



**Town of Berlin
Municipal Office Building
108 Shed Road**

**Berlin, VT. 05602
Regular Select Board Meetings
1st & 3rd Monday of Each Month**

**Wednesday, November 17, 2010
7:00 PM**

Selectboard Members: Nancy Driscoll, Vice Chair; Roberta Haskin, Secretary; Brad Towne, and Jonathan Goddard. Absent: Susan Gretkowski, Chair. Present: Jeff Schulz, Town Administrator; Scott Smith, Planning Commission Chair; Rob Young, Nancy Tripp, Robert Wernecke. All items are unanimous unless otherwise noted.

APPROVED MINUTES

Public Comment

There was no public comment.

Introductions and Update on Floodplain Issues

Members of the Selectboard and Planning Commission introduced themselves to everyone present.

ANR Floodplain Presentation – Ned Swanberg

Ned Swanberg, Agency of Natural Resources representative, stated that the greatest amount of damage to property from flooding is from the power of water running through the landscape and the erosive affect the water has on the landscape. **Ned** stated that the costs incurred by this damage is often unbudgeted and municipalities look to FEMA for funding help when there is damage on a county-wide level. He stated that this often requires non federal matching funds from the municipality, State or private sources depending on the type of grant being pursued. **Ned** stated that the functions of the floodplain are to store flood waters and to convey flood water. He stated that the floodplain areas are valued for uses such as agriculture and forestry, and part of a reliable system to deal with a great deal of water. He added that these areas are often valleys within the ground water recharge zones for aquifers. **Ned** stated that floodplains are useful in that they filter sediment out of water which provides good soil for agricultural use and good habitats for animals and residents. He stated that in the flood of 1927 most of the damage in the northeast was concentrated in Vermont. **Ned** stated that private insurance agencies did not have the resources to pay out the money to everyone claiming damage and took flood insurance off of the homeowners' policy. He stated that in 1968 the Federal government adopted the National Flood Insurance Program which provides opportunities for individuals living in a floodplain to have insurance coverage. He added that the reasoning behind the National Flood Insurance Program was to alleviate the burden of insurance payouts off of all the taxpayers and put the burden on those living within the floodplain.

Ned stated that the challenge became how to gain the benefits of being in the National Flood Insurance Program while guiding development out of the flood hazard zones over time. He stated that one of the solutions was to instigate the base flood hazard elevation. **Ned** stated that the base flood elevation is the 100 year flood zone which has a 1% annual chance of flooding. He stated that within that area is the special flood hazard area and a narrower section called the floodway. **Ned** stated that in some parts of the country this area is stringently regulated and in other parts they are not as strongly regulated. He stated that in order to participate in the NFIP, there need to be regulations for this zone. **Ned** stated that currently FEMA is in the process of updating the flood hazard maps to instigate the digital flood insurance rate maps with an ortho photo in the background to help with orientation and the data will be available on paper, on the web,

and also as a GIS data layer. He stated that the flood hazard study used to be town wide and are now county wide. **Ned** stated that looking at the GIS data layer over an online map for Washington County, there are at least 1,000 structures within the county that are in the flood hazard zone. He stated that some things that a family could do to get out of the way of flooding, is to have a plan, get flood insurance for your property, get finances in order in case of flooding, get structures elevated to conform to the FEMA guidelines, or relocate the structure. **Ned** stated that a community can adopt regulations to keep structures out of the flood hazard zone to reduce the risk of damage due to flooding. He stated that a community can get flood mitigation money from FEMA to help in elevating or relocating structures that are currently in the flood hazard zone and try to improve the emergency response capacity within a community. **Ned** stated that as a State, Vermont could provide erosion and mitigation information to the residents. He stated that the State could provide suggestions on how to mitigate damages and develop incentives to the communities. **Ned** stated that the digital flood insurance maps and study do not address some concerns such as worst case or probable maximum flood, dam breach impact areas, ice and debris jams, impacts of infrastructure failures, or impacts due to stream changes. He stated that after a flooding disaster, people are looking for help from FEMA, the State, the Municipality and other sources. **Ned** stated that people want to have the stream dredged, burm up the sides of the stream, fill around the property and armor the bank of the stream which are all site based interventions. He stated that these interventions end up diminishing the streams ability to convey the water and the floodway assets are lost and the water volume and velocity is being directed at another property. He added that the question that FEMA is looking at is how to diminish the damages of flooding without adding the burden onto property owners downstream. **Ned** stated that the best way to diminish damages was to restrict development within the flood hazard zones. He stated that Berlin has approximately 163 structures in the fluvial erosion hazard area and of those structures 37 have flood insurance which leaves approximately 75% of the structures uninsured. **Ned** stated that if the base flood elevation was to be elevated by one foot, and the water does not rise beyond that one foot stage, you would have the floodway. He stated that the water in the floodway would be traveling at a high velocity and there are 53 residents currently living in the floodway along the Dog River. **Ned** stated that he hopes that Berlin has provisions in the Town Plan to deal with damages to those structures that are in the floodway. He stated that there is nothing in the current Town Plan in Berlin that addresses this issue. **Ned** stated that Berlin needs to determine what they can do for those living within the floodway and how to mitigate any damages to those structures. He stated that all of the municipalities in Vermont are in the midst of updating their pre-disaster mitigation plans and updating the flood hazard regulations. He added that most communities are looking at disasters such as earthquakes, hazardous material spills and winter storm damage.

Ned stated that a priority should be flooding and what course to take in the event of flooding in different communities. He stated that Berlin needs to make sure that their priorities are being addressed when updating the regulations so that Berlin would be able to access grant money in the event of a disaster. **Ned** stated that the ANR models available online are designed to help communities think of setting priorities for disasters. He stated that some communities adopt the bylaw as a whole, and others pick it apart to make the new bylaws fit within the current regulations. **Ned** stated that the reasoning behind restricting development within the fluvial erosion hazard area is to diminish damages to property. He stated that if there is significant improvements added to structures currently in the special hazard zone, those improvements should be at least one foot above the base flood elevation. He added that if the significant improvements adhere to this regulation, there would be a substantial decrease in flood insurance costs and could benefit property owners. **Ned** stated that a substantial improvement would be any improvement that costs approximately 50% of the value of the current structure and should be elevated above the base flood elevation. He stated that using a certificate of occupancy is designed to make enforcing the regulation easier for communities and eliminate the need for violation enforcement. **Ned** stated that ANR is trying to get communities to look ahead and think about bridges, size of culverts, and roads to help decrease damages to infrastructures. He stated that Berlin can choose to move in a different direction for the future and adopt the bylaws set forth by FEMA and the State or they may choose to do nothing and continue with what regulations they have currently. **Ned** stated that the FEMA maps will be adopted by June or July and the community needs to have a bylaw that is acceptable to be able to continue with the NFIP. He stated that the Selectboard could adopt an interim bylaw, which would provide a two year space in which to follow up with adopting a bylaw, as long as Berlin is working on updating the Town Plan. **Bob Wernecke** asked when to expect the letter of determination from FEMA on adopting the Flood Hazard Maps? **Ned** stated that he expects that letter in December 2010 and gives communities six months to adopt regulations. **Rob Young** asked if the maps that show the different floodways in different areas is available to the public?

Ned responded that maps are currently available as GIS data which would be shown over a map of the area. **Jonathan Goddard** asked who developed the bylaws that the community is being asked to adopt? **Ned** stated that the bylaws were developed by Vermont DEC using the guidelines set forth by the NFIP and FEMA. He stated that Montpelier is reviewing a program to collect points and reduce the cost of flood insurance that Berlin may want to review as well. **Ned** stated that Montpelier and Barre City have a big part of the voting public in the flood hazard zone, where Berlin has approximately 13% of the voting public in the hazard zones. He stated that Berlin needs to decide how much of taxpayer money would go toward looking into the different programs available. **Ned** stated that he would like to host events, before the FEMA maps are adopted, for those individuals that already have structures within the hazard zone. He stated that these outreach events would be open to those who were not in the hazard zone but now are under the new maps, and could receive flood insurance anyway. **Bob Wernecke** asked if the model bylaws that are on the ANR website exceed the minimum requirements set forth by FEMA? **Ned** stated that yes the models exceed the minimum requirements because the models were developed with an idea of which direction ANR wants to proceed for the future. He stated that the FEMA maps are based on past history and will change over time, but they do not tell anyone what may happen in the future. **Nancy Driscoll** asked if there was a system to notify individuals who may not have been in the floodplain previously but now are in the floodplain? **Ned** stated that it would be up to the municipality to notify individuals who may be in the floodplain now that were not in the floodplain previously. He stated that ANR would like to have people that are close to the floodplain attend the outreach events to determine whether they would like to have flood insurance or not. He added that lenders will have determination agencies determine whether a property is in the floodplain and the lender will notify the landowner that they need flood insurance. **Bob Wernecke** stated that Montpelier has resolved the discrepancies with their maps but have not yet developed the revised maps and Barre City is still objecting some of their area. He stated that it is very important to review development within the flood hazard zones, but that the issues are administering the bylaws and what they mean to the property owners. **Bob** stated that there were a number of issues with the original draft of the bylaws that the Planning Commission had brought to the Selectboard. He stated that there was some discrepancy in the scanner provisions that would confuse the property owners. **Ned** stated that some of the provisions are not redundant in that the provisions in the community did not meet the minimum requirements. He stated that anything that is contradictory needs to be examined and corrected within the Town bylaws. **Bob** stated that the Town needs to adopt bylaws that may be understood by the average individual. **Jeff Schulz** stated that the variance section in the flood hazard regulations is a little different than the current variance section because the section in the special circumstances that exist within the floodplain. Scott Smith asked why debris was not factored in the equation when it comes to floods? **Ned** stated that debris was too complex an issue to factor in the equation. He stated that there were just too many variables to predict the outcome. **Ned** stated that a mobile home that is replaced in a trailer park would fall under substantial improvement. He stated that the mobile home park on Cedar Drive is in the floodplain and the new bylaws would allow the Town to permit a replacement of a mobile home with the condition that it be elevated above the base flood elevation for that area. **Bob Wernecke** stated that the issue of flooding in that area would still be the same. He stated that if there was flooding and the mobile home park needed to be evacuated, the Town is still dealing with the road and bridge issues and the Town only has so many fire trucks to help with the evacuation.

Next Steps

Bob Wernecke stated that the Selectboard and the Planning Commission need to decide what the next steps will be for the Town. He stated that there are parts of the model bylaws that exceed anything the Town currently has in place, such as a certificate of occupancy. **Ned** stated that the Town had a certificate of occupancy requirement at one time and decided to do away with that requirement. He suggested the Town either reinstate the certificate of occupancy or come up with a plan to make sure that structures in the floodplain are built correctly according to FEMA regulations. **Bob Wernecke** stated that because the model bylaws exceed the minimum standards for FEMA the Town does not need to adopt the model as a whole to be in compliance with FEMA regulations. **Ned** stated that if Vermont DEC was to require a certificate of occupancy or a letter of compliance in their review of a permit and the Town was not willing to comply with that requirement, the permit could be forwarded to FEMA for consideration. He stated that these regulations are asking that the Zoning Administrator to visit the site three or four times to make sure of the boundaries and the building site. **Ned** stated that most Towns will not be willing to take that much time for one permit application and by prohibiting any new development in the floodplain, Towns will not have to spend that much time and effort. He stated that the Town regulations require applicant's to gain all

other required permits from the State before gaining Town approval. **Ned** stated that this goes against State statute and all other departments of the State could require the same thing. He stated that the Town could address this issue by telling the applicant what may be needed for State permits, approve the application, and the applicant will not be able to start any development until all other permits are approved. **Ned** stated that the Town could provide for development in the special flood hazard zone in certain areas of Town that would not have any adverse affects on the Town or other properties. **Bob Wernecke** stated that the model has references to Statutes that may not be relevant to the applicant. He stated that when the State changes chapters and section of the statutes and the Federal government changes codes, the Town cannot keep current with those changes, so the reference becomes irrelevant. **Nancy Driscoll** suggested that instead of the reference, the Town could copy the paragraph into the Town's regulations. **Jeff Schulz** asked **Ned** to come and meet with the Planning Commission at one of the meetings in December.

For the Select Board:

Rebecca Richardson, Administrative Assistant