

Westchester County Board Of Legislators
Committee on Environment & Energy
Septic Subcommittee
Meeting Minutes, April 30, 2009

In attendance:

Committee Members:

Subcommittee Chair: Hon. Peter B. Harckham

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

Gina D'Agrosa, Water Master, Westchester County

Ed Delaney, Bibbo Associates

William Harding, NYS Department of State: Executive Director, Watershed Protection and Partnership Council

Michael Meyer, Bureau of Water Supply NYCDEP

Leonard Meyerson, Westchester County Department of Health

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

Hon. Dan Welsh, Board Member, Town of Lewisboro

Guests & Visitors:

Natalia Baage, Bedford Record Review

Robert Capowski, NYSDEC

Bob Eichinger, Green Septic Solutions, Amenia, NY

Guy Gagne Town of Somers, Engineer

Jerry Faiella, Administrator-Town of New Castle

Ken Kosinski, NYSDEC

Don Peters, Supervisor, Town of Yorktown

Bruce Thompson, Building Inspector, Town of North Salem

BOL Staff: Chris Crane, Wendy Wild

Chair Peter Harckham called the meeting to order at 3:38pm, and after welcoming the group asked for members present to introduce themselves. Peter welcomed special DEC guests Ken Kosinski and Robert Capowski who came from Albany to discuss the proposed model ordinance and related concerns.

Minutes for the March 19th meeting were approved.

A recap of the last meeting was provided for the group and Chair Harckham noted that there was a Putnam County Septic Training Session, on May 12th, in Carmel, and that anyone interested should contact Ed Barnett.

Ken said that the new proposed MS-4 Permit language will be out for early comment from original participants (including Westchester County) within the next 6 months, and in October it is anticipated that a version will be available for public comment. In addition the next permit will most likely be a 5 year cycle, and the DEC must sign off on the Subcommittee's proposed model ordinance and on each locality's individual MS-4 permit. Ken confirmed that the start date for the new permit is May 1, 2011.

Gina took Ken and Bob through the thinking behind drafting the proposed model local law. She said that simplicity and the ability to coordinate with existing town codes guided the process. She then presented a general overview of the proposed model local law. Ken stated that his key concerns about the proposed ordinance are frequency and waivers.

Discussions followed about potential due process issues, various hardship waiver requests and the need for a process to handle these. The need to address localities in the process of sewerage, for example, Peach Lake, or Yorktown's Hallock's Mill district was also discussed.

It was discussed that each locality will likely prefer to have their own conversation about possible consideration of waivers, and it was noted that the proposed model ordinance language might include a window on either side of the inspection requirement implementation date, for example 90 days.

It was also discussed that land use law usually affords some sort of a waiver process, designed for court challenges, and this would need to be clarified. A question was raised about whether waiver granting in general bypasses the intent of the program.

Discussion followed about the inspection requirement as it might relate to alternate septic technologies, and it was pointed out that the phrase, "waterborne sewage" addresses issues such as "greywater". Gina D'Agrosa explained that if the system has a tank then pumping is therefore required, this would include cesspools.

Ken Kosinki said that he was comfortable with the Subcommittee's proposal, but noted that regarding the issue of waivers, the Department of Environmental Conservation needed to consider this carefully, as there were many concerns, including the impact of allowing waivers on the County and State's ability to capture baseline information. Ken said it may be possible that this first cycle will not allow waivers for this reason, but he will get back to the committee within a few weeks with input on this matter.

Ken and the Subcommittee went through the language of the law line by line and with the exception of the policy issue regarding waivers; only minor language changes were developed by the group. There should be adequate time in the process to conduct public education. There was discussion about how to tie the appropriate sections of the Sanitary Code to the ordinance, without making the ordinance itself too cumbersome in the event of future amendments to the code. A revised draft will be presented at the next meeting.

In addition Chairman Harckham asked if the County IT team currently working on the database could work with local building inspectors and other municipal officials to determine what is useful to them in data management and retrieval.

It was also discussed that there is still a need for evaluation of how to develop an effective inspection cycle within the parameters of the permit's timetable.

The next meeting will be on Thursday May 28th. The meeting adjourned at 5:03pm