

Westchester County Board Of Legislators
Septic Sub Committee
Meeting Minutes, September 18, 2008

Committee was called to order at 3:40pm.

In attendance:

Committee Members:

Subcommittee Chair, Hon. Peter Harckham,

Hon. John Nonna

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

Michael J. Meyer, Program Manager Bureau of Water Supply NYCDEP

Hon. Mary Beth Murphy, Supervisor Town of Somers, Chair NWWC

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

Guests & Visitors

Natalia Baage, Bedford Record Review

Maureen Eckman, Assistant Building Inspector, North Salem

Jerry Faiella, Administrator, Town of New Castle

BOL Staff: Chris Crane, Wendy Wild

Chairman Harckham welcomed the group, and announced that Bill Harding was unable to attend, and sent his regrets. The group agreed that the next meeting would be 23 October. at 3:30pm.

Peter reviewed the agenda, mentioning that several members have expressed that MS4 discussion was beginning to crowd out other discussion, in particular figuring out how to have a broader discussion about alternate septic technologies. So at 4:30, the meeting would shift to allow 15- 20 minutes to consider how to move forward and begin dialogue to keep parallel tracks going

Motion and second to approve July meeting minutes with note of correction of the spelling of **Mike Meyer's** name

Mary Beth Murphy brought the sub committee up to date on the effort to look at a regional approach that the NWWC has been exploring for MS4 compliance and it was successful in its grant request to the State and will receive 200K to explore a regional entity to address MS4 issues, within the 12 member towns. An NWWC working group has met several times to define a scope for requisite RFP for this

task, and has had some discussions about the scope. They have looked at both narrow and broad scopes, and through consensus, concluded that it is best to look at costs of retrofit analysis, mapping of "out falls" and education and training.

This effort will coordinate with current county efforts including the new County septic data base project. It was noted that septic systems are already regulated by the County and there are different thoughts as to how local jurisdictions might proceed. The County Planning Department is assisting with assembling documentation needed to submit to the State to formalize a grant contract. The NWWC is considering ways to implement the project, including use of EOH money to initially pay contractors until reimbursement occurs from the grant monies.

Peter Harckham then reviewed the subcommittee's progress to date, noting that two meetings ago, representatives from the State DEC attended to discuss the septic component of MS4. Ken Kosinski and Robert Capowsky came from Albany to start the dialogue and agreed to use Westchester's protocol- homeowner calls for a pump out, and then a septic hauler comes to the property and uses a County data form to record findings. If water surrounds the septic tank, a place on the form allows for a check off- this would then trigger a visit to the site by a County DOH sanitarian. DEC indicated that this process would satisfy the required inspection, but it is noted that this is a voluntary system so questions remain about next steps and whether an ordinance (at what level) is then necessary to require a "pump-out" every three years and who is responsible.

The proposed data base plan was distributed to members and Sue Gerry, who is coordinating this effort from the CEO, noted that it begins with a data base of septic systems in Westchester County which can be a frame work for joint MS4 compliance. DEC says Westchester's existing protocol may be accepted for the 12 municipalities covered by the new septic regulations. However the MS4 language requires each municipality to develop a plan, and the County needs to get the assurance that DEC is on board with this regional approach, while recognizing each municipality is its own MS4 with its own responsibility for compliance.

Mary Beth Murphy suggested that the county tie enforcement to the permitting process to demonstrate compliance with the proposed 3 yr pump out requirement. Dick Lyman said that Pound Ridge has discussed this approach. They ask for demonstration for those requesting a permit, similar to demonstrating payment of taxes etc. Peter Harckham noted that Ken and State colleagues wanted to see a good faith effort for all septic parcels within a Town every three years but how we define that liability level is yet to be determined.

Len Myerson said that he spoke with DEC. He asked about directions and they told him that since this is very new they will give latitude for localities to determine their plan. Peter suggested that in order to focus on compliance within the scope DEC has agreed to, we need to figure out the enforcement piece.

Sue continued that the database will start in northern Westchester due to more septic systems where most are not in County sewer districts. It is hoped that the new septic reimbursement law will help tag septic properties in sewer districts. John Nonna mentioned that this project seems ideal for shared services program and suggested that the County apply for a grant from the State. Sue agreed and will look into this.

From the anticipated data the County might generate a mailing to the public to encourage people to initiate pumping. If people ignore public education efforts then it may become a local enforcement issue. Jerry Faiella wanted to be sure that there is a fund to help remediate problems for those who can't afford to. The number of those who haven't pumped out is estimated to be not far below one third. A discussion ensued of staggering- i.e. a third due each year. Dick Lyman raised a question regarding capacity of the County to accept the additional effluent at the manhole. Sue Gerry has data that Hawthorne can handle new septage, and noted that not all septic material goes there; some goes out of county or state.

Ed Barnett discussed a program in the Patterson maintenance district with homeowners paying an extra \$100 per year (as a pre incentive) for pump out. Discussion ensued about this potentially being an administrative burden. A question was also raised as to whether DEC would be ok with this approach since it is lacking an inspection.

Jerry Faiella raised the question of a model ordinance. Sue Gerry said the administration is supporting numerous steps to assist the Towns, and thinks the septic data base will get close to this goal. She explained that it is a problem for the County to take on a legal obligation to enforce a law it cannot enforce. Mary Beth Murphy expressed concern about non compliance by homeowners. Who contacts those who do not comply? Is this left to local governments? Peter interjected that we need to come to an agreement with the State on compliance. What defines "best faith effort"?

Jerry Faiella expressed concern about Towns undertaking IMAs, which reach into the future while the current MS4 permit in place may not take into account uncertainty.

Sue Gerry explained that health and sanitary safeguard responsibilities still apply and that County enforcement is the tricky part. She added that the data base,

once built, will not be costly to maintain. Over a period of years it will require some data "scrubs" and should work well. She also stated that the County tried to pass a "time of sale" septic law. It was problematic with real estate industry as time of sale laws are controversial. She also mentioned the \$500 loophole where property owners can waive release of information regarding the property. Therefore, the buyer must do their own due diligence.

Peter suggested that the subcommittee invite Ken back to begin to discuss enforcement, how would it look, etc. Sue Gerry wanted to be sure DEC is on board with each step before we get too far along.

Peter Harckham then moved to take a few minutes to talk about alternate technologies, noting that unfortunately Dan Welsh and Ed Delaney were not in attendance, and they are passionate about the subject. He asked everyone to consider how can we begin that discussion.

Len said that the County Health Department is open to discussion, with engineer assistance, to determine if alternative technologies are appropriate for remediation – not for new sites. He added that DEP watershed protection rules are more stringent than State and other Counties. Dick Lyman asked why we cannot be proactive with advanced technology since there may be better ways to do things. Len Meyerson mentioned that the option of cluster systems, for instance, involves State approval. When asked why we cannot look at better technologies for individual parcels, Len stated that while some advanced technologies that may be better, they can be problematic because of the need either for power, monitoring, and technical expertise needed for monitoring.

Ed Barnett expressed concern about people building on less desirable sites and discussed rolling the cost of a better system into a mortgage for a new build. He added that maintenance is the critical piece, and much less expensive than a new system or remediation. In the Putnam septic plan, property owners have to sign up for maintenance which runs with house. The maintenance district is overseen by the county and the agreement is actually an easement.

Peter Harckham noted that this discussion will be ongoing. It was agreed that web links to new technologies would be circulated among the group.

Mike Meyer (NYC DEC) sees potential problems, noting that people are barely maintaining systems that are pretty low tech, systems that would work well with maintenance. He said it seems that the data base being generated will give a better sense of the types of homes and areas prone to failure and, over time, will provide a clearer sense of the type, location, frequency and seriousness of problems.

Jerry Faiella talked about tear downs and rebuilds, which increase septic load, as a possible target for considering alternative technologies in this instance.

The group agreed to invite Ken Kosinki to the next meeting to discuss enforcement.

The meeting adjourned at 5pm.

Respectfully submitted,

Wendy Wild