

Amity Supervisor wants sewage ordinance repealed

2009

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By Denise Larive, Journal Register News Service

AMITY — A supervisor is calling for the repeal of a township sewage ordinance, saying it is unlawful.

On July 15, Supervisor Scott Stepp said he regretted voting yes on the denial of the sewer inspection appeal of Keith and Heather Merritt-Dixon on July 1 and repealed his vote.

Stepp said township Ordinance 221, which provides for the management of on-lot sewage disposal facilities and requires an inspection of the sewage systems by a township inspector and code officer, isn't lawful.

The board had voted unanimously July 1 that the Dixons are in violation of Ordinance 221 for not allowing an inspection of their on-lot sewage disposal system. The Dixon's appealed June 17.

Notices of the need to inspect were first mailed to residents in February 2008.

The ordinance permits inspections every three years of on-lot sewage disposal systems to "provide for the regulation, inspection, maintenance and rehabilitation of on-lot sewage disposal systems within Amity Township." It permits the township "to intervene in situations which are public nuisances or hazards to the public health due to improper management of on-lot (sewer disposal systems) ..."

It says through these actions the township can protect the public health by preventing the discharge of untreated or inadequately treated sewage.

"Dixon had some very valid points (during his hearing) and I looked at the Second Class Township Code. The ordinance is unlawful for many reasons," Stepp said.

Dixon said during the appeal hearing that the ordinance's terms of "person" and "owner" (of land) don't apply to him as a land owner with a septic disposal system and that he doesn't own a sewage treatment facility regulated by the Public Utility Commission.

Dixon said the ordinance only applies to associations, partnerships, or public or private entities that operate a sewage treatment facility and which are regulated by the PUC.

"The state Legislature isn't concerned with me and my property," said Dixon. "I'm telling the board that this ordinance is unconstitutional.

"The township spent \$65,000 to find out that eight systems failed," said Dixon during his appeal. "Who cares, when the state only cares about a sewage treatment facility? They're the ones the act actually regulates and it would place me in jeopardy by leaving the lid off.

"The ordinance only pertains to public facilities and does not require me to be safe on my own property," said Dixon.

"The commonwealth and the Department of Environmental Protection are wrong; their model ordinances for Ordinance 221 are wrong. You (the township) have acted outside the law and I'll see you all in court, and it will cost you a lot more than you have in your budget," Dixon threatened.

Supervisor Robert R. Yanos said the DEP wouldn't have approved the township's sewage planning Act 537 (Pennsylvania Sewage Facilities

Act) without Ordinance 221. Yanos said Act 537 requires that municipalities identify failing on-lot systems and provide those lot owners with public sewer.

"There isn't a better way to protect the health, safety, and welfare of our residents than to inspect and guarantee potable drinking water," said Supervisor Richard L. Gokey. "We certainly don't want failing systems in our township."

Supervisor Paul Weller asked Stepp to supply the board with a list of legal points that make Ordinance 221 unlawful.

Stepp said the board should look at all of its ordinances and would likely discover that others are unlawful. He also opposed the board's motion to add a \$250 sewer management ordinance appeal fee to its fee schedule. The new fee was approved 4-1.