

MINUTES OF THE

COMMISSIONERS' COURT

WORKSHOP MEETING - JANUARY 27, 2020

On the 27th day of January, 2020, there was a Workshop Meeting of the Commissioners' Court in the Commissioners' Courtroom, 2840 Hwy 35 N, Rockport, Aransas County, Texas, with the following members present: **Jack Chaney**, Commissioner, Precinct 1; **Leslie "Bubba" Casterline**, Commissioner, Precinct 2 and Judge Pro-Tem; **Charles Smith**, Commissioner, Precinct 3; **Wendy Laubach**, Commissioner, Precinct 4; and **Valerie K. Amason**, County Clerk.

Other County Officers present were **Jacky Cockerham**, Interim County Auditor; **Tana Taylor**; First Assistant County Auditor; **David Reid**, Road Administrator/Drainage Engineer/Stormwater Management Engineer; **Katherine Comeaux**, Development Services Coordinator; **Valerie Gonzalez**, Environmental Health Director; **Debra Simank**, Health Inspector;

Members of Local City Government, Community Groups and other Interested Parties present:

The Rockport Pilot Newspaper: **Mike Probst**, Editor and Publisher;

The Meeting was convened at **1:30 p.m.** at which time a quorum was declared by County Judge Pro-Tem, Leslie Casterline, WHEREUPON, the following proceedings were had and done to wit:

ITEMS FOR DELIBERATION AND/OR ACTION

1. Discuss amendments to the Aransas County Floodplain Management & Watershed Protection Order:

- a) Updates to statutory provisions
- b) Amendments to variance procedures

- c) Reformatting & clarification on flood zones
- d) Definition added for clarity
- e) Updates to compliance procedures

2. Future development regulations to consider:

- a) Aransas County Subdivision Order
- b) International Fire Code
- c) International Residency Code

Katherine Comeaux: The bulk of this workshop is discussion regarding the recent amendments to our Floodplain Order, I just want to start with a brief summary of what the National Flood Insurance Program is and why we participate in it. The NFI is administered by FEMA and if the community adopts the Flood Insurance Rate Maps, the Flood Insurance Studies, and the Minimum Standards that the Federal Government sets, in an exchange our residents get the option of getting federally subsidized flood insurance and after a disaster, we as a community get more options for grants. So, the reason that we maintain the maps, the studies, and that we have these regulations, is so that we can continue to provide that support for our residents and property owners. Aransas County is a little bit different, we do have a little bit more stringent floodplain regulations in our unincorporated areas, we regulate the X Zones, one thing to know about the National Flood Insurance Program, the way that our jurisdictions are broken up, Aransas County's jurisdiction is just in the unincorporated portions, Aransas Pass, the City of Rockport, Town of Fulton, each are separate National Flood Insurance Participating Communities with separate standards and so, whenever FEMA comes

in to do an audit, or their state corresponding agency Texas Water Development Board, they look at each entity at that level in order to determine whether or not the regulations are actually being enforced the way they have been adopted.

Commissioner Smith: Could you define the various zones for the county?

Katherine: Ok, so it would be Special Flood Hazard Areas are inside the 100 year floodplain, our maps are very up to date, so for us the Special Flood Hazard Areas are going to be the A, AE, AO, V & VE Zones, X is outside of the 100 year floodplain. So, in our Amended Order the X and the shaded X, which is what FEMA calls the 500 year floodplain, those are areas outside the Special Flood Hazard Area and outside of the federal requirements to have that flood insurance to get federal funding. For our purposes we have classified the X and the shaded X as moderate to low risk, the A Zones are where we anticipate flooding from rising water and the V (Velocity) Zones are where we anticipate wave action that could impact the structure of a home and all of that is mapped by FEMA. In Texas we have the authority to adopt our own Floodplain using our own data which is what we have done in our X Zones and so that's where the County has done studies and we utilize that outside the Special Flood Hazard Areas to try to give new builds and substantially damaged homes a better idea of what would be more resilient and the better elevation to build at.

Commissioner Chaney: Do we have any, like for AE Zones, do we have elevations of what that is as far as sea level goes?

Katherine: And that's the defining one of the differentiating factors of flood zones, the Special Flood Hazard Zones are based

off of mean sea level and that can vary from lot to lot and from street to street, the Flood Insurance Rate Maps are, the way that they show those Zones are, very all over the place, it really depends by address what the required flood elevation level will be. To make these maps FEMA uses Hydrological Reports but they also use Flood Damage Claims and so if there is an area that's been largely undeveloped it may have a lower base flood elevation level or it may not have one mapped and so that's where we try to look at it on a case by case basis.

Commissioner Laubach: Ok, I understand A is rising water and V is a place that might be wave action and X is kind of a lower risk area, what's the difference between A, AE, and AO, and what's the difference between V and VE?

Katherine: So, the V and the A versus the VE and the AE just means if it has an E there is an elevation mapped for it and so most of our county already has that elevation mapped, that's why we are the level of county that we are, they have mapped that base flood, that 1% flood level, and if it has an E that means it already has that determined flood level for that area. And that's mainly in the northern area of our county that is undeveloped up by the Refugio border and in those areas we would have to determine BFE using the information that we did have using the Flood Insurance Study and the Insurance Rate Maps. Our builders and developers when we pull a permit you have to, if you're in an area where the Special Flood Hazard Area is, the elevation requirements are based off of mean sea level, you have to get an elevation certificate, you have to have a Surveyor come out and set a hub, that way we know where the home is in

relation to the mean sea level without having to shoot the elevation.

Commissioner Chaney: So an AE and a VE, they would have to be how far above the mean, or however you do that?

Katherine: Well, say it's an AE Zone with a BFE of 6 feet and the ground level is at 4 feet, then because the BFE level is at 6 feet we have to have a $1\frac{1}{2}$ Freeboard, an additional elevation requirement, so our finished elevation for that top finished floor would have to be at $7\frac{1}{2}$ feet. So, depending on where the grade is, depending on what the flood zone is, it can change how high above ground you have to elevate your home. Usually in a neighborhood you'll have pretty general, similar, flood zones, but there are a lot of areas in the canal subdivisions where it can differentiate lot by lot, and like the AO Zones, there is only one area where we have the AO Zones, and that is City By The Sea and that is a very specific type of flood zone that involves coastal flooding and it's FEMA's way of saying *"It's going to flood, there is possibly going to be Velocity, we don't know which direction it would come from, so we are going to map it AO"*.

Commissioner Smith: What does the O stand for, other?

Katherine: "Other", yeah (laughingly), if you've seen the older flood maps you'll notice it's A, 1-99, or V, 1-99, those are older maps and we don't have any of those flood zone designations on ours anymore.

Commissioner Chaney: What's the 1-99?

Katherine: Those were estimates for elevations and that was the numbers that former flood plain administrators had to use in order to extrapolate data and determine BFE.

Commissioner Chaney: So right now the BFE plus the Special Flood Elevation, plus 18", is that what we are doing?

Katherine: Yes, in the Special Flood Hazard areas, the BFE and 18 inches. In the X Zone and the AO Zone, AO Zone is different in the regard that you don't go off of the sea level, it's off of grade and in those instances we measure the required elevation off of the highest adjacent grade. So, for X zones and AO zones it's based off of the highest adjacent grade with the topographical features of the lot, but in any other special flood hazard areas it's all based off of sea level and it's all based off of the predetermined flood elevation levels on flood insurance rate maps.

Commissioner Smith: You know we have a lot of depressions in our county, so you may have in one street, maybe three different categories and I guess our Light R, which are shot every four feet and last done in 2005 or 2006, determines that, is that right David?

David Reid: Yeah something like that, we do have Light R and it's about 15 years old.

Katherine: And we can use that data in the X Zones, once we get into that 100 year floodplain we are in FEMA's territory so we have to go by their data until at such time they consent to give us an advisory to BFE which would be a mixed blessing. So, right now in the X Zones we have that Light R data that has been put together and we use that to look at it case by case. The

way FEMA looks at it is if you are in multiple flood zones, because we have homes that are in not even just one street, but even one lot may have multiple flood zones, and the way that the Code of Federal Regulations dictates, whatever the most stringent floodplain regulations are, that the house sits in, is what we have to go by, so even if the corner of the house is in that higher standard V Zone we have to go by the V Zone regulations in order to get them permitted.

Commissioner Smith: It doesn't really seem to differentiate in this county, what zone you're in and how much you pay for your flood insurance, one price fits all, why are we having to do all of these categories if we are not going to give people credit for building in higher elevated areas?

Katherine: Within the 100 year floodplain, if they elevate 2 feet or higher they do get better flood insurance premiums, the reason why I made the comment about the Advisory BFE being a mixed bag is that, if we were to have that match it would require higher standards on our end and would be more costly to develop the X Zone but it would mean that residents and property owners inside the X Zone would be eligible for those discounts and for programs like the ICC (Increased Cost Compliance) after a hurricane. Programs like that at this point our residents and property owners in the X Zones are not eligible for it because the FEMA data...

Commissioner Casterline: Well, if you live you, I live in the X Zone and it's \$300 - \$400 a year.

Commissioner Smith: I pay the same amount as a person living in Key Allegro.

Commissioner Casterline: No.

Commissioner Smith: I do.

Katherine: The sweet spot for insurance, FEMA has gotten to a point, what they determined is the best elevation requirement, is 2 feet above the BFE, that's what they are recommending, but they leave it up to you guys to implement those things because that's the hard part.

Commissioner Smith: We are set at 18 inches?

Katherine: We are.

Commissioner Smith: Are you recommending that we go to two feet, will it save us money?

Katherine: It would cost more money on the front end but it would save money in the long run. The Natural Mitigate Saves Report says if you build to two feet or higher..

Commissioner Smith: Everybody else would be grandfathered at the lower level, it would only be for new construction, right?

Katherine: Correct.

David Reid: If we get another hurricane and all of these houses that we've just re-permitted or have new permits, if we raise that elevation to 2 feet, we are making them non-compliant. And so if they are substantially damaged, they are no longer grandfathered in, they would have to raise the houses.

Commissioner Chaney: But that would not affect the houses that were built under the 18 inches.

David Reid: It would, if we raise the minimum amount of freeboard and if a house is substantially damaged, and we say

substantially damaged a lot since the hurricane, but it's really substantial repairs, whatever they are, whatever the reason, even if you were just adding on to your existing house.

Katherine: One thing we could consider in the future if we do decide to raise the freeboard, there are jurisdictions that adopt for just new construction and leave substantially damaged out of that language until a later time.

Commissioner Smith: Do you think we can get away with that?

Katherine: You can, but the bottom line is as long as we don't try to go below the FEMA minimum standards, that map based flood elevation, they want us to seek the higher standards but it does complicate things, so that's something to think about going forward.

Commissioner Casterline: Haven't yawl talked about dropping the Substantially Damaged in the X Zones?

Katherine: We did, and in the end we did not incorporate those into the new amendment, we did not want to go backwards. And the language that was previously adopted by the Commission in the X Zone does give us that little bit of flexibility to look at things on a more case by case basis and try to make sure that what we are deeming as more substantially damaged, substantially improved, and what we are requiring, as far as elevation, that we are doing it by making more informed decisions on those, but giving us the ability to be able to help people continue to get back into homes.

Commissioner Chaney: If they were built to the standards in 2018 and then we had another hurricane in 2022, or whatever, then if you take the substantial damage off of X, then it takes

that problem away, but if you put a substantial damage on AE or VE, then they want to come back, they would have to come back to the two foot, right?

Commissioner Casterline: We don't have the option to mess with the Substantial Damage Requirement on anything but the X Zone, is that right?

Katherine: You can still require a lower BFE, like right now our lower BFE is at 18 inches, we can say if it was a new build you have to go to 2 feet, and substantially damaged, we are still requiring the 18 inches, depending on where it was built, but that would only be recommended as transitional because it could create the continual non-compliance issues, but it would be an option for transitioning into it, to the higher standards.

But real quick let me get myself back on track. For us, the new flood insurance map update that we adopted does not impact our floodplain jurisdiction, it was the flood insurance rate map over at Aransas Pass that they re-did because of the levy, or the levy that is no longer a levy. One of the amendments that we did, back in December, is Auto Adopt Language, so going forward whenever FEMA has gone through their process to adopt the New Flood Insurance Rate Map it will automatically be adopted, and it will take them a few years to do this. The other changes that are in the Amended Flood Order is we added definitions for clarity and consistency, because some of the definitions like base flood depth, FEMA doesn't consider them required, most jurisdictions don't have to deal with them, but we are a Coastal Community that has unique flood issues and so I felt that it was important to have a lot of these definitions entered so that if one of our residents pulls it up they are

able to see these FEMA terms that are reflected in our Adopted Order.

The other big change was the variance section in our Order, the way that it was previously worded it addressed variances in a way that made it very local and it made it an avenue for residents to appeal permitting decisions made by the Floodplain Administrator but what a Floodplain Variance really is it's a Federal process that has very strict Federal Guidelines outlined in the CFR (Code of Federal Regulations) and so the amendments to the Variance Section is just updating it so that it reflects that Federal process. In order to grant a Floodplain Variance we have to be very careful, we can make a determination to grant a variance that FEMA can come back later and say "That doesn't meet the CFR", and they can come back and say "It's not a variance", and we have to proceed with remediating this.

Commissioner Laubach: Are you proposing a change that would prevent our getting a variance that violated CFR's or just noting there could be a discrepancy?

Katherine: It's a change mainly to make sure that we are just more aware of the impact.

Commissioner Laubach: There can still be a variance but it's more obvious that the variance could cause a problem.

Katherine: Correct, and a good example of a legitimate variance, luckily we didn't have to pursue this, it ended up being a mistake on the final elevation certificate, but FEMA, for a variance, they want to see a hardship that has nothing to do with money, they want to see a hardship that has to do with the site, they don't want to hear that having to build higher

will mean that a property owner cannot afford to build the home, they want to see something that is particular to this job. We had one where the contractor submitted everything that they were supposed to, did all the inspections that they were supposed to, and sometime in between the middle elevation check and the end elevation check, it came out as being non-compliant and when I talked to FEMA and the Texas Water Development Board they said that would be an example of a variance that they would not protest. Luckily the Final Elevation Certificate ended up being wrong and we didn't have to pursue that, but that's an example where you can see that there's clear evidence that the contractor has not tried to skirt the regulations, where the homeowners have not tried to skirt the regulations and it does not have anything to do with that personal heart string, basically.

Commissioner Smith: So, if a mistake occurred somewhere in the process, say an elevation was not up to snuff, they wouldn't consider that a variance, they would just forget it?

Katherine: They would, basically, they would say ok, we looked at the record and the County has done their due diligence to make sure that the code was enforced and it seems like the contractor was doing their due diligence as well, and in this instance we thought that the sand had shifted, perhaps the foundation had sunk a little during the construction, completely outside of anyone's control.

Commissioner Smith: I can understand that but we had a situation about 7 to 9 years ago, where a house was built at the FEMA requirement but 6 inches lower than the elevation that we required at the time, not only did we record it in the property

records but we ended up fining this guy because we actually went out and shot the HUB for them and the subcontractor ignored it.

Katherine: In that type of situation you did exactly what you were supposed to. But a variance could have been granted because it did not violate the core NFIP regulations.

Commissioner Chaney: It got their attention though.

Katherine: Anyway, our new Flood Order has a lot more information, a lot more direction, so hopefully in the future, if someone comes to us or to the court requesting a variance there will be a little more understanding about what that means.

In regards to compliance, that was another amendment that was, it was a lot of re-formatting. In the previous order you would see a lot of the compliance provisions kind of sporadically throughout the order as it pertained to that specific provision and in the amended version it's all together in one spot. There is some additional criteria but it's only the pre-legal bit, basically what we are trying to do is seek compliance through voluntary compliance and education.

In regards to Future Development Regulations to consider, so as far as regulating inside the X Zone I wanted to make the Commission aware of those regulations that we do have the legal authority to adopt at this point. I did want to talk a little about our subdivision order and put a bug in your ear for some amendments that I would like to approach you about in the near future. On Subdivision Order, I would like us to consider a change in our required minimum lot sizes, if there is public water and sewer, in those areas the way that we regulate lot size in the County is based off of our septic requirements, and

once you have that public water and sewer, us determining the lot size gets a little bit gray, it becomes land use regulation. Hopefully this was reduce the number of unnecessary variances coming before the commission.

Commissioner Smith: What do you recommend, to go to what?

Katherine: Well, I actually like Victoria County, as long as you meet the sewer and water there is no minimum lot size, and this is where I want to put this out there for you to think about because if you do have a minimum lot size that you feel like we should be adhering to regardless, I want to know and make sure we incorporate that.

Commissioner Smith: I can understand the pro, but one of the cons would be high density development which would cut out understory, trees and everything else there.

Commissioner Casterline: I don't know if it would cut out or if it would increase it because they were spread out so much.

Commissioner Laubach: It looks like you could save more trees.

Commissioner Smith: Well, one of the ways that you can put more units with higher density on a piece of property is not to limit it to one story. We never adopted anything like that because we did not have the authority to do so.

David Reid: I don't see anything in Texas Statutes that gives Counties the right to regulate density for zoning.

Commissioner Smith: No, I know, we tried to get that authority and they turned us down.

David: So to say that there is a minimum lot size for a lot that has water and sewer, I don't think that we really have the authority.

Commissioner Smith: What we did do is go after the tree situation, where we restricted clear cutting.

David: We have that, and we also have drainage criteria that is tied to impervious cover and that's what we have to deter really high density. They can still have it but they will have to do a lot of drainage work to make it meet our criteria.

Commissioner Casterline: So David, if we don't have the authority to regulate lot size, do we have the authority to regulate height?

David: We have the authority to regulate height when it is flood related.

Katherine: As far as trying to encourage building upward, I always try to advise people, if you're not close to a fire hydrant that may affect your homeowner's insurance. We do have options to adopt portions of the fire code.

I did want to mention flag lots before we leave subdivisions. We have a lot of very large tracts out in the county and one of the ways that a lot of the developers want to approach us about developing these large 5 or 10 acre tracts is subdividing it in what they call "flag lots". We don't currently allow flag lots unless they have a drive way of 50', we get requests for them a lot so I would like for the Commission to consider, if we were to allow them, my recommendation would be that we would only do so if the homeowner was willing to develop a driveway that would allow the ingress and egress for emergency vehicle access which

would be at least a 20' wide driveway with a compaction of a certain amount so that it would support a fire truck.

Commissioner Casterline: We currently have the regulation of a 50' frontage on a paved road.

Katherine: I believe that it's just on an improved right of way because we do have some paper streets and roads that are not paved that we do have development on.

Commissioner Casterline: But you're talking about even though they might have to have if they have 50' on the road, us regulating the driveway that they have in there?

Katherine: Yes.

Commissioner Chaney: If we allow flag lots, are we, is that going to become a public right-of-way?

Katherine: You know, I looked that up and it kind of threw me that it was the reason that we had not allowed flag lots because typically just making a driveway does not make it a public right-of-way, the intention would be to make it a private driveway, just making sure it's a standard to where it is safe.

Commissioner Smith: If you allowed flag lots you would have to make sure that they fell under the lot sizes you're talking about in an area where you have water and sewer facilities I could see that it would not be a problem, but if you're going to go out into a rural area you're going to have some conflict when you carve out those right-of-ways or alleyways, if you will, to get back to the back properties you've reduced the size of the properties out close to the road.

Katherine: The way I would recommend that we look at it, if you did allow it, is to say that the back part wherever it widens would be the developable portion of the lot because that's the only area where they can put a septic. And so for septic regulations, we wouldn't want to touch that or to give them a loophole to get around any of that.

Commissioner Casterline: We would want to leave them where they were pretty restricted, where they would have to come in and see code enforcement.

Commissioner Smith: Even more than that, if you don't have water or sewer, then there are regulations that if you dig a well for drinking water, it has to be 50' away from your drain field for your septic system.

Katherine: I know that there are issues that come up all of the time where a property has been landlocked and they have an easement that has been dedicated by necessity just by the fact that people have been using it for so long, if we were to allow them I would recommend that our flag lot plats have very specific guidelines that would say "This is a private ingress/egress driveway, this is not to be used as a public access point for any property in the back", just being very specific and making sure that going forward that the appraisal district and us are all on the same page for development, we have the GIS programming now so we can do that a lot better now than in the past, it's more feasible.

Commissioner Smith: Kat, when you say you are recommending considering limiting lot size only on property requiring well water and on-site sewage facilities as per the Texas Administrative Code, but you go down there and you've got A & B,

I don't see, you're talking about one acre per property search by well water and on-site sewage, ½ acre property service, what's the difference there?

Katherine: If you have both, a well and a septic, if you have access to a public water line...

Commissioner Smith: So the difference is public water and well water.

Katherine: Yes, if you have access to a public water line...

Commissioner Casterline: Yeah, you need more property in order to get that 50' from your septic tank if you have a water well.

Commissioner Smith: Yeah, that's what you're talking about an acre.

Commissioner Casterline: But I don't think you can even have that well there if it's not plumbed to your house, can you, if you have a septic tank?

Valerie Gonzalez: If it's used for irrigation purposes, I know we've made people plug wells before, depending on how close it was.

Commissioner Casterline: I know if it's an old well and it's not jacketed it's 100 feet, if it's a new type where they put a jacket around it it's 50 feet.

Commissioner Smith: We've seen people come in and the configuration on a lot is usually long and thin and you can't comply in those types of situations with some of those requirements. Quite frankly, you know, if it's good enough for the State in this case, I think it's probably good enough for us, but I see some of the reasons on the top one up here by

reducing and not having a minimum lot size out there, but I do think that the impact of high density development is not something that most of the folks in this County would probably be crazy about. And we do allow that, as you've mentioned, if they come in and apply for a P.U.D., so there is an avenue for them.

Katherine: So you would like to continue seeing them come in through that process.

Commissioner Smith: I'd rather see that, then you could use some rationale on each individual, I'm not one of these persons who says "One size fits all".

Commissioner Casterline: The chances that somebody will come up with a loop-hole are a lot bigger than if you make them do a P.U.D.

Commissioner Smith: I agree, if you do it through a P.U.D. everything's on the table, you can negotiate it and do what you think is in the best interest of the public.

Katherine: I like that a lot, especially since with a P.U.D. you can have an accompanying Resolution or Order with the outlines specifically what the commission and the developer agree on.

Commissioner Smith: Well, like David pointed out, we've got some fairly stiff penalties associated with if you take out more than 50% of the trees or the impervious surfaces, removal of 50% - 70%, those are ways around what State Law limits us on.

Katherine: Well I will definitely get that drafted so that when I come before you with the Subdivision Order Amendments, and make sure that's included.

Commissioner Smith: Are you ready to go to Building Codes?

Katherine: The big thing I want to make you aware of is, we do have some options, we can adopt the International Residency Code between 2008 or later, and we can adopt the International Fire Code, or its equivalent, the Uniform Fire Code, either the IFC or the UFC but that's it, that's all that we can adopt. If we were to adopt the provisions of the fire code that we are allowed to adopt, we could regulate commercial and public buildings, and multi-family housing, and if we were to adopt the International Residency Code we would be able to regulate new construction on Single Family Homes.

Commissioner Smith: Everything else would be, prior to the adoption of this, would be grandfathered, right?

Katherine: Yes, if we were to do this, we would go through the International Residency Code and we would look at those provisions that we know that are not applicable to us, there is going to be stuff in the IRC that pertains to Snow Loads, the thing is, we can leave those things in adoption, we just can't amend them to make them less restrictive. It is a process to adopt codes, it would take time to look at them very thoroughly, but it would be an option for us to have safer regulations for new construction.

Commissioner Smith: Let's assume that we adopted that, one of the costs down there would be having to train or certify staff,

or enter into an Interlocal Agreement. Is the City Staff, in your estimation, capable of doing that kind of work for us?

Katherine: If we were to do the International Residency Code, no. I think that if we were to do the International Fire Code, which would be the first step, that we would be able to cover inspections and planning review through a third party Interlocal Agreement with our Municipalities. With the volume of new build construction that we currently have in the County, I would be very hesitant to try and put that load on one of the building officials in our Municipalities. One reason that I wanted to present this is because if we were to adopt the International Residency Code it would most likely necessitate having a full time building official, if we were to do it and do it right. It involves a lot of training and takes a lot of years to get to get to that level especially if you want them certified to do plumbing inspections but it seems like the state is kind of moving toward higher standards for counties and at this point this is what we can do.

Commissioner Smith: Let's assume, I'm going to go back, if we had another hurricane or wind event and it significantly damaged a piece a property and we had adopted these building codes, would you let them build back to the old standards or would you require them to rebuild at the new standards?

Katherine: That would be up to the commission.

Commissioner Smith: Which one are you recommending?

Katherine: I would recommend the new standards, but

Commissioner Smith: You've already got problems with that issue, I know you've talked with me about it, you feel

compassion for these folks, they built out in the countryside and all of the sudden they are damaged, and we're going to make them build back to a higher standard?

Katherine: Well one thing to remember, this would not impact modular or manufactured homes, those have their own separate set of state for modular, and federal for manufactured, that are inspected on a separate basis, once we get the home in we know that...

Commissioner Smith: I'm not sure we would want to attract a lot of modular and pre-fab housing out in unincorporated areas.

Katherine: This is true, I understand that. One of the reasons why I wanted to go ahead and throw these out there is, I know that this is kind of something that will be a long term, down the road, but the State Recovery Plan for the CDBG Mitigation Funds, some of the programs require that a community adopt, at the minimum, the International Residency Code in order to be eligible for that funding. It is a possible avenue to acquire funding for some of the staffing that we would need, but particularly the Resiliency Program, right now that's the one that requires the International Residency Code to be adopted and so I wanted you to know what it would look like if we were to consider adopting it.

Commissioner Smith: Is there any move afoot right now based on the storm damage that we had, is either FEMA or HUD, through the GLO, trying to promote those types of requirements?

Katherine: Well, we're trying to get them to understand the requirements, one of the things that they have required is that

the counties adopt land use policies and enforce them, which is not something that we can do.

Commissioner Smith: No, that's exactly right, we don't have the authority in the State of Texas.

Katherine: But the public comment period for the State Mitigation Plan closes at the end of January, and me, and I know a lot of other folks, have been letting them know about which criteria de facto makes us ineligible as a county in Texas. And so the hope is that whenever they finalize that draft is that they will have the reality of what our limited authority is.

Commissioner Casterline: In our building codes, are our septic codes tied to them?

Katherine: They are tied together, but they are separate, our Floodplain Order says that before a Floodplain Permit can be issued, we have to have approval from Environmental Health and so they are tied together.

Commissioner Casterline: Well then we are kind of also talking about Subdivisions, I recently ran into something that I think that we need to look at on the septic tanks because we currently inspect them from the tank out and I think that we really need to look at the inspections from the house out, particularly on new construction.

Katherine: I figured that through the International Residency Code, that would be the only way that we could do that. It doesn't go as into depth as the International Plumbing Code would or Mechanical's in the Mechanical Code would, but for single family homes it does set those minimum safety standards that we could go by. If we were to pursue the Resiliency

Program in the CDBG and Mitigation Funds there is a possible avenue for funding for inspectors, but it's a catch 22 if we want to open that Pandora's Box to adopt those codes and try to implement a stronger building code program.

Commissioner Casterline: Does anybody use an Independent Inspector, where we wouldn't have to have our own?

Commissioner Chaney: Aransas Pass did there for a while.

Katherine: Yes, and the City of Portland does as well.

Commissioner Chaney: Bayside does.

Katherine: They utilize Bureau Veritas and it is an option, and it's one that if we were to do it through a company such as Veritas, we would have to determine, or not, it would be incorporated into our permitting fees or we would just let the developer pay for the plan review and the inspections on their end. The down side would be it does create a disconnect on inspections between the permitting office and the inspectors, they are a little bit disorganized, but I guess we all are. There was definitely issues at Aransas Pass with making sure all the inspections were completed and that all of the invoices were turned in to the City so that they were being paid and that could have been because of the volume due to the hurricane but third party is an option but an option that would be outside of our control.

Commissioner Casterline: That would probably be better than what we have now.

Katherine: Yes sir, because we have nothing now. But my recommendation would be to first look at the fire code, mainly

because of the public space component for that, we don't have a lot of commercial businesses out in the county but those that we do, we want to make sure that they are safe because the public goes into them. And those high density housing, the fire code does allow for us to have fire standards on multi-family housing units, if they have four or more units. So we would require that they submit them to someone like Bureau Veritas, and submit something to the county stating that it had met or exceeded the codes that we've adopted, and then we would engage that same firm or an Interlocal Agreement in order to make sure that inspections were done throughout construction and at the end.

Commissioner Smith: There is always the danger that the more requirements that you build in, the higher the costs are going to be, and you preclude certain folks from being able to, quote: "buy and build in your community".

Commissioner Chaney: I know that, but my issue is, that house is a living structure, as far as I am concerned, and with plumbing, HVAC, electrical, or anything else that is in there, that structure needs to be protected as much as is reasonably possible and that is not occurring in the county now. We are taking care of the Violation of Floodplain Order issues, we are taking care of the Water and Sewer requirements, but we are not taking care of the people that are there to sleep at night whenever these things happen. Now, I realize that we can't go back and re-do a lot of that other stuff, but things from this point forward, we need to have those codes.

Commissioner Smith: And you know one of the reasons why we are seeing a lot more proliferation of RV Parks is because of the regulations and what not.

Commissioner Chaney: Well we are seeing a lot of the proliferation of RV Parks because our population is getting to the point that it cannot afford to...

Commissioner Laubach: The more you increase the price of construction the more pressure you put on people to go to RV Parks.

Commissioner Smith: Exactly.

Commissioner Laubach: At the same time, that's not to say that we don't want RV Parks.

Katherine: And it definitely does increase the cost of construction, it's a give and a take, and the big thing that FEMA pushes and that the Natural Mitigation Saves Report pushes in our area, every dollar spent toward higher standards saves seven dollars after a storm but it doesn't help when you are trying to talk to someone trying to build and that's something to consider it's just that the give and the take on the public, which side do we go off of and my recommendation in the end comes to the public welfare. I'm very enthusiastic about adopting higher building standards, I'm very anxious about the after effects and I know that it would not be the most fun thing to do in the world, to put it mildly, but I do believe that it should be something to be considered, of course it is up to the commission whether or not to do anything of that sort.

Commissioner Chaney: Whatever we do we want to be proactive, we want to do it before the State makes us do it.

Katherine: Especially with the guidelines in the State Mitigation Action Plan, and one of my main thoughts is this is something that I knew that I had wanted to approach the

commission about at some point, obviously I was anticipating a little bit further down, but it's mainly because of the way that the Mitigation Action Plan words that criteria for some of the programs that they are going to be rolling out, I wanted to go ahead and throw it out there now, see what the response would be.

Commissioner Smith: I would say this, a lot of the things that we do here are protecting property, to that extent I think Commissioner Chaney pointed out, if we allow substandard construction out there we are not really protecting the public or subsequent owners, rather the ones that are building it and that would be an issue going forward. It would seem to me that the housing, and there is cheap housing that is built well and there is expensive housing that is not built very well, so to the extent that the State would allow us to adopt some of these things without having to go through all of the other Rigor Moro right here, I would be in favor of it, but it will run the cost up and it will require longer terms of loans on houses and what not. One of the things that was brought to our attention here, back on the pay situation, it was pointed out that it did nothing for the private residents being able to install things that control cost of water used by that facility, or electricity, or whatnot. It would seem to me that the State left that out and should go back and address that, so that if you wanted to build a house that you would have the right to be able to finance it for a longer period. I can see both sides of that issue, but I do think that we have an obligation, this deliberative body here has an obligation to try to be as proactive while making sure things are done right instead of doing the things that are done cheaper.

No further business presenting, the Court adjourned at 2:46 a.m. on a motion made by Commissioner Casterline and seconded by Commissioner Chaney.



LESLIE "BUBBA" CASTERLINE,

COUNTY JUDGE PRO-TEM



VALERIE K. AMASON,

EX-OFFICIO CLERK OF THE

COMMISSIONERS' COURT