsons Creek Watershed. She confirmed that she has reviewed the proposal and recommends that the Town move forward with the water quality testing, as proposed by FB Environmental. In regard to the proposal for the Parsons Creek Watershed Plan update, she thinks it makes sense to do the update; however, if it's a matter of timing and budgeting, if the Town holds off a year it would not be unreasonable. Ms. Rowden also recommended that the Town move forward with the option for additional education and outreach for the community. She also thinks that working off Task A, Outlet Flow Restoration Feasibility, is a good add on for the Town, if funding is available. She pointed out that the additional water quality sampling (Option B) is always a good idea; however, it's not completely necessary.

Ms. Rowden noted that she spoke with Sally Soule from NH DES who has been working with Rye on the Parsons Creek Watershed issues for a long time. Her suggestion was that the Town may want to consider seeking some outside evaluation from national expertise in coastal bacterial issues. They would look at the long history of information, data, and the work that FB Environmental has done. It would be an independent evaluation of the data to see if the problem with the bacteria is even solvable. Ms. Rowden pointed out that Rye has had a lot of inconclusive results. The Town has taken a lot of initiative, but hasn't seen a lot of results. Maybe having that outside evaluation, with FB Environmental participating, would make a lot of sense. This will give the Town a better sense of what to do with Parsons Creek and what can actually be done. She pointed out that this might help concentrate some of the funding that is being put towards this project. Ms. Rowden summarized that she doesn't think anything that FB

Environmental has proposed doesn't make sense. She just thinks the work needs to align with the Town's goals and the funding that the community wants to pursue.

Chair King agreed that Rye has done a lot of data collection over the last decade. It may be that this isn't solvable. He thinks it's a great idea to bring in an independent contractor to take a look to see what parts may not be solvable, so the Town can stop wasting time and money on those and concentrate on what can be done.

There was further discussion between Ms. Rowden and the Select Board about the proposal. There was a brief discussion about the availability of grants and funding. After discussion and questions answered by Ms. Rowden, Chair King opened to the public for comments.

Steve Borne, 431 Wallis Road, (via Zoom), read from the 2017 NH DES report presented to the Select Board by Sally Soule and others.

Septic system density above .26 per acre causes problems, Parsons Creek Watershed is at .45 systems per acre. The problem is over saturated land. At this point, testing should only be to monitor progress or in our case the lack of progress. The plumes (spread) from the leach fields are getting into the wetlands. Of the 843 systems, 331 are within 50 feet of wetlands, 26 more are within 75ft and another 26 are within 100ft of wetlands (a total of 383 systems are too close to wetlands).

Chair King commented that timing wise, this was about the time the Pump Out Ordinance was put into effect.

Mr. Borne stated that even if it's agreed that the data shows the septic pump out ordinance has made a big difference, the numbers are getting worse. The number of tests that are above 104, and the counts, are trending up. He pointed out the report is from 2017. There are probably now more leachfields and less pervious surfaces in that area. He just wants Ms. Rowden to know that Rye has had that information for about six years.

Chair King noted that Rye is at 96% compliance with the Pump Out Ordinance and the remainder is not going to make the difference. The ordinance has done what it's done, as it's been in effect for six years. Chair King continued that it seems that the Town can't take a year off completely when it's affecting the beaches. He thinks they need to keep working on it, even if they're not completely confident the problem can be solved. He agrees with the still moving forward, while getting an outside expert who can look at it from a national perspective to get ideas as to what may, or may not, be solvable. He pointed out that part of this is not recreating the wheel. If some of this has been done in other states, the Town needs to take advantage of that.

Selectman McGrath stated that he would support committing a budget and making some decisions on how that would be disbursed. He thinks it can be agreed that the testing needs to continue to create a chain of history. However, would there be better ways to spend a certain budget? It's been the same direction with the same results each year. Maybe the Town needs to try something different and look at a different perspective from a different organization's

viewpoint. Referring to the Pump Out Ordinance, he pointed out that the Town's moved in the direction of compliance and are now doing it with a legal mind. He thinks they need to continue in that manner.

There was some discussion with **Luke Frankel, FB Environmental**, about the DNA testing that is part of the proposal. It was noted by Mr. Frankel that there are funds remaining in the Clean State Revolving Funds that Rye received for bacteria monitoring tasks. These funds can be applied to the sampling for the upcoming year, which decreases the price of the proposal.

The Select Board and Mr. Frankel reviewed the latest proposal for monitoring of the Parsons Creek Watershed by FB Environmental.

Referring to the Parsons Creek Watershed Plan, Mr. Frankel noted that the update would include a lot of the management goals that the Town is trying to move forward. The data is monitored and the plan is designed to layout the goals and how they can be reached. He agrees that the update of the plan doesn't need to be done this year; however, it should be done within the next couple of years. He pointed out that the Town is at a point of what can be done and outlined for the next ten years, which is what the Watershed Plan is designed to do. He also pointed out that the update of the plan would be eligible for the Clean Water State Revolving Fund, but plans aren't as competitive as other projects and it's likely Rye wouldn't receive one. However, he thinks that Rye is going to receive the second grant that has been applied for with the Clean Water State Revolving Fund. Mr. Frankel pointed out that a lot of the evidence shows that septic is the issue. However, the question is how to solve the septic issue because it's private property and very difficult to manage. He noted that a lot of the monitoring and the modeling that was proposed for the Clean Water State Revolving Fund project was to understand how the groundwater and the plumes from septic fields are flowing to try to pinpoint specific properties based on the results.

Selectman McGrath asked what evidence shows that it's from septic, other than the dogs. He also asked where the dogs had hits on the septic.

Mr. Frankel explained that just the fact there are a couple of septic systems that are known to be failing. Also, it's well established there are some systems where the soils are not designed correctly. There are concerns with various siting of septic systems in the watershed.

Chair King noted that the Building Department doesn't have a design or permitting for some of the septic systems because of the age of the system. Some were before the State required those files. The State considers a septic system more than twenty years old as old. The next step that is proposed by the Building Inspector is for septic systems more than twenty years old, within some time period, the Town should require a septic evaluation. This is the only way that the Town is going to be able to document where the septic systems are located, what they are, and what the real condition is. He pointed out that the Town has records on anything less than twenty years old.

There was some discussion with Mr. Frankel on whether there may be federal or state funds available to address septic systems that are not operating correctly. It was noted that the 319 Funds in NH, which is a pool of funding that is unlocked with a watershed management plan, is eligible for the repair and replacement of septic systems. If the Town's watershed-based plan recommends that the Town does septic system evaluations, and during those evaluations it's determined that a system is failing or needs to be repaired, a 319 Grant can be applied for to do the work for those failing systems.

It was agreed by the Select Board that the watershed-based plan is needed. Mr. Frankel reviewed the items in the proposal that would need to be completed in order to update the Parsons Creek Watershed Plan.

Mr. Borne spoke about seeing something in the proposal to mitigate the situation and keep it from getting worse. He assumes there are best in class practices for zones like the Parsons Creek Watershed, where the E. coli numbers keep increasing. The rising sea-level has pushed the water table up two miles inland. As the water tables rise, that whole area is being saturated. He pointed out that giving variances and taking up more of the land and allowing more leachfields in that area is making the situation worse. He asked if there are things that could be recommended to give guidance to the ZBA and planning board.

Mr. Frankel noted that reviewing the different septic system regulations and how they can be amended with ordinance recommendations and updates, could be something that would be covered under Task 5 of the Watershed Management Plan. In action items there's often a section of ordinance recommendations that can be implemented.

There was discussion about other types of testing that is available. There was also discussion about the testing that the Beach Committee is doing with the Surfrider Foundation during the off season at certain beaches in town. Mr. Frankel pointed out that for the second round of the Clean Water State Revolving Grant, part of the modeling is taking year-round samples to validate the model. If that is funded, there would be some winter samples taken in the Parsons Creek Watershed. He reiterated that it's likely that Rye is going to receive that grant for winter 2024/2025. He pointed out that this is a loan with principal forgiveness, but the Town would have to cover the interest. A warrant article would need to be drafted to present at town vote.

After a lengthy discussion and review, the Select Board agreed that the water quality monitoring should continue through next year. They also concurred that the update to the Parsons Creek Watershed Plan is important, as it will open the door for grant opportunities in the future and set an action plan for the Town. The Select Board agreed with a proposal with FB Environmental of \$63,200 to be included in the 2024 budget. Mr. Frankel will update the contract to reflect the tasks as discussed and agreed to at the meeting.

III. OTHER BUSINESS

Ritchie White, 30 Lang Road, met with the Select Board to give an update regarding the Gulf of Maine Intergovernmental Renewable Energy for offshore wind power along the Seacoast.

There was some discussion about drafting a flag policy. Administrator Scruton will work on a policy to present to the Select Board at an upcoming meeting.

Selectman McGrath gave a brief update on the founders' monument. He will continue to work with Tom Pearson in regard to the wording on the monument.

Chair King noted that the Capital Improvements Plan (CIP) Committee has a final meeting soon. They are still working on the updates to the CIP and will be presenting it to the Select Board at an upcoming meeting.

The Select Board all day budget work session is scheduled for Thursday, November 2nd. The Budget Committee will be holding their session on Wednesday, November 15th.

ADJOURNMENT

Motion by Tom King to adjourn at 10:58 a.m. Seconded by Bill Epperson. All in favor.

Respectfully Submitted,
Dyana F. Ledger