

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, January 24, 2006 at 6:00 PM at the Narragansett Bay Commission Boardroom – One Service Road, Providence, RI.

## **MEMBERS**

Mike Tikoian, Chair  
Paul Lemont, Vice Chair  
Ray Coia  
Jerry Sahagian  
Jerry Zarrella  
Neill Gray  
Dave Abedon  
Joe Shekarchi  
Michael Sullivan

## **STAFF PRESENT**

Grover Fugate, CRMC Executive Director

Ken Anderson, CRMC Senior Engineer

Brian Goldman, Legal Counsel

1. Chair Tikoian called the meeting to order at 6:05 P.M.

Chair Tikoian made a brief statement of clarification on the council's permitting process.

Mr. Coia, seconded by Mr. Zarrella moved approval of the January 10, 2006 minutes. The motion was carried on a unanimous voice vote.

2. **SUBCOMMITTEE REPORTS**

There were no subcommittee reports.

3. **STAFF REPORTS**

Mr. Fugate announced that there was a new publication by the council "Guide to CRMC Designated Right-of-Ways in Greenwich Bay" which covers the right-of-ways in Warwick and East Greenwich. Mr. Fugate said the guide would be sent out to council members.

4. Chair Tikoian read through the agenda to see which applicants/attorneys were present.

5. **CONTINUANCES:**

**1998-06-026 STEPHEN TURRISI & POLLY BARRY – Extension of Assent for two bedroom single family dwelling serviced by Town Water and DEM approved composting toilet system and grey water only ISDS. Located at plat 155, lot 61 and part of 59; Atlantic Avenue, Westerly, RI.**

The applicants were not present. Chair Tikoian stated that the applicant requested a continuance. The application was continued at the applicants' request.

**2005-06-003 MICHAEL & MAUREEN ANTONELLIS** – Raze and remove existing dwelling; Construct new dwelling, ISDS, permeable driveway (relocate drainage); serviced by town water; with a planted buffer. Located at plat 40, lot 30-A; 312 Prospect Lane, Portsmouth, RI.

The applicants were not present. Chair Tikoian stated that the applicant requested a continuance. The application was continued at the applicants' request.

**6. APPLICATION REQUESTING A MODIFICATION OF EXISTING CRMC ASSENT BEFORE THE COUNCIL FOR DECISION:**

**1995-07-232 ARCHES PROPERTY OWNERS** -- Modification of existing Assent by removal of existing 3' x 10' fixed pier, 3' x 10' ramp and three 4' x 10' floats as assented (A1995-07-232). Construct a fixed timber pier 4' x 65'. The new facility will extend 15' beyond the existing facility (65' beyond mean low water). A variance to RICRMP 300.4.E.3(j) is required (the facility is 6' from the west property line extension and 4' from the east property line extension, standard distance is 25'). A variance to RICRMP 300.4.E.3(k) is required (proposed length is 65' beyond mean low water, standard is 50' beyond mean low water). Located at plat 10, lot 4; 3 Arches Road, Charlestown, RI.

Chair Tikoian recused himself.

Vice Chair Lemont presided over the application.

Norma Rucky, Chair of Arches Property Owners, the applicant was present. Joseph DeAngelis, attorney for the applicant and Herb Sirois, the applicant's engineer were also present on behalf of the applicant. Mr. Anderson gave council members a brief statement on the application. Mr. Anderson stated that the application was to reconstruct an existing approved boating facility and to extend the fixed pier 15 feet. Mr. Anderson stated that the application requires a 15' length variance. Mr. Anderson said the application requires a side yard variance on the property line extension. Mr. Anderson stated that staff recommended approval of the application. Vice Chair Lemont noted that there were two letters of objection from the abutting property owners. Mr. DeAngelis gave a brief opening statement. Mr. DeAngelis explained that this was an existing dock since 1985 and was owned by the homeowners association. Mr. DeAngelis said the present dock permitted allows up to 4 vessels to be docked on the dock but due to the current configuration, they could not accommodate 4 boats. Mr. DeAngelis said they proposed to remove the floating dock and put in a fixed pier and extend it 15' to allow 4 boats on the dock. Ms. Rucky stated that they currently have 3 boats on the dock and that the application was to increase the length 15 to add the fourth boat. Ms. Rucky said the objectors were objecting to the application because of their concern for vehicular traffic and they will not be allowed to park on the right of way. Ms. Rucky stated that there would be no vehicles on the right-of-way. Mr. Sirois stated that he designed the application. Mr. Sirois explained that they need the additional 15 to put four boats on the facility. Mr. Sirois said the water depth at mean low tide is 19" up to 28" at the outboard end. Mr. Sirois said that no large boats are able to dock at the facility. Mr. Sirois explained that the parcel is 20' wide and there are boulders and rocks in the water. Mr. Sirois said the objectors felt there would be navigational hazards if they extend the dock 15'. Mr. Sirois stated that there was 28" between the boulders and piles and that the boulders are 15-20" below the water elevation. Mr. Sirois felt the boulders would have minimal impact on navigation. Mr. Sirois felt the application met Section 120 variance criteria and that this was the minimum variance necessary. Vice Chair Lemont asked if this was the very best place to put the dock on the property. Mr. Sirois

replied yes it was the only location available. Mr. Sahagian, seconded by Mr. Zarrella moved to accept Mr. Sirois as an expert in engineering. The motion was carried on a unanimous voice vote. Mr. Gray had a question on the variances and asked why the dock was not down the middle of the property instead of 4' offset from landside. Mr. Gray asked if it should be 3' off because of the pilings and does the variance need to be adjusted. Mr. Fugate said yes and the variance included the pilings. Mr. Sirois replied that the outer edge of the piling is 4' out. Mr. Gray stated that there was eel grass in the area and asked if a survey was done and if not why a survey was not done. Mr. Anderson replied that he spoke with the marine biologist and they did two surveys of the entire pond and felt there would be no impact on the eelgrass. Vice Chair Lemont asked if they seen Grace Farrell's letter of objection to the length of the dock on page 17 in the packet. Mr. Sirois replied yes. Mr. Sirois stated that he designed other docks in this area and they extend 60-70' beyond mean low water. Mr. Sirois said you need small boats in this area as the area is tight. Mr. Zarrella asked how many members there were in the association. Ms. Rucky replied there were 45 boating members in the association.

### **Objectors.**

Joseph Verdon, an abutter, was opposed to the application. Mr. Verdon felt the additional 15' length would block navigation in this area. Mr. Verdon felt the dock would block all neighbors' navigation and encroach on their property lines. Vice Chair Lemont said he did not see where this dock would encroach on the other docks. Sarah Jensen, an abutter and objector, submitted photographs of the site as an exhibit, which depicted other docks in the area. Vice Chair Lemont asked if Mr. DeAngelis had any questions of the objectors. Mr. DeAngelis replied no that he waived any questions of the objectors. Mr. Verdon felt the pilings would show from the road. Mr. Verdon felt the applicant wanted to put more boats on the dock and felt the 15' length extension and width would affect the area. Mr. Verdon wanted the applicant to keep the same dock that was there now. Mr. Zarrella asked how long the objectors were aware of the application coming before CRMC and did they hire an engineer to rebut the applicant's and staff reports and testimony. Mr. Verdon replied that they did not feel they needed an engineer and felt it was obvious that the docks point towards each other in the cove. Mr. Zarrella felt the objectors were run by their emotions and they should get an expert witness to rebut the testimony. Mr. Zarrella said they felt there would be a navigational hazard and he did not see any navigational hazard. Mr. Zarrella noted that staff had no objection to the application and the applicant's engineer testified on behalf the applicant. Ms. Jensen felt that the dock was too close to her property and not in the middle of the applicant's property. Mr. Gray was concerned with the offset from the property line. Mr. Gray said when you look at the plan it looked that the dock was 4' off the property and when he looked at the engineers plan it was 6'. Mr. Gray said the applicant was now moving the dock to the other side rather than the other side which was the larger side. Mr. Gray asked if staff knew if there were rocks out there and if there was a navigational problem. Mr. Gray felt they need to address these issues to see where the rocks are and whether or not there are any navigational problems. Mr. Anderson said he spoke with Mr. Lucier and he did know of any rock impact on the dock. Mr. Abedon felt that the council needed more information from staff to see where the other docks and rocks are so that they can make a determination. Mr. Gray, seconded by Director Sullivan moved to send the application back to staff to get a new plan from the applicant to show where the rocks are and to address the navigational hazard issue raised because of the new location of the dock and that the applicant reconsider placement of the dock to 6' from where it is now. Director Sullivan requested an aerial view of the area to show the curvature of the cove and where the rocks are to see if there would be any impairment. The motion carried. Mr. Zarrella and Mr. Shekarchi were opposed.

**1997-01-003 SPRING WHARF MARINE HOLDINGS** -- Modification of existing marina configuration per plan. (A setback variance of 39' is required to extend floats to "Federal Navigation Project" limit). Also, eliminate requirement to install pump out (per original assent) (and utilize "Newport Pump Out" mobile service). No increase in approved boat capacity is proposed. Located at plat 32, lot 285; "Casey's Marina", Spring Wharf, Newport, RI.

Patrick Hayes, attorney for the applicant was present. Mr. Goldman gave council members a brief summary on the application. Mr. Goldman said the applicant and the International Yacht School had been involved in litigation over the riparian line boundaries. Mr. Goldman stated that they had entered into a consent agreement judgment. Mr. Hayes stated that there was a consent agreement between the parties for the easements and riparian rights which was recorded in the land evidence records. Mr. Hayes stated that this was an as built assent and that they moved the dock 2' to the south. Terry Nathan, International Yacht School, stated that they were in favor of the application. Mr. Anderson stated that the applicant requested that the stipulation for pump out station requirement be eliminated from the application. Director Sullivan stated that he was in favor of the application with the pump out facility. Mr. Anderson stated that the pump out station had already been installed. Vice Chair Lemont seconded by Mr. Zarrella moved approval of the application with all staff stipulations. Mr. Hayes stated that the pump out was installed. Director Sullivan asked if they had to amend the motion to install the pump out facility. Mr. Fugate replied that the applicant had originally sought a variance to the pump out. Mr. Anderson said the pump out facility was now put in. Mr. Fugate stated that there was no need to amend the motion to add the pump out. Mr. Goldman stated that he would insure that the pump out was part of the condition of the assent. The motion was carried on a unanimous voice vote.

**1998-07-052 CASTLE FARMS INVESTMENT/TOWER HILL GROUP** – Extension (#5) of Assent for 34 Single House lots with open Space. Located at plat 50, lot 2 and plat 50-1, lot 1; Tower Hill Road, South Kingstown, RI.

The applicant was not present. Chair Tikoian continued the application.

**7. APPLICATIONS WHICH HAVE BEEN OUT TO NOTICE FOR 30 DAYS AND ARE BEFORE THE FULL COUNCIL FOR DECISION:**

**2005-02-088 ELWOOD JOHNSON** -- Construct and maintain a residential timber pier, ramp and 150 square foot float facility. The overall facility length is 200 feet +/- . The facility spans approximately 150 feet of coastal wetland (salt marsh). The terminus of the facility extends to 50 feet seaward of mean low water. Located at plat 117, lot 15; 61 Esmond Avenue, North Kingstown, RI.

Elwood Johnson, the applicant was present. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson said the application was previously before the council and sent back to staff to review and revise. Mr. Anderson stated that the application required a 10' variance to the 50' beyond mean low water standard. Chair Tikoian noted that on the second page of the staff report Mr. Reis requested a final set of plans. Mr. Fugate stated that this was a moot point as Mr. Reis had the final plans. Mr. Zarrella, seconded by Mr. Sahagian moved approval of the application with

all staff stipulations and the variance. The motion was carried on a unanimous voice vote.

**2005-07-090 RICHARD CORCORAN – Construct and maintain a new residential pier in the Kickemuit River (Type 2 Waters) that is 4’ wide, 107’ long overall and extends 85’ from mean low water. The pier will have a ramp and 8’x18’ pile supported floating dock at the end. A variance is required from the 25’ minimum offset from the property line and 35’ length beyond mean low water. Located at plat 17, lot 39; 51 Shore Drive, Warren, RI.**

Chair Tikoian recused himself.

Vice Chair Lemont presided over the application.

Joseph DeAngelis, attorney for the applicant was present on behalf of the applicant. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson stated that the application was for a residential boating facility which had been revised since the original notice to address the objectors concerns. Mr. Anderson stated that the application requires a 21’ length variance to extend 7’ beyond mean low water. Mr. Anderson stated that the staff biologist and engineer recommended approval of the application. There were no objectors to the application. Mr. Shekarchi, seconded by Mr. Zarrella moved approval of the application with all staff stipulations and the variance. Mr. Shekarchi complimented the applicant on addressing the objector’s objections in there application. The motion was carried on a unanimous voice vote.

**8. PUBLIC HEARING ON CHANGES TO THE RHODE ISLAND COASTAL RESOURCES PROGRAM AND MANAGEMENT PROCEDURES:**

**1. RICRMP/ Management Procedures  
- Section 43.2 Schedule of Fees  
Revise 4.3.2(r )**

Chair Tikoian opened the public hearing. Mr. Fugate explained the changes to Section 43.2, Schedule of Fees and stated that the Brownfield costs were a large cost to municipalities and this would limit the fee to \$5,000. Chair Tikoian called for public comment. There was no public comment. Chair Tikoian closed the public hearing. Director Sullivan, seconded by Mr. Sahagian moved approval of the changes to Section 43.2, Schedule of Fees. The motion carried. Mr. Shekarchi was opposed.

**2. RICRMP  
- Section 110.1 Category A Applications  
Revise 110.1.A(2)**

Chair Tikoian opened the public hearing. Mr. Fugate explained that this was a technical correction acknowledging that setbacks needed to be met. Chair Tikoian called for public comment. There was no public comment. Chair Tikoian closed the public hearing. Mr. Sahagian, seconded by Mr. Coia moved approval of the changes to Section 110.1, Category A applications. The motion was carried on a unanimous voice vote.

**3. RICRMP  
- Section 300.11 Aquaculture  
Revise Section 300.11.C.1  
Revise Section 300.11.C.2  
Revise Section 300.11.C.10**

### **Revise Section 300.11.C.11**

Chair Tikoian opened the public hearing. Mr. Fugate explained that this change helped facilitate freshwater aquacultures. Mr. Fugate stated that the regulations are now written for the marine side of aquacultures and this would address the freshwater side. Director Sullivan had an editing correction and requested where it stated “his” designee that it be changed to “his/her” designee. Chair Tikoian called for public comment. There was no public comment. Chair Tikoian closed the public hearing. Director Sullivan, seconded by Mr. Coia moved approval of the changes to Section 300.11, Aquaculture. The motion was carried on a unanimous voice vote.

#### **4. RICRMP**

##### **- Section 300.5 Mooring and Anchoring of Houseboats and Floating Businesses**

##### **Add New Section 300.5.B.3**

Chair Tikoian opened the public hearing. Mr. Fugate explained that there were proposals coming before the council for floating business and this change stated that they would need to include a lease with the council which would be determined using fair market value lease rates for the adjacent upland value. Chair Tikoian called for public comment. There was no public comment. Chair Tikoian closed the public hearing. Director Sullivan, seconded by Vice Chair Lemont moved approval of the changes to Section 300.5, Mooring and Anchoring of Houseboats and Floating Businesses. The motion was carried on a unanimous voice vote.

#### **5. RICRMP – Salt Pond SAMP and Narrow River SAMP**

- Salt Pond SAMP – Revise Section 920.1.A.2(j)**
  - Revise Section 920.1.B.2(k)**
  
- Narrow River SAMP – Revise Section 920.1.B.2(j)**
  - Revise Section 920.1.B.2(k)**
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Chair Tikoian opened the public hearing. Mr. Goldman explained that this change was reported out of the policy and planning subcommittee, which would allow a grandfather stipulation for affordable housing prior to December 14, 2004, which there are 10 statewide. Mr. Goldman said after this date affordable housing applications would fall under the new regulations. Mr. Goldman stated that this was a technical correction.

Chair Tikoian called for public comment. There was no public comment. Chair Tikoian closed the public hearing. Mr. Sahagian, seconded by Mr. Coia moved approval of the changes to the Salt Pond SAMP and the Narrow River SAMP. The motion was carried on a unanimous voice vote.

#### **8. Enforcement Report – December, 2005**

There were none held.

**9. Category "A" List**

Mr. Zarrella had a question on page 4 of the Category A applications, Karen Coelho, Application #200-1047 and asked what the status was. Mr. Anderson stated that the application had been granted and a restoration plan had been submitted and staff approved the plan.

There were no Category A's held.

There being no further business before the council the meeting, the council adjourned at 7:14 p.m.

Respectfully submitted,

Grover Fugate  
Executive Director CRMC

Reported by Lori A. Field