

DRAFT
Meeting Minutes
Town of Dewey Beach Planning Commission
Meeting Date: May 17, 2013

The meeting was called to Order by Chair Harry Wilson (6:02 pm), followed by the Pledge of Allegiance and Roll Call. Commission members present were: Jim Dedes, David King and Mike Paraskevich. Town Building Official Bill Mears was present in his official capacity. Special guests included Mike Powell (DNREC Shoreline and Waterways), Dave Carsten (DEMA Strategic Hazard Mitigation) and Sarah Cookse (DNREC Coastal Management Program and Chair of the DE Sea-Level Rise Advocacy Committee).¹

Chair's Comments. Chairman Wilson said the purpose of this meeting was a public hearing to consider possible amendments to the zoning code of the Town of Dewey Beach relating to sea and bay level rise as they affect Dewey Beach, and possible adaptation strategies that the town might incorporate into its planning and zoning to mitigate flood-loss impacts in the future.

Minutes of Prior Meeting. After a motion and second, the minutes of the August 30, 2012 meeting were approved, by unanimous voice vote.

A letter from resident Ed Beste was read into the record, stating his opinion that the best option to addressing sea-level is to elevate houses and roadways, and directing home owners to ExpertHouseMovers.com for more information and costs regarding elevating homes.

Bill Mears and Mike Powell introduced the National Flood Insurance Program (NFIP) and the Federal Emergency Management Agency's (FEMA) Community Rating System (CRS). NFIP makes flood insurance available for residents in flood plains provided local zoning and building codes meet minimum NFIP standards. The CRS is a program under which communities receive reduced rates through NFIP for adopting more rigorous flood-prevention zoning and building standards, for example, requiring one or more feet of freeboard (the additional required residential building elevation above the FEMA floodplain minimum), maintenance program for storm drains, notification of potential purchasers of relevant flood zones, etc. While community participation in CRS is voluntary, Dewey Beach has been a long-time participant and the community as a whole benefits from a current 10% reduction in NFIP flood insurance rates.

Mike Powell introduced FEMA's Flood Insurance Rate Map (FIRM) program. The FIRMs show the extent of flood hazard(s) in a community by presenting flood plain and special flood hazard area data and base (1% annual chance) flood depths, i.e., the "100 year storm". As a result of a long-term assessment of historical flood-damage claims, more accurate surface topographic data, and advanced modeling of flood risk, Sussex County is updating the county's FIRMs. The first round of preliminary FIRMs were presented to the public in December 2012 at a meeting in Georgetown. FEMA received comments – including comments from Dewey Beach – that resulted in the first set of preliminary maps being revised. The new preliminary flood-risk maps will be released to the public in the next month or so, and a new 180 day appeal period started. Finalization of the new risk maps is expected to be about a year off.

For Dewey, the changes in the first preliminary map were significant and would have affected a lot of property owners. FEMA accepted Dewey's comments regarding flooding risks on the Oceanside of town, but not those related to bayside areas, and the revised maps are closer to the current maps. However, there

¹ Need to check spelling of names and affiliations and correct

are significant changes that will affect some property owners abutting the bay. Some of the differences involve a change from an AE flood zone (flood risk from rising waters) to a VE zone (risk of flood damage from high velocity waves), others a change in the required minimum elevation of the first floor for new construction (or substantial remodeling/expansion or repairs). On a cautionary note, Mike noted that Sandy came close to equaling the 100 year storm, and houses built to the base 1% annual flood elevation standard would have been flooded.

While most of what Mike talked about dealt with flooding, Sarah Cookse introduced sea-level rise by discussing it in terms of a “bath tub” model presenting scenarios for ½ meter, 1 meter, and 1 ½ meter levels of sea-level rise. In many regards the responses to protect against flooding and sea-level rise are the same, but sea-level rise is permanent. Notable for Dewey Beach, a 1 meter of sea-level rise (about 3 feet), most of Dewey Beach west of Coastal highway will be inundated from Swedes St. south.

Sarah also introduced some reference materials, including “Preparing for Tomorrow’s High Tide [cite source], and Georgetown Climate Center’s “Adaptation Tool Kit: Sea-Level Rise and Coastal Land Use” (2011). The adaptation tool kit talks in terms of mitigating the threats of sea-level rise by avoidance (don’t build as in the past), protection (berms), accommodation (elevating housing), and retreat (buy out and abandonment). There was some discussion about increased freeboard (freeboard refers to the elevation of a buildings floor relative to base flood elevation). Dewey currently requires a one foot freeboard. Other towns have increased their freeboard requirements to 18 inches or 2 feet. DEMA and DNREC are supportive of increased freeboard to reduce future flood loss.

Dave Carsten talked about ways DEMA works with communities and its Pre-Disaster Mitigation (PDM) program. While most of DEMA’s funds for mitigation of damage during hurricane Sandy have been spent, it is critical for the town to develop a PDM program to be eligible for future Flood Mitigation Assistance funds. Disbursement of FMA funds is competitive based on the cost/benefits of the proposed mitigation response(s).

Potential zoning changes in response to sea-level rise.

Lakeside no-build zones. David King introduced a suggestion from David Jasinski to adopt the same no-build buffer zone language as recently passed in Rehoboth Beach, for Dewey properties abutting Rehoboth Bay and Silver and Comegys Lakes.

“In all zoning districts the area of land located within a distance often 10 feet from the ordinary high water mark of Silver Lake, Lake Comegys and Rehoboth Bay is deemed to be a no-build buffer and shall remain a natural area as defined in Section 1-16 of the Dewey Beach municipal code. To the extent this required no-build buffer forms a portion of a buildable lot such area may be counted toward any requirement for natural area contained elsewhere in this Chapter This Section shall supersede any provision of this Code which might otherwise permit a structure, a part of a structure, projection from a structure, fence or screen to occupy any portion of the required no-build buffer.”

As in Rehoboth’s language, this references high water lines. Mike Paraskevich noted that contour lines shift and that it is very difficult to determine “high water” lines, and that it is generally preferable to establish actual geographical coordinates of bayside and lakeside boundaries. Mike noted that a preferable approach for properties abutting the bay might be to increase the bay-side yard setback and reduce the “back yard” setback accordingly. With respect to the lakes, he suggested considering the spillway elevation as the controlling height, and use this metric to define lakeside boundaries. It was also suggested to exempt decks, piers, a children’s pool, accessory uses from any such no-build zone. David King took an action item to attempt draft language addressing these changes.

Increase mandatory freeboard in special flood hazard areas. Three-quarters of Dewey Beach is in a flood zone. There are some changes within the Town's boundaries in the preliminary FEMA Flood Insurance Risk Maps that would actually reduced required minimum building elevations by one foot along much of the bayside south of Houston (due to a reduced 1% annual flood elevation). This is counter-intuitive in view of the increased levels of flooding experienced in Dewey in the past couple of years. While we cannot change FEMA's FIRMs, we can act to protect new construction in this area (and all of Dewey's flood-risk areas) by increasing the minimum base elevations requirements for residential and commercial construction. Currently, 101-11 requires base elevations to be one foot higher than the 100 year flood elevation. Given the down-sizing of flood risk in the preliminary FIRMS and projections for increased effective sea-level rise in the next 20 years, it might be judicious to increase this requirement to two feet (which would leave the required base elevation right where it is currently for about 1/3 of the properties between Coastal Highway and the bay).

Encourage raising of residences. Provide exemptions from prohibitions on extension of non-conforming buildings in required setbacks for the raising at-risk and repetitive-loss structures to these new freeboard elevations.

CRS Scoring Matrix. David King introduced a document he prepared using the CRS scoring matrix as a guide to potential responses to sea-level rise. The rationale for using this scoring matrix as a template was based on the assumption that FEMA has already determined that these activities are the type of activities that will protect a community against flood damage, and thus also sea-level rise. An added benefit of adopting some of these actions would be further reductions in flood insurance through the NFIP.

David explained that some of these responses could be put in place by simple changes in town operations, some would require the Town Commissioners to enact new legislation, and some would require zoning code or building code changes. Specific areas that could be addressed by zoning changes include:

- Keeping vacant floodplain lands open (C420), possibly by requiring deeds for parcels preserved as Open Space to have restrictions that prevent future owners from developing them (additional points if parcels preserved as Open Space are in an undeveloped natural state, have been restored to a natural state, or protect natural and beneficial floodplain functions (potential 1,600 CRS points)
- Higher regulatory standards (C430). Amend Chapter 101 of Town Code related to Free board requirements; Requirement for engineered foundations; Counting improvements cumulatively for triggers to update to new codes; Reduce the "substantial improvement" threshold lower than 50%; Prohibition on first floor enclosures; Other (potential 300 CRS points)
- C450 Stormwater Management, including: regulations on developments to ensure that peak flow of stormwater runoff will not exceed the predevelopment runoff ; Requiring all new buildings, not just those in floodplains, to be protected from local drainage problems; Regulations to minimize erosion from land disturbed due to construction; Regulations that improve the quality of stormwater runoff (potential 200 CRS points)
- C540 Drainage system maintenance: Regulations prohibiting dumping in streams and ditches (30 points)

There was interest from the Planning Commissioners in pursuing these concepts. David King volunteered to prepare draft amendments along the above lines for review and discussion at the next sea-level rise meeting.

Recommendation to Town Commissioners

There was consensus among the Planning Commissioners to recommend to the Town Commissioners that they form a special committee whose focus is on strategies to mitigate flood related loss and to strive to take action on all the ways the Town can begin to move up it's CRS ranking. This committee could help implement ways in which the Town uses modern technology to maintain FEMA elevation certificates, conduct flood education and outreach projects, and advance in other areas within the CRS Activity Points document that should be addressed in an ongoing basis.

Adjournment. There was a motion to adjourn; seconded and passed by unanimous voice vote (7:45). The next Planning Commission is scheduled for 6:00 pm June 7, 2013 to consider a draft ordinance to make microbreweries a conditional use. The next meeting regarding sea and bay level rise is scheduled for 6:30 pm June 21, 2013.

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