

Memo

To: Mayor & City Council
From: David A. Hawker, City Manager
Date: February 5, 2010
Re: Septic regulation

20100208 CC-Hawker - Septic A.wpd

Last night the DLWID Board revised their position, and passed a new resolution which is *attached*. Earlier that day, I met with two members of the Board in an attempt to respond to their thoughts and concerns. While the program I recommended to Council was simple, and effective, they believed we were causing an undue hardship on those with functional systems, and wished to reduce the number of required inspections by targeting those more likely to not function properly. In many ways the resolution parallels that discussion. However, in some cases it does not, and there are parts that I do not believe are acceptable. Overall, here is my take on the major issues.

1. Only inspect tanks over 25 years old or those with no county record (but 10 years old for steel). I can recommend this. While it introduces a great deal more process and grounds for appeal, the City may be able to handle the additional administrative burden in the interest of gaining DLWID support.
2. 250 feet (instead of bordering the lake) - I have no problem with this.
3. Two years (instead of five) - I can recommend this, even though little would get done the first year.
4. All other properties tributary to the lake within five years that meet the criteria in #1 - While I believe we could live with this, I am not convinced that many of these distant properties would ever impact the lake. This would need some more research. It certainly will bring out a whole new flock of those opposed to the ordinance, and add a considerable burden for us to provide notice and hear the appeals of those who believe they should be or are exempt.
5. A permanent ordinance (my recommendation was five years, then evaluate to see if it needs to be expanded, changed or contracted) Permanent or not, it will be changed.
6. Use of a private inspector instead of the County. If the County can work seamlessly with that, and will say so in writing, I have no problem. It might save the property owners a few \$\$\$. Use of the right contractor may provide a more thorough inspection (because the private contract may be capable of pumping the tank and doing an interior inspection) Also, with the use of a private contractor, we can specify the season of the inspection (e.g. July-Sept) which reduces cost, and allows a better inspection of the drain field during dry weather.
7. Use of any DEQ certified contractor (if barred from making repairs) - I absolutely can't live with this, and have told the two board members at our meeting and staff. There are a host of reasons. Here are a few. The quality of inspection from contractor to contractor will vary. (There are about 1,470 contractors that meet this criteria, and there is no way anyone is going to convince me that each will be equally competent - the list of the contractors is attached - 39 pages.) Sooner or later, some may cut corners to get more work. (Think about out-of-town vulture roofing contractors after a hurricane or major storm) The City, DLWID, and County will

need to work with a variety of contractors increasing our staff time considerably. The pricing will be considerably higher than having a formal bid process and awarding to one. By definition this will be an out-of town contractor (due to no contractor who makes repairs here). Mobilization costs will increase, economy of scale will be lacking. Our sewer plant and the City administration will need to deal with multiple contractors as far as septage receiving. Each private contractor will need to get a City Occupation Tax license if working in the City or using our sewer plant. A single contractor selected from a formal RFP process would work closely with us, offer the best price, the best and consistent inspection, and reduce administrative costs. I covered most of these reasons at my meeting with DLWID. While I believe we should be willing to compromise with the DLWID on using a private contractor, but not just any contractor.

8. No pumping requirement - I said I could live with selective inspections (concrete v. steel, v. no record, etc), and let many off with no inspection requirements PROVIDING there was at least a pumping requirement for the rest, and I felt that unless the property owner could prove pumping within the last 10 years, it should be included in the inspection. At least from my meeting, it was obvious that their concern was almost exclusively leaky septic tanks, not proper maintenance. It seems generally well held that pumping a septic tank every five years with normal use constitutes proper maintenance. Lack of pumping will result in lack of capacity for the biological process.

9. No requirement for high volume user inspections (e.g. VRD's, etc). A normal family will use about 400 cubic feet per month. (About 3,000 gallons) There are a some high users, up to five or six times that. These need inspections with the inspector knowledgeable about the amount of use.

Besides these issues, a selective program is going to result in a lot more difficulty in crafting an ordinance that will stand muster. We will need to depend on DLWID to give us solid evidence of why the selective enforcement or we will open this up to an easy appeal as being arbitrary. There is certainly going to be a lot more hearings and protest from those that don't want to be on the list. For example, they have a check written to a contractor. Is that evidence of a recent inspection. Someone at the City will need to hear the appeal, and write a decision. Nevertheless, with the multiple exceptions I have noted above, I can recommend the program. **However, the exceptions are profound, and I recommend to Council no further action at this time.** We have other pressing priorities that could more effectively use our time.

If DLWID wishes to deviate so far from what is recommended by EPA, and many state agencies, I would recommend that they retain a consultant (not a septic contractor) who is familiar with all of these issues and really understands the science of the operation of the systems. DEQ may or may not have someone available who meets that criteria, but so far, has not offered that assistance, and maybe can't due to their firm statewide non-inspection policies.

It is obvious to me that the District really wants to see some action on this issue, and deserve praise for that. I just do not believe that an effective and efficient program results from lay decisions made in the heat of a meeting (ours or theirs) or without each of us fully understanding the concerns of the other..

An alternative may now exist that did not before. The extensive inventory completed by the DLWID may be sufficient for the District to begin requesting County inspection through the complaint process. That would at least begin inspections as the District considers the recommended program further.

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