

Legislative Task Force Meeting #1

Thursday, September 26, 2013

9:00 AM – 11:00 AM

Conference Room B, 2nd Floor

Department of Administration, Powers Building

One Capitol Hill, Providence, RI



Task Force members in attendance were: Jeff Willis (for Jim Boyd-CRMC), Joseph Casali (Civil Engineer Representative), Russell Chateaufneuf (Civil Engineering Representative), Janet Coit (DEM Director), Thomas D'Angelo (Builder's Trade Association), Gary Ezovski (Business Community Representative), Kevin Flynn (DOP-Associate Director), Ashley Hahn (Municipal Representative - Charlestown), Lorraine Joubert (Environmental Entity), Thomas Kravitz (Municipal Representative- Burrillville), Tom Kutcher (Wetlands Biologist), Scott Moorehead (Business Community Representative), Eric Prive (Licensed Designer/Environmental Engineer), Scott Rabideau (Business Community Representative), Leslie Taito (Office of Regulatory Reform).

The Division of Planning (DOP) and DEM also had several agency staff members present. From DEM, those present were Carol Murphy, Ernie Panciera, Terry Gray, and Nicole Pollock. Nancy Hess and Paul Gonsalves were on hand from DOP.

Greetings and Introduction of Members

Kevin Flynn kicked off the meeting by welcoming the task force members and by giving a brief explanation of the purpose of the group. Members introduced themselves and explained their interest in participating on the Task Force.

Task Force Legislative Intent and Purpose

Mr. Flynn began with discussion of the legislation that created the Task Force and the need to examine RIGL 42-64.13-10, which is the state legislation that sets the standards for wetlands and septic disposal. The current legislation is broad in scope. Some municipalities have taken the State standards a step further and have additional setback standards. There are currently believed to be 19 municipalities that have adopted their own standards. The local standards do not supersede the statewide standards, but are in addition to the DEM regulations. Director Coit then suggested that a chart or matrix be devised showing the municipal regulations.

Several in the group expressed more of a concern to examine setback issues as opposed to OWTS design standards. The sense around the table was that the Task Force charge was to look at

setback issues not OWTS design issues. However, some felt that OWTS regulations are of equal importance, and that it is sometimes difficult to separate design issues from setback issues. There may be topics that are identified as future work topics outside of the charge for this group. All agreed that science should be the key driver in setting standards. The one size fits all approach may not work as each municipality has a set of resources that should guide how their standards are set. The watershed for the Scituate Reservoir was used as an example.

In the case of permitting for homeowners, some in the group felt that the multiple layers of approvals are a time-consuming concern. The idea of “one-stop-shopping” was raised. This refers to including municipal regulations into DEM regulations. It was also noted that some local regulations pre-date the current state regulations.

In addition to thinking about wetlands and setbacks alone, it was suggested that the collective/cumulative effects from stormwater and other sources also be addressed. One member suggested a how-do- septic-systems function presentation and discussion. The difference between a “buffer” and a “setback” must be clearly defined. The jurisdictional areas that are considered wetlands with setbacks also need to be reviewed. Different jurisdictional areas will have different buffers in DEM Rules. Finally, the differences in how local ordinances apply to individual lots verses subdivisions needs review as well.

A clear, predictable, reliable process that is standardized across the state was also suggested. The process in RI was compared to that Attleboro, Massachusetts but it was thought that their process may even have more layers than ours. Massachusetts allows individual communities to set their own wetland setbacks with no uniformity. Although concerns with the wetlands permit process are very valid, this group’s primary focus is on setbacks. Director Coit then suggested that a brief “scope of work” be developed which will answer what we want to understand better, what science that the Task Force will look at and what are the desired outcomes. There was general agreement that changes in legislation are the reason for the group coming together.

Existing RI Gen. Laws for Wetlands and Septic Disposal (OWTS): DEM

Carol Murphy and Ernie Panciera, DEM staff, gave an overview of several aspects of current freshwater wetlands and onsite wastewater treatment systems laws. Carol summarized the RI Freshwater Wetlands Act as related to DEM. The Act was established in 1971 and was only the second such law in the Nation at the time. The Act established regulations aimed at protecting, preserving and documenting the freshwater wetland areas in the State. The difference between a swamp, marsh and a floodplain was discussed. Also, ponds, lakes, rivers, bogs and streams were defined.

Discussion by all reviewed past history on this topic. There was a proposed major revision of the Act in 1996, but it was unsuccessful. It was suggested that the failure of this effort may have been the impetus for communities establishing their own wetlands regulations. Members suggested that this new Task Force is good opportunity to pick up where the failed 1995 bill left off. It was suggested that the Task Force review the old report and the related 1996 bill. Members discussed the seemingly arbitrary nature of the setback numbers such as “50 feet, 100 feet, 200 feet etc.” Were these numbers based on any science? A synopsis of the most relevant wetland buffer science is a critical piece going

forward.

Ernie summarized the RI General Laws and the authority given to DEM to establish minimum standards for the operation of onsite wastewater treatment systems (OWTS). There are currently not many specific standards set for OWTS in State law but rather in the DEM regulations that are authorized by the Law. Several municipalities address OWTS. DEM commonly gives advice on local groundwater protection ordinances. Concern was expressed that some communities do not have the staff expertise to develop and defend extra standards.

As the municipal representatives weighed in, the group was introduced to the idea of much of the frustration having to do with the process, rather than the actual science involved. Tom Kravitz reminded everyone that most process issues involve working with people at different levels who make the process work.

The topic of sea level rise was introduced and suggested as a consideration for the Task Force as it relates to buffers and setbacks.

Existing RI Gen. Laws for Wetlands and Septic Disposal: CRMC (Coastal Wetlands)

A brief description of the CRMC Coastal Regulations was given by Jeff Willis. CRMC through their Special Area Management Plans (SAMP) regulations has jurisdiction in coastal areas. DEM and CRMC have areas of overlap, but dual jurisdiction is currently not the practice. Differences between proposed activities and location dictate CRMC's reviews. Jurisdictional maps are available on each agency web site.

Next Steps and next Meeting

Nancy Hess, DOP, reviewed the general timeline and potential future topics for the Task Force. It was agreed to reserve the last Thursday of the month for Task Force meetings. Members requested that the meetings be held earlier in the day. An 8:00 AM start time was set. The October meeting is scheduled for the 31st. *(This was subsequently rescheduled to Oct 24th at 8 AM.)*

November's meeting might coincide with an educational URI Workshop on wetlands and buffers the NEMO program. The Task Force will discuss in October.

Volunteers for a subcommittee to review technical /scientific literature were solicited. Scott Rabideau and Russell Chateauneuf volunteered.

Adjourn

11:00 AM