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## Coastal Hazards Adaptation Team (CHAT) Work Session #51

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Tuesday, June 20, 2023

**1:00-3:00PM**

VIRTUAL MEETING

### I. Introductions

Jason Bachand – Hampton Town Planner

Tori Bamford – Hampton Coastal Resilience Coordinator

Tom Bassett – Hampton Resident

Jay Diener - Hampton Conservation Commission

Rayann Dionne - Seabrook-Hampton Estuary Alliance (SHEA)

Jennifer Hale - Hampton Department of Public Works (DPW)

Kristin Howard –NH Department of Environmental Services Coastal Program (NHDESCP)

Barbara Kravitz - Hampton Beach Area Commission (arrived at 1:45)

Stephen LaBranche – Hampton Resident

Bob Ladd – Hampton Beach Village District

Chris Muns – Hampton Representative (arrived at 1:30)

Brianna O'Brien – Hampton Conservation Coordinator

Laurie Olivier – Hampton Planning Department

Lawrence Quinn – Hampton Budget Committee

Jim Waddell – Board of Selectmen

Public

Kate Bashline – Hampton resident

Matt Ajemian – Hampton resident and realtor

### 2. Flood Risk Disclosure discussion

- Ms. Durfee
  - A brief overview of CHAT, noting it began in 2019 with the purpose of better understanding Hampton's flood vulnerabilities and exploring potential mitigation and/or adaptation strategies.
  - Flood Risk Disclosure is a topic identified as one of CHAT's 19 recommendations
    - “Advocate options to require flood risk disclosures, including but not limited to statewide legislation that requires that current and future flood risk is disclosed so that future owners are aware of the potential risk”
  - Matt Ajemian, owner and realtor with Hampton-based Granite State Realty, joined to participate in a conversation to help CHAT better understand the current role of flood risk disclosures in real estate transactions.
  - Questions generated at the previous CHAT meeting include:
    - To what extent does flood vulnerability and/or previous flood damage influence the selling and purchasing of properties
    - Is flooding becoming a more prominent topic or bigger question during real estate transactions

- Do you have any experience with voluntary or mandatory flood disclosure forms
- Mr. Ajemian
  - Grew up in Hampton, current resident and business owner. His office is on Route 1 and has been operating since 2004. He deals with properties from time to time that are located at the beach or within a flood zone.
  - Gave an overview of the NH property disclosure form, pointing out areas and questions related to flooding.
    - Form contains a series of questions regarding the condition and location of septic systems in relation to a water resource.
    - Specific question about whether the property is in a FEMA-designated flood zone. Seller can select “yes”, “no”, or “unknown”.
      - Mr. Ajemian has a standard practice that if the property is located east of Route 1, to verify the flood designation using the FEMA mapping program.
      - Sellers without a mortgage might not know their flood zone designation because they are not required to carry flood insurance.
      - As a realtor – due diligence is important whether working with a seller or a buyer
    - Specific questions related to the condition of the foundation/crawl space – does it experience any leakage or moisture? This can be an indicator of flood risk/potential
  - Currently no independent form for flood risk/potential as there is for lead paint. The lead paint form is mandatory. The NH Association of Realtors could consider creating a distinct form for flood risk if they agreed on the need.
  - Over the last 10 years, flooding has become a more prevalent topic. Between the more recent larger storm events, news, and social media coverage, it is clear that there are areas in and around the beach with flooding issues. Sellers who have had properties within their family for 40-50 years notice the tides creeping in and are paying more attention to it now. Some buyers are aware or concerned, but many are not.
- Mr. Diener asked how sellers respond to disclosing flood information about their property
  - Mr. Ajemian responded that he had not experienced many questions from sellers about flooding. However, when working with a seller, he does a listing presentation where he collects and shares all the relevant information about the property, including its flood zone designation. If they are unaware of it, he explains it and notes what the new owner might expect, such as securing flood insurance.
- Mr. Basset asked if he was aware of any studies that indicate trends in housing value once a state adopts a flood disclosure form/requirement.
  - Mr. Ajemian responded that he did not. Based on his real estate market experience, sales continue to occur quickly and for high dollars in flood-prone areas.
    - Seems possible if more flood disclosure details were included in the property disclosure packet that, it could negatively impact the property value
    - The current property disclosure form does require the FEMA flood designation. However, the seller can select “unknown”, so it’s worth double-checking.

- Ms. Durfee noted that additional information regarding the potential impact of the flood disclosure on property values/pricing could be found by further investigating the references noted in the case studies.
- Ms. Olivier asked if a new flood disclosure were to be created would it happen through the NH Association of Realtors, or would it be at the state or Town level? Noted that buyers have varying risk tolerance and resources/income to increase flood protection. Buyers should be aware at the onset if they can financially accommodate necessary flood mitigation strategies.
  - Mr. Ajemian responded that it would not be at the Town level. It could be a new form added to the NH Association of Realtors' library that is available to all its members.
- Mr. Ajemian shared another form worth considering: the purchase and sale agreement used to negotiate the price and conditions of the sale. There is a section where buyers can check off certain items they want to further investigate, such as deed and easement research or cost of insurance. There is a typical 3–5-day time period to research these items. This is a section where buyers could investigate the cost of flood insurance to ensure it is affordable. However, in the current market, buyers are waiving inspections and additional due diligence to increase the competitiveness of their offer. The current structure requires the buyer and their agent to do all necessary research.
- Mr. LaBranche shared how buyers assume securing house insurance is not an issue. Many insurance companies in states like Florida and California will no longer write policies because of reoccurring risks. That is not the current case in NH, but buyers could find themselves in a pickle if they cannot find or afford insurance.
  - Mr. Ajemian agreed that getting insurance is becoming trickier. He had a client struggle to find an insurance policy due to the age of the roof shingle, even though the inspection said they were in good condition.
- Mr. Diener asked whether the Seacoast Board of Realtors could develop and adopt a voluntary flood disclosure form.
  - Mr. Ajemian shared that he was unaware of the Seacoast Board of Realtors creating and adopting disclosure forms.
  - Mr. Diener asked if the NH Association of Realtors created the flood disclosure form, would it only be voluntary? Is legislation required to make it mandatory?
    - Mr. Ajemian responded that the NH Association of Realtors adopts new forms, but their use is voluntary, except for the Lead Paint form, which Federal Law mandates.
      - Noted there are situations where a seller is unfamiliar with the property, and the disclosure forms are filled with “Unknown”. This makes the form rather useless, and the buyer is responsible for doing the research.
- Ms. O'Brien asked about getting consensus from the NH Association of Realtors. She noted that in the Texas case study, the board of realtors was the biggest advocate for including a flood disclosure form. What kind of parallels can we draw from other states?
  - Mr. Ajemian recommended presenting to the NH Association of Realtors and explaining why the form is necessary. Since there is already a question about whether the property is in a FEMA-designated flood zone, they might feel it is adequate, especially if it is a more localized concern. They also might view it as necessary because it is more of a local concern.

- Instead of requesting the development of a separate form, consider asking for additional questions to be added to the existing form. A few additional questions that come after the FEMA flood zone designation
- Ms. Howard shared that based on her experience in Hampton through the Land Owner Technical Assistance program; several property owners have expressed serious regret for purchasing the property due to the lack of knowledge about the extent of flooding. It is not always flooding on the property but flooding of roadways that impedes access to their property. Is there a way to capture impactful flooding that is not directly related to the property itself?
  - Mr. Ajemian responded that additional questions on the form could be something like “Have you experienced any flooding events that limited/restricted access to flooding?”
  - Ms. Howard added the challenge of buyers simply not knowing what to look for or asking the right questions. In the current market with a surplus of buyers, one that does not know enough eventually buys a flood-prone property.
    - Mr. Ajemian noted that the current process relies upon sellers doing follow-up research. Could see buyers feeling remorse if they did not do their research.
- Ms. Olivier shared that having a simple form does not seem detrimental because the current disclosure form is very broad. It is very easy for a seller to say “unknown” and not answer a basic question. She noted that the Texas case study used two questions – fine-tuning the current disclosure form and adding questions might be a viable option. If they cannot answer, assume the worst. Many buyers in Hampton rent out their properties, so having disclosures for renters is important.
  - Mr. Ajemian noted that another approach to fine-tuning the current disclosure form is to remove some of the “unknown” response options. Shifts some of the responsibility to the seller to find out before listing.
- Mr. Ladd asked if you tell the buyer there is a flooding issue. The buyer then asks what that means. Is there an obligation to explain the potential challenges/unavailability of causality, flood, or automobile insurance? He noted that Warren Buffet said the greatest risk to automobiles in the not-too-far-off future would be flooding, not accidents. A trend is beginning where insurance agencies are not writing policies in high-risk areas. So, when a seller ceases to hold a particular insurance policy, it might not be possible for a new owner to get one.
  - Mr. Ajemian responded that when he is working with a buyer, and it’s a property in a flood zone area before an offer is submitted, he recommends they contact their insurance providers to get an estimate of the cost. They will also ask the seller if they have a policy and who it is through. This may not be the process others use, so there certainly could be instances where insurance availability or cost becomes a concern/issue later on in the process as they near closing. It is avoidable if you do the research upfront.

There was a brief second round of introductions for Ms. Kravitz, Rep Muns, and Mr. Waddell.

- Mr. Bassett said he was unfamiliar with the property disclosure form, is it a mandatory state form?
  - Mr. Ajemian responded that it is not mandatory, but it is filled out 95% of the time. Common to see aspects of the form with “Unknown” responses. Would email copies of the disclosure and purchase and sales form for CHAT members to review.

- Ms. Bamford asked if Mr. Ajemian has experienced circumstances where a seller needs to sell but does not want to put someone else in a flood-prone situation. He responded that he had not.
- Ms. Howard shared that at the beach, every property is in a floodplain, most know that the whole neighborhood is in a floodplain. A moral dilemma is that the flooding they are experiencing is not captured by the form – how much do we share when there isn't really space to share it?
  - Mr. Ajemian agreed that sellers are going to disclose what is required. But knowing it is in a flood zone should alert the buyer's agent to do more homework to paint a complete picture of what they are about to buy.
  - Ms. Hale referenced the Hawaii case study and information about the connections between flood zones and a mortgage and insurance. Want buyers to make an informed decision. Do they have sufficient expendable resources to live in this type of situation? It is about people realizing what they are getting – using online mappers/viewers. Need to ensure that real estate transactions are truly transparent – flood risk to the property and the area around it.
  - Ms. Durfee referenced the First Street Foundation's [Flood Factor](#) as a source for buyers and sellers. It includes information about road flooding and infrastructure. Ms. Dionne noted that Realtor.com links to Flood Factor for each listing.
  - Ms. Kravitz agreed that the degree of disclosure is an issue unless there is a prescribed format. Recommends providing links within the forms to help buyers answer the questions, such as a link to the FEMA Flood Zone map. Need to identify ways to lead people to the information. Believes that about a year ago, legislators discussed this topic – conclusion unknown as nothing was codified. Would be worth reviewing. Rep Muns volunteered to look into it.
- Ms. Durfee asked Mr. Ajemian if there was anything CHAT could help him out with.
  - Mr. Ajemian responded not at this time. Noted that he created his own forms when working with buyers and sellers. A two-page seller-agency form where he collects information about the property at the onset. Also, a buyer-agency form with 6-7 statements asking if the buyers are concerned about crime, flood zones, etc. It is a proactive approach to increase seller and buyer awareness. This information is beneficial when dealing with realtors and buyers from out of state who are less aware/familiar with the area.
- Mr. Diener reminded the group that even though CHAT's focus is coastal real estate, anywhere it rains, it can flood. Need to make sure whatever additional information or steps are recommended apply beyond NH's coast.

### **3. Case studies and additional resources**

- Ms. Durfee led the discussion on the case studies provided for review. See attached 'Flood Risk Disclosure Background and Case Studies slides
- Discussion began with reviewing FEMA Model State Requirements for Flood Risk Disclosure and the 10 things that are commonly found on these disclosure forms, an overview of the 2019 National Realtor Association survey, and the Natural Resource Defense Council's (NRDC) disclosure recommendations.

### **Texas Case Study Discussion**

- Ms. O'Brien noted that this case study demonstrated that greater transparency cause a disparity between income classes – disclosing flood risk can significantly decrease prices. Resulting in those properties with high flood risk being the ones financially available for low-income populations – they are then stuck with the risk. Heavy and challenging reality.
- Ms. Olivier liked the Landlord flood notice form – only two questions – straight to the point. Agreed, that could drag down property values, and realtors might not support making it mandatory.
- Mr. Bassett liked the Texas approach and NRDC recommendations. Especially how 5 out of the 10 NRDC recommendations addressed past flood events. Noted that CHAT's current disclosure recommendation does not reference acknowledging/including past flood events.
- M. LaBranche shared his concern about lowering the value of flood-prone properties so that people who cannot afford the risk purchase them. There needs to be another option to remove the risk if it is impossible to sell the property – the alternative should be a buyout and return it to open space.
- Ms. Kravitz needs to address both rental and ownership. Renters do not have many options related to protecting the building from flooding. The renter and owner can have different/conflicting values and priorities.

### **Hawaii Case Study Discussion**

- Ms. Olivier liked the disclosure requirement brochure. Seems like something that could be tailored to Hampton and made available in the Building Department.
- Ms. Howard agreed that a brochure or information campaign that the Town controls could complement any state law. Nice way to tackle CHAT's recommendation. Could include a link to the projected Sea-Level Rise maps.
- Ms. Durfee noted that Hawaii has the info on the flyer, but the statute is more open to account for changes/updates to the science.
- Ms. Bamford volunteered to draft a flyer. This is a proactive approach and provides a mechanism for those who are curious to find the information and understand it. Ms. Howard recommended linking to New Hampshire Sea-Level Rise, Storm Surge, and Groundwater Rise Mapper – more streamlined and user-friendly.

### **Louisiana Case Study Discussion**

- Ms. Durfee shared that the requirements apply whether the sale goes through a realtor or private. How would this apply in NH?
- Ms. Bassett noted the importance of state-mandated forms. Everything discussed earlier for NH was voluntary. NRDC's recommendation emphasizes flood damage – we are also looking at hazards. Access, contaminated water – lots of non-property damage. Flooding and all of its manifestations. We need to be aware of the different markets. Not sure next step.
- Rep Muns asked if there was interest in getting additional information – can query the national state legislatures and ask them to provide a summary of the practices in states across the country.
  - Ms. Kravitz thought it would be useful to understand what other communities are doing.
  - Rep Muns is happy to put forth a request. Look to Ms. Durfee and Ms. Bamford for a summary of what CHAT is looking for.
  - Ms. Olivier supported the request for more information

- Ms. Durfee will follow up over email and see if we can articulate a question we ask the resource. Agree on a question with the defined scope we could forward it along.

#### **4. Relevant Flood updates**

Ms. Durfee would request relevant flood updates via email.

#### **5. Postponed to Next July Meeting**

- CHAT Engagement project update
  - Social media update
  - Next steps
- Continue Prioritizing CHAT Recommendations for 2023
- Review draft letter confirming representatives to CHAT
- Approve meeting notes from May 2023

#### **6. Adjourn**

Meeting adjourned at 3:05