

In accordance with notice to members of the Rhode Island Coastal Resources Management Council's Ocean Special Area Management Plan (SAMP) subcommittee, a meeting of the subcommittee was held on Thursday, May 20, 2010 at 4 p.m. at the University of Rhode Island (URI) Coastal Institute large conference room in Narragansett, R.I.

MEMBERS PRESENT

Michael M. Tikoian, Chairman
Paul Lemont

STAFF PRESENT

Grover Fugate, CRMC Executive Director
Laura Ricketson-Dwyer, CRMC Public
Educator and Information Coordinator
Brian Goldman, CRMC Legal Counsel

Others present:

Jen McCann, URI CRC RISG; Kate Manning
Butler, URI CRC; Tiffany Smythe, URI CRC;
Sarah Smith, URI; Teresa Crean, URI CRC;
Michelle Armsby, URI CRC; Dennis Nixon,
Assistant Dean of URI GSO; Wendy Waller,
Save The Bay

Call to order. M. Tikoian called the meeting to order at 4:06 p.m.

Item 1. Approval of previous meeting minutes: At the direction of M. Tikoian, changes were made to the minutes of the previous meeting. M. Tikoian requested that in Item 2. Updates, very last sentence, the wording "regarding the financial issue" be added. On the second page, second paragraph, nine sentences down, M. Tikoian corrected the word "should" to "show." On the third page, 15 lines down, M. Tikoian requested that the sentence be phrased as a question. Same page, eight sentences from the bottom, M. Tikoian clarified that B. Goldman, not him, had asked G. Fugate if he agreed with the wording "make whole." M. Tikoian requested that it be reflected in the minutes that he asked G. Fugate if he agreed with all of the fisheries standards. On the last page, after the mention of Dennis Nixon, M. Tikoian said he wanted it reflected in the minutes that G. Fugate had said that he did not think D. Nixon was in agreement with the fishermen regarding the exclusive area. P. Lemont made a motion to approve the previous meeting minutes with the changes; M. Tikoian seconded the motion. They were approved unanimously. M. Tikoian asked that the minutes be emailed to the Subcommittee earlier.

Item 2. Updates: G. Fugate reported that the results of the avian studies have shown that endangered species (Section 7 report) doesn't appear to be an issue. G. Fugate said there was no change with marine mammals and turtles. The fishermen will be at the public hearing for the fisheries chapter, he said. No change with Section 106, he said. The MMS Atlantic Governors panel signed an MOU today looking at offshore wind energy, with the aim of accelerating it. They've chosen three pilot projects: Maine, Delaware and Rhode Island, G. Fugate said. No changes with EPA and EQC, he said. G. Fugate said that there is an NROC energy work plan due to be updated in June. P. Lemont asked what endangered bird species exist in Rhode Island that were referenced, and G. Fugate said

that piping plover is one, but it's a shore bird, and no shore-side sites will be affected by the wind farms. The species that might have been an issue was the Roseate tern and there was a survey done, G. Fugate said, but most sightings were close to the Block Island shore, so there was no issue there. There are also no nesting colonies there, he said. The American burrowing beetle is also found on BI, as well as bats, but there have been no confirmed bat sightings over water, G. Fugate said. P. Lemont asked where Massachusetts fits into the three pilot programs. G. Fugate said that the state did not propose a pilot project. P. Lemont commented that he thought Massachusetts' efforts were advanced. G. Fugate said yes, but that the state didn't have anything as advanced as the Ocean SAMP. P. Lemont asked if the MMS was looking at the agreement that the Governor is trying to obtain to avoid the PUC ruling, and said that he saw it a question of economics. G. Fugate said that the MMS Governor's panel approached (U.S. Secretary of the Interior) Ken Salazar months ago and agreed to draft an MOU to streamline the process. G. Fugate said that he is the state chair of the regulatory and a member of the data groups under this panel, and that a work plan will come out of the regulatory working group. P. Lemont asked what they hoped to gain from this work plan, and G. Fugate said a marine grid for all of the states. Some states have more wind power than others, and MMS would prefer to have a mechanism in place for sharing. G. Fugate referenced a handout which listed all of the upcoming Ocean SAMP chapter events and meetings, and reviewed it with the Subcommittee. B. Goldman asked what the backup plan was if the entire SAMP is not done by July 13, and ascertained from G. Fugate that there was no backup plan. M. Tikoian reiterated the question, and G. Fugate said that the SAMP team is going to do its best, but that the final outcome was somewhat unpredictable. M. Tikoian asked if it would work if the June 22 Council hearing was moved to June 29, so that the July 13 Council meeting wouldn't be so full. J. McCann said that as of that date, the team had received very few comments, but if many are received later, that's another caveat. B. Goldman said that the whole point of the process is that by the time the SAMP chapters reach the Council, everyone is on-board, and added that the Subcommittee might want to consider a what-if scenario. M. Tikoian suggested two meetings in July, instead of one. D. Nixon suggested that the meeting be continued to the following night if needed, in the case that many comments are received, and that it be noticed in this fashion. M. Tikoian agreed, and suggested that the meeting could begin an hour early as well. M. Tikoian added that the Council only meets, historically, once during the summer months. He asked why there wouldn't be two meetings in June and B. Goldman said that there are two Champlin's meetings. J. McCann said that it wouldn't help in terms of the July 13 meeting, anyways. M. Tikoian asked if it would help to hold a meeting between June 22 and July 13, and J. McCann said it depends on the comments received. G. Fugate suggested collecting the chapters with no public comment and forwarding them to the Council earlier. M. Tikoian said he'd like to plan on the July 13th and 14th dates and start times of 5 p.m., and everyone agreed. M. Tikoian asked if August 24 was a set date, and J. McCann said it was necessary for the 30-day public comment period, which gives the team five business days to respond to comments on the whole SAMP document. M. Tikoian asked G. Fugate which meeting he was referencing as the one the fishermen planned to attend, and G. Fugate clarified that they planned to attend the Council meeting on July 13 to testify. B. Goldman commented that based on what he had heard at an earlier public workshop, June 22 was going to be a

long meeting. M. Tikoian sought confirmation that at the May 27 Council meeting, four chapters that had been discussed would be read out, and commented that it wouldn't leave any openings for applications. M. Tikoian commented that public participation at the Subcommittee level has been minimal, and asked if a large crowd should be expected at the Council meetings. G. Fugate said that some of the chapters, like fisheries, climate change and renewable energy would most likely draw the public. J. McCann said that there had been no informal comment on the cultural chapter, but T. Crean added that there had been in-depth comments and conversation on the archaeological issues, so the number of comments expected is unknown. B. Goldman said he agreed with J. McCann that the best option would be to vet the chapters at full Council meetings, and to have the July 14 date, just in case it's needed. M. Tikoian suggested beginning the meetings at 4 p.m., and P. Lemont suggested changing the location. M. Tikoian said he'd like to keep it in the normal location and keep the new time for the July meetings at 5 p.m. P. Lemont said he would not be at the July 13 meeting. M. Tikoian stressed that the meetings cannot be delayed or the SAMP deadlines will be missed. J. McCann suggested it might be possible to move the timetable back to the first September meeting. M. Tikoian said that the CRMC agreed to a deadline and he'd like to meet it.

Item 3. Chapter presentations: Cultural and Historic Resources – T. Crean

T. Crean gave an overview of the chapter to the Subcommittee. The chapter includes information on pre-contact geological history; Narragansett Tribal history; landscape contexts: European exploration and colonial settlement, post-colonial cultural landscape, military and fisheries landscape, marine transportation and commercial landscapes, recreation and tourism landscapes and energy landscape); submerged archaeological sites; onshore historic sites adjacent to the SAMP area (within view of study area); and cultural and historic resource policies. T. Crean showed the Subcommittee maps of historic water inundation. M. Tikoian asked if the maps showed that sea level rise is actually slowing, and T. Crean said the maps show the inundation during the glacial recession. T. Crean said that this is the first time tribal history been used in this manner. B. Goldman said that since he just got the chapter today, he wouldn't be able to comment on the policies. T. Crean explained that she had received some of the suggestions from RIHPHC that afternoon, and provided the Subcommittee with an overview of the policies.

M. Tikoian asked the Subcommittee if there was a need for #1 under the policies section, and D. Nixon said that there was. B. Goldman questioned #2, which states that the Council will engage federal and state agencies. G. Fugate said that the CRMC is in the pre-application phase with the USACE on the Block Island site, and that the collaboration is with CRMC and the Tribe, so to expedite the process, the consultation is being done jointly with the Army Corps on the historic information. B. Goldman said he understood the consulting, but said that more than consulting is happening. M. Tikoian suggested that the wording might be changed to "coordinate," and D. Nixon said that "engage" conveys back and forth, but coordinate would cover that. M. Tikoian confirmed that the policies in the chapter are general in nature, not standards, and D. Nixon commented that they state that if something impacts cultural or historic integrity, that the CRMC won't allow it. That's pretty strong, D. Nixon said. M. Tikoian said that the policies section doesn't follow the definition, policies and standards formula. J. McCann said that there are

standards in the chapter. M. Tikoian asked if the word “standards” was used to denote this section. D. Nixon asked if M. Tikoian meant Marine Archaeology Assessment, which is a heading in the chapter. G. Fugate said the chapter is divided into the marine side and terrestrial side of the information. D. Nixon suggested that if standards are labeled as such in 440.2 and 440.4 and policies for 440.1 and 440.3, that would convey the sections’ intent. M. Tikoian commented that when the CRMC says it will not allow something, it’s a prohibition, and the CRMC usually puts those in another location. G. Fugate said that this might not be elevated to a prohibition; it might be a no or it might be a yes with mitigation, he said. J. McCann asked B. Goldman if he wanted to give the SAMP team his comments tomorrow, and B. Goldman said he would get them to the team by close of business the following Monday.

M. Tikoian asked when the chapter will be out to the public. J. McCann said that after that day if the Subcommittee accepts it, it would be read out to begin public notice. G. Fugate said that some of the clarifications and work in the chapter that will be done will not affect any of the policies. T. Crean said that for example, Section 410 is being reviewed. J. McCann requested that the Subcommittee accept it. M. Tikoian said it would be subject to B. Goldman’s changes. P. Lemont made a motion to accept the chapter and have it read out, pursuant to those changes. M. Tikoian seconded, and the motion passed unanimously.

Renewable Energy – M. Armsby

M. Armsby gave the Subcommittee a review of the chapter. The objectives, she said, were to provide background on renewable energy and offshore wind; describe the tools and process used; summarize potential effects; and outline policies, standards and regulations. D. Nixon asked if TDI takes into account the cost of cabling. M. Armsby said no. M. Armsby reviewed the policies and standards section with the Subcommittee, which starts on page 174.

B. Goldman asked if the team planned to read the entire chapter out on May 27, and J. McCann said yes. M. Tikoian said he would rather read them first, and asked if there was anything that the Subcommittee needed to pay special attention to in the chapter. M. Armsby said that the standards section mimics the MMS process. M. Tikoian said he thought the sections were drafted from scratch. M. Armsby said that the policies were but the standards were adopted from the MMS regulations to fit with the state process. M. Tikoian said that certain areas read Council and others read executive director. G. Fugate said that concerning renewable energy site 4E, it’s still going through vetting process but aside from that, these policies and standards outline a process on data collection (in the site assessment plan, similar to the pre-application phase). Once approved, they can go into data collection, he said. The CVA process comes next, and the design needs to be verified, G. Fugate said; it’s a very detailed, rigorous process. G. Fugate said that the avian policies are among the more contentious, though not for the Ocean SAMP. A lot of research has been done on diving ducks and we’re working with the Danes on this, he said. Research has found that there is a permanent habitat loss, G. Fugate said, though it’s not a mortality issue. P. Lemont commented that the ducks aren’t diving down 200 feet. G. Fugate explained that their range is the first 60 feet (20 meters or less). G. Fugate said that if the CRMC adopts the policy, it wouldn’t be a problem for R.I., but for projects in 20 meters or less, it would be. M. Tikoian asked what would happen if the chapter wasn’t read out on May 27, and J. McCann said the Ocean SAMP wouldn’t meet the deadline.

M. Tikoian suggested it be read out on June 14. J. McCann said that June 15 starts public comment, making July 15 the end of public comment (which would miss the July 13 Council meeting). M. Tikoian commented that it was a lot to process. B. Goldman suggested the Subcommittee accept it and read it out, but with the caveat that the Subcommittee hasn't approved it yet. D. Nixon said it was legitimate to do that, and it would give the Subcommittee time to read the chapter. B. Goldman said he would definitely have comments. J. McCann suggested the chapter, in particular, the policies section, be put on the next meeting agenda for further discussion. M. Tikoian agreed, and asked how many more chapters would follow. J. McCann said that the Ocean SAMP is done with Subcommittee approval; that these were the final chapters. B. Goldman asked the Subcommittee if it wanted to put it out to notice with some wording to convey that the Subcommittee had not approved the chapter. The Subcommittee worked on assembling language to be added to the public notice for the Renewable Energy chapter to reflect that due to the complexity of the chapter, and due to the fact that there was a Subcommittee member missing, and time constraints, the Subcommittee voted to go out to public notice; however, it needs more time to review and approve the chapter. J. McCann said that the team had worked hard to make sure the process explained in the renewable chapter is appropriate. She said there had been multiple meetings with MMS, and that the team wanted to provide the Subcommittee with the technical capacity to approve it.

P. Lemont made a motion to approve the chapter; M. Tikoian seconded it. The motion passed unanimously. M. Tikoian asked if any MMS representative reviewed the policies with the SAMP team, and G. Fugate said they reviewed the first component of the chapter. M. Tikoian said that it would be advantageous for MMS to say that it is in support of this, and not come back later opposed to it. D. Nixon said that the standards used in the chapter are taken from their own, and the policies are just adapted. M. Armsby said that MMS had not submitted comment in response. M. Tikoian said that he was unavailable for the June 3 Subcommittee meeting date, and asked for alternative dates. He asked if June 2 was available, and said he would get back to the SAMP team on his schedule to confirm that.

The meeting was adjourned at 6:10 p.m.

Respectfully Submitted,

Laura Ricketson-Dwyer