



## **TOWN OF RYE SEWER COMMISSION**

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### **SEWER COMMISSION MEETING MINUTES**

**TUESDAY, JANUARY 14, 2020, 5:30 P.M.**

**RYE TOWN HALL COURT ROOM, 10 CENTRAL ROAD, RYE, NH**

**In attendance:** David Kohlhase, Chairman; Peter Kasnet, Commissioner; and Lee Arthur, Administrator.

**Guest:** Carolyn Beauliea, Ciborowski Associates; Mark Brenner, 65 Lafayette Road, Rye, NH; Michael Donovan, Sewer Commission Attorney; Bill Epperson, Selectman; Jaci Grote, State Representative; Tim Phoenix, Phoenix, Gormley and Roberts, P.A.; Tom Sherman, NH State Senator; and Eric Weinrieb, Altus Engineering.

#### **I. Call to Order and Pledge of Allegiance**

The Rye Sewer Commission Meeting was called to order at 5:40 p.m.

#### **II. Old Business**

**Discussion with Tom Sherman, NH State Senator; Bill Epperson, Selectmen, Town Attorney, Michael Donovan and others regarding funding of the expansion of the City of Portsmouth sewer system from the Rye/Portsmouth boundary on Route 1 ending at Route 1/Washington Road intersection.**

Eric Weinrieb indicated that Carolyn Beauliea, Tim Phoenix and he met with CMA Engineers regarding the Pump Station Capacity Report. It was identified that the Pump Station located at the Rye/Portsmouth Line has capacity issues and is not equipped to accept an additional 75,000 gallons of wastewater. It was discussed that if the line were built tomorrow there would not be a lot of initial flow as the properties would not be developed all at once and this would allow for improvements to be made over time. Any improvements would be at the expense of the proponents of the expansion and at no cost to the Town of Rye and the City of Portsmouth. The goal is to gain support from the City Council in Portsmouth to be able to continue discussions regarding the project. The next meeting with the City Council in Portsmouth is January 21, 2020.

It was indicated that the current project is estimated at 2.7-million-dollars but could be higher if upgrades are needed to accept additional capacity. The initial study by CMA was \$9,000.

It was mentioned that if the Hillcrest Estates wastewater flow were redirected, it would free up enough capacity at the pump station located at the Rye/Portsmouth Line to accommodate the project. Eric Weinrieb indicated that funds would be needed from the State and Federal Government to address capacity upgrades. Because if the flow were redirected from Hillcrest Estates there would still be a cost to install 1000 linear feet of force main.

It was posed that if the goal is to keep working on the project the proposed intermunicipal agreement may need to be amended. A cap on the wastewater flow could be implemented until there is an additional investment to cover upgrades.

Senator Sherman is looking into ways that the State of NH can help (funds, loans etc.). Bill Epperson has initiated a charge with Jaci Grote through Senator Hassan's Office to see if there are federal funding opportunities. It was discussed that a definite answer is needed from Portsmouth City Council because it is costly to move forward with no guarantee. Tim Phoenix indicated that Suzanne Woodland will be providing the Portsmouth City Council with a memorandum regarding the nature of the request and he will distribute it once received.

A meeting has been scheduled with the City of Portsmouth Mayor and new City Manager for Thursday, January 16, 2020 at 3:30 p.m. to update them on the project. Tom Sherman indicated that he shared project details with Victoria Sheehan the NHDOT Commissioner. It was discussed that there is a challenge to secure private funding for the project because the NHDOT does not allow private utilities in the right of way and as soon as the system receives wastewater the sewer line will be taken over by the City of Portsmouth, leaving no mechanism for the investors to collect on the capital cost as others would be allowed to connect. If the turning over of the line from private to public could be delayed (5 years) it would allow the infrastructure to be built and for the potential of acquiring additional investors (as septic systems fail).

Michael Donovan posed the question if turning the line over to the Town of Rye was a possibility and it was mentioned that it would have to be determined if the Sewer Commission had a mechanism to pay back investors. He indicated that the state statutes were amended in 2014 to provide a mechanism of which towns and municipalities can reimburse a private developer, Chapter 149-I:4-a. Eric Weinrieb questioned whether the City of Portsmouth is aware of the amendment and it was not determined. It was implemented in 2014 and was not in place when the expansion took place at Foyes Corner. It was noted that for the statute to be affective, there must be Town Meeting approval and a specific contract with a private non-governmental entity that would construct the sewer system. It was pointed out that in Rye a Town vote would be required, where in Portsmouth a vote of the City Council may be enough and could be done more quickly.

The possible concerns of the City Council of Portsmouth were discussed risk, liability, the WWTP capacity and whether protecting the environment (Berry's Brook) would outweigh some of those concerns.

There was a discussion on whether properties could be mandated to connect. In Rye the sewer use ordinance would need to be followed. There is a provision allowing property owners to apply for a waiver, for example if their septic was new. It was pointed out that both current developments (Falzones and Housing Partnerships) have a timeline for their construction. Joe Falzone told the Planning Board that he needs to know if sewer was available by April 2020.

David Kohlhasse mentioned that at the last meeting of the City Council in Portsmouth, Susan Woodward told the council that they can give permission to proceed even if the pump station does not have capacity. Because the proponents would be responsible for paying for the upgrades. The additional cost and alternatives to solve the potential capacity issues need to be determined.

It was discussed that it is not feasible to replace the pipe and the issue is the pump station capacity. However, the City Council is skeptical about the ability of the wastewater treatment plant to take on additional flow and giving any capacity to Rye that Portsmouth may need in the future.

Tom Sherman questioned whether there were any sewer system improvements that the City of Portsmouth may need, that could be dovetailed into the project. It was discussed most likely, but none confirmed. The City of Portsmouth has a few combined sewers and the need to separate infiltration.

Tom Sherman indicated that he has sent an e-mail to the EPA, but to date has not heard back from them and has asked Tracey Wood from the DES for assistance. David Kohlhasse pointed out that the City of Portsmouth would be receiving additional user fees and hypothetically more hook-up fees. In addition, Rye users could possibly pay a capital recovery charge. The Town of Rye pays 4% of the Town of Hamptons capital cost. The line could be kept private for a temporary period and the capacity could be increased later. The City of Portsmouth or the Sewer Commission could act as the entity to manage the project.

Peter Kasnet stressed the importance of acquiring the City Council of Portsmouth approval. It was suggested that the intermunicipal agreement may need to be amended based on when the line is turned over to the City of Portsmouth (private versus public). The discussion led back to the fact that it is important to establish if the City of Portsmouth is in support of the project, in order to move forward.

The intermunicipal agreement has been approved by the Attorney General, however, it has not been approved by the City of Portsmouth and the Public Utilities Commission. Michael Donovan explained that the document is not complicated, and it does not address the capital recovery. The Sewer Commission will reach an agreement on metering and billing prior to the City of Portsmouth accepting the wastewater. It was mentioned that the agreement could include a capital recovery charge as well as operation and maintenance charge. The City of Portsmouth currently includes the capital cost as part of their sewer rate, which are significantly higher than Ryes rates.

In early December, the City Council in Portsmouth unanimously moved the project forward for consideration and then two weeks later further moved it to January 2020. Because, the CMA Report had not been completed and they wanted it to be addressed by the new City Council.

It was discussed that Tim Phoenix would be receiving Suzanne Woodlands report to the City Council tomorrow and the meeting scheduled with the City of Portsmouth Mayor and new City Manager is for Thursday. The meeting is to update them on the project and specifically explain, that if the area is developed with septic and well water it would have a negative effect on the Berry's Brook Watershed. Because of the unique location of the project there is a strong argument for getting state and federal assistance and there is a significant amount of private funds that have been pledged.

There was a discussion that failed septic systems can pollute the Berry's Brook Water Shed. It was pointed out that a study of the Berry's Brook Water Shed was conducted years ago and paid for from a grant received by the State of New Hampshire.

It was mentioned that legislation has been passed that would require the Coakley Landfill Group to clean up the surface water that is coming out of the Coakley Landfill and that the City of Portsmouth will be responsible for a share of that cost.

It was discussed that there are statutes and a sewer use ordinance that speak to the requirements to connect to sewer. It was mentioned that the Foye's Corner connection was less complicated and less expensive.

Tom Sherman excused himself from the meeting and indicated that he would reach out to Martha Fuller Clark. There was a discussion regarding that the proponents of the project recouping some of their capital investment. Eric Weinrieb mentioned that he has had many discussions with the NHDOT regarding having a private line in the right a way and there is no opportunity. Michael Donovan indicated that the Adams Mobile Home Park Line is private, and the City of Portsmouth has assumed the maintenance. It was noted that Adams Mobile Home Park was mandated to connect.

Funding challenges and options were discussed. State or federal funds may only be able to be provided to a municipality (The Town of Rye or City of Portsmouth). David Kohlhasse mentioned that Rye owns the force main to Hampton and that the original plan was to build a wastewater treatment plant at Church Road. However, treating and transporting the wastewater to Hampton was more economical and an agreement was reached. It was discussed that the City of Portsmouth wants a franchise approach. The Sagamore Road line was discussed and in addition that in the past North Hampton has not wanted to connect to sewer. Currently, the Jenness Beach Pump Station is at 97% capacity and the Rye Sewer Commission has a moratorium in place for connections outside the sewer service area.

#### **Other**

Michael Donovan will attend the City Council Meeting in Portsmouth on January 21, 2020.

The Sewer Commission will hold a public hearing on the codification of the Sewer Ordinances on February 11, 2020. The Sewer Commissioners will not attend the Thursday, January 16, 2020 meeting with Portsmouth.

#### **III. New Business**

The sewer commissioners were showed photographs of maintenance work conducted at the Abeniqui Pump Station.

#### **IV. Adjournment**

*Motion was made by Peter Kasnet to adjourn the meeting at 6:50 p.m.  
Seconded by David Kohlhasse. Motion carried.*

*\*These are draft minutes. Please refer to the minutes of the next meeting for approvals/corrections.*