

**State of Rhode Island and Providence Plantations
Derelict and Abandoned Vessel and Obstruction Removal Commission**

Proposed Minutes of the Rhode Island *Derelict and Abandoned Vessel and Obstruction
Removal Commission Meeting*
Held on August 6, 2014

Members in attendance:

Steven Hall, Chair
Danni Goulet, Member
Tom Kutcher, Member
Tim Mills, Member and
Don Vivenzio, Member

Others in attendance:

Gary Powers, Legal Counsel to the Commission and Secretary, *Pro Hoc Vice*
Christian Capizzo, SAAG
Larry Mouradjian, RIDEM Associate Director

Quorum being present, the Chair called the Meeting to order at approximately 8:45 a.m. in the conference room located on the 2nd Floor in DEM's Wickford Marine Base which is located at 150 Fowler Street, North Kingstown, RI.

Consistent with the proposed agenda for the meeting, the Commission proceeded as follows:

1. The Chair advised the Commission that the application for funding submitted on behalf of the City of East Providence was the only application that has thus far been submitted to the Commission. The Commission proceeded with review of the application. (A copy of application is attached hereto.)
2. The consensus of the Commission was that the subject application differed dramatically from the type of application that was the Commission was charged with considering for funding from the Derelict and Abandoned Vessel and Obstruction Removal Account but that the application should be ranked pursuant to the matrix nevertheless.
3. The Chair noted the application did not include any pictures of the area where the proposed project was intended to take place. Commissioner Goulet observed that it was his understanding that photographs of the site were available from the University of Rhode Island.
4. The Chair also noted that the proposal requested a grant in the amount of \$198,500.00; an amount that was substantially larger than the total amount currently in the Derelict and Abandoned Vessel and Obstruction Removal Account. He further observed that the timeframe during which the proposal was to be accomplished extended over several grant sessions.
5. Given the above, Commissioner Goulet inquired as to whether it might be appropriate for the applicant or the Commission to modify the application.
6. Commissioner Mills also inquired as to whether the site could be considered to be a nuisance. Commissioner Kutcher pointed out that he had visited the site on numerous occasions and that it was located in rather shallow water. The Chair also responded that although the items proposed for removal were very old that to the best of his knowledge, they had not resulted in any injuries.

7. Commissioner Goulet suggested that the principal benefit to be derived from the removal of the three barges and two ships referenced in the application would be aesthetic. Commissioner Kutcher noted that an economic benefit was also possibly presented. Commissioner Goulet agreed given that the nearby park was already filled by 10:00 a.m. on most days
8. The Commissioners agreed unanimously that the items to be removed did not offer any potential salvage value.
9. Commissioner Vivenzio expressed concern as to whether the applicant had adequate funds to complete such a substantial project even if the grant from the Derelict and Abandoned Vessel and Obstruction Removal Account were awarded. The Chair observed that the Commission had rejected the requirement that applicants be required to post a bond for the projects but that this was a reimbursement grant.
10. The Chair and Commissioner Vivenzio noted that it appeared that the first phase of the proposal was probably the easiest to accomplish.
11. The Chair then asked the members to disclose the matrix ranking that they had attached to the proposal as submitted, with the following results: Commissioner Goulet – 9; Commissioner Vivenzio – 10; the Chair – 5; Commissioner Kutcher-14; and Commissioner Mills – 9.
12. Commissioner Goulet suggested that the proposal simply requested the award of too much money from the Derelict and Abandoned Vessel and Obstruction Removal Account. He inquired of the Chair as to how much was currently in the Account. The Chair responded that there was currently \$150,000.00 in the Account. Commissioner Goulet then asked for confirmation that 20% of the Account would be set aside for emergency responses. The Chair agreed stating that that 20% of the \$150,000.00 or \$30,000.00 was to be aside so the amount available for distribution was \$120,000.00.
13. The adequacy of this 20% set aside was then discussed. The Chair noted that 20% might not be adequate given the fact that the State of New Jersey had recently been required to address the removal approximately 100 boats due to adverse weather. Commissioner Goulet noted that CRMC had recently received \$130,000.00 for the remediation of Ninegret from FEMA. AD Mouradjian commented on the delay that is frequently encountered in the receipt of funding from federal disaster relief agencies, particularly when more than one federal agency's jurisdiction is triggered.
14. As to the evaluation of the subject applying the matrix, the Commission opted to evaluate the subject application via a consensus mode as opposed to a straight averaging of the individual votes of the commissioners. Employing the consensus mode, the application was rated as a 10.
15. Commissioner Mills opined that the first phase of the application appeared to be the most attractive. Legal Counsel Powers suggested that the Commission may wish to weigh the risk that the Commission may be establishing an undesirable precedent by considering this application which seeks the funding of a multi-year proposal. Rather, the Commission may wish to elect to pursue the option set out in its regulations to return the application to the applicant with a suggestion for its redrafting and re-submittal. Commissioner Goulet expressed an interest in the potential consideration of such a redrafting and re-submittal option. The Chair requested legal guidance from Powers and SAAG Capizzo as to whether the re-submittal, if adopted, could be considered by the Commission in this session or whether it had to be considered no earlier than the November 2014 session. Both attorneys concurred that the Commission could direct that

- the application be re-submitted for consideration either during the July session or at some later session.
16. The Commission then reached a consensus to the effect that the applicant should be advised by letter to redraft the subject application in order to resubmit the application to provide for the removal of one barge in its entirety above the mud line and that the resubmitted application would be considered during the July 2014 session.
 17. Commissioner Vivenzio then expressed concern that the application was relying upon the quote from merely one bidder. The Chair responded that the Commission could presume that the City would be awarding its removal contract(s) in compliance with its municipal ordinances.
 18. The Commission then reiterated and clarified its position. Commissioner Kutcher suggested that the communication direct the revamping of the application so that it initially focused on one vessel in a manner consistent with the Commission regulations. The Commission noted that the proposal should be for the removal of the entire vessel to the mud line. The Chair observed that the applicant should be directed to supplement the application especially as to submittal of photographs of the vessel to be removed. Commissioner Goulet further observed that a CRMC permit would be required but that it could be expected to be "fast tracked."
 19. The Chair then stated that by Wednesday, August 13th that he would e-mail a draft copy of letter to the applicant to the commissioners concerning the redrafting and re-submittal of the application. The draft would also suggest a submittal of the redrafted application on or before August 22nd for consideration at the Commission's next meeting. The Chair further suggested that the next meeting be scheduled to be held in the conference room located on the 2nd Floor in DEM's Wickford Marine Base that is located on the 2nd Floor in DEM's Wickford Marine Base which is located at 150 Fowler Street, North Kingstown, RI beginning at 8:30 a.m. on August 27th. All indicated satisfaction with the proposals.
 20. At approximately 10:10 a.m., the Commission adjourned on a unanimous vote upon a motion by Commissioner Kutcher that was seconded by Commissioner Goulet.

NEXT SCHEDULED MEETING

The next meeting was scheduled to be held in the conference room located on the 2nd Floor in DEM's Wickford Marine Base that is located on the 2nd Floor in DEM's Wickford Marine Base which is located at 150 Fowler Street, North Kingstown, RI beginning at 8:30 a.m. on August 27, 2014.

Respectfully submitted,
Gary Powers, Secretary, *Pro Hoc Vice*