

RECORD OF PROCEEDINGS
PUBLIC MEETING WITH SENATOR GRENDELL
STATE'S PERSPECTIVE ON SEPTIC LEGISLATION
MONDAY, MARCH 22, 2010, 6:30 P.M.
MAYOR MATTHEW E. BRETT PRESIDING

MEMBERS PRESENT: Binder, Dishong, Flaiz, Koons, Porter and Wolfe
OFFICIALS PRESENT: Fiscal Officer Romanowski, Police Chief Wetzel and
Streets Commissioner Johnson
GUESTS: County Commissioner Young; Bryan Kostura;
Todd M. Kruse of Ridgecrest Drive; Ann Jacobson of
Bell Road; and the following Maple Hill residents:
Wally Weber, Brian Phelan and Julie Ho, Mariellen Miller,
James Duber, Christine Partain, Cathy Cusack,
Akos Harmat, Gary Dole, George White, Laurie White,
Barb Warren, Charles Warren, Dick Diedrich,
Kathleen Constant, Joseph Constant, Trish Gleason,
John Krissing, Michele L. Chadwick, and
Brian Janus

Mayor Brett called the Public Hearing to order. Fiscal Officer reported that the meeting had been properly publicized. Mayor announced that the only topic being discussed at this meeting would be potential septic and sewer legislation. Mayor stated that Senator Grendell would give an update on the State's perspective on the septic issue. The Senator's residence is local, and he is always fighting for northeastern Ohio and Geauga County. He is fighting on our behalf for all topics, but specifically, septic legislation.

Senator Grendell opened with disbelief that his political career would reach its pinnacle as the Septic Senator. The Senator stated there are a lot of things happening with septic issues and he is glad he has the opportunity to share that information with South Russell residents.

Senator Grendell stated that in 2004, legislature passed a bill to change how we deal with the septic situation. Prior to that, septic systems were always governed at the local county level. The legislature decided to change the governing authority level to the State Department of Health. At the heart of their initial discussion was the theory that vertical filtration was necessary to have a functioning septic system. Now it is believed that, as long as septic systems are cleaned regularly and working properly, horizontal filtration still allows the biological process to occur.

The Senator went on to say that in 2005 a decision was made that if your septic system didn't meet the vertical space requirement between the bottom of the septic line and clay or rock for the affluent filtration, you had to have a pre-treatment system installed. This system is basically a miniature treatment plant and costs approximately \$12,000 each. The other alternative would be to do soil elevation putting in mound systems, which cost between \$22,000-35,000.

County residents did not agree with this decision and over 1,000 complaints were received. A moratorium was then put in place. Counties went back to their old system on a county-by-county basis. Work was being done to come up with a solution with the process, but the moratorium had to be extended multiple times. The current moratorium was passed in December 2009 and expires July 1, 2010.

Senator Grendell introduced Senate Bill #100 to put things back the way they originally were. Senator Tom Niehaus introduced Senate Bill #110. The difference in the two bills revolves mainly around the soil separation process. Other issues that are being debated are:

- 1) Definition of public health nuisance
- 2) Soil separation distance: The bill introduced by Senator Niehaus requires 18" between the septic line and clay; however in Geauga County there is generally only 6-8" of dirt before clay is reached
- 3) Grandfathering
- 4) Appeal process: Whom can you appeal to?
- 5) Requirement in the law to get a mandatory maintenance contract for the septic system, which would cover the pumps, hydraulics, etc., and would cost approximately \$250-450 a year.

A decision was made that the public health nuisance issue will have objective standards.

It was also decided that all existing systems would be grandfathered. If your system does not cause a public health nuisance under that objective, you can keep it forever. If it is found to cause a public nuisance and you can repair it so that it no longer causes a public health hazard, you can do so. The system will only need to be replaced if it cannot be repaired to meet the objective definition of the public health nuisance.

People will have a choice to get the maintenance contract or pump and maintain their own system on a regular basis. If you don't send the Department of Health at the county level proof that your septic system is being pumped every 3-5 years (manufacturer's guidelines), you would then be eligible for inspection.

Senator Grendell said soil separation is the big issue. This topic has been debated over the last eight months, but he believes a positive compromise has been reached.

In 2005, the State banned sub-surface drainage (French or curtain drains). The purpose of these drains is to pull excess water coming onto your property around your leach field so the leach field isn't over-saturated. The Department of Health agreed to reinstate the use of sub-surface drains as an alternative to the 18" of soil separation. Senator Grendell expects the language to read "18" of soil separation unless the local Board approves pre-treatment, sub-surface drainage or elevated soil (mounds).

The mound system costs between \$22,000-35,000. It is expensive and it has the potential of needing repairs. The pre-treatment system, which is a miniature sewer plant, also has movable parts needing to be maintained and costs about \$12,000. The sub-surface drainage in Geauga County would cost approximately \$1,500-3,000.

The new verbiage would leave the decision up to the homeowner. The decision should be made within the next couple of days and a resolution should be written within a week or so.

Today, if you don't like the decision you get from the Health Department, you can appeal to the Health Board. If you don't agree with the Health Board's decision, you can hire a lawyer and make an appeal to the Common Pleas Court under Ohio Revised Code Chapters 2505 and 2506 (Administrative Appeals Act).

Right now, the new bill would provide for an alternative method of appeal. If you want to go to Common Pleas Court, you can; however, you would go to the Common Pleas Court in Chardon. The other option would be to address the Household Sewage Treatment Panel in your county. This panel will include three people in each county. In Geauga County, there will be one person appointed by the State Department of Health, the second appointed by the Geauga County Board of Health and the third member would be from Geauga County appointed by the appropriate judge. Only the homeowner has the right to appeal to the panel. If you appeal to the panel, instead of the Common Pleas Court, the decision of the panel is final.

If the language can be agreed upon, this bill will pass out of the Senate sometime in April and will pass out of the House in May or early June. It would go into effect on July 1st. All these changes will be made to Senate Bill #110. The law will pass by July 1st; however, the new rules will not go into effective until January 1, 2012. Anyone, who gets a permit issued or applied for before December 31, 2011, will have two years to install a system under the old law.

Senator Grendell has confidence that the language will be agreed upon before July 1st. The House has had representatives in meetings with the Senate so they are apprised of the changes. If the issue cannot be agreed upon, another moratorium will be put in place.

Dick Dietrick pointed out that most properties on Maple Hill are one-acre lots and most of these existing old systems probably would not pass under any scenario. Senator Grendell will speak with Bob Wiesdack, Health Commissioner, to see if he feels the change in sub-surface drainage will affect Maple Hill and ask that he get back to the Mayor.

Dick Dietrick also asked if the legislation Senator Grendell is working on would have an effect on the point-of-sale requirement. Senator Grendell responded that the bill would not affect that requirement at all. The point-of sale inspection does not come from State law; it comes from the County Health Board. The members on this Board are not elected officials.

Jim Duber inquired about the rules prior to 2004. The Senator said the same principles have been in place since 1972.

Charlie Warren asked why the conversation of septic systems is being discussed again. There was a vote and Maple Hill residents voted for sewers. The Mayor stated that over the last year or so there was a vote and there was a decision to move forward. Since then, however, the moratorium has been extended twice and there is new information coming from the State. Village Council has decided to hold on any decision for now, being respectful of Maple Hill residents. The Department of Water Resources and the Commissioners have put this issue on hold until there is greater clarity in regard to the moratorium, the timing and the potential legislation. Mayor thought it might make sense to hear from the Senator to get his perspective on what is currently being discussed. Council will absorb what they hear tonight and get any questions they may have answered by the Senator. There could be a change in course or there may not.

Jim Duber mentioned that with these proposed changes there has been a tremendous change in the cost that Maple Hill residents will potentially have to assume.

Trish Gleason stated that when the possibility of Maple Hill going to sewers started, the thought was Bill #110 was going to pass in its original form. Maple Hill residents need to step back and re-think their decision if Bill #110 will be amended.

Commissioner Young mentioned that when he was Mayor, Bob Wiesdack visited Bellwood. At that time, it didn't make sense to put in septic systems because the cost of putting in sewers was much cheaper. Most houses had an increase in property value after the sewer system was put in, but circumstances are much different today. The Commissioners felt that if residents were going to have to put in \$25-30,000 septic systems, then quite possibly sewers would have been an option.

Senator Grendell said if the grandfather clause and the sub-surface drainage changes would make a difference for homeowners on Maple Hill, then residents should be given a chance to re-weigh the cost factor. If it doesn't, then you can continue to look at proceeding with sewers.

Brian Phelan asked if septic systems are not functioning and are repaired now and Maple Hill goes with sewer systems, would those homes be grandfathered to keep the septic or be required to tie into the sewers? Senator Grendell stated there is language in Senate Bill #110 under current county health regulations if you are within 250 feet of a central sewer system, the county can cause you to tie into that system even though your septic system is fully functional. There is language in Senate Bill #110 and he believes the distance is further, possibly 400 feet.

Wally Weber believes from what he learned this evening that the septic systems will pass because of the soil regulation. If there are problems with septic systems, he believes a new leach bed can be added fixing most problems at a lower cost. He believes they'd be better off forgetting about sewers until the situation changes for sure.

Mayor was asked if he would be interested in taking another poll in light of the new information. Senator Grendell stated that the county health assessment should be completed before taking that step.

John Krissinger reported that he moved to his home in 1973. He has had his septic system cleaned every two years. He has never had any trouble with it. Senator Grendell responded by saying that his septic system could be grandfathered forever if the system doesn't cause a public health nuisance. It is not the homeowner, but the home that is grandfathered. As long as the system is not causing a public health nuisance, it is acceptable. Maintenance will be based on the septic system's manufacturer recommendation, every 3-5 years. An inspection would only be triggered by smell or affluent at surface level. Then, if one of the objective tests based on bacteria level fails, action would need to be taken at that time. That action could be a repair or replacement of the system.

Krissinger confirmed that a small problem could be repaired. Senator Grendell assured him that is a true statement, as long as the repair mitigates the public health nuisance.

Gary Dole asked if a septic system fails now and had to be replaced, with the passage of Bill #110, could another underground septic system be installed. The Senator said that would be fine, as long as an approved sub-surface drainage system would also be installed.

Michele Chadwick asked clarification regarding how much acreage is needed for the sub-surface drainage. Senator Grendell said he thought it would probably start at an acre lot so that the drainage line would fit.

Mariellen Miller asked if the County would be able to do an informal inspection. The Senator said the County knows the situation. It would be a matter of finding out whether the sub-surface drainage will make a difference now. This is a concept that needs to be discussed.

Jack Binder asked the Senator if he envisions South Russell being mandated to tie into sewers sometime in the near future knowing what he knows about the Village's population density and the proximity to a water treatment plant. Senator Grendell said he doesn't see that happening unless there is something wrong with the Village water that he doesn't know about.

Mayor said he believes that Council needs to absorb this information. South Russell's objective is not to put in a sewer system throughout the Village. Council has tried to listen to residents, being mindful of what they want to do in conjunction with what is happening in the local economic scene and changes to septic legislation. He thinks it makes sense for Council to check in with the County and get their perspective with what potential changes could occur, and an analysis done by the Health Department as Senator Grendell suggested might be worthwhile. Mayor thinks it is important to gather information, become knowledgeable about the topic and make the decision mindfully. In the next couple of weeks the Mayor would like to work with the Public Utilities Committee and make a recommendation to Council.

The Mayor agreed with Wally Weber who would like to see acre lots remain in Maple Hill.

Mayor adjourned the Public Hearing.


Matthew E. Brett, Mayor


Danielle Romanowski, Fiscal Officer

Prepared by: Becky Peterson
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