#### WASHTENAW COUNTY BOARD OF COMMISSIONERS

#### WORKING SESSION

## February 22, 2007

The meeting was called to order by Chair Sizemore at 6:30 p.m. in the Board Room, Administration Building, 220 North Main Street, Ann Arbor, Michigan.

MEMBERS PRESENT: Comms. Bergman, Grewal, Irwin, Ping Mills, Ouimet, Lovejoy Roe, Peterson,

Schwartz, Sizemore, and Smith.

MEMBERS ABSENT: Comm. Gunn

OTHERS PRESENT: David Behen, Deputy County Administrator; Ken Schrader, Information Technology;

Dick Fleece, Dan Myers, Patricia Denig, Planning and Environment; Herbert Mahony, Undersheriff; Kerry Sheldon; Administration, Jason Brooks, Clerk's Office; various

citizens; and members of the press.

#### Roll Call

#### **Citizen Participation**

None

#### Commissioner Follow-Up to Citizen Participation

None

#### **Discussion Items**

Dick Fleece and Dan Myers gave a presentation on Community wastewater systems (On file with County Clerk). Discussion then took place on the issue.

Comm. Smith stated that he appreciates the attentiveness of the staff. He asked where responsibility lies in the case of a complete failure of a system. He asked if the owner should abandon that facility. Myers stated that this is one of his concerns. Myers added that he thinks it is important to stay clued in on these facilities. He would like to see a corporation established as the liable party, and eventually liability may go back to the homeowner.

Comm. Smith asked if a surety bond could be established to cover everything including clean up. Fleece stated that this could be considered. Myers stated that the type of potential contamination is different that with a large scale industry. Myers stated that clean up would be put back on the homeowners.

Comm. Smith stated that his concern with this fact is that system failure occurring without the homeowners being aware that they are liable for the failure. Comm. Smith asked about the permitting process. Fleece stated that up to 20,000 gallons is a coordinated effort with the state.

Comm. Smith asked if the DEQ permit is a general permit covering everything. Fleece stated that standards cannot be changed, because courts have established that the DEQ sets effluent standards.

Comm. Smith asked if a facility will have to get two permits, one for discharge and one for construction. Comm. Smith asked if the County aggregates impact. Myers stated that this would be a consideration that would be looked at initially. Comm. Smith stated that some developers segregate developments to overcome pollution standards, and that he hopes a close eye can be kept on this issue.

Comm. Smith asked if Sen. Brater's Bill, S.B. 8 takes Local zoning to the next level. Myers stated that Braters bill would cause zoning to happen before the issuance of a permit. Comm. Smith asked how this would work in a PUD. Myers stated that a local developer would have to be worked with. Comm. Smith stated that he is concerned with the PUD being used to break the current law.

Comm. Irwin thanked Planning and Environment for the presentation, and stated that this plan is a step in the right direction. Comm. Irwin asked how surface water discharge was brought to the Colt Farms issue. Myers stated that Colt Farms proposed a surface water discharge.

Comm. Irwin stated that this changed his thinking about ways in which the County could get involved. He commented that he wondered if there is a way for the County to get involved to ensure MPDS rules get enforced. Fleece stated that recently the DEQ has taken a position that if the subsurface system is within 1000 feet of surface water, an anti-degradation statement would be required.

Comm. Irwin asked if the issue of municipal liability has been investigated. Fleece stated that this has been discussed with Corp. Counsel, and handouts have been distributed to Township attorneys.

Comm. Ping Mills thanked the presenters for their hard work. She asked what rule 98 rule is. Myers stated it's the anti-degradation bill.

Comm. Grewal thanked the presenters. She asked if Washtenaw would be the first County in the state to address this. Fleece responded yes. She asked nationally where Washtenaw stands. Fleece stated that Michigan was unique because it is one of 2 states that does not have an on site sewage code.

Comm. Grewal asked if the tracking system would be with Townships and developers. Fleece stated that the County would keep track.

Comm. Grewal asked if there is some way to make the plan more flexible on the 20,000 gallons a day requirement. Fleece stated that 20,000 gallons a day complies with state regulations. He added that the County will still have a role to play in the larger systems. Comm. Grewal stated that the Colt Farms case reinforces how this plan can be successful.

Comm. Bergman stated that this was an interesting report. She asked if there is a rule for compliance in antidegradation, and if there are pieces in the statement that must be conformed to. She also asked about penalties if false statements are made. Myers responded that statements are reviewed at the state level for accuracy, and that this was one of the reasons for the denial of Colt Farms.

Comm. Bergman stated that she wonders where protections of the DEQ are going to come from if there is no one to protect the public. She asked what recourse we have if the system overflows in walking areas for example. Fleece stated that it is difficult to predict the actions of state government. He added that the purpose of the process is to ensure that systems are built correctly, and maintained. Fleece stated that fines would be levied if violations are present. He added that systems could be taken over in the worst case scenario.

Comm. Bergman asked if Townships could hand responsibility to the County. Myers stated that this the County could take responsibility if the Townships are not being successful.

Comm. Ouimet stated that he appreciates the reaching out of P & E. He added that this shows that the County is trying to make this issue right for everyone. He stated that he agreed with Comm. Smith that the aggregate is an important consideration. Comm. Ouimet stated that he thinks it is critical to set up an inventory system. He added that information should be passed to local governments.

Comm. Lovejoy Roe asked if operating permits would still be done, but she asked why full responsibility could not taken. Myers stated that from his perspective, the state can issue construction permits. The thought was that it would fit better with the state. He added that he wanted to make sure that while construction occurs more inspection is conducted.

Comm. Lovejoy Roe stated that it is important to make sure that the process used by the County is communicated by the Townships. Myers stated that this needs to be examined. She asked where P& E would be in the review process. Myers stated that notification is required. If not in compliance, an operating permit would not be distributed.

Comm. Lovejoy Roe stated that understanding the site plan approval process of communities would be important.

Comm. Lovejoy Roe asked what "if available" means in the public sewer system. Fleece stated that this has been in their local code since the 1970's, and it has often meant as determined by the local municipality.

Comm. Lovejoy Roe asked if landfills could be looked at as possible solutions to escrow/bonding issues. She used the process of landfills as an example. Myers stated that the regulation gives authority to look into these measures. He added that initially the County will be working with the State, but that the process used with landfills could certainly be looked at. Comm. Lovejoy Roe stated that if there is a place for a consent agreement that is one more area that could help.

Comm. Schwartz thanked the presenters. He stated that along the line there will be challenges to this plan. He stated that an important factor is tight/clear language in resolutions. He asked if construction guidelines are going to be mandatory, or if they could be ignored. Myers stated that they would be required.

Comm. Schwartz stated that homeowners associations and other entities be considered. He added that something from the local government stating that zoning requirements have been met could be needed. Comm. Schwartz stated that he will sit down with Myers to review the document.

Comm. Schwartz stated that if degradation occurs, a requirement with an insurance agency may be helpful. He added that an issue about rule 98 is not required when it comes to sub surface water discharge. He stated that he wondered if the rule could be expanded. Comm. Schwartz added that the County is divided in some areas and that surface areas may be divided. He stated that he would like to see some tightening up in this plan. Comm. Schwartz asked about the establishment of an REU of 300 gallons/household. Fleece stated that he has been kicking around different models. Myers stated that it is in some of the models.

Comm. Schwartz stated that he feels this is very important to land use. He added that developers are opportunistic when it comes to premium land. He restated that he would like to sit down with Myers and go over this plan.

Comm. Sizemore asked who is going to be testing effluent water coming out of these systems. Myers stated that certified operators would in smaller systems, and that the state would in larger systems.

Comm. Sizemore asked if there is qualified staff to handle these systems. Fleece stated that it depends on the system, but that there are two professional engineers on staff. He added that contracting may be needed in larger systems.

Comm. Sizemore asked for the range of cost to in staff smaller to larger systems. Myers stated that larger systems could run up to \$1.5 million. The smaller ones may be around \$100,000.

Comm. Sizemore asked if the type of system could be regulated. Myers stated that we have to tread carefully in this area.

Comm. Sizemore asked about the inspection fees. Fleece stated that a fee schedule has not been developed yet, but that it will be forwarded.

Comm. Sizemore asked who sits on the committee that investigates these issues. Myers stated that groups from municipalities and design consultants have been giving input. Comm. Sizemore stated that expertise from local municipalities would be helpful.

Comm. Sizemore asked about the status of the septic tank repair statute. Myers stated that he expects it to be forwarded to the Board within the year.

Comm. Schwartz asked if the ordinance has had any outside review as of yet. Myers stated that OHM has had opportunities to review the ordinance.

Comm. Schwartz asked if it would be desirable for the Board to set an amount not to exceed \$5,000 to do an outside and independent review of the ordinance. Myers stated that because of the interest much of this work is currently being done for free. Comm. Sizemore stated that college interns may be a helpful source.

Comm. Peterson stated that Fleece and Myers are always through, and do a great job.

Comm. Lovejoy Roe asked who the engineers represent that are involved. Myers responded that it is a combination.

#### **County Administrator Report**

David Behen reported that a Space Plan update will be a standing item on all future Working Sessions. Behen stated that Richards is moving to Support Services.

Comm. Schwartz asked if James Zwolensky would be reporting on the Space Plan. Behen stated that Zwolensky would be giving many of the presentations, but that necessary people would be added.

Behen stated that the Public Safety and Justice Oversight packets will be sent to the Board.

Comm. Peterson stated that he hopes reports are small, because the Board does not have much oversight. He added that he feels Behen is qualified in his position.

Comm. Lovejoy Roe stated that a seven day review could be brought back.

Comm. Sizemore stated that he will meet with Behen on the seven day review issue.

Comm. Schwartz stated that this is a good opportunity to check for short comings.

### **Items for Current/Future Discussion**

None

#### **Pending**

March 8 Business Improvement Process: History & Successes

March 22 Comprehensive Plan – Natural Resources & Environment Water Quality Report

#### Status of Annual Activities/Goals

No report

#### **Citizen Participation**

None

#### Commissioners Follow-up to Citizen Participation

None

# <u>Adjournment</u>

Comm. Smith seconded by Comm. Irwin moved to adjourn	until Wednesday March 8 <sup>th</sup> , 2007, at 6:30 p.m. in the
Board Room, Washtenaw County Administration Building.	Motion carried.

The meeting adjourned at 8:03 p.m.	
	Rolland Sizemore, Chair
Lawrence Kestenbaum, Clerk/Register By: Jason Brooks, Deputy Clerk	
APPROVED:	