

Westchester County Board Of Legislators  
Septic Sub Committee  
Meeting Minutes, June 12, 2008

Committee was called to order at 3:40pm.

In attendance:

Committee Members:

Subcommittee Chair, Hon. Peter Harckham, Hon. Michael Kaplowitz, John Nonna  
Gina D'Agrosa, Water Master, Westchester County  
Leonard Meyerson, Westchester County Department of Health  
Hon. Dan Welsh, Board member, Town of Lewisboro  
Hon. Richard Lyman, Board member, Town of Pound Ridge  
Ed Delaney, Bibbo Associates

Hon. William Ryan, Chair Westchester Board of Legislators

Hon. Thomas Abinanti

Robert Capowski & Ken Kosinski NYS Department of Environmental Conservation

William C. Harding, NYS Department of State- Exec. Dir.: Watershed Protection  
and Partnership Council,

Kevin Winn, Commissioner, Department of Public Works, Town of Bedford

Ed Barnett, Putnam County Watershed Information Coordinator; Administrator,  
Putnam County Septic Repair Program, and associate Michael Budzinski

BOL Staff: Chris Crane, Wendy Wild

Guests:

Natalia Baage- Bedford Record Review

Chairman Peter Harckham asked for Committee members and special guests to  
introduce themselves.

William Harding: described his role as liaison with local governments to assist in  
identifying a cost effective plan on a regional basis for MS4 compliance, even  
though each municipality also is its own MS4. He expressed openness and a  
willingness to look at regional approaches, since the issues of water quality and  
septics are regional. The NY Department of State works together with the  
Department of Environmental Conservation as well as the Department of Health  
to cooperatively address these issues and Mr. Harding's role is to reach out to  
the affected parties and interface with local governments to keep a dialogue  
going.

Ken Kosinski and Robert Capowski, from the State DEC, noted that there are many discussions pro and con, of a regional approach to the Septic piece of the MS4 requirements. He expressed support for the work of this subcommittee and welcomes its help as a resource.

Gina D'Agrosa, the county "water master", also speaking as a member of the Northern Westchester Watershed Committee (NWWC), indicated strong support for a regional approach to MS4 Compliance and, especially as it relates to the septic piece. The County does not have an accurate database for the estimated 40,000 parcels of septic, 30,000 of which are in the watershed and a program to fully address inspection, including administration and enforcement is estimated to cost 2million dollars per year. The county does have a new program that licenses septic haulers and captures the data from these visits.

Len Meyerson, of the County Board of Health described this new program and shared copies of the reporting form used by septic haulers after they have completed their visit. The data gathered are from those homeowners who have voluntarily called a septic hauler to clean and inspect their tank. They provide a beginning point to identify potential trouble spots. In further discussion of the new Septic hauler licensing legislation, which took effect in January of this year, Len Meyerson applauded the law as an effective tool and believes the program addresses issues of having a reporting factor.

Discussion followed as to whether this new county mandate could be considered "inspection" in terms of MS4 compliance. It was noted that the County's new Septic hauler licensing and reporting program is not an inspection program per se, but could lead to inspections of potential problem systems.

Ken Kosinski noted that the information derived from these reports filed by septic haulers has value. There are many questions raised when considering the use of this program as inspection, the haulers are trained, but it is not clear if they want an enforcement role, nor is there at present a method to get haulers to properties other than on a voluntary basis by each homeowner.

Sub committee chairman, Peter Harckham noted that there are a wide range of opinions on septic issues, some in the County want a county wide septic district, some want a local focus- but it was agreed, as noted by Legislator Kaplowitz that the County Board is looking for the best way to get there and looks to the County Health Department for the best science.

Ed Barnett from Putnam County noted that there are sensitive legal issues involved as well, and also pointed out that in Putnam as identified so far, there is a low failure rate . He stressed the importance of finding financial resources to help homeowners remediate and that the remediation is more important than

placing blame. He noted that a failure results in a costly repair, and seeks to find aid for homeowners facing this cost.

New Castle Administrator Jerry Faiella, noted that if the information obtained from haulers can be used, this may be data for an organized intergovernmental effort to meet MS4.

Dan Welsh noted a recent study he had seen that showed the rate of septic failures was not necessarily due to age but rather was a function of population density.

Chairman Harckham then went on to discuss and describe a new County law that will reimburse homeowners for the cost of a pump out every three years. However this program applies only to those homeowners who are taxed members of a sewer district. The cost of the program is paid by the taxes assessed to each district member. The provision does not apply to individual septic systems, where there is no option to join a sewer district.

Peter Harckham asked those at the meeting if a three year pump out requirement (three years being the term in the new MS4 requirement) for all systems would be considered reasonable, and those members representing municipal governments felt it was. It was discussed that this type of requirement could be local or county wide, and issues were raised about cost, administration and enforcement.

Chairman Harckham also asked whether a three year pump out with a form similar to the County Board of Health Inspection form, would satisfy the MS4 Compliance Requirements, to which Ken Kosinki replied it would, as a start, and could trigger further diagnostic tests, and remediation as necessary.

Ed Delaney shared his knowledge of how the neighboring State of Connecticut handles their program, and discussed methods of administering the program and the program's emphasis on reminders to comply as opposed to sanctions.

The group discussed the need for a regional effort for the greater good of the groundwater, noting that within the county, there are municipalities which are wholly or partially within watershed basins, and there are areas, such as Pound Ridge, served only by wells and septic.

Kevin Winn, Commissioner DPW Bedford, when asked for his opinion of whether the Town would favor a county role, said that if the county takes over the costs, Bedford would find it useful to be part of such a regional effort.

Bill Harding emphasized that plans to develop inspection requirements have to be practicable, and find a balance between desire to regulate and practicality.

Ken Kosinski stated that adoption of a local law is included as an MS4 permit requirement for septic systems. Ken Kosinski agreed to provide the committee members with a model ordinance the state has drafted to address this. ( note this paragraph written by Chris as part of edits)

Chris Crane, Environmental Committee Counsel, inquired whether the State would be comfortable with a municipality certifying only what is within their control, and this is one of the examples of administrative concerns to be addressed in future thinking. Ken Kosinski and Bill Harding stated that the MS4 program has contemplated third-parties completing certain permit requirements, which could allow for the county to perform certain MS4 functions for municipalities. Gina D'Agrosa noted that an inter-municipal agreement (IMA) between the county and municipality would be needed for such arrangements. (note above edit by Chris)

Discussion continued on administrative aspects of the program and the need for a continued funding source, as well as having a means to address the chronically non compliant.

In wrapping up the meeting, Subcommittee Chairman Peter Harckham polled the group and found consensus for a positive, reasonable starting point, through: the current County hauler reporting system , a three year period recommended for pump out, and a regional approach among the County, municipalities and the State.

The group will meet periodically with the State agencies, and a next step was suggested that local governments discuss the issues raised today, among themselves prior to the next sub committee meeting.

The group agreed that Peter Harckham draft a memo in principle of the consensus reached by the subcommittee members, including administrative aspects and options, and send this to Mr. Kosinski and Mr. Harding. They in turn will assist the subcommittee in identifying sources of state funding for tasks such as the septic database, from a variety of state and federal funding initiatives.

The group agreed on a July meeting, approximately a month from now and an email notice will go out to members.

Ed Barnett mentioned that there will be a 2 day training program presented by Delhi University on Septic Inspection- to be held in Putnam.

The review of the April 17 minutes was deferred until the next meeting, so both sets of minutes ( April and June) will be on the July Agenda.

The meeting adjourned at 5:05 pm.

Wendy Wild