

VDH SHIFT Stakeholder Advisory Committee Meeting

August 8, 2013, 10 a.m. – 3:30 p.m.

The Upper Covenant School, Charlottesville, Virginia

Meeting #2 Summary

Facilitated by the Institute for Environmental Negotiation

Executive Summary

The SHIFT Stakeholder Advisory Committee has been tasked by the Virginia Department of Health with producing a report of recommendations to advise the agency on how to maximize private sector participation in the onsite sewage program while providing adequate oversight to protect public health and the environment. The committee met for the first time in July 2013.

This document is a summary of the second SHIFT Stakeholder Advisory Committee meeting, held in early August. During this meeting, participants built further understanding of the SHIFT goals, brainstormed ideas for potential changes to the onsite septic program to facilitate increased privatization, and began identifying areas of agreement within the committee. The committee will meet again in late August to continue developing common ground. The next SHIFT Stakeholder Advisory Committee will take place on Thursday, August 29th at 10 a.m. at Northside Library in Charlottesville.

Welcome Back & Introductions

Forty-six people met at the Upper Covenant School in Charlottesville, Virginia on August 8th for a VDH Safety and Health in Facilitating a Transition (SHIFT) Stakeholder Advisory Committee meeting. Frank Dukes, Tanya Denckla Cobb, and Kelly Wilder from the Institute for Environmental Negotiation (IEN) at the University of Virginia facilitated the meeting. This meeting was the second in a series intended to lead to consensus recommendations concerning the future of the onsite septic program in Virginia, with the hopes of maximizing private sector involvement in the new program to the greatest extent possible.

The facilitators welcomed participants to the meeting and asked everyone to briefly introduce themselves. Three new members, John Ewing, John Powell, and Jimmy Bundick, were added to the committee after the first meeting, and they were welcomed to the group.

After introductions, Tanya presented the meeting agenda, which included time for:

- Welcome Back & Introductions
- Sharing News and Developments Since Last Meeting
- Reviewing Information Requested
- Building Understanding of SHIFT Goals
- Reviewing Criteria/Goals for the New System
- Developing Ideas to Build Ideal System
- Identifying Areas of Agreement
- Public Comment
- Setting Next Steps

News and Developments Since Last Meeting

After reviewing the meeting agenda, Tanya opened the floor to any announcements from the SHIFT Advisory Committee members before proceeding. The following news and developments were shared with the group:

- The Accomack County Attorney submitted a letter to the VDH on behalf of the Accomack County Board of Supervisors opposing the SHIFT goal of maximizing privatization of the onsite septic program. In a conversation Tanya had with the County Attorney, this position was explained as a reflection of the high poverty on the Eastern Shore and the concern that privatization will lead to systems that cannot be afforded by most of its residents. Currently the VDH provides a high-value and high-quality service that is trusted by Eastern Shore citizens, and the Eastern Shore believes strongly that this service needs to continue. Privatization, because of the potential for over-design and over-pricing, risks marginalizing an entire population and thereby creates new risks for environmental and public health.
- As part of the SHIFT initiative, the OEHS has been meeting with district staff from around the state about this process to help brainstorm and collect ideas. The group will be drafting up a document containing some of the staff ideas that emerge from around the state.
- A Northern Virginia builders group heard about the SHIFT initiative and took a firm position against total privatization. The group states that although only a small part of the onsite septic work is currently done by the VDH, they want to maintain the availability of VDH work as an option due to concerns about potentially worsened work quality and higher cost incurred by increased privatization.
- The Governor has approved the VDH's new civil health regulations.
- A public comment period will open soon repealing the authorized onsite soil evaluator regulations: <http://www.townhall.virginia.gov/L/ViewStage.cfm?stageid=6592>. Committee members might be interested in reading the comments that are posted.

Reviewing Information Requested

After announcements were shared, Dwayne Roadcap, a VDH resource member, presented the information that was gathered by VDH in response to the data requests made by the committee during the first SHIFT meeting. Dwayne explained that the collected data would be accessible via the VDH website:

www.vdh.state.va.us/EnvironmentalHealth/Onsite/SHIFT/schedule.htm, under “Additional Data Request.”

After initial analysis, VDH staff explained their conclusions from the requested data to answer some of the questions raised in the first meeting. One analysis, as explained by DPB resource member Larry Getzler, revealed that about 20 percent of the cost of VDH onsite septic services is covered by the fees collected by VDH for those services. More detailed economic analyses will be offered at future meetings.

After presenting the gathered data, Dwayne asked participants to check the data to make sure that all requests were met and to see if there is any additional information they would like gathered before the next meeting. Dwayne and Allen Knapp, another VDH resource member, asked that participants provide the most specificity possible about the requested information in order to conserve time and in case there are data that better meet the needs of the group. Allen also requested of participants that the focus of the committee’s data requests be on information that will help move the SHIFT process forward, so that members can be thinking toward the future, rather than on information that can be used only to analyze the current and past programs. The following additional information was requested:

- A report about backlog data in the Commonwealth. Specifically, what is the difference between the time it takes for the VDH to process applications submitted directly to them vs. applications initially handled by a private AOSE?
- Information about Missouri, Washington State, and North Carolina’s onsite septic programs, which have shifted to privatization.

Building Understanding of SHIFT Goals

After reviewing the requested information, Frank introduced the next step in the process: designing a system that will get us from where we are now to where we want to be. He reviewed the criteria and goals set by meeting participants in the first meeting:

Criteria/Goals for Success

The new system will:

1. Protect Environmental and Public Health
2. Build Public Trust
3. Promote Shared Responsibilities and Ethics
4. Assure Access to Services For All
5. Be Funded Appropriately and Sustainably
6. Be Clear about Roles and Expectations
7. Be Supported with Enthusiasm by All (VDH and Private Sector)
8. Foster Public Awareness and Education

Participants reviewed these criteria to see if anything needed adjustment. One member requested that criteria #4 be amended to clarify that it is about equity and fairness. The revised criteria are:

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To start the discussion, Tanya asked the meeting participants to rank (on a scale from 1 to 10, 10 being the best) how well the current onsite septic program is addressing the eight goals set by the group for the future program. She explained that this exercise would accomplish two things:

- a) Provide a point of reference for the group's final recommendations (i.e., do the final recommendations meet these goals better than the current system?).
- b) Build deeper understanding among the SHIFT members about each other's perspectives.

The results of this exercise revealed that committee members have different opinions about the successfulness of the current onsite septic program – the rankings ranged from 1 to 8 out of 10 (average 5.85).

Once everybody shared their rankings, Frank asked the participants who ranked the current program the highest to share reasons for their perspective. Those participants expressed that their local health services offices are doing a great job at providing services for a good value, which they believed to be especially true in rural areas. From their perspective, it seems as if the system works about as well as it could possibly work. They also expressed that most of the goals set for the future program are already being met under the current program. These

participants expressed concern that the open market had not naturally led to increased private sector services in many areas of the state. Even after ten years of privatization in other parts, forcing privatization throughout the state might not be economically optimal. Additionally, they explained that there is an open and reliable understanding about the current program. However, none of these participants ranked the current program higher than an 8 because they believe that there remains room for improvement, primarily by improving the staff training and the resources available.

Frank then asked the participants who ranked the current program the lowest to share the reasons for their perspective. These participants mentioned a number of concerns with the current program, including a perceived conflict of interest in the current program, in that VDH is both a competitor and regulator of the private onsite septic providers. VDH staff can design, permit, and inspect a system. The current VDH fee system doesn't fully cover the costs of the direct services provided, meaning that the direct services provided by VDH are subsidized; some suggested this gives VDH a competitive advantage over its private sector competitors. These participants suggested that, in order to improve the program, VDH must limit its role to oversight and stop competing with the private sector by providing direct services.

Finally, Frank gave any other meeting participants who had not yet spoken about their assessment of the current program an opportunity to speak. The following thoughts and concerns were shared:

- A member expressed that a main problem now is that there is sewage on the ground. This is due to the number of septic systems in the state that need repairs but aren't being repaired because either the work is too expensive, the VDH isn't overseeing the current systems thoroughly enough, or the homeowners simply don't understand enough about their septic systems to be able to recognize system problems before it's too late. It was expressed that the failure of septic systems, and the lack of timely repairs, presents a risk to public health and needs to be addressed to the greatest extent possible.
- Another member shared the concern that some system designers are getting away with doing shoddy work and some VDH inspectors are not doing a good enough job of inspecting systems. This problem is made worse by the fact that there currently isn't a good way of reporting the bad actors. Bad actors are not reported because there is a history of backlash and blacklisting. The SHIFT recommendations need to be carefully crafted to ensure that the program isn't made worse by increasing privatization without creating a workable system for reporting and addressing problems that already exist.
- A member shared the concern that there are also conflicts of interest within the private sector, because certain designers and manufacturers have agreements to use each other's services and products, rather than selecting services and products based on the best fit for each individual job.

- Some members shared a concern that existing problems are due to the fact that some of the regulations are simply not being followed and that there isn't a widely respected code of ethics.
- A number of members shared their concern about a lack of consistency in how things are handled within the septic program throughout the state is problematic because it makes it difficult to handle work in different parts of the state and even restricts easy access to information in some cases. This inconsistency also extends into how permitting is handled, because people filling similar roles handle permits differently depending on where they work in the state.
- Another concern expressed was that inspections of built systems are sometimes not done as seriously as they should be, which is problematic because inspections are what assure the system was installed according to the design and will work properly: inspections are where the rubber meets the road.

Brainstorming the Ideal System: What is Needed to Create a System that Meets All the Evaluation Criteria?

Frank then explained that the next part of the meeting involved group brainstorming. As part of this process, meeting participants were asked to think about the necessary components of an ideal septic program that maximizes privatization while also meeting the group's criteria and goals. It was explained that, at this stage, no ideas would be critiqued or challenged in terms of their viability, and that participants should feel free to share any and all ideas that occur to them. Proposing an idea would not mean that you were committed to supporting the idea. For the first step, Frank asked that meeting participants take a few minutes to write down some of their ideas. After that, participants were given the opportunity to share their ideas with the group. The following ideas were voiced:

Areas of Agreement

Once everyone had a chance to speak to their ideas for a future program, the group began identifying and acknowledging areas of agreement. Although the group will have more time to identify and discuss areas of agreement at the next meeting, these areas of agreement were proposed:

1. Roles and responsibilities:

- a. VDH will provide regulatory oversight, which includes all duties that do not require a license. More specifically, VDH will:
 - i. Conduct inspections.
 1. (IDEAS needing further discussion: Within 48 hours?
Should VDH be required to inspect all systems? Should it be provide level 2 reviews *before* the permit is drafted?)
 - ii. Manage policy.
 - iii. Draft and issue operating permits.

- iv. Maintain and manage records and data.
- b. VDH will not provide soil evaluation and design, EXCEPT:
 - i. In some parts of the state, under certain circumstances (*To be discussed further – needs more detail*)
 - ii. In the event of an emergency, when emergency repairs are needed (*To be discussed further – needs more detail*).
 - iii. *Needing discussion*: what if VDH needs to be onsite more than one time?
- c. Private sector will provide soil evaluation and design, installation, and covers the septic system, except in cases noted in (1B)
 - i. *Needing discussion*: Should use of the private sector be incentivized or mandated?
 - ii. *Needing discussion*: What about where site evaluation and design may be particularly variable?

Establishing Next Steps

Before ending the meeting, the group discussed what additional information was needed in order to continue making informed decisions and to provide feedback about the meeting space and organization so that the IEN could accommodate any requests in the future.

The committee members expressed that, if possible, they would like access to the following additional information:

- Records of the alternative systems by county for the past 2-3 years (number of systems, the number of inspections, and the number visits statewide).

The meeting participants shared the following feedback about the meeting space and organization:

- Members expressed appreciation for how the meeting was facilitated.
- Members expressed that the meeting summary from the first meeting was done well, and reiterated the importance of finalizing and sending it out as soon as possible.

The next SHIFT Advisory Committee meeting will take place from 10 a.m. to 3:30 p.m. on Thursday, August 29, 2013 at the Northside Library in Charlottesville, Virginia. The purpose of the next meeting will be to continue the discussions started at this meeting, beginning with the proposed areas of agreement.

**Virginia Department of Health Onsite Septic Program
Safety and Health in Facilitating a Transition (SHIFT) Stakeholder Advisory Committee**

Stakeholder Advisory Committee Participants:

- Tony Bible – AOSE
- Jim Bowles – VDH Office of Environmental Health Services
- Jimmy Bundick – Bundick Well & Pump Co., VA Well Water Assoc. VP
- Vincent Day – Sewage Handling and Disposal Advisory Committee
- Ed Dunn – Virginia Environmental Health Association
- John Ewing – Old Dominion Onsite, Inc.
- Sandra Gentry – Manager of Gentry Septic Tank Service, Secretary of VOWRA
- Jeff Gore – Legislative Liaison for Loudoun County
- Dan Holmes – Piedmont Environmental Council
- Scott Honaker – Environmental Health Manager of the Mt. Rogers Health District
- Erik Johnston – Director of Government Affairs, Virginia Association of Counties
- Dave Lentz – Regulatory Director at Infiltrator Systems Inc.
- Curtis Moore – VOWRA Representative, AOSE
- Joel Pinnix – President of Obsidian Inc., ACEC, VSPE
- John Powell – Powell’s Plumbing, VOWRA BOD
- Bill Sledjeski – CPSS and an AOSE
- Jim Slusser – President of the VA Association of AOSEs, practicing AOSE
- Bill Timmins – Sewage Handling and Disposal Advisory Committee
- Mike Toalson – Chief Executive Officer of the Home Builders Association of Virginia
- Jeff Walker – President Elect of VAPSS
- Larry Wallace – Virginia State Program Manager of SERCAP
- Neil Williamson – Governmental Affairs Director at Charlottesville Area Assoc. of Realtors

Resource Members:

- Mark Courtney – DPOR
- Larry Getzler – DPB
- Allen Knapp – VDH
- Dwayne Roadcap – VDH

IEN Facilitation Team:

- Tanya Denckla Cobb
- Frank Dukes
- Jason Knickmeyer
- Kelly Wilder

Meeting Observers:

- Tim Baker – VDH
- Alan Brewer – Loudoun County
- Danny Bundick – Bundick Well & Pump
- Chris Costa – Fairfax County
- Pete Duer – Bundick Well and Pump
- Todd Fowler – VDH
- Allen Gutshall – Central Shenandoah Health District
- John M. – Fairfax County Health Dept.
- Rob Marshall – AOSE
- Olo Olakanmi – VDH
- Danna Revis – VDH OEHS
- D. Ron
- Steve Simpson – VDH
- Dave Tiller – VDH
- Steve Vecchione – VDH