

MINUTES
Morris County Flood Mitigation Committee (FMC)
30 Schuyler Place - 4th Floor, Morristown, New Jersey
June 18, 2012

The meeting was called to order at 5:37 p.m. by the FMC Chair, Louise Davis.

Members present:

Julie Baron
Paula Danchuk
Louise Davis
Ted Eppel
Laura Szwak

Also attending:

Deena Cybulski, Director, Morris County Department of Planning & Development
Jennifer McCulloch, Flood Mitigation Program Coordinator, Morris County Preservation Trust
Barbara Murray, Open Space Program Coordinator, Morris County Preservation Trust
John Napolitano, Esq., Special Counsel to Flood Mitigation Program

OPEN PUBLIC MEETING STATEMENT

Chair Davis announced that in accordance with the Open Public Meetings Act, adequate notice of this meeting had been provided and filed with the Town of Morristown, the Morris County Clerk, the Daily Record and the Star Ledger.

PUBLIC COMMENT

There were no members of the public present.

APPROVAL OF MINUTES

The Minutes of the May 21, 2012 meeting were reviewed and on a motion by Julie Baron, which was seconded by Ted Eppel, the Committee unanimously approved said Minutes.

PROGRAM UPDATE

Ms. McCulloch presented the concepts behind proposed revisions to the Flood Mitigation Program (FMP) Rules & Regulations. To aid in the review process, a summary of these revisions was provided (document A). Changes discussed include:

Application Procedures – see Section 6.8, item 1

- Applications for flood mitigation funding should first come through the FMP. If rejected by the FMP, the Municipality can then apply to the traditional Morris County Open Space (MCOS) Program
- Details of the two funding tracks developed: MATCH and CORE – with specific criteria for each program laid out, including the two-step approval process

- Flood Acquisition Plans (FLAPs) – now that they required elements have been identified they should be listed in the Rules & Regulations.
- Amend current Preliminary Approval resolution’s property lists to include both *priority* properties and those determined to be *alternate* properties by FEMA. By definition, alternate properties have received lower Benefit-Cost Analysis (BCA) ratios and thus are ranked lower than priority properties. Alternates may be moved up to the priority level if a priority project withdraws from the process, thus opening up a slot. The creation of two tiers of applicants is a common practice of both FEMA and NJ-DEP Blue Acres. This change would obviate the need for corrective resolutions.

Acquisition Procedures – see Section 6.8, item 8

Many inquiries have been received from municipalities regarding post-preservation activities allowed, and the level of public access required, on lands preserved through this program. It would be very helpful to have clear parameters in our Rules and Regulations.

Ms. McCulloch contacted FEMA for their regulations on this issue. FEMA allows passive and active recreation, but they always keep in mind that the goal of preservation was to retain and absorb flood waters. For example, a turf field could be built, but there must be a retention basin built underneath that retains and absorbs an equal amount of water as open land would. Options discussed:

- Turf field / retention basin requirement (see above) and impervious coverage limitations; we don’t want to see these lands paved over, or with overly large field houses built on them. (see section 6.10, new item 3)
- Public access on slope failure projects - there is an inherent safety issue, thus public access may have to be limited on these projects.
- Creation of “flood-prone” overlay zones once these properties are preserved. This zoning would apply to surrounding properties as well. The underlying concept: if the County is trying to create a flood retention area, then there should be limitations on future development in that area. In considering this suggestion, the FMC needs to ascertain whether it is within the rights of Morris County to dictate zoning regulations to municipalities, not only for preserved lands, but for neighboring properties. This rule change could have a significant effect on home values.

Other considerations if this overlay zone is created include: possible notification clause requirements to current and future homeowners, and how to appraise additional construction to homes which expand the footprint and thus the value of the structure. For example, if an overlay zone is instituted, should a home be appraised for FMP funding based on the original footprint or the new footprint? Should additional, expansive construction not be covered by grant funding?

Eligible Activities – see Section 6.7

A specific delineation of approved acquisition project types, as per FEMA standards, to include: overland water flow, excessive rainfall saturation/snowmelt, slope failure/erosion/mudflow.

Requirements for Match Funds – see Section 6.9

Expansion of this section to list potential sources of matching grant funds would include: FEMA, NJ-DEP Blue Acres and Green Acres, Municipalities, and a homeowner's "donation of value" – which involves accepting a lower price than the appraised value. It is suggested that the phrase "to include, but not limited to these sources" be added to provide flexibility if new sources of funding become available.

The specific revision language recommended by MC staff was presented via a highlighted copy of the FMP Rules & Regulations (document B). Sections highlighted in yellow represent the new draft language. Items highlighted in green refer back to the revision summary sheet (document A).

Ms. Cybulski stated that she and Ms. McCulloch spoke to the Board of Chosen Freeholders (BCF) on Wednesday, June 13 to review these proposed changes to the FMP Rules & Regulations and assured they were consistent with BCF intent in forming this program.

Discussion of these revisions commenced. The FMC agreed that "homeowner donation" of value should be considered a match funding source. Mr. Napolitano stated that the traditional MC Open Space (MCOS) applications are due this week, on Friday, June 22nd. He is concerned about potential confusion on the part of municipal applicants regarding the new requirement that they apply for flood mitigation funding from FMP *first*; there are some potential flood mitigation applications to MCOS that we are aware of. He believes that the strict enforcement of this rule should begin after this year's MCOS funding round. It was decided that this matter should be discussed during the closed session portion of this meeting.

Ms. McCulloch stated that application to FMP is financially advantageous to Municipalities because it preserves their dwindling and finite NJDEP Green Acres funding, which historically has been used to purchase the structures on flood mitigation properties (MCOS funds may only be used for the acquisition of *land*). The FMP will help pay for both land and structures, up to 75% of the acquisition price. Unlike NJ-DEP, Morris County has no funding caps for communities, and thus is a less limited source of funds.

It was agreed that Morris County is in an unusual position with the creation of this new program in the midst of the MCOS application period. FMP is playing 'catch up' to FEMA disaster funding, while also trying to solidify the CORE program, which is designed to help homeowners who fell through the FEMA funding net. Ms. McCulloch had to train herself to achieve a full understanding of the FEMA Benefit Cost Analysis model before she could finalize the development of CORE program procedures and requirements. Without this understanding of how to properly review and analyze FMP applications, appropriate funding decisions by the FMC and BCF are not possible.

In the MATCH Program, application forms from other agencies are accepted in an effort to streamline the process. Conversely, the CORE program has its own distinct Morris County application. Priority Factors considered when assessing applications has been refined, and the three required elements of Flood Acquisition Plans (FLAPs) have been determined. These elements are: a Project Narrative/Flooding History, detailed Maps (provided by MC), and Project Area delineation – including specific targeted parcels therein.

Ms. McCulloch reviewed the elements of the CORE and MATCH program in more detail for Ms. Szwak and Ms. Danchuk who were not able to attend the May FMC meeting.

Ms. Cybulski reiterated that Morris County will not be paying for demolition expenses on any of these projects, regardless of which funding program they apply to. Ms. McCulloch added that demolition costs can be reduced by bundling the demolitions and allowing the contractors to remove valuable structural elements (i.e. copper pipes) as a form of in-kind payment. Other appropriate soft costs will be covered, as they are in the MCOS program. Soft costs will only be reimbursed on *closed* projects.

Given the complexity of these acquisition projects, with various parcels within the same Project Area closing at different times, a two-step approval process has been developed. This process begins with Preliminary Approval by the FMC and BCF, resulting in the encumbrance of a lump sum dollar amount for the Project Area applied for. Then Final Approval must be obtained from the FMC and BCF for each specific parcel within this Project Area, on a case-by-case basis. Specific grant funds expended per parcel are determined by Final Approval.

Ineligible Activities – see Section 6.10, Item 3

This rule would require a retention basin beneath any artificial turf fields and place impervious coverage limitations on preserved land. FMC members stated that they would prefer to see no impervious coverage at all, to assure maximum flood retention and prevent run-off from new structures on this preserved land. While this would be ideal, small structures like restrooms may be needed on these preserved sites. Mr. Napolitano suggested the Committee consider utilizing FEMA regulations, which are as follows:

- i. The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreation or wetlands management
- ii. No new structures will be built, except as indicated below:
 - a. a public facility that is open on all sides and functionally related to a designated open space or recreational use (e.g., pagoda)
 - b. a rest room
- iii. In general, allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, unimproved parking lots, and buffer zones.

The Committee approved this concept; Ms. McCulloch will find the exact FEMA regulation citation and include this language in the FMP Rules & Regulations to be reviewed at our next FMC meeting. Ms. McCulloch also suggested that there be a requirement for County approval of any structure built on this preserved land, as is required by FEMA.

“Zero net-fill” requirements were also discussed; this would prevent communities from bringing in soil to change the topography, and thus altering the path of floodways, on this preserved land. It was noted by Mr. Napolitano that communities in these flood prone towns usually already have a “zero net fill” requirement. It is important to note that this “zero net-fill” rule would not apply to filling in the space left by the demolition of a housing structure (i.e. basements) and infrastructure (i.e. removed sewer pipes).

Ms Szwak stated that discussion of turf fields and impervious coverage should not be listed in the “Eligible Activities” section; they are post-preservation issues. Ms. McCulloch recommended that item 3 in section 6.10 be re-named to reflect that these are *post-preservation land use restrictions*; the FMC concurred.

Ms. Cybulski informed the Committee that Ms. McCulloch has contacted FEMA regarding the level of restrictions the County could place on these properties. FEMA responded that as long as our restrictions are not *less* than that which is required by FEMA, the County can place whatever limits they see fit on these preserved properties.

Ms. McCulloch thanked Ms. Cybulski and Ms. Murray for their valuable input and support in the development of the Rules & Regulations for the FMP.

FMC Chair Davis requested a motion from the Committee to accept all of the Rules & Regulations revisions discussed, including the draft language presented this evening (document B), with the exception of the following issues (which Ms. McCulloch will develop draft language for future FMC review)

- Section 6.10, item 3 regarding post-preservation land use restrictions
- Two new items in “Acquisition Strategies and Criteria”
 - giving clear parameters for Soft Cost reimbursement
 - discouragement of future development/expansion of homes in flood prone areas; this will be a factor when an application for the property is reviewed

On a motion by Ted Eppel, which was seconded by Julie Baron, a roll call vote was taken and the Committee unanimously approved said revisions.

The municipal Outreach Campaign was discussed. Ms. McCulloch developed a brochure (document C) for use in marketing the Flood Mitigation Program; it is envisioned that this brochure will be sent to all municipalities. The committee expressed surprise at some of the facts presented therein, i.e. NJ is second only to Louisiana nationwide in severe, repetitive losses from flooding. The committee reviewed the brochure. A spelling correction was made and the brochure was approved by the FMC.

The CORE application was quickly reviewed so the FMC would be familiar with the factors to be considered in the FMP assessment of applications. The application has 3 basic sections:

1. Project Area information – provided by Municipality
 2. Parcel information – provided by Municipality, on each specific parcel being applied for
 3. Technical information – provided by County staff, for each specific parcel applied for.
- This information is based mainly on the Flood Insurance Study done by FEMA in 2010.

Ms. McCulloch stated that a Flood Acquisition Plan (FLAP) prototype can be developed now that she understands the Benefit-Cost Analysis required to appropriately assess CORE applicant properties. The application form for the CORE program has been finalized.

Additionally, the Flood Mitigation Program website can be updated with the new CORE application, procedures for application, Rules & Regulations, etc. Once this website update has taken place, Ms. McCulloch will launch a two-prong Outreach Campaign to all municipalities:

1. E-mail with hyper-links to the MorrisPreservation.org website
2. A letter with a copy of the brochure and web link listed

This Outreach Campaign will focus on Mayors, Town Council members and Administrators in all 39 Municipalities in Morris County.

CLOSED SESSION

At 6:40 p.m., on a motion by Ted Eppel, seconded by Paula Danchuk the FMC closed the open portion of the meeting pursuant to P.L. 1975 Ch. 231, the Open Public Meetings Act, and per the Committee’s standard resolution language voted to conduct a closed session.

RETURN TO OPEN SESSION

At 7:00 p.m., on a motion by Julie Baron, seconded by Ted Eppel the FMC returned to open session by unanimous vote.

CORRESPONDENCE

There was no correspondence to review.

NEW BUSINESS

There was no new business to discuss.

ADJOURNMENT

On a motion by Julie Baron, seconded by Laura Szwak, the meeting was unanimously adjourned at 7:02 P.M.

NEXT MEETING DATE

The next regular meeting is scheduled for Monday, July 16th at 5:30 p.m. in the 4th Floor Conference Room of the Offices of Planning & Development, located at 30 Schuyler Place, Schuyler Annex Building, in Morristown, New Jersey

Respectfully submitted,

Jennifer N. McCulloch