

Meeting Summary
H-GAC REGIONAL FLOOD MANAGEMENT COUNCIL
January 20, 2010

MEMBERS PRESENT:

Scott Elmer	Spencer Karr	Yancy Scott
Kelly Hamby	Blake Kellum	Michael Talbott
Cruz Hernandez	Lisa Krobot	Troy Toland (phone)
Andrew Isbell	Monica Martin	Mark Vogler
Phil Jones (phone)	Sarah Metzger (phone)	

MEMBERS ABSENT:

Louis Bergman	Mike Fitzgerald	Sidney Lewis
David Collins	Scott Hall	Frank Rodriguez
Cathy Dominguez	Mark Jordan	

Mike Marcotte was represented by Carol Haddock.

Dale Rudick was represented by Shashi Kumar.

VACANCIES:

City of Galveston; three "At-large"

H-GAC STAFF PRESENT:

Erin Livingston, Carl Masterson, Rachel Power, Jeff Taebel

OTHERS PRESENT:

Chris Attar (City of Houston – Councilmember Costello); Juling Bao on phone (Fort Bend County); Donetta Blanlot (FEMA); Kevin Byal (City of Dickinson); Jing Chen on phone (City of Missouri City); Daya Dayananda (City of Pasadena); Chris Doherty (Brown & Gay Engineers); John Grounds (TFMA); Burton Johnson (Burton Johnson Engineering); Narciso Lira (City of Pearland); Angie Lutz (ABHR Attorneys); Craig Meyers (City of Conroe); Brett Sachtleben (PBS&J); Jack Sakolosky (Citizen – CCFCC); Tim Tietjens (City of La Porte); Sherry Weesner (City of Houston – Councilmember Noriega)

WELCOME & INTRODUCTIONS

Erin Livingston welcomed everyone. She then asked for a volunteer to run the meeting in the absence of the chair or vice chair. Michael Talbott volunteered. He then began with self introductions.

APPROVAL OF JULY & OCTOBER MEETING REPORTS

Mike asked for approval of the July and October meeting reports. On a motion from Shashi Kumar and a second from Monica Martin, the reports were approved unanimously.

MEMBERSHIP

Three individuals have expressed interest in becoming members of the RFMC: Craig Meyers, City of Conroe, Narciso Lira, City of Pearland, and Mike Hogan, City of Nassau Bay. H-GAC staff requested they be recommended to the H-GAC Board for approval. On a motion from Blake Kellum and a second from Lisa Krobot, the recommendations to the board were approved unanimously. All appointments were approved at the February meeting of the H-GAC Board.

PRESENTATION ON NFIP REGULATIONS AND ENFORCEMENT

Donetta Blanlot spoke regarding National Flood Insurance Program (NFIP) regulations and enforcement focusing on the federal perspective and what Federal Emergency Management Agency (FEMA) inspectors will look for. Several authorities allow the NFIP to function; notably, the NFIP act was passed in 1968.

The NFIP is akin to a contract between the Federal Government and local governments. In exchange for having and enforcing a floodplain management ordinance, the federal government will allow flood insurance to be sold in the local community.

The CAV, or Community Assistance Visit, is a primary means of enforcement for the NFIP. The CAV can provide technical assistance and due process to correct problems. A CAV starts with a physical tour of the special flood hazard areas, but also includes an inspection of the permitting system and files. The CAV usually ends with a visit with officials.

Communities are chosen for CAVS for a variety of reasons. Communities that are in or are considering joining the Community Rating System (CRS) receive frequent CAVs. Potential problems, such as rapid development and large floodplains, might trigger a CAV. A Community Assistance Call, or CAC, might be an alternative to a CAV, and might indicate a need for a CAV. Citizen complaints might also influence the decision to conduct a CAV.

Community compliance objectives focus on the provision of technical assistance. Enforcement is a last resort.

There are a variety of common program deficiencies. County permit systems are frequently minimal or nonexistent. Sometimes, communities do not use available data, such as data from a drainage district, to determine flood risk in unnumbered A zones. Ordinances may be noncompliant or may not include an enforcement clause. Noncompliance may be a result of a mismatch between available data and variance type, variance procedures and documentation, unfiled Letters of Map Revision, or simple unfamiliarity with the floodplain program.

Corrections of program deficiencies are also various. Sometimes ordinances, forms, and processes must be modified. Training will often address deficiencies. Sometimes additional staff or resources are necessary.

In the riverine A Zone, common violations might include improperly anchored mobile homes, HVAC systems below the base flood elevation (BFE), or insufficient venting. A Zone violations can be remedied in a variety of ways.

In coastal areas, violations often comprise of improper enclosures below the BFE, improperly placed fill, or a lack of certification of structures, such as breakaway walls. To remediate coastal violations, modifications of the structures can be made or rate verification can be done to correct the rate.

Remedies to violations are often related to paperwork, but they will often vary depending on at what point in development/construction a project is.

If a structure is in violation, Section 1316 of the National Flood Insurance Act allows a community to request from FEMA a designation that a property cannot have flood insurance on the structure. A 1316 action can be removed if violations have been remediated.

Q: Are 1316 properties eligible for disaster assistance?

A: Limited assistance may be available.

Q: How frequently are CAVs held?

A: As often as funding provides. Some communities have not had a CAV in 30 years or more.

For a community, enforcement may lead to a reclassification of CRS, probation, suspension, or subrogation. Probation is usually only used when no effort is being made to address any violations. Insurance policy owners are notified and will be charged a \$50 surcharge to renew flood insurance policies. Suspension is a last resort. It will affect loans that require flood insurance policies, possibly leading to the retraction of those loans by the financing agencies.

Q: If a community leaves the NFIP, can that community benefit from the NFIP status of another, overarching community (i.e., can a city benefit from the status of the county)?

A: In some situations, it is possible. If a special purpose district decides not to participate, jurisdiction can pass to the county or city it lies within if the county or city agrees to take responsibility. Any issues within the particular jurisdiction will be inherited by the new responsible party. NFIP maps should be consulted to determine who the responsible floodplain agency is for a certain area. FEMA cannot prevent a special district from applying to the NFIP if they have land use authority. City attorneys may also be appropriate resources to query on this topic.

Comments: Individuals present believed that the city or county was required to take responsibility for the areas no longer under the jurisdiction of special purpose districts in regards to flood insurance. An argument was made that just because a special purpose district has land use authority it does not mean it has exclusive land use authority.

Once a community corrects all program deficiencies and violations, it can be reinstated into the program, although it may be on a probationary status. FEMA usually suspends fewer than 50 communities in a year.

Q: Why couldn't a community that wanted to join the NFIP just issue section 1316 actions to those not meeting the regulations?

A: The community has to show it went to the furthest extent possible legally through its authorities to remediate the structures not meeting the regulations. A large number of 1316 actions demonstrate to FEMA that a community is not trying to enforce its regulations sufficiently.

REVIEW RFMC 2010 WORK PLAN

Andrew Isbell, the vice chair, then asked Erin to review the proposed workplan for 2010. Highlights of the plan include:

- Quarterly meetings
- Public awareness efforts
- Legal workshops (one to three)
- Assisting with other workshops and trainings
- Annual report

Carl Masterson asked if there were any objections to the work plan. There were none.

Erin reported that the subcommittee met this morning to discuss the legal workshop. The group felt that a series of ½ day workshops might be appropriate. Topics and speakers were the main focus of the discussion, although other items discussed included locations, dates, and workshop format. Workshop topics included higher standards, the water code, and expert witnesses. Erin will send a list by e-mail and ask for suggestions. Andrew Isbell is interested in enforcement of statutes that have changed—does the old statute apply, or the new? John Grounds, Burton Johnson, and Andrew are currently on the subcommittee. When Carl asked for additional subcommittee volunteers, Yancy Scott volunteered.

A comment was made requesting that adequate time be provided in the legal workshop(s) for questions and discussion.

Erin reported that she had spoken with Mike Talbott, who felt that it might be appropriate and valuable to have the RFMC review material for Floodwise, a public education project. Assistance will possibly be needed within the next three months.

REPORT BY H-GAC STAFF

LiDAR Update

Erin presented two maps showing the extent of LiDAR coverage in our region and whether floodplain maps have been updated based on LiDAR. Montgomery, Harris, Chambers, Fort Bend, Wharton, Brazoria, Galveston, and Matagorda Counties all have complete coverage. Waller, Liberty, and Walker Counties are partially covered by LiDAR. Colorado and Austin Counties have no coverage. Floodplain

maps for Walker, Waller, and Harris Counties have been updated based on the most recent LiDAR. Maps are being updated for Montgomery, Fort Bend, Brazoria, and Galveston Counties.

Trainings

Erin provided a list of upcoming training opportunities. Erin will forward a list of possible topics for training. If there is interest, H-GAC will facilitate these trainings. Andrew pointed out that the new elevation certificate training is quite valuable.

ROUNDTABLE DISCUSSION BY MEMBERS

Mark Vogler reported that Fort Bend County paid for LiDAR, but FEMA pointed out that there might be limitations on the use of the LiDAR. Data may have been purchased outright, or a license to use the data for a specific purpose may have been purchased.

Mark said that he would prefer it if FEMA would write down the number/elevation in Unnumbered Zone As on floodplain maps. Others echoed this sentiment. John suggested for old maps that administrators overlay the floodplain map with the USGS quad map to get estimated elevations and for new maps they should request the Technical Support Data Notebook (TSDN), which should include additional information. Information in the TSDN for new studies may represent best available data; although some countered it may actually be the best “unavailable” data. Many stated they do not provide estimated BFEs; instead, they have the surveyors estimate the BFE. Donnie said that she thought approximate BFEs might be provided on unnumbered A Zones in new maps in the future.

Mark mentioned that there are discrepancies in elevations at county boundaries. When a study finds that an elevation differs from the elevation determined during an earlier study of a neighboring county, the discrepancy causes a problem.

Mark then had a question about discrepancies in benchmarks and the sources of the elevation data. John pointed out that he has received a large number of requests about monumentation in Fort Bend County. Harris County had an across the board adjustment of about three tenths of a foot. If Mark’s discrepancy is about 3/10 of a foot, the Harris County adjustment might explain it. John stressed that when a community gets its flood insurance study underway, it needs to create a dataset of monuments and use the same data throughout the study instead of using National Geodetic Survey (NGS) data. Andrew suggested a state or regional authority maintain the benchmarks.

NEXT MEETING

The next meeting will be on April 21, 2010, 1:30 PM to 3:30 PM.

ADJOURN

The meeting was adjourned at 3:25 PM.