

Westchester County Board Of Legislators
Committee on Environment & Energy
Septic Sub Committee
Meeting Minutes, December 11, 2008

The meeting was called to order at 3:40 pm

In attendance:

Committee Members:

Subcommittee Chair: Hon. Peter B Harckham

Gina D'Agrosa, Water Master, Westchester County

Susan Gerry, Westchester County Executive's Office

Leonard Meyerson, Westchester County Department of Health

Hon. Richard Lyman, Board Member, Town of Pound Ridge

Hon. Dan Welsh, Board Member, Town of Lewisboro

Roberta Wiernik, LWV Environmental Committee

Ed Delaney, Bibbo Associates

Ed Barnett, Putnam County Watershed Information Coordinator; Administrator, Putnam County Septic Repair Program

Guests & Visitors

Carol Hurford & Sheila Bernson: LWV New Castle

Chair Peter Harckham welcomed everyone. Minutes for the September 18th meeting were approved following a change in wording on page three, Paragraph 5, from "no cost" to "numerous", and minutes for October 23 were approved as presented.

Peter Harckham suggested that the planned discussion of MS-4 local enforcement and penalties be postponed until the next meeting since Mary Beth Murphy and Jerry Faiella, who are looking into this, were unable to attend.

Peter Harckham reviewed the status of the funding for the septic data base project. The Board, at his urging, had earmarked \$60,000.00 for use in a septic education program during 2008. Due to the work of the subcommittee and the decision that a necessary first step must be developing a database for this and other critical uses, steps were taken to allow these funds to be used by the interdepartmental County effort to develop the database. The funds have successfully been transferred, and are now available to the Departments of Health, Planning and IT for this use.

Peter Harckham raised the possibility that the Board may have some funds in the 2009 budget to contribute to the continuing costs of this effort, as well as a possibility of funding from the County's 2009 Capital Budget. Sue Gerry estimated that the total cost over its three year development will be approximately \$ 600,000.00. Sue then gave an update on the process laid out in a data base plan distributed at an earlier meeting. The County Planning IT and Health departments are cooperatively working on this effort, which is coordinated and overseen by the County Executive's office (Sue Gerry). Task 1 and Task 2 are completed. Task 3 is in process, including work with the NWWC to cull out data. Sue is working with the Planning Department to submit a grant to DEC. They will look to the NYS Department of State for funding and hope to develop an "RFP" during 2009, as well as to try to include the data base costs in the 2009 Capital Budget, so that a bond can be issued to finance the long term anticipated costs.

The County knows that there is historical septic data currently, but it is scattered in many repositories. The DOH receives about 1500 requests each year, and each request consumes staffing time and resources. The objective of a data base is to centralize the universe of historical data already on file so that accessing the data is less costly and more efficient. This will also allow for expeditious updating with new information, as engineers and others submit their findings.

Dick Lyman asked about who will have access to this database. For example, will the realtors be able to access this as part of the sales process? Discussion followed about the need for security, and concern about database integrity, and that the project's purpose was to meet the needs of member municipalities, so that they could fulfill regulatory responsibilities, and therefore initial access to real time data will be limited to them. When the process is complete, discussion can occur about possible expanded access.

In response to a question from Chair Peter Harckham about the database task for Planning to contact towns and, through mapping, identify package plants and sewers, Gina D'Agrosa responded that this is already underway. Dan Welsh showed the group his map generated for Lewisboro.

In response to a query about the target date for completion, Gina indicated that some towns are further along than others, or have more data in GIS at various stages and vary in characteristics (for example, Dick Lyman pointed out that Pound Ridge data will show all septic). Gina noted that they were meeting with the task force for this project (staff from IT and DOH), and will provide an update to Peter (circulated December 12, 2008) by email). Planning anticipates a six month period over which the department can correct or modify data.

Peter Harckham reviewed the details for the last meeting and that the committee had favored an effort by Jerry Faiella and Mary Beth Murphy to reach out to the towns, and examine options for a shared approach to the enforcement issues and to develop a model law with requisite sanctions. This discussion was deferred until the next meeting.

Peter then reviewed the course of the subcommittee's work since its initial April meeting, to look at what had happened to date and what directions the committee wished to take next year. He also focused on the issue of alternate technologies, a subject of interest to all, but which has not been discussed in detail to-date due to the need to identify the scope of work generated by the MS-4 process.

Peter indicated that the committee members had a general interest in alternate technologies and had many concerns and questions. Stressing that his inquiry was not meant to be critical of current regulatory points of view, but rather an interest in becoming better informed about the technological possibilities and the concerns about them, he invited those on the committee with professional background to help other members learn about emerging technologies worth considering. The interest is to educate the committee to enable us to better examine related policy issues.

Dan Welsh asked about the possibility of seeking a pilot project using alternate septic technology and Peter responded that the idea was a good one, but preceding any proposal, the subcommittee needs to be familiar with the options. As an example of alternate technology Dan and Peter referred to a proposal discussed by the Lewisboro Lakes group involving Skaneateles New York. This proposal was distributed in the June 12th meeting.

Len Meyerson reminded the group that the State's 75A provision for the Sanitary code will not allow for alternate technologies in new applications, but that a revision is being considered. Len noted that Westchester County can be more stringent than the State standard, but must meet minimum standards set. This revision consideration has been in process for some time. In addition, Roberta mentioned that the State has an advisory Committee looking at alternate technology with an eye to update the state sanitary code. Len Meyerson will contact the group's chair Jim Meacham and get back to us with information. (Len sent an update via email on December 15th)

Sue Gerry inquired about the rationale for the State's reticence to use alternate technologies for new applications, while only permitting their use in repairs. Len Meyerson responded that conventional design has proven to be the best way possible (assuming adequate land available) to dispose of septage. The standards, while conservative, do work. A conventional septic system requires no extra maintenance – many newer technologies require oversight. An example was cited of construction of state of the art sewage treatment plants, which could become problematic when required long-term oversight and maintenance tasks are not performed. With regard to septic systems, the concern is still about which party will perform the oversight; County, homeowner, homeowner association etc?

Peter Harckham asked Ed Barnett about how Putnam County works with applications for new development from those in his program. Alternate technologies are allowed because the program requires maintenance which is attached to the deed for the property. The program runs with the land, not the owner, so maintenance issues can be addressed and overseen.

Richard Lyman asked if all alternate technologies require maintenance. Ed Delany said there are some alternate technologies that may be more efficient, with low maintenance and land requirements, there are a range of options. Peter asked how the committee would educate us about these?

Options include taking advantage of documented successful experiences of other states. Roberta mentioned the Small Flows web site of Virginia (attached to an earlier mailing).

Gina reminded the group that when looking at the new options, one must carefully consider the ramifications of any proposal on the conventional regulatory process of zoning development and enforcement, keeping in mind that alternate approaches requiring less land may open up previously unsuitable land parcels for development. Ed Delaney will provide more information on a current testing facility in New England, and share with the group. Ed Delaney has also visited the Skaneateles project and can discuss it with the group.

Ed Barnett invited the members to visit the Putnam County sites in its repair program to view the alternate technologies in use. These technologies are NSF (National Sanitation Foundation) certified. He mentioned that they will have information available that can be shared with the group in place of a site visit. He will follow up with Peter on this subject. The group expressed an interest in hearing from manufacturers about the various products, but all with a cautionary eye to avoiding any commercial marketing exercise.

Peter asked if the three experts (Ed Barnett, Ed Delaney and Len Meyerson) would be willing to present information at a future meeting on the alternate technology issue. They will get together and discuss this further. Peter also asked if the group of three could come up with a curriculum for the broader group to take everyone through the subject, and help educate members about current applications.

Len Meyerson was concerned that the committee understands it is the DOH position that engineers can educate and recommend, not the DOH per se.

Peter Harckham reassured the committee that his interest was in an overview of general categories, to bring committee members up to a base line knowledge level, not to put the regulatory role of DOH in any difficult position. Len noted, in general, beyond the scope of new technologies, it was important for the group to have an awareness of local governments as to what would be required of them to oversee any program. Other concerns are goals of any new proposed systems and sources of power.

Peter suggested that Ed Barnett and Ed Delaney get together to discuss developing curricula for the group for presentation at the February meeting. Sue reminded the group to avoid proprietary sales pitches; that the purpose of this information is to promote "blue sky" thinking.

Ed Delaney gave a copy of the Pipeline newsletter to Peter. Ed Delaney mentioned that he can get feedback from Connecticut communities on their recent experiences, including Stamford, Wilton and New Canaan.

Peter opened up the discussion to invite committee members to provide feedback on this year's process, and what do they see as goals for next year?

Len Meyerson said that the committee's creation was timely and very useful and it was valuable to discuss these issues with a diverse group. Richard Lyman noted that the committee was helpful in the MS-4 process now underway in the communities. Ed Delaney was pleased that the DOH Inspection form was acceptable to DEC. and that next year we can look at new technologies' acceptance.

Peter Harckham mentioned that at the January meeting he was looking forward to a discussion about a model ordinance. Peter will speak with Jerry and Mary Beth about inviting local supervisors.

Peter asked if there were any further comments or discussion. Ed Barnett discussed the need for septic repair money if the goal of program is to remediate problems. Ed will get additional information about the possibility of loan funds developed in by the State.

Peter Harckham mentioned that Dutchess County does regional well testing of aquifers. If a town or county did this kind of testing and could contribute to GIS mapping efforts, this data would be part of a useful look at the impact of septic.

Sue Gerry was concerned about the implications of new technology that might open up development possibilities and stressed need for careful consideration of pros and cons.

Peter Harckham mentioned, the situation in Katonah with sewerage expansion – that there will be a finite number of users able to connect and septic systems are part of overall development plan. Environmental Facility funding (EFC) may also be available to small businesses which face similar hardships in remediation.

A possible site visit to Putnam County in the spring was discussed. Ed Barnett said much of the information will be in his February presentation.

The next meeting date was set for Thursday January 22nd at 3:30 P.M. Peter thanked all of the committee members for their work and wished everyone a happy holiday season.

The meeting adjourned at 4:50 P.M.

Respectfully submitted by Wendy Wild