
Kenai Peninsula Borough

Flood Plain Task Force

Meeting Summary

March 18, 2009 - 6:00 p.m.

Regular Meeting

Seward City Hall, 401 Adams Street, Seward

CALL TO ORDER

A regular meeting of the Flood Plain Task Force was held on March 18, 2009, in the Upstairs Conference Room of Seward City Hall, Seward, Alaska. Chair Long called the meeting to order at 6:00 p.m.

There were present:

Ron Long, Chair
Charlie Pierce, Vice Chair
Colette Thompson
Bill Williamson
Randy Stauffer
Ron Wille
Todd Petersen
Sue McClure
Scott Walden

Kevin Lyon
Dan Mahalak
Mary Toll
Jane Gabler
Jim McCracken
Matt Gray
Christy Terry
Bob Hicks

Also in attendance was:

Shellie Morgan, Deputy Clerk

WELCOME AND INTRODUCTIONS - None.

PUBLIC COMMENT - None.

OPTIONS OF NOTIFICATION - Warnings Printed on Plats.

Chair Long stated the task force would be reviewing potential options for notifying the public.

Ms. Toll recommended an amendment to Ordinance 2009-09, to include adding a new section to read "20.20.270 Areas of Historical Flooding." She said the new section would require plats within a Historical Flooding Zone to be identified by recording a note on the plat and prior to any development the owner would be responsible for contacting the necessary agencies for current regulations.

Chair Long stated that the proposed change from Ms. Toll would only affect new plats.

Mr. Walden suggested working with the Borough's General Information Service Department to include an option on the parcel viewer that would show historical flooding patterns on a parcel.

Ms. Toll stated that a link directly from the Kenai River Center Floodplain web-page to the parcel viewer would be a good tool for informing the public.

Chair Long agreed that the parcel viewer option would be a good tool; however, questioned if would that be the correct way to get the information out? Ms. Toll said parcel viewer and notes on the plats were used in conjunction, they could be effective.

Mr. Hicks believed most second and third buyers of a property would not view the plat; however, they do view the deed, and if it were noted on the deed, the note may be more likely to be seen.

Mr. McCracken noted the time sensitive nature and added, what was in the flood plain today may not be in it five years from now. He said recording the information on a deed or as a plat restriction, created a permanent record.

Ms. Thompson said Mr. McCracken brought up a good point; however, suggested wording that identified when and what happened to the property, would be giving people more information than just a warning that the property was within a flood plain area.

Mr. Wille asked if it would be possible to put a note on the plat or deed that said, "for current information regarding the flood zone, contact the Kenai River Center." He said specific flood data would then not be recorded on the plat, it would just be a note that informed the developer or purchaser that they should look into the subject.

Chair Long said using both options was something to consider, for instance, putting the historic flood data on a plat and a note saying, "refer to the Kenai River Center for current information."

Mr. Hicks asked Ms. Thompson if a note could legally be recorded on a deed.

Ms. Thompson said, there were requirements in State Statue regarding what had to be on a deed; however, the liability issue had to be addressed.

Chair Long said Ms. Terry's idea of recording a separate document stating this property was reported to have flooded in past years would address the liability issue.

Ms. Thompson agreed that would be better wording and would site the source, as long as there was reasonable certainty that prior flooding had occurred.

Mr. Peterson said in his opinion information on the deed should not be specific; however, he did agree with recording an informational statement on the plat as suggested by Ms. Toll.

Mr. Stauffer said he had seen plats notes that addressed the suitability of the land for septic systems, those are not definite statements, the wording was, "this land may or may not be suitable for a septic system due to the terrain."

Chair Long said the point is to get the people to start thinking about the flood issues, the common complaint in the past had been, "no one warned me" or "there was no information that this area had flooded or was likely to flood."

Mr. Walden said last fall property owners had come in with their original purchase paperwork, and it had very fine print on it saying, "this area had been subject to flooding in the past," and that was the only notice the purchaser had received.

Chair Long stated that the font size on plat warnings had been brought up at the previous meeting. Ms. Toll showed an example on standard paper, which was what most people print; however, when you review the actual plat the font was readable.

Ms. Toll used a printed plat to show the FIRM zones, she noted that they were not exact, they were an approximation, and that was all that would be required in an area of historical flooding. She said they would not be surveyed, it would be based on an approximate location.

Mr. Hicks stated at some point a person would submit a subdivision plat in which some portion may have a history of flooding and other portions had not, a definition of what historical flooding meant would be needed.

Vice Chair Pierce asked why Mr. Hicks felt the definition had to be so specific? Mr. Hicks said he was concerned about making it too difficult for developers, and also concerned about including areas that may not be in a flood area. He was also concerned about the possibility of the Borough being involved in litigation due to vague determinations on past floods. He said if Ordinance 2009-09 did not have a description of historical flooding, there would be many disputes by developers.

Chair Long asked Ms. Gabler, if a developer came in stated his property had been placed within the flood zone area; however, the developer thought he was outside of the flood zone area, how would that be dealt with? Ms. Gabler said the developer would go to FEMA and request a Letter of Map Revision (LOMAR) and get a surveyor on location, complete the forms, and submit evidence to convince FEMA the property was outside of the flood plain.

Mr. Hicks asked if the process Ms. Gabler had described was only within the A zones. Ms. Gabler said yes.

Mr. Hicks asked if the task force would be addressing more than the A zones. He said if we were drawing new boundaries how were we going to address the issue when someone disputed the fact that they were placed in a historic flood area. He stated that going to FEMA for a LOMAR would not work within the Borough classified Historic Flood Zones.

Chair Long stated that Ordinance 2009-09 did state that if there was a belief that the maps were in-accurate or that they were drawn in error, the option to make a case on the best available evidence was available to the owner, it did not have to be based on science, it could be supported by an affidavit from a neighbor.

Ms. Toll asked what methods were used to notify property owners that they were in a historic flood area. Ms. Gabler stated that annual notices went out each year.

Chair Long stated a definition of a special flood hazard area was needed, and felt damp or wet did not constitute a special flood hazard area; however, if there was documented evidence of significant damages there would be nothing to dispute.

Mr. Peterson asked if the new FEMA maps coming out would include the entire Seward Valley. Mr. Lyon stated there was a potential new standard that would not recognize non-certified levies. He said the levies in the valley were not certified, and were not certifiable. If that standard was adopted, the entire Seward Valley would be non-applicable. When the new standards were brought forward and the public was allowed speak to the subject they may be modified.

Chair Long stated the question remaining was not when the FEMA maps would arrive, but if they were coming at all. He said one thing he had heard was, because of the limited budget, FEMA would not be mapping areas with alluvial fans.

Mr. McCracken stated another issue to consider was the additional work load that was already being added to Borough staff, and implementation of changes would increase the work load.

Chair Long stated once the task force came up with specific action to be taken, borough staffing would then be addressed. He said a reasonable permitting process would have to be considered.

Chair Long asked Ms. Gabler to explain what she believed the additional staff responsibilities would be if Ordinance 2009-09 were enacted. Ms. Gabler stated it was difficult to anticipate the request; however, one permit could require multiple days for processing.

Chair Long asked Ms. Gabler how many permit applications were processed annually within the mapped zone. Ms. Gabler stated it was around 20; however, it was not an easy 20, a person could spend hours talking to the people involved, the situations in the area and the additional agencies involved, complicated the process.

Chair Long said he believed Ordinance 2009-09 would produce roughly an additional eight permits in the next year.

Mr. Williamson asked how many agencies were involved in getting the permits? Ms. Gabler said the Kenai River Center for the flood plain, Corps of Engineers, Fish and Game, Coastal Zone Management, and the Department of Natural Resources.

Mr. Williamson stated any of the agencies listed by Ms. Gabler, had the ability to delay the permitting process.

Vice Chair Pierce stated he would like to see the process be kept simple; however, the notification needed to take place. He said via plat or deed the purpose would be to ensure people were warned of the risks. He said a start would be drafting language that would cover the buyers interests, Borough interests, and maybe even the sellers interests as well.

Mr. McCracken stated that the State of Alaska required by Statute a disclosure on improved and un-improved properties, the seller was required to complete a seven page disclosure form. He said the form was generally handled by the Realtor; however, it was still required in a private transaction.

Mr. Walden stated the purchase documents from the Clear Creek area had a one line notice on them stating, "area may have flooded in the past."

Mr. Stauffer said he felt that the multiple sales of one property would result in the possibility of one owner selling without a warning, because during the period of ownership the property never flooded.

(06:40:44)

OPTIONS OF NOTIFICATION - Warnings Printed on Maps, Signs posted on Roads.

Chair Long stated a clarification of warning types included on maps needed to be made, and asked would it be something like what was discussed in the plat issue. He also noted the type of message on the signs would need to be decided.

Mr. Wille said there had been a lot of resistance in the past to signs being posted that read, "Borough Maintenance Ends Here." He said when new roads were constructed, it was the developers responsibility to put up signage.

Mr. Hicks stated it had to be consider, that the signs may become targets.

Mr. Peterson stated you would not want to place a sign on a forty-acre subdivision stating, "this area had been subject to historical flooding," because some sections may not have been flooded. He said it would have to be language similar to what was discussed for the deeds.

Mr. McCracken asked who was objecting to posting of signs. Mr. Wille said objections had been voiced by the public at Road Board meetings, and it stemmed from the issue of people shooting the signs, or the sign getting knocked down. The people want to know who will be responsible for putting it back up.

Mr. Stauffer stated in a conference he attended on flooding last year, road signs were suggested as methods of notification; however, they were not talking about rural areas, they were talking about city areas, marking on buildings stating, "water level had been here in such and such flood."

Chair Long said whenever road signs come up, for whatever reason there was resistance, and suggested the road sign option be removed from further discussion.

The Task Force unanimously agreed to remove the road sign notification option.

Chair Long clarified his intent to notifying the public of the flood hazards, it was not an attempt to stop development, it was an attempt to inform the public so they could develop responsibly in consideration of the potential hazards.

(06:47:59)

DEVELOPMENT RESTRICTIONS - Covenants.

Mr. McCracken stated that a covenant would only be as good as the enforcement, he said many of the communities in the area had covenants; however, no Home Owners Aassociation; therefore, no enforcement of the covenants.

Chair Long stated that the covenant of his neighborhood read as if it were the most pristine community, right down to grooming of lawns; however, that was not the present reality, so it seemed a bit out of the realm at this point to consider covenants as an option.

The Task Force agreed to no longer pursue the covenant options.

DEVELOPMENT RESTRICTIONS - Building Codes.

Chair Long stated the building code, which was available in the mapped area, was sometimes fairly specific on base floor construction techniques, breakaway walls, and several hazard mitigation strategies. He said some options the Task Force may want to look at was revising the codes within the FIRM map and outside.

Mr. Williamson said most development was done through bank financing, a possibility would be adding a section requiring notification to the Kenai River Center (KRC) before building. He said there had been a few instances where he had asked builders if they got a permit, and the reply was, "what permit?"

Vice Chair Pierce believed the Borough did not need to be responsible for creating a new department for enforcing the permitting process. He said that this was not something to be achieved through a building code, it needed to be done through the planning codes. He said a disclaimer on every plat stating "buyer beware" would be sufficient in notifying the purchaser that it was their responsibility to inform themselves of the flood plain history, and responsible development of the land.

Mr. Stauffer stated that if this Task Force took this type of action it would not affect construction that already existed, only future construction.

Chair Long referred to pages 38, 39 and 40 of the packet, which indicated what was in place as a building code for development within the FIRM mapped areas. He said enforcement was done on the honor system, he did not want the Borough to be in a position of having a compliance officer to enforce the code. He said if we give them the information and standards and they continue to ignore it, putting their life savings and structure at risk, that would be their choice.

Mr. McCracken stated that currently people were building where they wanted, and there was nothing in current code to prevent them from doing so.

Chair Long stated if that was the choice people were making, they were probably un-insurable.

Ms. Thompson stated the Borough did have a code compliance officer, and in the flood plain code there was a provision that stated violation of the chapter were infractions and were subject to civil fines. She said the issue was catching people who were not in compliance, then giving them notice of non-compliance, allowing time for them to comply, and if they did not, a fine was assessed, and enforced. She said it was not a simple process.

Chair Long stated if someone was not in compliance and their insurer or lender found out, it would cause further difficulties for the property owner.

Ms. Thompson said the property owner would not be covered by FEMA if they were found to be out of compliance.

Vice Chair Pierce offered an example: If a builder did not comply with the standards, and the development was then damaged by a flood event. What would the responsibilities of the Borough be? What liability had the Borough exposed themselves to by not enforcing the existing code? Where would the Borough stand regarding compensation to the developer for damages?

Ms. Thompson said she did not see any protection, except the disclaimer of liability in Ordinance 2009-09; however, in State Statutes the municipality would be immune from actions taken on property it did not own. She said it still did not prevent someone from suing.

Vice Chair Pierce asked the Task Force consider what type of liability was being created by putting these restrictions in the Borough Code and then not enforcing them. Would the language weaken the Borough's position. He said why put this in any document, when the ability to enforce it was limited.

Mr. Hicks stated the Borough's level of responsibility needed to be considered, a local community participating in the FEMA insurance program, one clear responsibility listed was that the local community would enforce its building requirements, it was not just enough to issue a permit, then walk away and not take an action to enforce. He said FEMA could come in and force the Borough to come up with some type of enforcement program. He said once you move to areas outside of the FIRM mapped areas, the Borough was then free to make the enforcement decisions, FEMA had no requirements; however, you could get community rating points by imposing the same type of building code provisions outside of those areas.

Chair Long stated FEMA did require the best technology available to determine the hazard outside of the mapped areas.

Ms. Toll asked if structures in the flood plain were not in compliance, could a letter of non-compliance be recorded so that it would show up in a title search.

Ms. Thompson said it was not something stated in the code; however, the code could be changed. She said once something was recorded it was there forever, there would have to be steps taken for notification once it was brought back in to compliance.

Ms. Gabler said there was something through the FEMA program that allowed the type of notification Ms. Toll mentioned, and was being done in Fairbanks. She said it was working; however, it was very serious once you started the process.

Chair Long stated one reason that we had not gone through an entire enforcement action, was due to the Borough staff, rather than prosecution the preferred course of action had been correction, working with the developers, encouraging them to do the right thing. He said there would be an occasional person who thought they did not have to comply and one day the Borough might have to take civil action.

Mr. Gray asked if the Borough were not enforcing the code as expected by FEMA, could FEMA then take action? Mr. Long said there was a process in place with FEMA, first the Borough would be put on probation, and given a specific period of time to comply with regulations, and if compliance was not met in the time allowed the homeowners within the Borough would no longer be eligible for flood insurance.

Ms. Gabler stated that FEMA did come to the community to perform a Community Assistant Visit (CAV) they drove around the area taking pictures, once they had completed their inspection of the area they would bring pictures back to the Kenai River Center, stating that some look illegal and ask for a history on the property. She said that was when the work began for the Borough, the Borough identified the age of the structure, sometimes had to require elevation certifications, sometimes they were high enough and sometimes they were not. She said at times we have had to require people construct openings in their foundations.

Mr. Stauffer noted there was a possibility that someday FEMA would grow tired of spending so much time and money in the Seward area, and request the local government to correct the problems, and FEMA would then pull all assistance from the community. He said by creating the task force, and working toward a solution, showed the Borough was willing to work to fix the problems.

Mr. Walden stated the Borough did not have the ability or the authority to enforce building codes as a second class borough. He said regarding enforcement all the Borough could do was judge if the structures had been built to elevation levels that the Borough had deemed appropriate. He said once the permit was issued, the Borough's involvement was over. He stated in reviewing the National Flood Insurance Plan (NFIP) the Borough had to have strong building codes; however, it also implied that the builder or owner was responsible for meeting those requirements, it did not place the burden on the Borough to enforce them.

Chair Long stated that some of the NFIP rules did place the burden onto the owner, especially for rebuilds after an incident, and if the standards were not met, an individual would be charged a higher premium at \$25.00 per \$100.00 of coverage.

Mr. Walden stated that FEMA and Home Land Security had been responsive in regards to damage assessments, reimbursements and helping with mitigation projects. He said the flood plain code, needed to be updated.

Mr. McCracken asked how the new regulations from FEMA regarding levies would affect areas down stream or above the levy. Mr. Stauffer said the new regulations apply only to non -certified levies.

Chair Long asked if there were any certified levies in the area. Mr. Stauffer said no.

Mr. Stauffer stated that along with the new standards for levies, FEMA would also be going back to verify if previously certified levies were being inspected on a normal schedule, and if repairs had been done after a flood. He said if the standards were not being followed, the communities needed to hire an engineer to inspect and certify the levies again.

Mr. Walden asked if the person or organization who built the levy affected the certification status of a levy. Mr. Lyon said no.

Chair Long asked where in the process was FEMA in enacting the new regulations? He stated at some point it would be open to public comment. He stated that there had to be other communities with the same concerns.

Mr. Williamson said that he would be attending a FEMA conference in June and he would be obtaining more information on the new regulations.

(07:23:54)

DEVELOPMENT RESTRICTIONS - Roads and Subdivision Codes.

Chair Long stated a portion of the Borough code that addressed flood plains was adopted as a response to a FEMA declaration, and it did not go through a process that merged it with the roads and subdivision codes. He said there were sections where the two worked well together and other sections where they did not. He felt the task force should be working toward finding the areas where the code did not work together and correct them, with the help from the Planning and Roads Departments.

Mr. Wille referred the road constructions standards on pages 21 - 31, he said one of the challenges faced by the Roads Department was the road constructions standards were written to be applied to all roads within the Borough, he said there was a huge variety in the geology within the Borough. He said the standards were written to say this was how you do it, and if you vary in any way an engineer was required.

Chair Long stated he was looking for a solution to the reoccurring problem of building a road to meet the standards, which caused flooding to the personal property surrounding the road. He said the other reoccurring problem was private development building the property up to meet the standards, being the cause of flooding to the roads. He said this needed to be addressed, and an appropriate strategy needed to be developed.

Mr. Williamson said several roads in the area became flood ways when the water hits a certain level, which works in favor of the property owners; however, not for the Borough, because the roads are now the lowest point. He said the ditch lines could not be kept up and maintained to handle the amount of water going through.

Chair Long stated one thing to consider was public infrastructure, in a declaration, was eligible for recovery, private was eligible for a loan. He said it needed to be determined who would apply for assistance and had the best chance of recovery in a declaration.

Mr. Williamson stated people had asked why roads were not constructed at a lower level to allow the floods to run through it. Mr. Lyon stated making the road a river would become a hazard and restrict emergency access.

Mr. Stauffer stated many subdivisions in the area had only one access road accessing it, the roads could not be used to direct the water flow.

Mr. Stauffer stated that an additional option could be to require two ways in and out of a subdivision, one being used as a dike and the other used as a flood way to carry the water away from properties.

Mr. Hicks stated that aside from FEMA and Borough Code, Riparian Rights, stated no person could build up their property in a way that diverts water onto other property, that was a trespass.

Mr. Wille stated that the Borough did not generally build roads, it did regularly rebuild them. He said all of the standards that were created were enforced on a developer building the roads, and further regulations had to be done in a reasonable manner, so that the developer could continue make profits on future developments.

Mr. Williamson said that in the Seward area when roads started to be developed at the new standards, there would be a visible change in the water patterns.

Mr. Wille said the further development of Camelot Excalibur Road had been postponed for another year to allow for a drainage plan to be developed.

Mr. Long asked Mr. Wille if it was part of the process to form a drainage plan when developing a road. Mr. Wille stated that they did account for normal drainage; however, they did not plan for a flood event.

Mr. Long stated the task force may want to consider looking at something beyond what is normally considered in a drainage plan for roads. Mr. Wille said if it was in a flood plain area then something further should be addressed, and that would most likely trigger the need for an engineer.

Mr. Peterson said he believed a developer would want to speak with an engineer prior to development to assure there would not be any liability issues at a later date.

Ms. Terry asked who was issuing right of way construction permits. Mr. Wille said the Borough Roads Department.

Chair Long stated problems usually stemmed from the out of pocket developers carrying the note, telling the purchaser if they buy the lot and pay the developer a monthly fee, the Borough would maintain the road. He said after the lot was purchased the buyer finds out there was never an agreement for the Borough to maintain the road, and the permitting process was never done.

Mr. Wille stated there were also cases when a developer placed a driveway down the center of a large parcel, then came back three years later to plat and subdivide the entire parcel, at this point the developer would not need to meet any road standards because the road already existed. He stated this was an issue that needed to be addressed by the task force.

(07:45:51)

FLOOD DEBRIS - Classification by DNR.

Mr. Lyon stated gravel was still classified by the Department of Natural Resources (DNR) as a mineral that had a value of \$3.25 per yard, he stated the Borough had an appeal filed with DNR; however, no reply has been received as of yet. He said a more viable option would be having the water ways classified as non-navigable streams. He said this would effect Salmon Creek, Resurrection River, 4th of July, and Sawmill.

Mr. Wille asked if there had been any follow up on having the various Service Area Boards draft Resolution that would support the repeal of DNR's fee. Mr. Mahalak stated he felt it would be more productive to put the efforts into navigability.

Chair Long stated that it was determined in the past that in order to change the fee, would require a legislative fix. He said a legislator who supported the action was finally located, and would address the royalty charged by DNR.

The Task Force agreed to further pursue both navigability and gravel classification.

Ms. Thompson asked if reference to debris, was it a reference to the state language or federal language. Mr. Long stated it was reference to FEMA policy.

Mr. Walden said in the FEMA Disaster Assistance Policy described where the Federal Agencies were responsible for removal of such debris, he said it goes on to state what was available for disaster recovery funding and reimbursement for emergency response. He said one section left him to believe that the Borough would be reimbursed for removing the debris during the height of a flood, and no cost would be incurred to DNR on behalf of the Borough. He said if we approached with a change to the language rather than a dollar amount removal, it would likely receive a better reception.

Mr. Walden stated if it was a threat to lives, public health and safety, or it needed to be removed to ensure the economic recovery of a community it was most likely going to be considered debris.

FLOOD DEBRIS - Proper Removal.

Mr. Mahalak stated proper removal would be something that followed the best management practices and followed engineering standard codes, he said another way to look at it would be to follow methodologies and procedures outlined in peer reviewed research.

Mr. Hicks stated in deciding proper removal, the effect on other properties had to be considered, he said any man made change that affected other properties opened up exposure to liabilities.

Chair Long stated that in-stream work was probably the highest risk activity.

Mr. Williamson noted that a statement in one of the permits issued by the Kenai River Center was, "if you remove it from the flood way, you can not put it back in the flood way elsewhere."

Mr. Stauffer suggested making a waterway wide enough for gravel deposits, and remain under Borough ownership, and letting nature take its course.

Chair Long stated a buyout option was a subject for further discussion, the land was already owned by someone, either individual, corporate, or government, and buyout options should be consider. He said a buyout process was embarked upon in the Old Mill Subdivision, and at the last meeting it was announced that the National Resource Conservation Service (NCRS) had funding available that did not require Borough participation; however, it allowed for land owners who set aside their land in an easement to be compensated for it.

Mr. McCracken stated that Borough owned land that was above the flood zone would be a viable option in trades.

Ms. Toll stated the Borough owned 1,100 acre parcel near Seward; however, there was access issues.

Mr. Lyon further described the access issues regarding the Borough owned land in the community. He stated the only way to access the land was through a rock face, it would require a chair lift for access, he said once on top it was a solid rock surface which would limit access to water, not to mention the restrictions on septic systems.

Chair Long stated the Borough could look at swapping land with Mental Health or the State to have land available for swapping with owners of flood plain lands who wished to develop.

Mr. Peterson stated if the Borough did have a parcel of land to develop, the people in the real flood plain areas, could be made an offer, where the Borough stated the purchase price of your land was the value of the land you are leaving, he said that might entice a large portion of the people to move to dry land.

Chair Long stated that he agreed with Mr. Peterson, and it was unfair to regulate people by saying you can't live here, you can't build here, and by the way you have to move, without offering an alternative.

Mr. Peterson said at the price the Borough was paying for the land in the Old Mill Subdivision, they could have gone out and purchased private land and set up a subdivision.

Mr. Hicks noted that the bed load problem would continue as long as the area was surrounded by mountains. He said he questioned whether channel maintenance was a viable option.

Mr. Wille stated the project done within the City with a diversion tunnel was a temporary fix; however, for the last 70 years it has solved the problem of town flooding; it was not perfect, and could cause problems at another time.

Mr. Lyon noted that when you interrupt nature's natural patterns there was usually a consequence. He stated there were other issues generated by rerouting the water flow.

Mr. Hicks stated he felt the better approach would be taking flood plain land out of development, and providing people with alternate options where they could develop.

Chair Long stated it would be difficult to fund bed load removal; however, ways may need to be found to use nature itself as a flushing system.

Mr. McCracken stated the City had some very desirable high ground available, he said once access was created to some of this land, further development would be easy.

Mr. Wille said he attended a conference regarding climate change and how it was effecting western Alaska. He said the flooding in the Seward area had not been part of the conversation; however, it was an affect of climate change.

Chair Long stated that FEMA did not currently recognize events that could not be tied to rainfall.

Mr. Wille said one item brought up during the conference was enactment of cap and trade on emissions, and it was a distinct possibility at this time that the Borough could participate in some of the global issues that were occurring.

Mr. Gray said this could tie in with the stimulus and emergency funding.

(08:36:54)

MAP DEVELOPMENT

Chair Long noted that the maps outside of the FIRM zones were questioned, one question raised was what measurement would be used to determine the height, would it be the high during seasonal high water. He said the high mark would need to be clearly stated.

Mr. Lyon indicated the Borough would work off of the center lines as they appear today, and determine if they were correct, and if there was hard rock that was going to send the water one direction instead of the other.

Chair Long stated the center line was not a perfect triangle, and would trigger exception clauses, he also proposed change of 20-feet on each side instead of 30-feet. He also noted some of the questions that were raised regarding the maps as proposed, some are pretty well developed on multiple sets of data and some are less; however, in most cases the data used was as extensive as the data used in federal regulations. He said in regards to regulating activities within the zones, it did not, the only thing being regulated was the development of new primary residential structure, it would not regulate sales of a large parcel.

Mr. Lyon said the historic flood data was posted on the web, and the lines were backed up with the stored data in the General Information Services Department.

Chair Long stated one requirement of FEMA was the use of the best historical data, he said that did not mean it was perfect, that did not mean it was sometime wrong, if it was wrong we would be willing to admit it and make the changes.

Mr. McCracken asked about the status of current gravel extraction permits. Mr. Lyon stated the permits were good until the expiration date.

Mr. Gray asked if the 2005 flood shown on the map was not actually in 2006. Mr. Lyon stated the flood actually took place in November and December of 2005 and continued into January of 2006.

Mr. Gray asked if the lines we have defining the flood zones were defensible. Mr. Lyon said yes.

Mr. Mahalak stated there was defensible evidence that the area had surge relief flooding during the 1986 flood. He said the 1986 flood was the largest in the area as far as he was concerned other than the 1917 flood, he stated Ordinance 2009-09 had grounds to stand on just from the foot print from the 1986 flood event alone.

Chair Long stated the information available in 1981 that FEMA used to develop the maps that were working on to a much higher level of regulation than the zone. He said the information FEMA used to create the maps was antidotal, house to house, door to door information, interviews with home owners.

Ms. Thompson stated her concern was did the Borough have better technology available today and using antidotal information was a liability. She stated the Borough should be using the LIDAR data.

Mr. Lyon stated there were areal photos available from the 1986 event that were scribed onto the map, that was how it was put together. He said if someone were to come in and say they were not affected by the flood, he would be able to pull a photo out of the file and show that they had been.

Mr. Mahalak said FEMA defines a flood as inundation of 1-foot or more, he said in the future that was something that should be delineated.

Ms. Toll stated that an additional option to consider would be making sure people had camera's available or GPS's to gather data for the Borough.

Mr. McCracken stated he would like to see Ordinance 2009-09 postponed until after the LIDAR flight had been done this spring, to further enhance the data available.

Chair Long said it was his opinion that Ordinance 2009-09 would be in affect for one year and it was important that it was established.

Mr. Mahalak stated that the sedimentation range would not affect his opinion.

Mr. Walden stated that he trusted the maps being created and believed we could prove their validity should they be challenged, he said the Borough should have some type of document that would indicate how the maps were created.

Mr. Wille asked if a power point presentation could be put together for property owners that were not necessarily in Seward, to explain the theory behind this action.

(08:59:42)

GENERAL DISCUSSION AND QUESTIONS

Mr. McCracken asked if the task force would be supplied with information on previous land swaps, in which, the Borough had participated. He also asked if the correspondence regarding navigable streams could be provided at the next meeting.

Mr. Gray said he did contact the NRCS regarding the easement issue, and asked if agencies would be allowed access to the area for maintenance. He said he was told would be granted.

Mr. Lyon said they were working on a similar agreement within the Old Mill Subdivision and it was required that the work in the stream be done to restore it to its natural state with natural vegetation.

Ms. Thompson said NRCS needed the Borough to preserve the flood plain; however, they would allow some access for response to a disaster.

(09:07:00)

TASK FORCE MEETING AND ANNOUNCEMENTS

The next meeting of the Flood Plain Task Force was scheduled for April 1, 2009 at 6:00 p.m.

ADJOURNMENT

The committee adjourned at 9:12 p.m.