

Alameda County Commission on Septic System Issues

April 15, 2015

Meeting Minutes

Time: 2:00 pm

Location: Castro Valley Library
Community Meeting Room
3600 Norbridge Avenue
Castro Valley, CA 94546

1. **Call To Order** – *The meeting was called to order at 2:13 pm by Marcos Gandara, Septic Commission Chair*
2. **Roll Call**

Commissioners Present:

Dale Silva
Darrel Sweet
Marcos Gandara
Paul Hodges

Commissioners Absent:

Barbara Droher-Kline

ACDEH Staff Present:

Dilan Roe
Hana AlBarazi
Natali Colom Cruz
Ronald Browder

3. **Pledge Of Allegiance**
4. **Officer Nomination/Elections**

- a. Commission Vacancies
 - i. District 1 – open

1. Jacqueline Sommers (member of the audience) voiced interest in applying for the D-1 open seat. She had already sent her

information to ACDEH, who forwarded it to Shawn Wilson, in Supervisor Scott Haggerty's office.

- ii. District 2 (vacancy filled 4/7/15)
 - 1. **Introduction of Paul Hodges**, Fairview resident for 35+ years, also on H.A.R.D. Board
- iii. District 4 – open
 - 1. A handful of members of audience expressed interest in applying
- b. Nominations/Elections
 - i. Chair: **Marcos Gandara**. Darrel Sweet moved to nominate Marcos Gandara for Commission Chair, Dale Silva second.
 - ii. Vice-Chair: **Paul Hodges**. Darrel Sweet moved to nominate Paul Hodges for Commission Vice-Chair, Dale Silva second.
 - iii. Secretary: **Hana AlBarazi**. Darrel Sweet moved to nominate Hana AlBarazi for Commission Secretary, Paul Hodges second.

5. Administration

- a. Frequency of Septic Commission Meetings in 2015
 - i. Proposed meetings: June, September & January
 - ii. First Thursday of each quarter
- b. Discussion of Option for Evening Meetings
 - i. Dilan Roe asked Hana AlBarazi to propose alternate day & evening meetings to Commissioners to judge availability
- c. Discussion of Alternate Locations for Meetings in 2015
 - i. Marcos Gandara asked crowd if the Castro Valley library is convenient, many said yes
 - ii. Meeting will stay in Castro Valley

6. Staff Comments Section (discussion notes from sections (a) & (b) listed below are combined in notes below)

- a. Update on State Water Resources Control Board's Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy) Implementation
- b. Local Agency Management Plan Discussion

Discussion (Note: questions from the audience were taken during the Staff Comments Section - they are listed under **#7. Open Forum**).

- 1. Dilan Roe: The California State Water Resources Control Board introduced a new OWTS Policy in 2012, which requires local agencies (like Alameda County Department of Environmental Health) to certify their Onsite Wastewater Treatment Systems permitting programs, in part, by drafting a policy document, called the Local Agency Management

Program (LAMP) by the deadline of May 2016. The State OWTS Policy has 4 Tiers, and once the LAMP is approved, we will be regulated by Tier 2.

- a. Several pieces to certification
 - i. County Ordinance & Regulations Revision
 - ii. LAMP (policy document)
 - iii. OWTS Manual
 - 1. Piece of the LAMP
 - iv. CEQA Document (IS/MN)
 - 1. Initial study, Mitigated Negative Declaration anticipated
- b. Timeline for certification & LAMP review
 - i. Documents will be drafted over the next year
 - ii. Goal is to present each document at June, September & January Meetings
 - iii. BOS approval of draft documents
 - iv. Followed by a Public Comment period
 - v. Final documents are released for a 30 day public comment period before San Francisco Regional Water Quality Control Board (SFRWQCB) submittal deadline of May 2016
- a. Dilan Roe asked Hana AlBarazi to create a webpage on the ACDEH, Land Use Program website to include updates on certification process, to also include:
 - i. Draft Alameda County documents
 - ii. Other California counties LAMP documents after they are finalized
- 2. ACDEH's Community Outreach Efforts
 - a. Area Tours
 - i. ACDEH is encouraging interested parties from communities on septic to take ACDEH on a tour to view their area, so that they can learn about different characteristics of each community on septic to help the creation of the LAMP
 - ii. Dale Silva: ACDEH was invited to take a tour of the Fairview District (sponsored by the Fairview District Homeowners Association)
 - 1. Tour helped show that there are safe & conventional systems in Fairview
 - 2. Helped to start conversation about preventing future water way contamination in local creeks
 - 3. Visited several lots to show the characteristics of a handful of OWTS construction
 - iii. ACDEH has also been invited to tour Palomares Rd, Crow Canyon Rd, and Cull Canyon Rd, in Castro Valley
- 3. Dilan Roe: Challenges in Alameda County to creating the LAMP
 - b. The State requires that local agencies know the inventory & characteristics of the OWTS existing in their jurisdiction

- i. There are many systems ACDEH doesn't know about: ~50% or more
 - ii. It's difficult to know what solutions to propose, when ACDEH isn't aware of the current state of OWTS in an area.
 - iii. Example: Community Systems (a potential option for Sunol)
 - 1. EPA has a model for community systems
 - 2. Requires that residents get on board and be open to give their information
- c. ACDEH is in the data gathering phase of developing their Geographical Information System (GIS) systems, which show electronic mapping of:
 - i. Sewer lines
 - ii. Location of OWTS in ACDEH database
 - iii. Surface Water Bodies
 - iv. Groundwater Basins
 - v. Topography
 - vi. Undeveloped vs developed parcels
 - vii. Parcels near existing sewer lines, parcels far from sewer lines
- d. ACDEH sent a letter a few months ago, which was not intended to say they are going to inspect each system, but instead to let everyone know that change is coming, and also to find out if ACDEH's existing database of property owners, existing OWTS, etc. was still accurate.
- e. Standard Systems vs Advanced Systems & LAMP Requirements
 - i. Standard systems are best if they are the best option for a site
 - 1. Standard Systems require minimal maintenance
 - 2. Site characteristics have to match requirements for standard systems
 - ii. Example of important points to consider: Santa Clara County's LAMP
 - 1. They are the first county to submit a draft LAMP to SFRWQCB
 - 2. Early Development of LAMP was prompted by:
 - a. Their regulations only allowed standard systems
 - b. If they were to allow advanced systems, how would growth be impacted? (i.e.: this would allow more people to develop and live on land that was essentially restricted in the past)
- f. Public Outreach Assistance
 - i. ACDEH met with Karen McBride, with the Rural Community Assistance Corporation (www.rcac.org) regarding providing assistance with LAMP rollout process
 - ii. ACDEH will aim to meet with all of BOS to discuss bringing RCAC on board for funding and public outreach
 - 1. Met with Supervisor Valle (District 2)
- g. Drought

- i. Drought is important
- ii. Groundwater Sustainability Act – legislation passed by State in September 2014.
- iii. ALCO OWTS Regulations require
 - 1. Water well with minimum flow and minimum contamination requirement for water quality
- iv. There are sites that don't have either, or don't have one
- v. Though currently not allowed in California, black water recycling may be something that will start to happen
- vi. Greywater systems are currently regulated by Alameda County Public Works Agency, but there is consideration of whether to include greywater systems in ACDEH OWTS regulations.
- vii. Want to include more innovative technology in LAMP and create an experimental system evaluation program.

7. Open Forum (Informal)

A. Question: *Jacqueline Sommers:* has a consultant started working with the County to help with the certification process? From her experience on other community boards, having a professional with experience partnering with the County is integral in developing these types of things

Answer: *Dilan Roe:* The County is currently looking for potential consultants, and hopes to bring Questa on board, which is a consulting firm that has experience working with other counties in the Bay Area on their LAMP.

B. Question: *Dirk:* How does only knowing about 50% of currently existing OWTS in Alameda County compare with neighboring counties?

Answer: *Dilan Roe:* We don't really know –but we suspect there are other counties that do not have a complete inventory.

C. Question: Tier 0 of the OWTS Policy describes requirements for “impaired water bodies”; who determines if a water body is impaired?

Answer: *Dilan Roe:*

- 1. Total Maximum Daily Loads (TMDLs) is the maximum number that is allowed of any contaminant from all its sources
- 2. Alameda County has no impaired surface water bodies
- 3. However, there are regulations for surface water bodies
 - a. Distance to groundwater
 - b. Soil characteristics
 - c. Steep slopes, etc.

- d. Distance from creek
- 4. Known areas of concern with contaminated groundwater are: Happy Valley in Pleasanton; Livermore Valley basin; and are identified through Zone 7 Water Agency

D. Question: What are the triggers for evaluation of current septic systems?

Answer: *Dilan Roe:*

1. Adding an extra bedroom on your house (Alameda County OWTS regulation requires a code-compliant system)
2. Adding non-bedroom square footage requires homeowner to go through the building department, who will then notify ACDEH for review to ensure there is adequate sewage for the existing structure, and no impacts to the OWTS from the proposed changes
3. ACDEH must determine if the County has a record & file of the existing OWTS
 - a. If not, then a performance evaluation & As-Built plan is required at the property owner's expense

E. Question: Will ACDEH come out and inspect everyone's OWTS?

Answer: *Dilan Roe:* There is only one staff person, so ACDEH would currently be unable to inspect everyone's property

F. Question: Does the State OWTS Policy require ALCO to have increased staffing, and to hire more inspectors to increase the frequency & number of inspections?

Answer: *Dilan Roe:* All counties have an inspection component required by the State, ACDEH will evaluate required staffing needs during development of the LAMP.

G. Question: If there's a problem with my septic system, and I have to hire a professional to come out and pump it/look at it, and because Alameda County OWTS Regulation requires OWTS professionals to report to the County when they encounter a failed system, won't they be acting like de-facto inspectors?

Answer: *Dilan Roe:* All work except for minor repairs requires homeowners and professionals to obtain a permit from ACDEH. Professionals are already required to report failing systems and obtain permits for repair work. ACDEH is aware that these requirements are not always adhered to.

H. Question: If not all OWTS Professionals report to the County when they encounter a failed system, will this be enforced more?

Answer: *Dilan Roe:* This is already a requirement, and will not change with the adoption of the OWTS Policy. The only new requirement will be the State requiring septic pumpers to report where they are pumping, and where they are disposing

- a. *Marcos Gandara:* will they report the volume of the septage?
- b. *Dilan Roe:* Reporting requirements will be developed during preparation of the LAMP.

- I. Question:** If an existing OWTS is grandfathered under current regulation, but then the property is for sale, does it have to meet new requirements before it is sold?

Discussion:

1. *Dilan Roe:* Real estate transactions are not defined in Alameda County OWTS Code, but this issue comes up a lot, and the biggest question yet to be answered, is where does the upgrade responsibility lie: With sellers or buyers?
2. *Marcos Gandara:* likely there will be a lawsuit, where the outcome will set a precedent for how to proceed in the future; whether there are requirements from both the seller and the buyer, or only one side
 - a. Price valuation of real estate is affected by these systems, which the regulation is currently not formulated to handle
3. *Dilan Roe:* Real estate transactions will be addressed in the LAMP.
 - a. Guidance documents for real estate transaction are posted on the ACDEH website.

- J. Question:** *Dale Silva:* Are septic pumpers licensed to pump by ACDEH? Are they licensed to inspect? Are there any plans to license them to inspect? Couldn't it be a conflict of interest if ACDEH allows septic pumpers to inspect, and also make repairs?

Discussion:

Dilan Roe: In any service industry there are people (car repairmen, etc.) that have an incentive to let you know that something is wrong with your car, or septic system, because they have a monetary stake in repairing it for you. This is not a new problem.

- a. ACDEH will have a certification program for OWTS Professionals: Designers, Contractors, Pumpers, Installers, etc. to have minimum qualifications in order to offer OWTS services in Alameda County, and to help the property owner choose a certified individual.
- b. *Dale Silva* – So there is no plan to license pumpers to inspect OWTS?
 - i. *Dilan Roe* – the LAMP will include additional regulations for compliance with the State OWTS Policy.
- c. *Paul Hodges* – Certifying the septic pumpers to also inspect OWTS, could be counterproductive: if it's prudent to pump every few years, then people may not pump if they might get red flagged by septic pumpers, if the septic pumpers are require to report to the State
 - i. *Dilan Roe:* a good point, we'll look at what other counties are doing

- d. *Jacqueline Sommers*: the spirit of requiring reporting was to see who is pumping every 3-4 months (when a system should actually be considered failing)
 - ii. *Paul Hodges*: people may stop pumping
- vi. *Marcos Gandara*: the buy in is ultimately monetary
 - a. Where is line between not wanting to be regulated, and protecting public health?
 - a. (Example) If people don't get pumped, their system can overflow, and the raw sewage can be tracked into the house by a family dog, where the kids play and put things in their mouth & hands
 - 1. how do you know the people doing your work are competent and giving good advice
- vii. *Dale Silva*: 99% don't live in a situation that Marcos Gandara is describing, where overflow is that common to really cause a problem
- viii. *Audience Question/Statement*: How do you know the people doing your work are competent and giving good advice?
- viii. *Dilan Roe*: The State requires a certification program to help encourage standardization of practice.

- K. Question/Comment:** *Jacqueline Sommers*: A crucial element is discussing permit processing timelines (not only processing, but also the timeline from the time people first became aware of the requirements), this includes timelines and information about:
- a. Repairs and new construction applications
 - b. How long the property owner has a permit
 - c. Fees
 - d. Training of staff

Discussion:

- a. *Dilan Roe*: Projects are implemented based on position in a queue. Fees are charged in accordance with Board adopted fees, and do not cover regulatory program costs.
- b. *Jacqueline Sommers*: ACDEH asks for too many specific requirements when it comes to repairs for an emergency situation, takes too long
 - a. Concerned that fees are charged
 - b. Wants ACDEH to oversee percolation tests
 - c. Thinks that people's money is being spent for permits, with no field work in return
- c. *Dilan Roe*: invited Jacqueline to come to ACDEH offices and see some of the plans that ACDEH receives, and how inadequate they can be, resulting in more review time than necessary
- d. *Jacqueline Sommers*: how can ACDEH know if site requirements aren't feasible if they haven't been to the site

- e. *Dilan Roe*: ACDEH staff visits all sites during the permitting process. Fees only allow for 1 site visit, and therefore ACDEH determines the most strategic point in the project for the site visit.

L. Question: *Dale Silva*: If ACDEH is on the verge of hiring a consultant, when will the draft LAMP be presented for public review?

Discussion:

- a. *Dilan Roe*: hopefully in the next month we'll have info about the timelines
- b. *Dale Silva*: how is the public comment process going to happen?
- c. *Dilan Roe*: There will be an open forum during the Septic Commission meetings of 2015 & 2016, and during community meetings around the County

M. Question: *Dale Silva*: Will there be a red-line of the existing OWTS Regulation?

- a. *Dilan Roe*: the ordinance needs to be changed to reflect the State OWTS Policy requirements
 - a. There won't be too many changes to the regulations
 - b. There are technical standards that are missing from the Alameda County Ordinance
 - c. A lot of vagueness in current OWTS Regulations about new & emerging technologies
- b. *Darrel Sweet*: It'd be nice to work off of the existing Alameda County regulations & ordinance
 - a. Note the items that need to be changed
 - b. Highlight what was taken out, and what was added
- c. *Paul Hodges*: will there be other opportunities to review other counties LAMPs?
- d. *Dilan Roe*: yes, as soon as other counties have finalized their LAMPs, we will make them available for the public

8. Board Announcement/Comments/Reports: (none)

9. Next Meeting: June 17th, 2015 6:00 p.m., tentative

10. Adjournment: Meeting was adjourned at 3:45 p.m.