



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL

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In accordance with notice to members of the Rhode Island Coastal Resources Management Council's Planning and Procedures subcommittee, a meeting of the subcommittee was held on Tuesday, August 1, 2006 at 5:00 p.m. at Piccerelli Gilstein & Co., 144 Westminster Street, Providence, RI.

MEMBERS PRESENT

Michael M. Tikoian, Chair
Paul E. Lemont, Vice Chair
David Abedon
Russ Chateaufneuf, DEM representative

STAFF PRESENT

Grover Fugate, CRMC Executive Director
James Boyd, Coastal Policy Analyst
Dan Goulet, Dredging Coordinator
John Longo, Legal Counsel

Call to Order. Mr. Tikoian called the meeting to order at 5:10 p.m.

Mr. Tikoian made a brief statement of the subcommittee's function and purpose. The Planning and Procedures subcommittee meeting is an open public meeting; it is not a public hearing. Therefore, discussion is available to the Council members themselves, and to all else at the allowance of the Chairman. Mr. Tikoian further explained that the subcommittee is the program and policy development arm of the Council, and that any programmatic decisions made by this group must ultimately be approved by the full Council in accordance with all proper procedures.

Mr. Tikoian made a statement as to why the subcommittee meetings are held at his offices, Piccerilli Gilstein & Company. Mr. Tikoian stated that the meetings are held at Piccerilli Gilstein & Company to facilitate a number of issues: ease of transition from the previous location (CRMC's Providence office at 40 Fountain Street) which had to be changed because the Council's downtown office was closed due to budget cuts; accommodation of subcommittee members whose work locations and/or residences are in or near to Providence; and, it's cost to the agency: free. Mr. Lemont reiterated the fact that the accommodation of members is a key issue for participation in any work of the Council; and, the wear and tear on personal vehicles is high enough and that by holding the meetings in Providence, costs can be kept to a minimum. Also, Mr. Lemont wanted the record to reflect that the Chairman should be congratulated for letting the subcommittee use his company's office space for these meetings because it addresses the many concerns raised above.

The Chair opened the meeting by asking the members if there were any questions concerning the draft July 18 meeting summary that was included in their agenda packets. There were no questions and Mr. Tikoian requested a motion to approve the subcommittee's July 18 meeting summary.

*Mr. Lemont, seconded by Mr. Abedon, moved to approve the July 18 meeting summary. **All voted in favor of the motion to approve.***

Item 3 – Old Business/Works in Progress. Mr. Tikoian stated that he would like to begin implementation of the Council’s Marine Resources Development Plan (MRDP) that was adopted in January 2006. As part of that plan, it is recommended that the Council reduce its permitting role and focus primarily on coastal policy initiatives. He suggested that the Council should begin a gradual process of shifting to the recommended role and that the Council should consider having one semi-monthly meeting per month devoted strictly to policy, while the other meeting should be for permitting matters. To facilitate that process, and in keeping with the MRDP recommendation, the Council should transfer more permitting responsibilities to the Executive Director for administrative review and approval. Mr. Tikoian noted that he had held a meeting with CRMC staff earlier in the day to discuss this matter, and staff was in full support of the initiative to move in this direction. Mr. Tikoian had requested staff to “think outside of the box” to provide ideas as to how best facilitate this process. It was also noted that it may be necessary to seek some regulatory and legislative changes to facilitate additional administrative approvals so that the Council could eventually concentrate solely on policy matters

Mr. Fugate stated that the CRMC staff was fully supportive of the Council moving to a role of primarily policy consideration and reducing its function of application review. He suggested that perhaps the Council could consider establishing a threshold limit as to the extent of administrative approvals that currently require variances. Any application that was requesting a variance beyond a certain threshold would automatically be forwarded to the council for review. Mr. Fugate also noted that the NOAA OCRM 312 review also recommended that the Council reduce its permitting functions and focus primarily on policy matters.

Members discussed various aspects as to how the initial phasing of administrative permit review and approval would be accomplished, and what would happen in contested cases. It was noted that applications could be processed more quickly since the majority would not have to be scheduled before the Council. Additionally, it could result in a reduction of the applicant’s cost in terms of attorney and consultant fees. It was suggested that perhaps the CRMC could review the DEM model for permit review and approval, as all permits are approved or denied administratively. Mr. Lemont agreed that the Council should be concentrating its activities on policy matters and leaving the majority of application review to staff, as most applications are minor in their nature and impact on coastal resources. He suggested that each of the Council’s semi-monthly meeting agenda packets should list all approved applications for the preceding period. Additionally, he suggested that the council could serve as an appellate body by hearing applications that have a staff denial recommendation.

Discussion ensued concerning how the Council needs to be provided with training by CRMC, URI Coastal Resources Center staff, and others as part of the Council’s policy function. As a result, Council members can be better educated on coastal policy issues. Additionally, the Council’s move to reduce its permit review and build upon its policy capacity should be viewed as a positive attribute, as it would be in keeping with the MRDP and NOAA recommendations. Members noted that the Policy and Procedures subcommittee serves as the Council’s most important subcommittee function, as it provides major policy initiatives and proposed programmatic modifications for issues affecting Rhode Island’s coastal environment. Other subcommittee functions, for example dock subcommittee, could be dissolved and its function fulfilled at the staff level. In addition, the Urban Ports and Harbors subcommittee could also be dissolved.

Mr. Chateaufeuf noted that there are benefits to moving to a more administrative permitting process in that applicants would be saving time and money. In addition, permitting review and approval would become a more transparent process. As a result, most applicants will work harder to minimize impacts to coastal resources because they would prefer to negotiate with staff to meet programmatic standards rather than face the burden of time and additional fees to hire attorneys and environmental consultants, and then to face an uncertain fate before the Council.

Members directed staff to begin work on developing some proposed CRMP regulatory changes to facilitate a phased approach to more administrative permit review. These proposed changes will be reviewed at the September meeting of the Policy and Procedures subcommittee.

Item 4A – RICRMP Section 300.4 – Recreational Boating Facilities revisions. Mr. Fugate explained that these revisions have been before the subcommittee previously and were originally noticed in February 2006. A public workshop was held on March 24 and an extended 60-day public review period was provided for subsequent comments. Since that time, CRMC staff has met with the RI Marine Trades Association, and others, to discuss revisions to the proposed rules.

Members discussed the proposed regulations and made a number of minor recommendations for modifying the language to clarify the intent and purpose of the rules. The primary topic of discussion concerned the addition of language into the standards section, building upon the existing language in the policy section, to minimize public trust resources impacts. Fire code language was also debated because of the cost impacts for marina owners in complying with local, state, or national standards. The members agreed that the rules should specify that marinas must conform to state fire regulations. In addition, lateral access issues were raised, and staff will confer with the Dock subcommittee to confirm that proposed language to ensure public lateral access is acceptable.

Mr. Chateaufneuf raised concern about allowing boats to berth outside of the established marina perimeter Limit (MPL) in SA designated waters where shellfish harvesting is permissible. In some cases, the berthing outside of the MPL might result in additional shellfish closures. Mr. Fugate agreed that CRMC and DEM staff jointly review such berthing requests to prevent unnecessary shellfish closures.

Mr. Fugate noted that due to the significant changes to the proposed regulations, they would need to be re-noticed to the public before the Council could adopt the rules. This will be the second public notice.

Mr. Tikoian thanked staff for their hard work on the proposed program amendments, and then requested a motion for further action on the rules.

Mr. Lemont, seconded by Mr. Abedon, moved to approve the proposed regulations with changes discussed by the subcommittee for reading to the Council and notice to the public. All voted in favor of the motion to approve.

Item 4B – Providence Harbor SAMP/Urban Coastal Greenways program. Mr. Fugate explained that the urban coastal greenways (UCG) program was one element of the ongoing revisions to the Providence Harbor SAMP, which will be renamed the Metro Bay Region SAMP. Specifically, the UCG program will be an alternative to the setback and buffer requirements of RICRMP sections 140 and 150, respectively. The purpose and intent of the UCG is to provide public access when new development projects are proposed within the CRMC coastal jurisdiction of the Metro Bay area. Policy and Procedures subcommittee has previously reviewed the UCG policy and the Council has been briefed on its development. It was noted that Policy and Procedures subcommittee held a public workshop on May 22, 2006 to hear testimony on Draft 15 of the UCG policy. Since that time, CRMC staff has been editing the draft policy to incorporate suggested revisions as submitted through the public workshop process. The written comments submitted to the CRMC have been posted on the Council's website. Staff is also in the process of preparing a response to the written comments that will be posted on the CRMC website. CRMC staff held several meetings with various stakeholders in this process, including the municipalities (June 26), Woonasquatucket River Watershed Council and the Providence Foundation (July 6). The current Draft 16 version of the UCG policy incorporates many recommendations from these meetings.

Members discussed setback provisions and their application to various types of development projects. Mr. Chateaufeuf noted that under the proposed UCG rules in Section 140 that it appeared a project that did not meet the threshold criteria could not voluntarily implement a UCG with public access even though it may be desirable to do so. Accordingly, it was recommended that language be added to the section to provide for such circumstances with CRMC approval. In addition, it was recommended that standards be added to Section 150 in regard to ADA (Americans with Disabilities Act) pathway standards.

Mr. Tikoian thanked staff for their hard work on the proposed policy and regulations, and then requested a motion for further action from the members.

*Mr. Lemont, seconded by Mr. Abedon, moved to have the proposed Urban Coastal Greenway policies read out to the Council with notice to the public for hearing. **All voted in favor of the motion to approve.***

ADJOURNMENT. Mr. Lemont, seconded by Mr. Chateaufeuf, moved to adjourn the subcommittee meeting. All voted in favor of the motion, and the meeting was adjourned at 8:15 p.m.

Respectfully submitted by

James R. Boyd
Coastal Policy Analyst