

Westchester County Board Of Legislators
Committee on Environment & Energy
Septic Subcommittee
Meeting Minutes, December 16, 2009

In attendance:

Committee Members:

Subcommittee Chair: Hon. Peter B. Harckham;

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

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

Hon. Dan Welsh, Board Member, Town of Lewisboro

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

Gina D'Agrosa, Water Master, Westchester County

Guests & Visitors:

Jerry Faiella, Administrator-Town of New Castle

BOL Staff: Wendy Wild

The meeting was called to order at 3:37pm.

Chair Peter Harckham welcomed the members to the last meeting of the Legislative term. At the start of the new term in 2010, all committees need to be reconstituted by the Board Chair, after which the Septic Subcommittee can be reconstituted by the appropriate committee chair.

The minutes of the last meeting on October 14, 2009 were approved with a correction of names of those in attendance.

The chair announced that Len Meyerson is no longer with Westchester County Government and Peter thanked him for his service and his work with the Health Department and with this committee, noting his helpful support for the MS-4 Septic program developed by the Committee. The Committee wishes him well in his new endeavors.

Legislator Harckham noted that the final Septic Subcommittee MS-4 Package, which had been sent to all members prior to the meeting, included the draft letter developed by the committee with recent amendments by Ken Kosinski, and was changed in format from a letter to a memo to accommodate distribution to municipalities covered by this program.

Gina D'Agrosa noted that there is an update to the draft for the new SPDES permit and proposed language changes are of concern, including reference to a 1,000 gallon tank exemption and discussion of alternate septic technology use. The County will ask for removal of the tank size exemption and seek written assurance that the new Septic Inspection Program is still acceptable to DEC. Gina will send a copy of the proposed change, so that a comment can be developed for submission by the committee.

Jerry Faeilla will report to the NWWC on the status of the Septic Program – and Peter Harckham offered to come to the January meeting to discuss this

The input of the towns with regard to concerns about need for outreach, training and education was discussed, and Chair Harckham asked that any such requests be directed to him and his legislative colleagues, Mike Kaplowitz and John Nonna, who will work together to meet with individual communities.

Bill Harding will facilitate coordination with the State on any concerns or discussion during this next phase.

In response to a question it was clarified that the municipalities must have a local law in place in 2011. Since Subcommittee member Len Meyerson is no longer with the County Health Department, it was noted that Paul Kutzy will be the contact in the interim and a copy of the package will be sent to him. The Subcommittee then began discussion of topics for 2010, and Chair Harckham noted that it would be useful to continue the exploration into alternate septic technologies, building upon the presentation to the committee developed by Ed Delaney and Ed Barnett.

Since alternate technologies are discussed in State Public Health Law Appendix 75A, Wastewater Treatment Standards - Individual Household Systems, and these regulations are now out for comment, it was decided that the subcommittee prepare and submit comment. Peter Harckham will follow up on this, and will obtain and circulate the current draft out for comments, so that the first meeting in 2010 can focus on the substance of this part and the potential for alternate technology use. Currently there are limits on using these technologies for repair and the group wants to consider implications and ways to encourage wider usage for new construction as well. Further, the Committee opined examination of 75A in our path forward, should include clarifying the range and conditions under which alternative systems are currently validly permitted around the state. The current version of 75A indicates there are situations where they are allowed, but it does not really stake out the limits clearly. It was suggested that the Subcommittee invite a representative from the State Health Department to this meeting.

Pete Harckham mentioned that he receives frequent constituent complaints about the County Health Department and the process for gaining approval for septic work and cited the experience of advocacy groups such as the Croton Clean Water Coalition (CCWC) with other regulatory agencies in regard to tree cutting near reservoirs. While the overall goal is protection of public health and safety there appear to be conflicts in the approaches to this goal between State and local governments.

Dan Welsh stated that the key point from this part of the dialogue is that local governments are not infrequently required to do things that are actually at odds with the goal of preserving water quality because of the lack of an approved alternative system. The specific example was the clearing of trees which protect water quality so that one can put in a standard septic field.

Bill Harding noted that the Westchester County standards for septics were in many cases stricter than those of the State, and it might be useful to examine the origin of these standards and look at the difference between the State and County regulations,

In summary, next year's work should include:

- a more in-depth look at the possibility of alternate septic technologies and consideration of the implications on planning, infrastructure and water as well as the process of encouraging homeowners to use available options through an education effort;
- examination of 75A, and Bill Harding will look into arranging a briefing for the committee including the timeline for comments on the next round of regulations;
- the District Modification policy of the County Health Department is also a topic for the new year, having been addressed in an earlier meeting due to questions about the policy, its development and application.

And as a follow up to this meeting and the work on the septic data base project, Chair Harckham reiterated the need for the municipalities to have input into the design process, and it is planned to try to schedule a meeting in early January between those working on the County data base project and Dan Welsh, a town board member from Lewisboro, Dick Lyman, a town board member from Pound Ridge, Jerry Faella from New Castle and some building inspectors.

The state grant funding for the septic project was discussed, and clarification is needed as to the status of the various grant applications. Peter Harckham and Bill Harding will follow up on this.

In addition, it was mentioned that the committee needs to address training needs for end users including building inspectors, haulers and sanitarians. A meeting with haulers to get input and provide an update is planned in the near future. Peter Harckham is working on this with Vogler Brothers. Part of the reason for this is the outcry from haulers in response to new data requirements on the Inspection form (which came about due to DEP not finding County data levels acceptable). It was mentioned that the committee was told earlier that the form could not be revised to collect additional data as requested by committee members without a change in the statute and Gina clarified that this form revision, which took effect this month, kept within the scope of the authorizing legislation, and only expanded the data collection needed to meet the requirement.

In discussion of the form, added data and concerns of haulers about additional burdens on their work, it was suggested that ways be explored to involve the homeowner in helping this process by providing the hauler with the additional information at the time of the hauler's visit through advance notification to homeowners so they could have this information ready.

Peter thanked all of the members of the subcommittee for their work and thanked Wendy Wild and Chris Crane for staff support provided to the committee. Follow up on issues discussed as well as updates, will be provided when the new session reconvenes in 2010. Peter wished everyone a happy holiday and the meeting adjourned at 4:32 pm.

Respectfully submitted by Wendy Wild.