



**PLANNING COMMISSION**  
**COUNTY OF ALPINE, STATE OF CALIFORNIA**  
**Administration Building, Board Chambers**  
**99 Water Street, Markleeville, CA 96120**

**MINUTES**  
THURSDAY, April 28th, 2022

**1. CALL TO ORDER**

Chair Bob Broyer called the meeting to order at 5:06 p.m. with commissioners' present: Nick Hartzell, Jeanne Mortimer, and Jim Haen.

Nick Hartzell attended the meeting via telephone. Chair Broyer attended the meeting via Zoom.

A quorum was established.

Staff Present: JT Chevallier, Interim Director, Larry Shoemaker, Planner II, Marlene Demery-County Engineer (Zoom)

**2. ORAL COMMUNICATION – GENERAL PUBLIC COMMENT**

None.

**3. MINUTES**

**3.1. Request approval of special meeting minutes of February 24th, 2022.**

Chair Broyer requested that a missing sub-program heading in Item 4.1 Housing Element, Program 5 be corrected.

MOTION: Haen / SECOND: Mortimer approving the meeting minutes of February 24th, 2022 as amended.

AYES: Broyer, Mortimer, Haen

ABSTAIN: Hartzell

MOTION CARRIED

**3.2. Request approval of special meeting minutes of March 31st, 2022.**

Chair Broyer requested that on Section 4.3, paragraph 2, line 4 be reworded for grammatical correctness.

MOTION: Haen / SECOND: Hartzell approving the meeting minutes of March 31st, 2022 as amended.

AYES: Mortimer, Broyer, Haen, Hartzell.

ABSTAIN:NONE

MOTION CARRIED

#### **4. UNFINISHED BUSINESS**

##### **4.1 Floodplain Management Ordinance Update**

Staff Larry Shoemaker shared the latest draft language of the Floodplain Management ordinance based off the California Department of Water Resources Model (CADWR) Floodplain management ordinance. Staff Larry Shoemaker briefly introduced Marlene Demery, County Engineer and her husband Phil Demery, via zoom, both with professional backgrounds in California floodplain management ordinances. Also introduced was Serena Cheung, from Federal Emergency Response Agency (FEMA), an expert in floodplain management ordinance and the National Flood Insurance program. Staff Larry Shoemaker noted that this is just a discussion of the floodplain management ordinance language, not a public hearing, and an opportunity for Commissioners/ Public to ask questions of staff and provide suggestions or feedback.

Staff Larry Shoemaker, ceded the floor to Serena Cheung for brief introduction. Serena Cheung stated she is a Floodplain Management Specialist from FEMA region nine based out of Oakland California. Her work is focused on compliance for the National Flood Insurance Program (NFIP), and that NFIP is a mitigation program administered by FEMA. FEMA aims to reduce the impact of flooding through floodplain management and flood insurance. Part of her work is with NFIP is to assist communities adopt and enforce floodplain management regulations that meet FEMA/NFIP minimum requirements for participation.

Staff Larry Shoemaker, noted that Alpine County, up until this point never had detailed Flood risk mapping, and thus needed to update its ordinances within 90-days of final study issuance to participate in the National Flood Insurance Program.

Serena Cheung stated that FEMA provides communities with Flood Maps known as Flood Insurance Rate maps (FIRMS), where flood risks are mapped in detail alongside the Flood Insurance Study (FIS). Currently all maps for the county are Zone D, meaning unknown flood risks. Once the final FIRMS are released and adopted, regulations pursuant to the various flood risk zones affected need to be amended. Serena Cheung noted that the county is early in the adoption process of the FIS and FIRMS, with the pending release of pending FIRMS on April 29th, and the official adoption of the maps finalizing in roughly 12 months, giving the county time to review and amend its ordinance.

Staff, Larry Shoemaker noted that the Draft Ordinance language was written by CADWR with FEMA and the intent of meeting NFIP compliance standards. Staff Larry Shoemaker, ceded the floor to Marlene Demery, County Engineer and Phil Demery for discussion on the ordinance and its higher standards.

Phil Demery stated that in his work, individual communities need to create NFIP compliant ordinances from scratch, and that the CADWR ordinance is comprehensive and well crafted. Phil Demery noted that he has been part of communities with disastrous floods, and expressed that FIRM mapping helped prepare residents for the risk and insured themselves accordingly.

Marlene Demery (county engineer) noted that the higher standards in the draft language are aimed at preventing converting non-habitable structures (such as sheds, barns) in the at-risk

floodplain into habitable structures. Additionally, Demery noted higher standards requiring new construction in floodplain to exceed the minimum base flood elevation (BFE) standards by one foot to account for the unpredictability of storm/flood events. Marlene Demery noted that greater than “100 year flood” events occur, and creek/river drainages often get impeded by debris causing flooding extents worse than the FIRM maps indicate, and the additional standards provide additional protection in these scenarios.

Chair Broyer inquired if the minimum elevation standard for model ordinance is base flood elevation (BFE) or (BFE)+ one foot.

Serena Cheung (FEMA), noted that the minimum standard for a California NFIP compliant ordinance is base flood elevation (BFE) + one foot. This is due to California adopting the 2018 International Building Codes which adopts this provision. The higher standards being discussed today are (BFE) + two feet. Serena Cheung noted that the model ordinance being considered is code-coordinated, removing the redundancy of the building code requirements and NFIP minimum standards. The ordinance removes the overlap of building codes and floodplain management regulations by coordinating both of these into one document.

Phil Demery expressed that the higher standard proposed for base flood elevation is important due to the lack of sediment / debris-flow transport in data modeling of the flood events.

Commissioner Hartzell noted that the additional base-flood elevation requirements could add significant cost to construction and introduce design complexity.

Phil Demery noted that additional BFE elevation requirements only apply in areas of mapped flood risk.

Commissioner Haen asked Serena Cheung if FEMA considers debris jams and sediment transport situations in their modelling.

Serena Cheung (FEMA) noted that her expertise is in the code-compliance aspect of the NFIP and that mapping and data-engineering team would be better suited to answer the Commissioner’s question.

Staff, Larry Shoemaker noted that May 25<sup>th</sup>, 2022, FEMA will be having a joint-public workshop in Markleeville 5-7pm, where additional FEMA staff would be available to answer questions.

Chair Broyer noted that Bear Valley experiences warm storm events mid-winter that cause significant melt off of 10-12 ft tall snow-pack, saturating the ground, inducing flooding in the first floors of buildings and areas that are flat or slightly below ground.

Vice Chair Hartzell, asked if the FIRM maps and ordinance are limited to qualifying for flood insurance, or if they could be used to condemn land as non-buildable.

JT Chevallier, Interim Community Development Director, responded that the ordinance update is for ensuring property owners can qualify for FEMA flood insurance.

Chair Broyer noted that the flood risk designation on a property adds a level of uncertainty to the property owner due to the risks.

Marlene Demery (County Engineer) noted that FIRMs let current and future buyers have more information about the risks inherent to the property and to plan accordingly to best mitigate them. Phil Demery stated banks and lenders will require flood insurance for projects built on land in known flood-risk zones.

Serena Cheung responded that in addition to understanding risks, that any development the community engages upon is built to a standard that mitigates flood risk. Also noted was that 17 county residents are currently participating in the National Flood Insurance program.

Chair Broyer inquired the specific geographic distribution of the NFIP policies. Serena Cheung responded she did not know the specifics, but all 17 were residential held policies.

Vice Chair, Hartzell noted he appreciated the value of the flood-risk information. Hartzell expressed that the flood-risk designations amounting to restrictions of non-build-ability account to a commendation of land.

Commissioner Haen stated he cannot support any higher standard at this moment until he has reviewed the pending FIRM releases and the extent of flooding.

Chair Broyer inquired about the inclusion of the higher standard- watercourse setback and what the setback dimensions are.

Staff, Larry Shoemaker noted that the current draft of the model ordinance includes a higher standard setback that is 2X the width of the creek, or 50 feet minimum whichever is greater.

Marlene Demery (County Engineer) cautioned in response to Commissioner Hartzell's comments clarified that the use of "condemnation of land" is not applicable when it comes to a Floodplain management ordinance and its higher development standards. Development is permitted as long as the habitable structures are built to the standards outlined. Non-habitable structures are still allowed. Demery stated that the creek setback higher standard is intended to minimize the impacts of erosion in flood events. Demery stated that many houses are lost due to the house being too close to the bank of a river/creek that gave way during flood event.

Chair Broyer inquired if a conditional approval could be allowed for construction of a retaining wall or similar.

Marlene Demery responded that jurisdictions can provide for "hard bank" protection, but could run into other community or environmental issues pertaining to the modification of the water-channel in such a manner.

Vice Chair Hartzell, noted that property owners on the West fork of the Carson River may have lots that are not wide enough to offer a suitable building place, and such setbacks as proposed may be unreasonable hinderance. Hartzell noted that his interpretation of the draft setback regulation to preclude any development of buildings in the flood-risk zone, habitable or non-habitable.

Phil Demery responded that “non-habitable” buildings are still allowed to be built in the flood-risk zones, however that other-higher standard proposed in the draft ordinance, ie: the “Non-Conversion Deed Agreements” be applied that such buildings not be converted into habitable units post construction.

Commissioner Haen inquired if the setback requirement applies to flood-risked mapped watercourses only or any water-course. Phil Demery responded habitable building setback requirements only apply to flood-risk mapped areas, but is not definitively sure. Noted, however, other jurisdictions are imposing 25-ft setbacks upon water-course whether or not a risk has been identified.

Staff, Larry Shoemaker noted that the draft ordinance language allows for a variance permit to any of the standards, pursuant to Planning Commission approval of said variance.

Commissioner Haen, questioned if the model ordinance sans higher standards had any setback clause. Serena Cheung (FEMA) responded that the NFIP program has no requirement for creek-setbacks. Cheung noted that one potential exception is the 30-year flood-zone setback requirement, but further clarification is required.

Chair Broyer inquired if in existing county ordinances there are any creek setback requirements. Staff Larry Shoemaker responded there are no current setback requirements. Commissioner Haen questioned if there are alternative standards pertaining to setback requirements and why the 50ft setback was chosen. Staff, Larry Shoemaker responded that setback requirements could be modified. Staff, Marlene Demery noted that 50 feet is a standard recommended setback for communities and was used as a starting off point for discussion.

Chair Broyer, and Commissioner Haen inquired about Page 15 of the Agenda Packet Exhibits, Articles 303 and notes pertaining to setbacks. Staff Larry Shoemaker noted that these edits, and track change notes reflect the inclusion of the Higher Standards language into the base draft model ordinance. California Department of Water Resources (CADWR) responses to staff questions are included in the document.

Serena Cheung (FEMA) responded that upon further research, the NFIP program only has setback requirements for areas of severe erosion hazards, but those are currently not on the FIRM maps for Alpine County.

Chair Broyer questioned page 15 of the Agenda packet and the notes regarding adopting Title 24 of the building code. Staff Larry Shoemaker noted that higher standard amendments to the ordinance require modification to the state building code and subsequent adoption by county. Serena Cheung noted that if you are not adding higher standards in the Floodplain ordinance, then no modifications of the existing building code are needed, as the county automatically adopts required state building code updates, which are compliant with BFE requirements for NFIP participation.

Vice Chair Hartzell questioned tying floodplain development restrictions to the California Building Code (CBC). Hartzell noted that the maps (FIRMS) show where the risks are, and the CBC instructs how a building should be constructed. Noted both are attempting to accomplish separate goals. Serena Cheung (FEMA) noted that the intersection of the CBC

and NFIP is relevant due to the structural requirements of buildings in flood zones. Cheung noted that Administrative requirements of the program are outlined more in detail of Appendix G of the CBC.

Serena Cheung also noted that the Risk Rating 2.0 of the National Flood Insurance program (NFIP) has also been released. The Risk rating 2.0 system has re-tooled how flood insurance premium rates are calculated and incorporates more variables into its risk assessment besides just the FIRMs.

Commissioner Mortimer requested county legal counsel review Section 101-7 Disclaimer of Liability, in the Draft model ordinance. Commissioner Mortimer asked if the sentence could be reworded from *“any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by a legal representative of the community until the final termination of the proceedings.”* To: *“any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by a legal representative of the community until the final disposition of the proceedings.”* Commissioner Mortimer mentioned this definition provides better clarity from a legal context.

Commissioner Mortimer and Chair Broyer also inquired if Planning Commissioner could be added into Disclaimer of Liability, Section 101 as an office/employee to be defended.

Commissioner Mortimer also requested that PART II of the Draft Ordinance, Article 201-Definitions, Historic Structure be studied by legal to see it could be expanded to include structures and areas under tribal management per-view.

Commissioner Mortimer also noted concern regarding the setback requirements and encourages further research into the issue.

Commissioner Haen requests a list of citations to Title 24 of the CBC and Appendix G.

## **5. NEW BUSINESS**

None

## **6. PUBLIC HEARINGS**

None

## **7. OTHER BUSINESS**

### **7.1. Interim Director’s Report – JT Chevallier**

JT Chevallier stated the County is actively recruiting for both a Director and Deputy Director for the Community Development Department, and will stay on-board as Interim Director until they are on-board. The Department is continuing to move forward on Proposition 68 grant funding and will be receiving around \$500,000 for the enhancement of county parks and recreation services and locations. Additionally, the County has been awarded a State and Private forestry grant for \$1.815 million that will be put towards fire recovery, rehabilitation of natural landscapes, and a request for proposal for a registered professional forester to be allocating the grant.

## 7.2 Items Initiated by the Planning Commission

Commissioner Hartzell noted he was in attendance of the Caltrans Carson Transportation Management System (TMS) workshops and encouraged anyone interested in providing feedback on the installation of the overhead electronic variable-message transportation signs on State Routes 4, 88, and 89 to contact Caltrans District 10- Bob Highfill.

Commissioner Hartzell also brought news that one of the large storage container boxes in the parking lot of the Markleeville Administrative county building has been removed, and one remains. Hartzell inquired if the remaining storage containers, being utilized by Sheriff will be removed in a timely manner or if the Markleeville Design Review Committee will be taking up the item. Staff Larry Shoemaker responded the Community Development will follow up with the Sheriff department for further clarification.

Chair Broyer requested that a comprehensive binder with Rules of Procedure, past minutes, agendas, and other helpful information be provided to all commissioners. Staff Larry Shoemaker agreed and will provide them by the next meeting.

## 8. ADJOURNMENT

The Planning Commission adjourned at 6:17 p.m. to the next regular meeting of May 26, 2022.



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Bob Broyer, Chair

Attest:



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Larry Shoemaker, Planner II  
Alpine County Community Development