

**Sewage Advisory Committee
DRAFT
Minutes of the Meeting
June 17, 2020**

VOTING SEWAGE ADVISORY COMMITTEE (SAC) MEMBERS PRESENT

Andrew Bockis, Pennsylvania Bar Association
Adam Browning, Pennsylvania Onsite Wastewater Recycling Association (POWRA)
Terry Carcella, Pennsylvania Municipal League
Brian Chalfant, Governor's Policy Office
Carl Cox, Pennsylvania State Association of Boroughs
Patrick Drohan, Pennsylvania State University
Keith Heigel, Pennsylvania Society of Land Surveyors
Keith Klingler, Pennsylvania Landowners' Association, Inc.
Michael McGraw, Pennsylvania Association of Plumbing, Heating and Cooling Contractors
Mark Mills, Pennsylvania Association of Professional Soil Scientists (PAPSS)
Duane Mowery, Chairman, Pennsylvania Water Environment Association (PWEA)
Laurel Mueller, Pennsylvania Builders Association, Alternate
Susan Myerov, Pennsylvania Environmental Council
Eileen Nelson, Pennsylvania Society of Professional Engineers
John Peffer, County Departments of Health and Health Agencies
Shannon Rossman, County Commissioners Association of Pennsylvania
Scott Russell, American Water Works Association (PA Section)
Esten Rusten, American Institute of Architects, Pennsylvania (AIA)
Drew Shaw, Pennsylvania Planning Association
Joseph Valentine, Pennsylvania Septage Management Association (PSMA)
John Wagman, American Society of Civil Engineers
James Wheeler, Pennsylvania State Association of Township Supervisors (PSATS)
Robert T. Wood, Pennsylvania Association of Realtors

MEMBERS OF THE PUBLIC PRESENT

Members of the public were present but not identified.

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) STAFF PRESENT

Annamaria Ether De Sanctis, Environmental Engineering Specialist, Planning Section, Division
of Municipal Facilities (DMF), Bureau of Clean Water (BCW)
Charles Klinger, Water Program Specialist, Planning Section, DMF, BCW
Jay Patel, Environmental Program Manager, DMF, BCW
Brian Schlauderaff, Environmental Group Manager, Planning Section, DMF, BCW
Janice Vollero, Water Program Specialist, Planning Section, DMF, BCW

CALL TO ORDER AND APPROVAL OF MINUTES

The meeting was called to order by Chairman Duane Mowery at 9:59 AM. The meeting was the first virtual meeting for SAC and it was recorded. A slide with recommendations for the virtual meeting was shown and Chairman Mowery went over some ground rules for virtual meetings, which included:

- Speak clearly and not too fast.
- Keep microphone muted when not talking.
- State your name prior to speaking.
- SAC members can make motions and second the motions when called for on action items.
- SAC members will be invited into discussions on motions.
- Motions, and seconding the motion, should be typed into the chat box.
- The first person to type the motion, or second the motion, in the chat box will get credit for the motion.
- Use the chat box to announce you have a question or comment and you will be called upon to voice your question or comment.

Janice Vollero took a roll call by SAC member organization. Voting members identified themselves when their organization was called. A quorum was present.

Chairman Mowery thanked everyone for being present and announced that only the member or alternate member may vote on motions. He reminded the members that they should be aware of who is voting from their organization.

Motion: Chairman Mowery called for a motion to approve the September 11, 2019, meeting minutes.

Adam Browning made a motion to adopt the September 11, 2019, meeting minutes.
Carl Cox seconded the motion, which was unanimously approved by the Committee.

ACTION ITEM

Vote on SAC affiliate for the Sewage Enforcement Officer (SEO) Certification Board -
Chairman Mowery stated that John Wagman had graciously agreed to continue as the SAC affiliate on the SEO Certification Board but also asked if there were any other nominations. No one had any other nominations.

Chairman Mowery called for a motion to approve Mr. Wagman for another 4-year term to the SEO Certification Board. Terry Carcella made a motion to approve Mr. Wagman for another term on the SEO Certification Board. Mike McGraw seconded the motion, which was unanimously approved by the Committee.

ADMINISTRATIVE ITEMS

- Change of September 2020 SAC meeting date – Ms. Vollero reminded everyone that Room 105 for the September 9, 2020, SAC meeting is unavailable and therefore, the meeting had been changed to September 16, 2020. Everyone should have received notification of this change.
- Training acknowledgement for IT Safety and Sexual Harassment – Ms. Vollero reminded everyone that Management Directives requiring IT Safety and Sexual Harassment training for advisory board members, pdfs of the training and training acknowledgement forms had been sent out to all SAC members via email. She stated that some of the acknowledgement forms had already been returned to her and requested that those members who have not done so, to please complete this activity as soon as possible. Ms. Vollero would like to send all completed training acknowledgement forms back to the Department’s training section within the next two (2) weeks.

DISCUSSION/INFORMATION ITEMS

- Jay Patel stated that he appreciated the opportunity to speak with SAC and he appreciated the members’ participation. Mr. Patel mentioned that many of the items on the meeting agenda that the Department was to discuss, will not be talked about at this meeting. Act 34 was enacted on June 5th, 2020. That passage has implications and DEP is trying to work through understanding how to implement Act 34. The Act gave 60 days before becoming effective. A lot goes into figuring out and determining how to implement an amendment to a law. Mr. Patel stated that the Department was not in a position to discuss any of that yet. In addition, the Department will hold off talking about the Technical Verification Protocol (TVP), the Planning Guidance and the work on the At-Grade Manual until the Department figures out how to move forward on Act 34. Mr. Patel stated that the Department wanted to take this opportunity to get the Committee’s feedback in terms of their thoughts on implementation of Act 34.
- Mr. Patel announced and congratulated Annamaria De Sanctis on her United States citizenship, which she received the day before the meeting. Ms. De Sanctis thanked Mr. Patel and said it was an honor. A few committee members also congratulated Ms. De Sanctis.
- Mr. Patel followed up on questions and answers (Q & A) from the previous meeting. The Q & A were included with the meeting materials and also placed on the meeting screen for all to see as Mr. Patel went through them. He called for further discussion or questions. Robert Wood mentioned that when permits are transferred, if information is put in the deed, then that information is trackable by law and attorneys could follow-up on it; include the permit number in the deed as a reference. This would solve a lot of transfer issues and people forgetting about the on-lot sewage system. Bette McTamney, PA Association of Realtors, stated that was a good idea. Mr. Patel noted it.
- Mr. Patel stated that the current SEO certification cycle that was to end on June 30th, was extended to September 30th. The Department enacted this extension because it was difficult for SEOs to maintain their certification if they hadn’t obtained their credits by

the time COVID hit. Ms. Vollero further added that seven (7) credits would be allowed to carry over into the next cycle. October 1st to September 30th of even numbered years will be the new cycle dates going forward. Chairman Mowery asked if the SEO training Technical Guidance Document went final and Mr. Patel answered that it did not. James Wheeler asked how the information about the carry-over credits and cycle extension will be communicated to everyone and Mr. Patel answered that it was already communicated through an All SEO Letter. Chairman Mowery asked if this information is posted on the SAC website and Ms. Vollero answered that it is not, but it is on the SEO webpage and the PA Clean Water Academy under All SEO Letters. All of the SEO Letters are posted in these two (2) areas. Mr. Patel stated we would send the link to the SEO webpage to the SAC members. There were no further questions.

- Mr. Patel opened the meeting up to discussion from the members concerning their thoughts and ideas of how to implement Act 34. Chairman Mowery explained the significant changes from Act 26 of 2017 to Act 34 of 2020: the original section was slightly modified with a few wording changes to allow alternate systems to still be used for new land development and the entire section referring to technology verification and performance standards was deleted. These changes gave the Department a different path to go down.
 - Laurel Mueller began to explain the history of Act 34 and was interrupted by someone challenging the fact that she was speaking. Chairman Mowery asked if she was the member representing the PA Builders Association at the meeting; Ms. Mueller confirmed she was; Chairman Mowery stated she could continue. Ms. Mueller stated she initiated the legislation two (2) years ago after her little company in Northeastern Pennsylvania lost about \$30,000 because of mid-stream Act 26 implementation changes. She was irate that her company was incurring having to process Component 2 planning modules for what should be simple subdivisions. Rules kept changing, additional requirements were imposed on projects that were mid-stream and that created a huge setback in delay for their clients, and additional costs, due to second rounds of testing with repeat field visits. She went to her state representative, Tina Pickett, who suggested she speak to Senator Yaw, who originally wrote Act 26. Ms. Mueller did that. Ms. Mueller also conferred with Brian Schlauderaff about using Component 2 planning modules. Ms. Mueller explained that the original draft of Act 26 did not include anything about a technical verification protocol (TVP). The TVP was added in the House after the Senate had approved the original version. In addition, the words “exception” and “exemption”, were also not in the original draft. Ms. Mueller explained that exemptions [subdivisions created with exemptions] are low risk areas because they have double site testing and are lots over an acre where there is no limestone or nitrates. She wanted to fix the omission of the words “exemption” and “exception”, and that’s how it started.

Ms. Mueller explained that the bill laid idle for a year until the PA Builders’ Association and a manufacturer came forward expressing their concerns about the omission of “exemption” and “exception” and the fact they would like to omit the

TVP section. Ms. Mueller stated she did not care about the TVP section. She explained that for a minor subdivision, it is extremely hard to convince a rural community at a township meeting why getting county planning approval, PHMC clearance and passing a resolution is necessary, when the officials already understand from PSATS training that the subdivision should only require a Component 1. She then has to explain to them that it can't be processed as a Component 1 because it is a drip system or a shallow limiting zone absorption area. Ms. Mueller stated that the PA Builders' Association wants simplicity in land development; the way Act 537 originally spelled it out.

Chairman Mowery thanked Ms. Mueller. He said it sounded to him like there is continued discussion about "exemptions" and "exceptions" and that this should be made part of the implementation that the Department formulates for the new Act 34. He asked Ms. Mueller if she was hoping to have some positive outcome in regard to "exceptions" and "exemptions" in that process.

Ms. Mueller stated that was correct and that she would also like to see when rules change, they are in writing and everyone is given some warning so that private sector consultants are not taking on contracts where they appear to be an expert and their clients then think they know nothing because the rules change without being in writing. Chairman Mowery thanked Ms. Mueller again and stated he appreciated that.

- Mark Mills explained his concern that there now is a five (5) page supplement to the Component 2 planning module in the southcentral region that goes way beyond what is normally required at the planning phase. Mr. Mills said it troubled him that it was brought to his attention when he was done testing a site and the surveyor called him wondering if he knew anything about the form, and he didn't. Mr. Mills said he was disturbed that it wasn't brought to the attention of soil scientists or SEOs, because the SEO on site didn't know about it either. Mr. Mills said the form has terms like "deflection" and "deflation" and he looked sort of stupid because he didn't know what they were and why they were there. He explained he went through the 58-page supplement to the OAT listing and has now educated himself on what "deflection" and "deflation" is. Mr. Mills said he is concerned because it seems there is a policy that's working off of proposed regulations and this policy is being enforced at a local level. Mr. Mills said his final concern is that the policy starts off by saying the site is generally suitable as per regulation and he stated, "Well frankly, how do you answer that question?"

Chairman Mowery asked Mr. Mills if his concern was that there is some requirement by Southcentral Region that is not necessarily supported by any sort of guidance document; that it is a form of some kind?

Adam Browning (chat box) stated he had the same experience in the Southeast Regional Office regarding operation and maintenance requirements and exorbitant municipal escrows.

Mr. Mills asked if DEP can enhance his description. Mr. Patel said he was not sure what Mr. Mills was talking about; he would like to see that supplement. Mr. Mills stated that it is titled “Planning Module Component 2 Additional Checklist for Act 26 Systems.” Mr. Mills explained that this checklist was brought to his attention after the work for the project was done and asked if anyone else had to deal with this.

Brian Schlauderaff stated he believed that what Mr. Mills was talking about is an internal supplement Central Office provided to the regions on enacting Act 26 projects. There are additional requirements asked for. This supplement was not supposed to be shared with the public; it is something DEP looks at, something regional staff are supposed to walk through and answer the questions. It is not official; it is not public; it is internal; it is the checklist Annamaria De Sanctis developed.

Mr. Mills stated the new requirements add significantly to the cost of the system and the time it takes. It is hard to deal with and we don’t know how to explain Act 26. If you don’t know what Act 34 is, how do you tell people? Mr. Mills stated that we are worried about alternate systems when we should get back to basics and worry about what is really causing problems – issues with sand mounds, etc.

Mr. Schlauderaff explained that the checklist was developed after reviewing almost 100 proposals of shallow sites in planning. These sites are not generally suitable, they are difficult to begin with and there were deficiencies with the submittals that were just not acceptable. The checklist was developed to make sure everything being submitted was consistent across the regions and things were changing as we were going. Mr. Schlauderaff explained that sometimes we may not have been as clear as we should have, but we are trying to fix that. Someday this checklist may be part of the module and the public will have it, but right now it is not. Mr. Schlauderaff explained that we weren’t tasked with looking at issues with sand mounds. He stated that if anyone sees issues with sand mounds, make us aware of them so we can address them.

- Chairman Mowery stated that many documents specifically refer to Act 26 and it may be wise for the Department to make it a priority to see how these documents are impacted by Act 34 now and not use draft documents for approvals until we know what is going on with Act 34.
- Joe Valentine asked if the DEP was going to discuss the Pennsylvania At-Grade Absorption Area: Siting, Design, and Construction Manual - Pre-Draft Version at a later meeting. Mr. Patel responded that he did not know.
- Ms. Mueller voiced that she shared in Mr. Mills concerns. She explained that she has 35 years of experience in doing planning modules and went through many changes from using single pits on every third lot to show general site suitability,

to double site testing and now everyone is getting criticized for the spacing of pits or the bracketing; bracketing is not in the law. Bracketing is an undefined term and it is being used to turn down planning modules. If there is a bad soil 200' away from the proposed absorption area, one must prove there is a good soil between that bad soil and the proposed absorption area. Ms. Mueller explained she had a planning module in the northeast region where she had to rewrite her soil loading rate report to address the base of trees occupying the absorption area in a shallow limiting zone micromound. She explained that micromounds are sometimes used because of irregularities of land surface due to boulders and tree stumps. She stated that the northeast region both laughed and apologized for the comments that came out of central office about the tree stumps. She explained that tree stumps are under nearly every sand mound because the good soils are in the woods and the lousy soils are what was farmed. She stated that her point is that she doesn't care what rules eventually come out, but asked DEP to please distribute and publish the rules. Ms. Mueller stated that DEP will have new checklists, new things to impose on projects and they need to be done in writing. They need to enable the consultant that prepares land development planning modules, prepare them to know what the requirements are. Ms. Mueller stated that consultants take on a client; these clients last 2 and 3 years sometimes to get through the projects, and the rules just can't be changing mid-stream again and again. Ms. Mueller requested this of DEP – develop good rules, publish them, make them known and then start requiring of people when the rules are known. Don't impose things that are surprises. Chairman Mowery thanked Ms. Mueller and stated that there is no better voice than that of experience.

- Chairman Mowery asked if Mr. Patel was taking all of the discussion in and if he will be utilizing it as part of the background discussion for Act 34 implementation. Mr. Patel affirmed that.

NEW BUSINESS

There was no new business.

PUBLIC COMMENT

There were no public comments.

NEXT MEETING

The next meeting of the Sewage Advisory Committee is planned for Wednesday, September 16, 2020.

ADJOURN

Motion: Chairman Mowery called for a motion to adjourn the meeting. Keith Heigel made a motion to adjourn the meeting. Carl Cox seconded the motion, which was unanimously approved by the Committee. The June 17, 2020, SAC meeting was adjourned at 1:30 PM.