

**SEWARD / BEAR CREEK FLOOD SERVICE AREA  
REGULAR BOARD MEETING  
SEAVIEW PLAZA BUILDING, SUITE 122  
MEETING MINUTES  
15 February 2010**

**A. CALL TO ORDER**

The meeting was called to order at 7:00 PM.

**B. ROLL CALL**

BOARD MEMBERS

Bill Williamson, Chairman  
Randy Stauffer, Vice Chairman  
Bob White  
Tena Morgan  
Walter Sedlik

STAFF

Christina Stauffer  
Administrative Assistant

Matt Hall – absent excused  
Terry Federer – absent excused

BOROUGH STAFF

Sue Wilcox, Special Assistant to the Mayor  
Colette Thompson, Borough Attorney  
Max Best, Borough Planning Director  
John Mohorcich, Gilman River Center Director  
Dan Mahalak, Hydrologist, Gilman River Center

**C. APPROVAL OF AGENDA**

**Chairman Bill Williamson** called for approval of the agenda.

**Vice Chairman Randy Stauffer** moved to approve the agenda as written.

The motion was seconded and unanimously approved.

**D. APPROVAL OF MINUTES**

**Bill Williamson** called for approval of the minutes from the previous meeting.

**Bob White** moved to approve the minutes as written.

The motion was seconded and unanimously approved.

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**E. PRESENTATIONS**

- **Mayor Dave Carey, Kenai Peninsula Borough**

**Mayor Carey** began by saying how very much he appreciates the work the SBCFSA is doing as well as the work of his borough staff. One thing he has been told consistently is that the existence and hard work of the SBCFSA helps facilitate working with the state and getting them to recognize that Seward is a unique part of the state. In the last six months, Mayor Carey said, he has had two major goals. One of them is to rewrite the borough code for the protection of anadromous streams. His second goal is to work on and hopefully provide some long term solutions to issues we deal with year in and year out. The mayor reported that he has recently spoken in Homer regarding these goals. He went on to say that he wanted to update the board on gravel fees, navigability, the Old Mill buyout and the Annex Office. The mayor said that in August of 2009 the Kenai Peninsula Borough had received a letter from DNR regarding the status of navigability and the costs associated with gravel removal. In October 2009 the mayor sent a letter to DNR with some pointed questions about navigability. At that time the borough requested that a DNR representative be appointed to work directly with the borough, the SBCFSA and the City of Seward on the issues identified in the letter. These efforts resulted in a meeting with Governor Parnell during which it appeared that the governor was receptive. Shortly after this meeting the mayor's office was contacted by DNR and a meeting was scheduled to discuss the navigability and gravel concerns for the Seward area. During that meeting it was made clear that DNR was possibly willing to look at alternatives for relieving the fee charged for gravel removed for flood mitigation but would not discuss navigability with regard to property ownership. While DNR has continued to refuse to discuss the navigability issue they have begun the process of altering state law to allow gravel removed for flood mitigation purposes, by a service area, to be, if not exempted from the state fee, at least be allowed a substantially reduced fee for gravel removed for flood mitigation. DNR cannot change the law for only one part of the state but can apply changes to a service area. This process will likely take some time.

Mayor Carey stated that as of Friday, February 12, 2010, they are still working on this process. During a teleconference with DNR the mayor and his staff cleared up some misconceptions regarding where and how gravel could be stored and how much oversight is needed. Basically the state has said that the only thing we cannot do is take gravel out and let other people use it.

The mayor went on to say that currently there are a number of grants available from stimulus funds. Although we cannot apply for everything and frequently there are

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very narrow time frames, we need to apply for some of these funds. The state has been allocated 3 million for long term mitigation. Because of the presence of an organized flood service area and the work that has already been done by the SBCFSA and other agencies, we would have a step up on other communities in applying for some of these funds. We need funding to come up with a plan that shows what truly needs to be done here in the next five years, 10 years and so on. Funding for these projects would come out of this plan. We were also told to submit at one project along with this. We weighed the possibilities and then chose a project that was basically shovel ready. It involves a huge amount of paperwork. We submitted a plan for a culvert project on Lowell Point. It is an expensive one and we decided to start off with a big one. Everything had to be in by January 11<sup>th</sup>. Staff worked very hard to bring all the components together to submit this. We are told that of the 3 million dollars the state has received we could receive up to 2 million dollars. They told us that, compared to most other communities in Alaska, we were very prepared.

Our next major issue then was a call from the US Army Corps of Engineers and possible money involved with that. On Wednesday, January 27, 2010, borough staff which included John Mohorcich, Dan Mahalak, Doug Schoessler with Roads, Jim Connor with Roads and Henry Knacksted, Engineer along with your Vice Chair participated in a teleconference with Keith Gordon of the Corps of Engineers. At that time they discussed what the Corps' program would require regarding Seward area flooding. The discussion revisited the 1992 cost benefit analysis for Box Canyon and other priority projects that the SBCFSA has identified. The Corps provided information on the scope of their efforts, potential products, timeframes and requirements such as in kind matches. They provided encouragement and told us to take the next step to formally propose a comprehensive plan for Seward. Prior to initiating this request, Keith Gordon and Dan Mahalak agreed to exchange information and documents related to the flood issues in this area. We were told that the Corps of Engineers has agreed to develop a scope of work for a comprehensive watershed Masterplan in Seward. The mayor said he wanted, again, to say how much the borough appreciates the work of Dan Mahalak, his continual efforts toward all this. It is nice when we have an extraordinary person available to us, and that is Dan as hydrologist over here. He is just a great asset.

Two weeks ago, the mayor reported, he went to Juneau and met with every legislator involved with the Kenai Peninsula Borough. He stated he had met twice with the House Speaker and then with the President of the Senate and had a very good meeting with the Governor. He restated that the most important issue he spoke of with the Governor were the issues in Seward. We have an obligation to do much more than what has been done. We spoke of flooding, gravel removal, navigability and reminded him that he had arranged a meeting for us with DNR on these issues. We told him that when we did eventually meet with DNR, we were told that navigability

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was off the table. We told the Governor that we want it back on the table. Mayor Carey said he is convinced that the Governor wants to assist. This is a political year, an election year with many seats up for re-election. This is absolutely the time to push very critically to get some long term solutions. We told the Governor that he needs to come down here and physically walk this area and see what the people here face. The mayor went on to say that he is ready to draft a response to DNR regarding the navigability concerns and express the borough's determination on this issue which means so much to residents here.

With regard to the floodplain mapping, on February 12<sup>th</sup> we received a letter from Northwest Hydraulic Consultants in which they responded to questions we had submitted regarding the very preliminary map data they had shared with us. We still have not heard back on these same questions from FEMA.

Mayor Carey reported that the Old Mill buyout is progressing. He expressed his disagreement with the area chosen for this buyout as it is not logical to choose a subdivision near the top of the watershed but said he had signed the contract anyway. He briefly outlined the timeline for the buyout and explained that at this time it appears that 4 to 6 properties will be purchased. The mayor also explained that prioritization of the properties for buyout was completely in the hands of the federal government.

Finally, regarding the possibility of filing a lawsuit against the state with regard to the navigability issues, Mayor Carey explained that suing the state is not an easy process. He understands that everyone is fed up and wanting to get something done but said that lawsuits do not get resolved quickly and could take 3 to 5 years at least and cost huge amounts of money. It would be necessary to hire an attorney with riparian rights expertise. At this time the borough would rather work with the state government than go to court as he thinks this will get us further.

**Bill Williamson** thanked the mayor for his presentation and for bringing the board up to date. He agreed that suing right now is not the right answer. Bill said that he believes this will need to be addressed by the property owners involved. The government cannot do everything for everyone.

**Randy Stauffer** stated that he sees this as two major issues; navigability and gravel fees. This board should be interested in navigability issues, particularly in gaining relief from the gravel fee, because it affects what we do here. The board has been writing letters and pursuing a definite determination from DNR since he joined the board in 2005 and that has brought us to this point. If we get a rewrite of the state statues to allow us to do the flood mitigation work, that is what I think is the highest priority as a board. The planned rewrite of state law is a big step forward.

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Mayor Carey agreed and took a moment to introduce his staff to the board members.

- **City of Seward**

**Christy Terry, City of Seward Community Development Director** began by thanking Mayor Carey and his staff for coming over for this meeting. Christy said she wanted to address two agenda items. First, with regard to the KPB All Hazard Plan Update, the City is also updating their plan in conjunction with the borough. Dave Squires and Donna Glenz are on the hazard plan update committee. Christy passed out copies of the City of Seward All Hazard Plan to the board members and said she would appreciate suggestions for any projects or changes from the SBCFSA. The board members can send their comments and corrections directly to Christy so she can include them in the plan. Christy said she would also keep the board updated on this process. Regarding the SBCFSA Joint Work Session with Seward Planning and Zoning, Christy announced that this meeting had to be cancelled because the Seward P&Z was scheduled for an important appeals hearing that night. The appeal will be regarding a permit application that has been denied and, as there were still two P&Z Commissioners with the SBCFSA the topic should still not be discussed to avoid ex facto.

**Randy Stauffer** asked if the SBCFSA Flood Hazard Mitigation Plan currently annexed to the city plan would be folded in during this update or kept as an annex.

**Christy Terry** replied that it would continue as an annex but be cited in the city plan.

**Max Best, KPB Planning Director**, commented that it is easier to make changes if it is kept as an annex.

**F. PUBLIC COMMENTS**

**Glenn Schiff** stated that the problem with navigability is that no one seems to be able to anything. Who came up with this ruling? What can we do as private citizens? I am sitting here with my hands tied and I do not even know if I own my property or not. I am sure that this navigability ruling affects the whole state but right now here in Seward I know people who are ready to bear arms over the matter.

**G. BOARD'S RESPONSE TO PUBLIC COMMENTS**

**Bill Williamson** commented that, as a board, we are very limited in the areas we can cover using tax payer's money. He said he would like to hold a public education day regarding navigability and we need to find out where the ordinary high water line

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actually is. These are things the board can do. We can hold an educational process using the ordinary high water data to let people know where they are. Many people want to know but the state does not want to talk about this and do not want to be pinned down.

**H. CORRESPONDENCE & PAYMENT REQUESTS**

- **Letter from Northwest Hydraulics re DFIRM's**

**Administrative Assistant Christina Stauffer** introduced a letter from Northwest Hydraulics that was a response to a list of questions sent in October 2009 regarding their preliminary DFIRM map data. She explained that the letter addressed the science questions but that NWH referred the policy questions to FEMA Region X. She also explained that, per a telephone conversation with NWH, she had learned that FEMA did not intend to respond to the policy questions until they officially presented the preliminary DFIRMs and that there was no date set for this as yet.

**Bill Williamson** suggested that the board should send an e-mail to FEMA requesting the projected date for map presentation.

**Randy Stauffer** stated that the board should send a strongly worded letter requesting delivery of our maps. The rest of the country has had their maps for years and despite the fact that Seward spent local dollars to acquire up-to-date LiDAR and provided this information to FEMA, Seward is still waiting for maps. This affects too many people to just sit and wait. Randy moved that a letter be sent to FEMA Region X requesting delivery of our maps.

The motion was seconded and unanimously approved.

**Mayor Cary** said he would like to see the borough follow up on this as well.

**Bill Williamson** said he would like to see all the involved agencies sending letters.

**I. PERMITS FOR REVIEW**

There were none at this time.

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**J. OLD BUSINESS**

- **Navigability**

**Bill Williamson** said that he felt this subject had been covered fairly well earlier in the meeting but called on Dan regarding the letter we got the other that indicated that DNR is considering adding Lost Creek and Grouse Creek to the navigable waters list.

**Dan Mahalak** reported that we recently got a draft of a state proposed renewal for our material sales contract. Dan said he had chased down some of the documents cited in the draft. One of those documents was a memo from Scott Ogan to Chris Nahorney in which he indicates other areas in Seward that might be considered navigable. They are looking at Salmon Creek all the way back to its source which includes all of Kwechak or Glacier Creek and also at Lost Creek/Seward Highway to Old Mill.

**Bill Williamson** stated that the memo clearly indicates that DNR is considering all the way up Lost Creek as navigable and are looking at other areas as well. They have not settled the dispute over streams they have already claimed yet and they are looking at more.

**Randy Stauffer** commented that this gets back to the issue he brought up earlier. It is going to come down to finding out where the ordinary high water mark is. Until that is settled, we have a lot of citizens in Seward whose land titles are clouded and they cannot move forward until this is settled. It is in the state's best interest not to make this determination until they need it but that is not in the best interest of the citizens in this area. Do we force the issue by obtaining our own science to determine where that line is? Even if we do, we have no guarantee that the state will accept our version. Randy went on to state that he still was not sure that it is appropriate for the board at this time to use taxpayer dollars to make that determination right now but he appealed to Mayor Carey for the borough to continue to pursue this issue. Seward has citizens that literally do not know if they own their land. We need a determination.

**Bob White** said that the history of the area is nothing but moving stream beds. Even if the state comes in and says, this is the area we own, after the next flood event, everything moves. If Lowell Creek breaks out of the canyon and runs through the middle of town, will half of Seward become state owned land? He said that the draft contract proposed by DNR is the most totalitarian document he has ever read. Someone needs to do something to put limits on their authority before they get out of control. It is a stretch of imagination to declare any of the waters around Seward as

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navigable. There do not seem to be any rules against the DNR claiming anyone's property whenever they feel like it. Bob stated that he respects the state's duty to use state assets for the benefit of all but the gravel in Seward is not an asset. It is a cancer in Seward that is invading everyone's property. In Seward property is either washing out to the bay or being buried by the gravel. Fire might manipulate wildlife habitat in other places but here in Seward it is the flooding altering it. By insisting on claiming this land at this time it is going to end up costing the state and its citizens millions to save highways, schools, the long term care facility, subdivisions, every road we have. The true value of gravel here in Seward is a negative one by many thousands of dollars. We want to get rid of the stuff. It is burying us.

**Bill Williamson** pointed out the project cost information on the wall and said that every area where the SBCFSA has spent money involved dredging for a quick fix. None of the projects we have done have been effective for more than a year. With the state adding to the cost with their gravel charges and rules it is getting harder and more expensive to do even that. The dredging does not seem to be doing any good in the long term. We need to look at some projects where we might get more results for a longer time.

**Tena Morgan** suggested that the problem be approached in a different way. We should get someone out here to redo the tax assessments based on the state claims. People should not be expected to pay taxes on land they do not own. Maybe later in the year we can survey the ordinary high water mark so people will stop planning development of this property.

**Bob White** pointed out that the banks have a stake because they loaned money based on a legal description of property that the state says is not true. People are making loan payments on land they do not own.

Discussion was held regarding the various options for continuing to press for resolution of the navigability issue in Seward.

**Bill Williamson** stated that he believes the first thing that should be done is determining the ordinary high water line.

- **KPB All Hazard Plan Update**

**Christina Stauffer** reported on the current status of the KPB All Hazard Plan update. She stated that she had studied the introduction presented at the last meeting and that, other than adding the SBCFSA Flood Hazard Mitigation Plan to the list of annexes, there appeared to be little else that warranted comment from the board. She also reported that the draft of the "Flood" section of the plan was not yet available but that

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she would forward it to board members as soon as it was received so they could read and comment on it.

**Max Best, KPB Planning Director**, said that right now the plan was only a draft. As he had explained in his e-mail to Christina, all he was looking for at this time were board suggestions and comments and an opportunity for public input through the SBCFSA meetings. Comments can be made any time until April. The SBCFSA needs to get their comments to Max and he will get them incorporated.

- **Project Planning/FY2011 Budget**

**Christina Stauffer** explained the FY2011 Budget calendar and that decisions for using rolled over Contract Services funds needed to be made so that the service area budget could be submitted on time.

**Bill Williamson** introduced the possibility of a culvert project at Salmon Creek Road and Nash Road which could be done in partnership with the Kenai Watershed Forum. He asked Dan Mahalak to explain.

**Dan Mahalak** said that there have been many discussions about how best to spend service area funds considering all the issues that had to be dealt with including nature, a small mil rate, navigability, etc. The board wants to look at longer term solutions and find other agencies to match funds and share the load. Dan explained that he had gotten on the phone and had meetings with Alaska Department of Transportation (ADOT), the Alaska Railroad (AKRR), the City of Seward and the KPB Roads Department, to discuss ways to protect watershed wide infrastructure. The railroad would prefer dredging as they say that their infrastructure seems to be OK and they are not concerned. However the science that we have been gathering backs up the risk to the Seward Highway from backwater structures, flow restrictions and inadequate water carrying capacity. We also have high water events, high sedimentation and high velocity. We need to minimize those effects. The culverts under Salmon Creek Road are inadequate and replacing them with larger culverts could relieve pressure and water levels upstream and improve fish access. Dan said he had received an offer from the Kenai Watershed Forum to put up \$60,000 in matching funds for such a project out of a grant from the Alaska Department of Fish and Game. Dan presented a photo taken today of the culverts in question which are nearly full. He recommended that the board spend their rollover funds on this project. After reviewing the various projects and looking at all the numbers, this seems to make the most sense and will last for the longest duration.

**Randy Stauffer** said, to clarify, he understood that this project would increase the culvert size under Salmon Creek Road which would increase the conveyance at that

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point because the water is backing up into an area that was meant to be just an overflow and is now, in fact, the main channel of Salmon Creek.

**Dan Mahalak** replied that this was correct. The upgrade would also improve fish habitat which is why the KWF has offered to help with the funding. This is a multi-tiered approach.

**Bill Williamson** stated that it was great that the Kenai Watershed Forum was willing to work with us. It has been hard to get all these agencies to work together. We have contacted them and they all approve the idea but would rather we spend the money and do the work and they will watch.

**Randy Stauffer** asked if this would affect the airport.

**Bill Williamson** replied that it does not affect the airport, just the main highway and Salmon Creek Road which is state owned. If Salmon Creek Road goes under people in those subdivisions cannot get to their homes. It is the only way in and the only way out.

**Bob White** asked what size culvert was being considered.

**Dan Mahalak** stated that they have considered certain criteria and that, of course, bigger is definitely better because when the city puts in the levee road we expect to see the hydraulic gradient move to the north northeast which means that this area is going to see substantially more flood water. We can span no more than 20 feet. Anything larger has to meet state bridge design criteria, go before ADOT and be reviewed by the bridge team. We looked at a series of pipes such as those put in at the lagoon but in order to reach the size we want we would have to raise the road. We are considering a box culvert or a multiplate. Dan said that before he moves forward with engineering or anything else he wants to get a financial commitment from the board.

**Randy Stauffer** asked if the state was offering to add anything to the \$85,000 from the SBCFSA and the \$60,000 from KWF.

**Dan Mahalak** replied that they were not. He went on to say that he was going to be meeting with representatives from ADOT at the end of February here in Seward so they could have an opportunity to see the situation for themselves. Dan said he was hoping that we can use this project to stir some movement from ADOT to put a hole through Nash Road inside the AKRR. Dan said he agreed with Mayor Carey that it is best to start at the bottom but sometimes with a small budget you have to do the

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projects you can. At least this is a bricks and mortar project that will take us a few years down the road.

**Bill Williamson** stated that sometimes it is easier to come to the bargaining table if you can say that you have already committed money and asking them what they are willing to commit.

**Bob White** commented that without increasing the size of the Nash Road Bridge he did not see that this project would help much.

**Tena Morgan** said that this area of Nash Road had been closed several times since she moved here due to flooding.

**Bill Williamson** asked for the board's wishes regarding this proposed project.

**Walter Sedlik** asked how much the project was going to cost.

**Dan Mahalak** said we could almost certainly spend more money than we have but a conservative estimate is that we are looking in the \$130,000 dollar range. The difference between a multiplate type system and a box culvert are \$1,000 per square foot. He briefly described how this was calculated and said that he expects that if the board commits the \$84,590 in rollover funds that we will be able to spend all of that as well as the \$60,000 from KWF.

**Walter Sedlik** asked if it might not be possible to get the state involved in this so that we can fix it properly right now and not have to go back later.

**Bill Williamson** stated that what the board needs to do right now is give Dan the go ahead to figure out the costs and set up the project. This will give him something to take to the table with the state.

**Randy Stauffer** asked what effect this would have on Nash Road Bridge.

Discussion was held regarding where the water would flow around the Nash Road Bridge and whether or not it might overflow onto other property there.

**Bill Williamson** said that the problem being created by the too small bridge could be pointed out to the state and maybe we can get them to get in there and do something about it.

**Dan Mahalak** stated that he wanted to ask Mr. Schiff, since this will most likely introduce unknown flood flow to receiving waters near his property, is he OK with us

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providing greater conveyance through the culverts so the road does not get washed out. Dan said that this project was as close as he could get to the bottom to do the most good with the money that was available.

**Bill Williamson** commented that this does give us something to take to the state to say, if we fix this problem we are going to have a problem downstream by the bridge. What are you going to do about that?

**Glenn Schiff** replied that he agreed but that hopefully the state will notice that they need to fix this problem down here since we are dumping all of this on his property now. Unless the state claims it as their property anyway.

**Bill Williamson** said that what he needs from the board is the consensus that we are all in favor of Dan going further into the investigation of how much it is going to cost to do this. We need to commit the money to the project.

**Randy Stauffer** asked, if the board commits the money to this project, we need to go back to the assembly to move it. He asked Christina if this was so.

**Christina Stauffer** replied that whatever the timeline, it would take at least two assembly meetings to write our resolution and have them pass it that allows us to commit those funds. The board can decide tonight to definitely consolidate those funds and hold them for this new project.

**Bill Williamson** asked for a motion. He pointed out that the SBCFSA has other funds that we can dip into if need be for the smaller projects.

Discussion was held regarding funds available and need to spend rollover funds as soon as possible. Further discussion was held regarding the scope of the proposed culvert upgrade project.

**Randy Stauffer** moved to direct our hydrologist to proceed with the investigation of this project on the assumption that we are going to consolidate these funds, a total of \$85,000 approximately along with the \$60,000 matching funds to pay for this project unless we find out we cannot do it for that amount of money.

The motion was seconded and unanimously approved.

- **US Army Corps of Engineers Grant Letters**

**Bill Williamson** asked Dan Mahalak to address this issue.

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**Dan Mahalak** passed out his draft letters for the US Army Corps of Engineers (USACE). He then reminded board members that at the previous meeting they had discussed and confirmed their project priorities for possible USACE funding and asked him to draft the letters of intent.

**Randy Stauffer** asked if the letters had already been sent?

**Dan Mahalak** replied that the letters had not been sent and that he was asking for board comment on the drafts.

Board members requested a few minutes to read the draft.

**Bill Williamson** asked for the board's wishes regarding the USACE letters.

**Walter Sedlik** moved to send these letters as written to USACE.

The motion was seconded and opened for discussion.

**Randy Stauffer** said that these letters came out of the meeting that the mayor mentioned with USACE. He went on to say that Dan has done a tremendous amount of work to get us to this point. From reading these over they appear to confirm the priority items we have spoken about at several meetings. These might be the kind of projects the Corps would want to help us with. If we do not ask, we will not get. The process may take a couple of years but we need to get it going.

**Bill Williamson** called for a vote on the motion.

The motion was unanimously approved.

**K. NEW BUSINESS**

- **Floodplain Task Force Meeting 3/10/10**

**Bill Williamson** requested that Sue McClure, KPB Assembly Member, speak to this.

**Sue McClure, KPB Assembly**, stated that the Floodplain Task Force meeting has been scheduled for March 10, 2010 and will be held in Seward. She said she had originally considered Coopers Landing but had decided on Seward to allow maximum public input. Sue said she has been officially appointed as chairman. She reported to the board that the KPB Assembly has been asked to extend the sunset of

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KPB Ordinance 2009-09 to allow the Floodplain Task Force to review and comment on its renewal.

**Bill Williamson** briefly summarized the activities of the Floodplain Task Force for the new board members. He said that he will be attending and encouraged any other board members who wish to attend to be there.

**L. INFORMATIONAL ITEMS AND REPORTS (No action required)**

There were none at this time.

**M. PUBLIC COMMENT**

**Bill Williamson** stated that he wished to speak as a member of the public for a moment. He said that he believes it is very important that we go away from here tonight committed to doing something to find out where that ordinary high water line is. He encouraged the board to consider that this is something they can do and would be a huge help to the community. People need to know where they stand. At this point they do not know which way to go and I am one of them. People should not be left in limbo. If the state is not willing to do something about this, the people will.

**N. BOARD COMMENT**

**Walter Sedlik** said he had no particular comment tonight. He is still looking at the issues. Walter went on to say that he has a problem with the ordinary high water determination and navigability because they have to go hand in hand. If we define that mark ourselves, is it going to do us any good. The state could come back and still not give us a navigability decision.

**Bob White** commented that the issue of navigability is of such magnitude that is superseding all property rights pretty much of everyone in the valley. The state is taking away property that was given into private ownership before statehood. The federal government never recognized any of our waters as navigable. In regards to this, Bob said, all he could see is that these property owners are going to have to bring a class action suit to resolve this. For the board to establish a boundary that this is what we say belongs to the state would be a waste of money. The state will most likely not recognize our science and they have the last word on navigability.

**Tena Morgan** stated that if a class action law suit were to be filed, having the survey of the ordinary high water mark would at least give us some ammunition. Maybe we could get other agencies to help with the cost. They are way bigger than we are.

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**Randy Stauffer** said that he would like to thank the mayor and his staff for taking the time to come over this evening and travel so far. He said he appreciated the mayor's report and his honesty. There are two issues here. The board is charged with flood planning and mitigation. We have issues with having to pay the state for gravel and how it affects our ability to do our mitigation work and accomplish our plan. The SBCFSA appreciates the effort to get the state statutes changed as this may relieve some of the pressure as regards our flood mitigation issues. Randy stated that it should be clear from the discussion tonight that this issue is not going to go away. The state claim to land ownership is a massive issue over here and has the citizens on edge. They do not know what to do. Randy said he understands that suing is a long and involved process and not the best way to go for the flood board but something has to give here pretty quick or people are going to take action themselves. They cannot even sell their land because they do not have a clear title. The state is certainly not interested in determining the ordinary high water line themselves as it is not in their best interest. For good or bad this may be something we have to do ourselves at some point to get it out of limbo.

**Bill Williamson** also thanked the mayor for coming and bringing his staff. He went on to say that he thinks that surveying for the ordinary high water mark would give the board and the residents somewhere to start. The amount of money that the survey would cost is nothing compared to what the borough stands to lose in tax dollars because of the state's claim.

**O. ADJOURNMENT**

**Bob White** moved to adjourn the meeting.

The motion was seconded and unanimously approved.

**MEETING ADJOURNED at 8:35PM.**

**NEXT MEETING WILL BE MONDAY, MARCH 1, 2010 AT THE  
SEAVIEW PLAZA BUILDING, SUITE 122 AT 7:00 PM.**

*Christina Stauffer*  
Secretary

Minutes Approved: 1 March 2010  
Date of Approval