
Coastal Hazards Adaptation Team (CHAT) Work Session #54

Tuesday, September 19, 2023

1:00-3:00PM

VIRTUAL MEETING

Draft Minutes

I. Introductions

CHAT Members

Jason Bachand – Hampton Town Planner

Tori Bamford – Hampton Coastal Resilience Coordinator

Kate Bashline – Hampton Resident

Tom Bassett – Hampton Resident

Jay Diener - Hampton Conservation Commission

Rayann Dionne - Seabrook-Hampton Estuary Alliance (SHEA)

Jennifer Gilbert – NH Department of Environmental Services Coastal Program (NHDESCP)

Jennifer Hale - Hampton Department of Public Works (DPW) - Director

Mikaela Heming – NH Sea Grant - Flood Ready Neighbor Projects

Kristin Howard – NHDESCP

Stephen LaBranche – Hampton Resident

Bob Ladd – Hampton Beach Village District

Chris Muns – NH House of Representatives - Hampton

Brianna O'Brien – Hampton Conservation Coordinator (arrived at 1:30)

Laurie Olivier – Hampton Planning Department

Lucy Perkins – NHDESCP

Larry Quinn – Hampton Budget Committee

Eric Sunderlin – Hampton DPW - Engineering Technician

Debra Altschiller – NH Senate - District 24 (joined at 1:20)

Public

Gary Bashline – Hampton resident

2. Approve meeting notes from August 2023

Motion: Mr. Diener moved to approve the August meeting minutes

Second: Mr. Bassett

Vote: All in favor

3. Relevant Flood Updates

Mr. Bachand

- Hampton Master Plan Implementation Committee continues to prioritize Resilience action items. Then, it will move on to Innovative and Collaborative action items. The Committee meets on the last Wednesday of the month. Plans to share the results of the Committee's prioritization efforts at the next CHAT meeting.
- Flood Smart Seacoast Project

- Upcoming Planning Board information session on proposed floodplain management ordinance update. The Advisory Committee reviewed 9 higher floodplain standards and recommends 3 for consideration on the 2024 ballot. The 3 recommendations moving forward pertain to critical facilities, elevation of utilities, and a sea-level rise flood design elevation option.

Ms. O'Brien

- Working with Ms. Bamford and the Building Inspector on a proposed revision to Section 1.3 of the Town's Zoning Ordinance. This section pertains to the expansion or alteration of a non-conforming use. The revision is intended to streamline the building process by eliminating the need for a variance when elevating an existing structure (maintaining existing footprint) up to 2 feet above the Base Flood Elevation (BFE) plus freeboard within the Special Flood Hazard Area or up to 3 feet outside this area. A variance is most frequently required for beach lots because the existing structure does not meet setbacks, and elevating a structure is considered an expansion. ZBA stated in a memo that they only want to see structures elevating above this new threshold. A draft will be presented to the Planning Board for review and feedback.

Mr. Bassett

- Shared a series of flooding images from the end of August
 - August 18th storm with significant rain falls 1.22" in an hour with a 9.5 high tide event and significant deep flooding 12" at Gentian and Greene St corner.
 - Total of 8 days of flooding in August. Mail went undelivered because of high water levels – disruption of basic services.
 - Blue moon with high tides on August 30-31, flooding with these higher high tides carried over into September.
 - Tropical Storm Lee – high surf but relatively low tide levels, no neighborhood flooding observed.
- CHAT event on August 26th at KB's was successful, with several engaging conversations.
- NHDES Water Quality Testing (9/5/23)
 - Tested water quality on streets and Meadow Pond.
 - Bacteria levels –levels were low in streets, but it was higher in Meadow Pond.
- Board of Selectmen Meeting (9/11)
 - Increase awareness about flooding issues and share with a broader audience because the meeting is televised.
- Flood Ready Neighborhood Meeting (9/13)
 - Mid-afternoon meeting with a great turnout – about 10 residents participated.
 - Gauge Wheeler, staff assistant of Congressman Pappas, attended to listen in on the discussion.

Bob Ladd

- Village District had to cancel the last major entertainment event due to the potential track of Tropical Storm Lee. Even though there was no flooding, major weather events still impact the economy and tourism.

Ms. Hale

- \$2 M of grant funding for working on the final design for the King's Highway Drainage project is slated for Governor Council approval on October 4th. Once approved, the funds will go to Hampton and the final design process (which includes the final engineering design, NHDES Signoff, Bid Specifications, and Construction Documents) can begin.
- Noted that Tropical Storm Lee brought more downed trees in Hampton than flooding.
- Asked Mr. Bassett if they were recording the duration of flooding.

- Mr. Basset responded not in a systematic manner. Photos capture the point of high tide. Noted that flood levels decrease as the tide recedes, although large puddles may remain. Estimates that flooding lasts about 4-5 hours and declines with the tide. The second high tide isn't typically as high.
- The heavy rain events over the last month - multiple Friday deluges with 2+ inches of water in less than an hour resulted in the wastewater treatment plant being inundated and areas of Hampton flooding that hadn't before. An eye opener to system to capacity. The storm drains couldn't keep up until the rain stopped.

Ms. Howard

- The Coastal Adaptation Workgroup (CAW) submitted a Letter of Intent (LOI) for NOAA's Coastal Resilience Challenge grant in late August. CAW brought together several coastal community projects, including ones from SHEA and the Town of Hampton, equaling just over \$28M. If selected and awarded, it would provide Hampton \$1.5M and SHEA \$2.1M over 5 years. NOAA will notify a subset of applicants in mid to late October to submit a full proposal due in February 2024. Grant is competitive nationally. The overall process was a useful exercise, and it helped coordinate partners along the coast.
- If interested in more details or a copy of the LOI, contact Ms. Howard.

Mr. Diener

- Upcoming Coastal Conservation Commission (9/27) will discuss the proposed flood risk disclosure legislation – expecting a lively discussion. Open meeting welcomed others to join. Will provide an update at the next meeting.

Ms. Durfee

- One of Hampton's census tracts was recently designated within the Community Disaster Resilience Zone. She noted that members expressed interest as to why only one tract. Other tracts were ineligible because of the percentage of individuals and families above the 200% poverty level (one of the screening criteria). Other tracts were identified as physically vulnerable but not for social/economic factors. This designation might open up new opportunities for technical assistance and/or give an application an added prioritization boost.
 - FEMA Disaster Resilience Zones Mapper & Methodology
<https://experience.arcgis.com/experience/3fdfd0639ba0403e9414d05654449d32/page/Home/>

Ms. Dionne

- Shared the registration link to sign up for a Hampton-Seabrook Estuary Kayak tour, which is part of SHEA's National Estuaries Week celebration in partnership with the Seacoast Science Center. Gear and equipment are provided, but you can bring your own.

4. Coastal Resilience Coordinator Update

Ms. Bamford provided updates on the following:

- CHAT Outreach Tabling Events - engage the public, share about CHAT, and discuss flooding
 - KBs – located on King's Highway
 - Successful event. CHAT members present spoke with several people (~10) who were interested in learning what the Town is doing.
 - Greene Room – Ashworth Ave
 - Unsuccessful in engaging the public, consider rescheduling or selecting another venue. Patrons seemed to be visitors as opposed to residents.
 - Recommends getting a CHAT table banner to better identify the group.
- Pilot Home Elevation and Buyout Project

- Project team meets monthly.
- Finalizing the targetted survey strategy
 - Created a public outreach mailing card. It will also be available on the Town’s website and through the “notified me” option.

5. Flood Risk Disclosure – continued discussion

A. Jen Coffey, Executive Director, Association of New Jersey Environmental Commissions

- Ms. Durfee introduced Ms. Coffey and shared that the Association of New Jersey Environmental Commission supports environmental commissions, other local boards, public officials, and partners to advocate for strong state and regional environmental policy. She explained that CHAT was most interested in learning about their involvement, processes, and challenges during the adoption process of NJ’s recent legislation for flood risk disclosures in real estate transactions.
- Ms. Coffey noted the importance of working on resilience to improve conditions in the face of a climate crisis that we can’t stop.
 - This initiative was viewed as an equity, justice, and climate bill.
 - NJ has been doing an enormous amount of work on flooding.
 - First state in the nation to create land use regulations based on climate modeling. Because we know that over the last 30, precipitation has increased by 7% and is expected to continue to increase – Big storms are going to get bigger.
 - The new legislation requires a property seller/owner and landlord to disclose if it is ever flooded. (Does this property have a history of flooding? / Did it flood once in 50 years or every 5 years?)
 - It’s a property damage protection and a health issue – Can the new buyer or renter afford it emotionally or financially. Shared risks and concerns associated with regular flooding that results in mold build-up – it takes months or years to figure out there’s black mold in the walls. Started in environmental justice and low-income communities – tend to be located in lower-lying areas – people who could afford to have moved out or are planning. However, some cannot and are subject to the impacts of repeat flooding.
 - Garnered strong support from various community groups and non-profits related to affordable/safe housing and environmental/climate resiliency.
 - Realtors and apartment associations raised concerns. However, recognizing the strong support of the legislation – focused on voicing concerns and negotiating reasonable parameters and standards.
- Rep Muns asked about the realtors’/landlord’s specific concerns. He also already reached out to the head of the NH Board of Realtors – anticipating pushback and expecting it to be more forceful.
 - Ms. Coffey responded the major pushback was on setting a reasonable timeline for flood history – how far back are we looking? Recognizing that flooding will become frequent and intense, more interested in knowing if it has occurred in the last 5-10 years, it is most likely to happen again as opposed to 100 years ago.
- Mr. LaBranche agreed that it makes sense to know the flood history since ownership, but prior to that, it is difficult. Past flood insurance claims should be on record somewhere and made available to the public. Noted that finding basic home insurance, let alone flood insurance, is getting scary in some regions of the country.
 - Ms. Coffey clarified that the legislation states “to the extent known,” which could range from the past 2-5-15-20 years. For rental properties, especially those in low-income areas, the focus is on disclosing that flood zone or the potential for being impacted by flooding

(i.e., projected sea-level rise). In July 2023, NJ adopted new Special Flood Hazard Areas regulations that use climate modeling out to 2100 to show the current floodplain extent and where it could expand over time. Also recognized the growing concerns for flashfloods from high precipitation. There was opposition from seasonal rentals – a concern if you're renting 3 months out of the year, what do you need to disclose – short-term rentals were exempted.

- Mr. Ladd asked how the legislation defines a flooding event
 - Ms. Coffey responded that the language centers around a “natural” flood like a storm event versus “man-made” like a sewer line break.
- Mr. Diener asked if there was pushback from property owners who are not in current flood hazards but are modeled to be at some point between now and 2100. A concern that being forced to disclose potential would devalue their property.
 - Ms. Coffey responded that even though that was an argument, it's becoming more difficult to get flood insurance, so the burden of climate change and acknowledging the impacts is falling to everyone.
- Ms. Durfee asked if a different approach or tactic was taken for building support or advocating for the bill for coastal or inland properties. Was there a discussion about the size of rental units?
 - Ms. Coffey does not recall their being a different approach. She noted an exemption for living spaces above garages like a mother-in-law unit.
- Ms. Howard asked what type of state-level infrastructure needs to be implemented to sustain and make this bill happen.
 - Ms. Coffey shared that open-source mapping resources were critical. NJ has a few resources, [NJ-GeoWeb](#) and [Njfloormappper](#), for identifying if a property is located in a floodplain. Needed to make it possible for anyone or company to access floodplain data easily. Without this technology, it's difficult to implement. NJ Flood Mapper is more straightforward to use.
 - Ms. Howard followed up with whether there's the ability to speak with someone directly or just online resources.
 - Ms. Coffey responded that there isn't a resource center to call, but data is very accessible. One of the online resources is run by the state, and the other by a university. Realtors have become versed through continuing education training.
- Ms. Howard asked whether there is staff for dealing with non-compliance and administering fines.
 - Ms. Coffey responded that corrective action and fines are the weakest part of the law at this point in time. Typically, there is not a provision that's included until there's a demonstrated need/issue. Falls under the licensing part of a realtor/landlord's ethics and legal responsibility.
- Rep Muns noted there was a provision for renters. If the landlord was not fully transparent, they could back out of the lease, but buyers had no equivalent option.
 - Ms. Durfee asked about the mechanism for backing out of an agreement.
 - Mr. LaBranche asked how this applies to “sale by owner.”
 - Ms. Coffey shared that if the regulation has been violated or damage has been incurred, it's a civil matter/individual lawsuit. She also noted that the regulation intends to cover most situations – most property sales by realtors. Not aware of the sale by owner percentage, but probably a relatively small fraction. In NJ, when a law is passed/adopted, compliance depends on outreach, training, and awareness by non-profits. Not until we see a non-compliance issue is a process developed – going for improvement and progress, not perfection.

- In retrospect, Mr. Bassett asked if there was anything that you wished had been included that was not. Are you satisfied with how it unfolded, or do you wish other elements were added to make it better?
 - Ms. Coffey responded that having an enforcement provision or at least a proactive statement about the legal standing would be nice. It has only been in place for a few months – need a year to look back and see how it’s working.

B. Draft bill with CHAT’s revisions

Ms. Durfee asked if there were additional comments or feedback on the draft Flood Risk Disclosure legislation.

- Ms. Bashline asked if the Portsmouth Housing Authority would be a good resource for reviewing this.
 - Ms. Durfee would check to see which housing authority covers this region.
 - Rep Muns agreed that reaching out to some of the housing advocacy organizations in the state would be helpful. Greater the endorsement, the better the chances of passing it.
 - Ms. Howard shared that NH Housing and the Workforce Housing Coalition of the Greater Seacoast are two housing groups that the Coastal Adaptation Workgroup has partnered with in the past – work more on a state and regional policy level.
- Mr. Ladd shared a concern about causality insurance policy to exclude coverage for a flood; depending on how that is presented, they could use it to deny coverage. Issues associated with securing insurance and how we define flooding.
 - Rep Muns noted that he has been reaching out to insurance agents for their perspective – is there anything that would impact a decision to insure a property or not, such as Tobey and Merrill.
- Rep Muns provided a general update on the timing for this draft legislation.
 - The draft bill was submitted to the House of Representatives this past Friday (9/15).
 - The draft version, developed with CHAT comments, was submitted and accepted by Legislative Services assigned 23-2074. It will be assigned to a drafting attorney who will make it legal and in the correct format.
 - The final version has to be signed off on by the end of November. Not sure when the first draft will be available, but will have an opportunity to review and comment.
 - In the interim, it's important to begin socializing the current draft with those who would testify in favor or against the bill.
 - Rep Muns has reached out to the following groups/organizations.
 - NH Realtors Association - received some initial concerns, mainly regarding additional liability to the property seller and impacting property values. Need to be transparent and not create an unknown liability for the new owner. Like to give them the opportunity to provide comments and small tweaks that won't change the intent of the bill. NH Realtors recommended contacting the landlord association, which still needs to happen. Provide an opportunity to get feedback and tweak.
 - The Commission of Business and Economic Affairs – made aware of the bill, given they are referenced as a supporting resource.
 - House Congressional Committee –
 - Reached out to committee chair for input; expecting pushback – small government less regulation is better stance. It is better to know this now than at the hearing so we can address the language now.

- Lined up a few sponsors in the House – all Democrats but want republican support too.
 - Want to identify inland representatives that could also be impacted by riverine floodings.
- Sen Altschiller shared that she's reaching out to the chair of the Senate Commerce Committee, who also represents Seabrook – hopeful to bring on board. Will have a briefing with the Committee before the hearing begins.
 - Present two methods for approaching this legislation
 - Submit to just the House, but if it fails, it cannot be reintroduced until the next session.
 - Submit simultaneously to House and Senate but requires a substantial educational campaign at the beginning – how is the group feeling? Have two opportunities to get it passed.
 - Rep Muns added if you lose the bill in the House, it's dead and never gets to the Senate. But if the companion Senate bill passes, you get a second attempt with the House.
 - Mr. Diener asked if there is any data supporting whether we might be more successful with one option over the other?
 - Sen. Altschiller responded that it's casting a wider net, so the opportunity is greater, but in casting the wider net, you're stretching the capacity of the advocates, requires a lot of preparation.
 - Mr. Diener followed up with when do we need to make that decision by
 - Sen Altschiller noted a decision would need to be made between September 28th and October 12th.
 - Rep Muns noted that the reactions of the committee chairs might influence this decision. He and Sen Altschiller can report back to Liz to pass along to CHAT.
- Mr. LaBranche asked if the hearings were virtual or in-person? He is willing to testify in support but will be out of state over the winter.
 - Rep Muns noted that you can submit testimony and watch remotely but cannot participate remotely.
- Rep Muns shared that enlisting as many to attend the hearings in person is important. Speaks to the necessity and importance. Can CHAT help to mobilize that group of people? Need to identify riverine floodplain communities to reach out and get their support.
 - Ms. Durfee noted that the flood hazard mapper could be used
 - Ms. Gilbert shared that she can easily put together a list.
 - Ms. Howard reminded the group that State agencies cannot advocate for legislation.
 - Mr. Diener offered to check with the NH Association of Conservation Commission (NHACC) to see if there are others around the state that could generate support. – Broaden the reach.
- Ms. Durfee asked about the Coastal Conservation Roundtable and their discussion on this topic.
 - Mr. Diener shared that it's a topic up for discussion at their upcoming meeting. Hope to get additional insight for advancing this effort.

6. Discuss next CHAT Recommendation(s) to Prioritize

There was a brief discussion on what additional CHAT recommendations the group would like to focus on next.

- Ms. O'Brien recommended revisiting the parking placards, which seem like a low-hanging fruit.

- Ms. Durfee asked members to review the list to help prioritize, which will help outline and shape future CHAT meetings.

7. Next meeting: October 17, 2023, 1pm-3pm

Tentative agenda items:

- a. Flood Ready Neighborhoods Program
- b. Master Plan Resilience Actions

8. Adjourn

Meeting adjourned at 3:03 pm.