In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, June 27, 2006 at 6:00 PM at the Narragansett Bay Commission Boardroom – One Service Road, Providence, RI.

MEMBERS

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

STAFF PRESENT

Grover Fugate, CRMC Executive Director

Dave Reis, CRMC Environmental Scientist
Dan Goulet, CRMC Dredging Coordinator
Dave Alves, CRMC Aquaculture Coordinator
Laura Rickman, CRMC Public Educator and Information Coordinator

Brian Goldman, Legal Counsel

1. Chair Tikoian called the meeting to order at 6:13 p.m.

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

2. READING OF THE MINUTES OF THE PREVIOUS MEETING:

Vice Chair Lemont, seconded by Mr. Sahagian moved approval of the minutes of the May 23, 2006 meeting. The motion was carried on a unanimous voice vote.

Mr. Zarrella asked Chair Tikoian how you go about getting items on the agenda when it hasn't been able to get posted on the agenda and asked when would be the appropriate time at the meeting to discuss these issues. Chair Tikoian replied that he could bring it up when the council is done with the State's business.

3. SUBCOMMITTEE REPORTS

There were no subcommittee reports.

Mr. Zarrella has a question on the Champlin's subcommittee finding of facts and asked if they signed off on them. Chair Tikoian asked if he was on the subcommittee and if so, did he sign off on them. Mr. Zarrella replied yes but he was wondering if everyone else on the subcommittee had. Chair Tikoian noted that legal counsel was still in the process of writing the decision on Champlin's. Mr. Goldman explained that the five members of the council who voted not to accept the subcommittee recommendation would be issuing their findings of fact as to why they did not support the recommendation of the subcommittee. Mr. Goldman said the subcommittee recommendation, which Mr.

Zarrella participated in, would be part of the record and transmitted to the court with the record setting forth the reasons for the subcommittee recommendation. Mr. Goldman explained that he would have to submit the administrative record by July 15th and as part of that there would be the finding of fact from the five members who voted not to support the subcommittee recommendation and the subcommittee recommendation would also be included. Mr. Sahagian asked why they could not resubmit the subcommittee's findings of fact on behalf of the five members who voted in support of the subcommittee recommendation. Mr. Goldman said it's part of the administrative record and will be referred to as part of the record and in the findings of fact. Mr. Sahagian said he did not understand the process and asked why they could not say this is a recommendation from five people who voted against and this is the recommendation from five people who voted for it. Mr. Sahagian said this would be an even keel when they go before the judge. Mr. Goldman said he could redraft it. Mr. Goldman said he could do this if this it what they wanted. Chair Tikoian felt the council should stick to what the process is and not change it. Mr. Sahagian said it was a five to five vote and to make it fair they should say five people felt this way and five people felt this way and let the judge decide it. Mr. Goldman said that the record is clear but if the people in favor of the subcommittee recommendation wanted him to redraft it and all the findings of those in support of the subcommittee recommendation he could do the exact same one and have it signed. Mr. Sahagian said if the Chair would allow it. Mr. Zarrella asked why the Chair had to allow it and why can't the members vote it in. Chair Tikoian said if he made it a motion they could vote on it. Mr. Sahagian made a motion that legal council adopt the subcommittee recommendation as the recommendation. Chair Tikoian noted that this item was not on the agenda and to do it properly they should advertise it and get it on an agenda. Mr. Goldman was concerned with this not being on the agenda and said he did not want to violate the Open Meetings Act. Mr. Zarrella said this was a subcommittee report. Mr. Goldman replied that the subcommittee report is part of the administrative record. Chair Tikoian said he did not have a problem with putting the subcommittee report as part of the overall decision and that it was their findings. Mr. Sahagian noted that three members of the subcommittee signed off on the recommendation and five members voted in support of the subcommittee recommendation and it was a tie vote. Mr. Sahagian said if you are going to submit findings of facts for the five people who voted against the application why can't they resubmit the subcommittee recommendation. Chair Tikoian did not want a motion on this. Mr. Goldman was concerned about the Open Meetings Act issue. Mr. Goldman suggested that they put this on the next agenda as an item saying to adopt, formalization of the subcommittee report. Mr. Gray was not comfortable with discussing something that was not on the agenda. Mr. Gray said council members read the agenda so they know what's going on and all of a sudden, there is a motion and something is being voted on that they had no knowledge of it ahead of time and that this was not fair. Mr. Sahagian said that this was not the intent. Mr. Sahagian said he agreed with that but at the same time he did not know why there was only one report or one finding of fact being submitted to the judge. Mr. Goldman said the subcommittee report was going to be submitted. Mr. Sahagian said what is going to the judge is the findings of fact on the full council. Chair Tikoian replied the administrative record and entire transcript are going. Chair Tikoian asked for any other subcommittee reports. There were none.

4. **STAFF REPORTS**

There were no staff reports.

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

6. APPLICATION REQUESTING AN EXTENSION OF EXISTING ASSENT:

1989-09-042 FAIGIE RICHMAN – Extension request for permit to construct private residential boating facility. Located at plat 5, lot 31; Cove Drive, Charlestown, RI.

David Richman, the applicant's husband was present on behalf of the applicant. Mr. Fugate gave council members a brief summary on the application. Mr. Fugate stated that both the applications are before the council for their second extension. Mr. Fugate said there had been no work done on either application. Mr. Fugate stated that the enforcement people check it out and there are no enforcement issues associated with the applications and they are before the council for their second extension. Mr. Fugate informed the applicant that the application falls under the new regulations and if the council granted the extension tonight he would only be eligible for only one more extension during which he would have to complete the work. Chair Tikoian asked if he understood. Mr. Richman replied yes, one more extension for one year. Mr. Zarrella, seconded by Mr. Shekarchi moved approval of a one-year extension of the assent. The motion was carried on a unanimous voice vote.

2001-05-019 FAIGIE RICHMAN – Extension request for permit to raze existing deck; build new deck and screened porch. Located at plat 5, lot 31; 10 Cove Drive, Charlestown, RI.

David Richman, the applicant's husband was present on behalf of the applicant. See comments on above application. Vice Chair Lemont, seconded by Mr. Shekarchi moved approval of a one-year extension of the assent. The motion was carried on a unanimous voice vote.

7. APPLICATIONS REQUESTING A MODIFICATION OF EXISTING ASSENT:

2004-12-015 CAPITOL CONSTRUCTION EXCHANGE CO., LLC. (formerly Desrosiers) – Construct and maintain: Modification of existing approved residential timber pier consisting of 21.7' seaward extension of approved design resulting in new dimensions of: 4'x 165.6' fixed timber pier including 4' x 20' "L" at terminus and tie-off pile. Facility extends a maximum of 124.7' seaward of MLW requiring a 99.7' variance from section 300.4.E.3. (k). Located at plat 12, lot 25B; 94 Washington Street, Newport, RI.

Turner Scott, attorney for the applicant was present on behalf of the applicant. Mr. Reis gave council members a brief summary on the application. Mr. Reis stated that the application was for a modification of an existing assent. Mr. Reis said the modification is to extend the approved facility 21.7' seaward and relocate the facility 5' northward of the approved location. Mr. Reis said the overall proposed facility dimension are 4'x 165.6' with a fixed timber pier leading to a 4'x20' "L" pier at the terminus. Mr. Reis stated that the facility extends 127.7' seaward of mlw and requires a 74.7' variance from Section 300.4.E.3.k. Mr. Reis said the reason for the extension of the dock is because the new owner is trying to accommodate a 30-boat with a 5 ½' draft and this is explained in the applicant's variance request on page 30 in the packet. Mr. Reis stated that the additional length provide an additional one-foot of water depth. Mr. Reis stated that there was no staff engineering or biological objection to the application. Mr. Scott explained that Mr. Denton is the new owner of the property and that they need the length for depth of water for his boat. Mr. Scott said they were extending the dock to protect

the eelgrass and that the dock extends no further than the other docks in this area. Mr. Scott stated that they were concerned with Mr. Reis' stipulation that the terminus be a touch and go facility and not a permanent facility. Mr. Scott stated that the applicant wanted to moor a tender to his sailboat in the interior of the northern part of the dock and this stipulation would prohibit that. Mr. Scott stated that the previous assent did not have this stipulation. Mr. Shekarchi asked what stipulation Mr. Scott wanted removed. Mr. Scott replied stipulation number 2. Mr. Shekarchi asked if they agreed to the City of Newport stipulations, which approved this stipulation. Mr. Scott replied yes that there are no issues with those stipulations. Mr. Shekarchi referred to page 3 of the staff report which stated "In order to protect the eelgrass from the adverse impacts of shading by a docked vessel, the facility only be used for a touch-and-go purpose and that long-term docking more than two days is not allowed." Mr. Scott said that was only on the end and this would be on the interior. Mr. Shekarchi said he was okay with the stipulation at the end but not on the interior. Mr. Scott said yes and that they had no objection to minimizing the size of the boat on the interior to 25 feet. Chair Tikoian asked staff to respond. Mr. Reis explained that there is no standard for docks over eelgrass. Mr. Reis said that Section 300.18 was developed with findings, policies and goals but no real standard. Mr. Reis explained the Burdick and Short method which docks are constructed to and are basically designed to minimize shading of the eelgrass bed and for protection of eelgrass. Mr. Reis said they try to determine a reasonable dock length and look at a 5' depth of water. Mr. Reis stated that his recommendation was no significant objection provided the stipulations were adhered to. Mr. Reis felt the stipulations were important and are consistent with the council's approval of other docks. Mr. Gray said he understood the applicant's request and the rationale for it. Mr. Gray was concerned with a letter from the applicant on page 30 regarding the docking of medium size boats along the side of the dock. Mr. Gray said the prop may damage the eelgrass. Mr. Gray said he needs to understand how a vessel along inboard of the terminus is going to be docked to protect the eelgrass. Mr. Scott noted that the previous approval did not have this requirement. Mr. Scott stated that they needed the depth of water for the boat so it could be docked between a 5' and 6' depth and this would minimize any damage to the eelgrass. Mr. Gray said he was looking for a vessel. Mr. Scott replied yes for a maximum vessel length of 25' in the interior to be able to be moored up against the northern side of the dock. Mr. Gray said there would only be one vessel here. Mr. Scott replied yes and the terminus would be a touch-and-go for the sailboat. Mr. Reis talked about the new draft regulations for tenders. Chair Tikoian said they could not talk about draft regulations only current regulations. Mr. Gray said on placing the boat on the north side he sees more damage to the eelgrass and that there would be no problem with the boat on the south side. Mr. Scott replied the only problem was the prevailing winds would bang the boat right into the dock. Mr. Gray said they would need a hold off of some kind. Mr. Scott said they could use a davit but davits are not prohibited in this part of Newport. Mr. Zarrella asked what a davit is and asked if it lifts the boat out of the water. Mr. Scott replied that it's a mechanical lift on pier that you sort of sail the boat into and its lifts the boat up and down. Mr. Scott said that they would certainly use a davit on the interior of the dock if council wanted them to subject to staff looking at it. Mr. Zarrella asked Mr. Reis if he was in conflict if the council released stipulation number 2. Mr. Reis said yes, it's his recommendation but he defers to the council. Mr. Sahagian asked if he was in less conflict with a davit. Mr. Reis replied this would require an application for a boatlift which is a Category B review before the council and that this cannot be done administratively by staff. Mr. Sahagian asked if they could approve a davit because this is a public hearing. Chair Tikoian said his preference would be that if they recommend a davit that staff look at the plans to make sure it agrees with the present policies. Mr. Shekarchi, seconded by Vice Chair Lemont moved

approval of the application with the modified stipulation by Mr. Scott. Mr. Zarrella asked what the modification was. The modified stipulation was that the terminus would be touch-and-go and they would allow a no more 25' boat on the interior of the north side of the dock. Chair Tikoian called for a roll call vote on the motion.

On the motion for approval of the application with stipulations:

Director Sullivan	No	Mr. Coia	No
Mr. Gray	No	Mr. Sahagian	No
Mr. Zarrella	No	Vice Chair Lemont	Yes
Mr. Shekarchi	Yes	Chair Tikoian	No

2 Affirmative 6 Negative 0 Absentation

The motion failed.

Mr. Gray, seconded by Mr. Sahagian moved approval of the application with all staff stipulations and the addition of the local stipulations and request to put a 25' vessel, no more than a 25' vessel, which must be placed on the outboard end of the south side of the pier. Mr. Sahagian asked if the applicant could live with this. Mr. Scott said he would have to talk to his client. Mr. Scott said the problem with putting the boat on the south side is that the boat would bang against the dock. Mr. Scott appreciated the offer but did not think it was feasible for the boat owner to put his boat in. Mr. Sahagian withdrew his second. The motion was withdrawn. Director Sullivan stated that it was the Council's intent to preserve the environment, encourage and allow eelgrass to continue. Director Sullivan said the problem with Mr. Gray's idea of placement on the southern side is that you eliminate the value of the raised dock and the sun would be blocked from that angle and the eelgrass would further diminish and there would be substantial loss of eelgrass. Mr. Reis concurred that there would be shading impact. Mr. Zarrella asked if there was a compromise they could reach and asked staff if they had any suggestions. Mr. Reis said a smaller vessel would be more appropriate and that a 25' boat would cause damage. Mr. Zarrella had a problem with regulating the size of the boat and that the council shouldn't get into regulating someone's boat. Mr. Zarrella said Mr. Reis had an alternative and suggested that the application be sent back to staff to work out and that they look at the davit. Director Sullivan said that this was his intention. Director Sullivan, seconded by Mr. Zarrella moved to refer the application back to staff to work out an alternative and look at the davit. The motion was carried on a unanimous voice vote.

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

2005-02-066 HILL PASTURE IMPROVEMENT – Expand an existing marina from 20 boats to 25. This will include the expansion of an existing Marina Perimeter Limit. Located at plat 9, lots 140, 148, 149; Pond Street and Ninigret Pond, Charlestown, RI. David Sherman from Hill Pasture Improvement, the applicant was present. Mr. Goulet gave council members a brief summary on the application. Mr. Goulet noted that this was a somewhat challenging site. Mr. Goulet said there are four distinct docks in two locations and said that blow-up copies were distributed to council members. Mr. Goulet said this is a marina in type 2 waters and that the applicant is asking for a 25% expansion from 20 boats to 25 boats with a one-time bumpout of the marina perimeter limit. Mr. Goulet said that there are two locations Dock A and Dock B. Mr. Goulet said

that Dock B has four existing boats and Dock A has eight existing boats. Mr. Goulet explained that the applicant wants to extend Dock B to 51 feet to have six boats and extend Dock A 30 feet to have nine boats. Mr. Goulet said the marina perimeter on the north side adjacent to Dock B would extend 40 feet and the marina perimeter on the south side of Dock A would extend 30 feet basically keeping within the already approved marina perimeter just extending it out to the dock extension. Mr. Goulet said the second area were Dock D and C are fixed piers and there is no change proposed to the marina perimeter limit. Mr. Goulet stated that Dock D would extend 26 feet out. Mr. Sherman explained that they are a 31-member association of property owners that own this marina which is a residential marina. Mr. Sherman said they were trying to better meet their member's needs for boat docking. Mr. Sherman stated that the water is low in this area which causes boats to bottom out. Mr. Sherman said there are also rocks in the area and they can not currently dock 20 boats. Mr. Sherman said they are asking for the dock extensions to ease some of the problems they have due to low water and rocks that are in the perimeter area. Mr. Fugate noted that in type 2 waters they are allowed a one-time 25% expansion and this would be the one-time 25% expansion so they could not come back for any further expansions. Mr. Sahagian asked if the person who submitted the letter of objection was here. Chair Tikoian replied they did not say when he called for attendance. Mr. Gray asked if the vessels docked on the pier are all docked alongside. Mr. Sherman replied yes. Mr. Gray asked what size boats are on the dock. Mr. Sherman replied a number of the boats are less than 20' and a bunch of them are under 15' and skiffs. Mr. Gray asked if they were all outboards. Mr. Sherman said yes. Mr. Shekarchi asked if the sanitary facilities were adequate. Mr. Goulet replied that there are cottages nearby within walking distance which is explained in their application. Mr. Goulet said there are no facilities at the marina they use their cottages. Mr. Gray asked if they were stipulating that the vessels on this facility can only be used by the association and not by someone who does not live in this area. Mr. Goulet said that is a management of the marina stipulation. Mr. Sherman said outsiders are prohibited from docking their boats. Mr. Gray wanted this to be part of the stipulations so that the sanitation issue is covered. Mr. Sahagian, seconded by Mr. Shekarchi moved approval of the application with all staff stipulations and a stipulation that the dock will not be used by outside boaters to address the sanitation issue. The motion was carried on a unanimous voice vote.

2006-05-054 RI DEPT of ENVIRONMENTAL MANAGEMENT & NATIONAL OCEANIC and ATMOSPHERIC ADMINISTRATION -- Scallop restoration in Quonochontaug Pond in Charlestown and Westerly, RI.

Chair Tikoian noted that Mr. Shekarchi would have to leave the meeting and they would loose their quorum. Chair Tikoian asked if Director Sullivan had a conflict with the application. Director Sullivan replied no there is no direct financial conflict or anything. Mr. Goldman stated that the reason this came up is because DEM is a co-applicant. Chair Tikoian noted that Mr. Sahagian would have to recuse himself on the application. Director Sullivan said this would not affect the quorum it's a noninvolvement. Chair Tikoian asked if the Director was going to recuse himself. Director Sullivan replied out of an abundance of caution he would recuse himself. Mr. Alves explained that this may not be a concern as the objectors and the applicant have workout an agreement prior to the meeting and that normally this would have been a Category A application and that the only reason it was before the full council was because of the objections. Chair Tikoian said since they entered their appearance before the council the council has to vote on it. Chair Tikoian asked if there was a deadline for the application. Mr. Alves replied yes there is a biological necessity to get the animals in the water soon. Mr. Gray suggested

sending the application back to staff. Chair Tikoian asked if there were any objections from council members that can vote on this to remand it back to the Executive Director. There was none. The application was reverted back to the Executive Director for action.

2005-09-070 JAMES AND PATRICIA GRAY – Construct and maintain a residential boating facility to consist of a 4' x 104' fixed timber pier, a 3' x 25' ramp and a (150 sq ft) float with two (2) tie-off piles. The terminus of the dock will extend to 90-feet mean low water (MLW), requiring two (2) variances: a 40-foot length and 25-foot riparian setback variances. Located at plat 5, lot 72; 97 Narragansett Boulevard, Portsmouth, RI.

Mr. Gray noted that he had no connection to the Grays and would be voting on the application. Turner Scott, attorney for the applicants was present on behalf of the applicants. Mr. Reis gave council members a brief summary on the application. Mr. Reis stated that the application was to construct a residential boating facility to consist of a 4'x104' fixed timber pier with a 3'x25' aluminum ramp and a 150 s.f. float with two tie-off piles. Mr. Reis stated that the dock extends 90' beyond mean low water and requires a 40' length variance. Mr. Reis said the application requires a 100% side setback variance for the tie-offs and that sign-off on the variance had been obtained. Mr. Reis said the applicant has a 40' boat and needed the additional water depth. Mr. Reis said staff recommended approval of the application. Mr. Scott had nothing to add to the application. Mr. Sahagian, seconded by Vice Chair Lemont moved approval of the application with all staff stipulations and the variances. The motion was carried on a unanimous voice vote.

2006-02-042 CHRISTOPHER, MARY and LEE CAOUETTE – Construct and maintain a multiunit (2) dwelling to be serviced by ISDS. Located at plat 54, lot 169; East Main Road, Portsmouth, RI.

Michael Egan, attorney for the applicants was present on behalf of the applicants. Mr. Reis gave council members a brief summary on the application. Mr. Reis stated that the application was to construct a multi-unit dwelling to be serviced by and ISDS. Mr. Reis noted that an assent had been issued in 2001 and expired. Mr. Reis stated that the new assent is for two-units instead of the previously approved one unit. Mr. Reis said staff had no objection to the application with stipulations. Mr. Shekarchi asked if the applicant was aware of the planning stipulations. Mr. Egan replied yes and they agreed to them. Mr. Shekarchi, seconded by Mr. Zarrella moved approval of the application with all staff stipulations. The motion was carried on a unanimous voice vote.

Mr. Shekarchi left the meeting at 7:05 p.m.

2006-03-024 MICHAEL MARTIN – Construct and maintain a residential boating facility consisting of a 4' wide stairway that leads to a 4 foot wide by 89 foot long fixed timber pier that leads to a ramp that leads to a 150 square foot terminal float with two associated tie-off piles. The proposed structure is to extend 75 feet seaward of the cited mean low water mark. Located at plat 174, lot 132; Poppasquash Road, Bristol, RI.

Michael Martin, the applicant was present. Craig Karrigan, the applicants' engineer was also present on behalf of the applicant. George Sisson, Maureen McDonald and Charles McDonald, the objectors were also present. Mr. Reis gave council members a brief summary on the application. Mr. Reis stated that the application was to construct a residential boating facility with a 4' wide stairway leading to a 4' x 89' long fixed timber pier with a 150 s.f. terminal float and two tie-off piles. Mr. Reis said the dock extends

75' beyond mean low water requiring a 25' length variance. Mr. Reis stated that the boat has a 3.7' draft and there is 4-5 1/2' of water at the terminal end of the float. Mr. Reis said staff had no objection to the application. Mr. Reis stated that two objections to the application had been received. Mr. Martin felt that the dock was consistent with the other boating facilities on Poppasquash and that he was just applying for something standard. Mr. Martin stated that there are two docks to the north of him that were recently approved and there are four docks to the left of him which are all consistent with what he is applying for.

OBJECTORS

Mr. McDonald read a statement of objection into the record and gave of copy of his statement to the applicant. Mr. McDonald felt it was up to the council to preserve, protect, develop and where possible restore the coastal resources of the state. Mr. McDonald had three objections to the application: 1) the location of the project and felt it would occupy a substantial position on fragile piece of coastline on a small peninsula and effect eelgrass; 2) felt the personal convenience of a dock for every homeowner should not outweigh the risk of permanently altering the coastal environment and the public's enjoyment of pristine places; 3) they objected to the 155' length of the dock which extends 75' seaward of the mean low water mark. Mr. McDonald felt that the dock was so long that a length variance was needed to achieve a water depth that would support a vessel in shallow water and could cause erosion in the cove. Mr. McDonald was also concerned with the dock's proximity to the Audubon Reserve and the impact it would have on species, animals and plant life. Mr. McDonald wanted the council to protect the public trust. Mr. McDonald said that there is a marina less than a mile away and asked the council to deny the application. Vice Chair Lemont asked Mr. McDonald if this dock was approved what was the closest dock to this on either side. Mr. McDonald replied less than 150 feet north. Vice Chair Lemont asked if this dock on the north side of the Audubon as well. Mr. McDonald replied just south of the Audubon. Vice Chair Lemont said south of the Audubon there is nothing and that the coast runs east and west there to a point where the tree guy lives. Mrs. McDonald said she had an aerial photograph of the area. Vice Chair Lemont said he had not been to the cove in a while but he did not recollect any docks there. Mrs. McDonald said there weren't any docks. Mr. McDonald noted that the council just approved two docks in this area. Vice Chair Lemont asked if they were near the Kinder property. Mr. McDonald replied no, Kinder is a mile away from them, he is to the north closer to the yacht club. Chair Tikoian asked that record indicate that there are two other docks there that this council approved. George Sisson, stated that he was opposed to the application. Mr. Sisson felt this dock would further spoil a delightful merchantable cove, Usher's Cove in Bristol. Mr. Sisson asked the council to turn down the application and help preserve the scenic beauty of Usher's Cove in Bristol. Mrs. McDonald felt the council had a great responsibility of protecting the coastal environment. Mrs. McDonald said this was the only place that remains open for shellfishing and felt the introduction of additional docks and additional boats in the area troubles her in terms of maintaining this beautiful piece of coastline. Mrs. McDonald wanted to protect this area. Mr. Carrigan stated that there had been a concern regarding the removal of trees for the construction of the dock and said if you look at the site they would be taking down brush and not taking down any substantial trees. Mr. Carrigan said the staff report was in favor of a stairway for access rather than a path. Mr. Carrigan said a walking path due to the steepness of this particular slope would cause more erosion than you would see with a walkway. Mr. Carrigan stated with regard to the shoreline access they are complying with CRMC guidelines concerning elevation above the bottom stringer and it is what coastal has approved many times and is very similar to the two docks previously approved by the council. Mr. Carrigan said

staff discussed this with the Audubon and they were not directly objecting to the application. Chair Tikoian noted that the only reason the application was before the Council was because there is an objector. Chair Tikoian said the application could have gone before the dock subcommittee and they could have voted one way or the other. Chair Tikoian had a question on page P-2 of the staff report regarding their site visit and requesting revisions to the plan submitted and asked what the revisions where. Mr. Reis said he did not know as he had not worked on the application. Mr. Carrigan replied that it dealt with the stairway design and staff wanted more specifics on the number of steps and the size of the landings. Chair Tikoian said Mr. Gray had a question on the lateral access and asked if he was satisfied with this. Mr. Gray said he was pleased with the lateral access at five feet but he was looking for an overview of the area. Mr. Gray asked about the coordinates of the dock and asked if Usher's Point was to the right and land is to the left. Mr. Carrigan replied correct. Mr. Gray asked about the other two docks and asked if they were there. Mr. Carrigan replied that they were not shown. Mr. Reis stated that the other docks were on page 9. Mr. Gray said these two docks are at the top of the page to the north. Mr. Carrigan replied yes. Mr. Gray said the Audubon Society property is more to the top of the page. Mr. Carrigan said yes. Mr. Gray said this dock was to the south of the existing two docks. Mr. Carrigan said yes. Mr. Zarrella asked if it was his understanding that the dock subcommittee approved two docks in this area in the last year. Chair Tikoian replied no, he think some of them came to the council. Mr. Zarrella asked if Mr. McDonald opposed the two other docks. Mr. McDonald said they were not aware of those docks. Mr. McDonald said they were only aware of this dock because they are abutters. Mr. Zarrella asked if he would have opposed those two docks on the same grounds. Mr. McDonald replied yes. Mrs. McDonald noted that the staff report said the Audubon had no objection to this dock but they did have a concern about the proliferation of docks. Mrs. McDonald noted that they are upset about the number of docks being approved in this area. Vice Chair Lemont asked where the aerial photograph came from and if they got it off the computer. Mrs. McDonald replied yes. Vice Chair Lemont said he did not see a dock in Usher's Cove. Mr. Martin said his dock was not in Usher's Cove. Vice Chair Lemont asked where the dock was in proximity to 433 Poppasquash Road. Mr. Martin said his dock was to the north of that. Vice Chair Lemont said he did not see a dock in Usher's Cove. Mrs. McDonald replied that she got the photograph from google earth and that it did not show a dock that exists there now and that the photograph was probably taken before the building of the dock. Mr. Martin explained that if you look at Courageous Circle that the whole length of frontage is his property and its not in Usher's Cove. Mr. Martin said he was in complete compliance with the other docks in the area. Mr. Martin wanted this facility for him and his family and did not think it would be fair to him to have to go to a marina. Mr. Gray asked if Courageous Circle was a public road. Mr. McDonald and Mr. Martin said it was a private road. Mr. Gray asked if Mr. Martin owned the land on both sides of this with an easement to cross. Mr. Martin replied yes. Mr. Sahagian asked how large his lot was. Mr. Martin replied 3 ½ acres. Chair Tikoian asked how many feet of water frontage he had. Mr. Martin replied he has about 600 feet of frontage. Mr. Sahagian asked where the dock is situated on the lot. Mr. Carrigan replied in the middle of the lot. Mrs. McDonald noted that there is very little land between the water and Poppasquash Road. Mr. Martin said he owns to the high tide mark. Mrs. McDonald asked if he was taxed a water view rate. Mr. Martin said he does not how she knows what he is taxed but he owns to the waterfront. Chair Tikoian said the council was not concerned with how they are taxed and that the end result is that the applicant owns to the waterfront. Chair Tikoian said the issue was whether the applicant was following all the rules of the program. Chair Tikoian said staff recommended approval of the application and that staff has fulfilled their obligation in reviewing all the criteria relative

to storm events and structural components of the dock. Chair Tikoian said they were here to listen to the objectors objections relative to program matters but that all they have heard is theirs vista objections, which are valid. Mr. McDonald said they have three objections to the location of the project. Chair Tikoian said objection had been addressed. Mr. McDonald said their second objections is too many docks being granted. Chair Tikoian said this was a valid objection but not against the rules. Mr. McDonald said the third objection was the length of the proposed dock and the variance requested and what would happen to the dock if there was a storm. Chair Tikoian asked staff to address the storm issues and what they look at. Mr. Goulet replied that they look at FEMA review for storm damage and there are construction standards that must be met. Chair Tikoian asked if the dock went through the Army Corps PGP process. Mr. Reis replied yes. Mrs. McDonald felt they had to look at the value to pristine land on the coast and protect the coast for future generations. Chair Tikoian explained that we are a management concil and the management council manages the coastline and uses their staff to assist in managing the coastline. Chair Tikoian said it may their option to deny everything so that there are no structures but its up to the CRMC staff people to make recommendations, which are usually a median. Director Sullivan suggested that the objector had one critical issue that needed to be address and whether this dock is the one that triggers the discussion or other ones in the process pending or not yet submitted there is the issued of individual rights versus the cumulative impact of these. Director Sullivan felt that it was up to the council to make educated assessments of the cumulative impact and the adverse cumulative impacts. Director Sullivan felt that it was the council's responsibility to deal with the cumulative impacts. Chair Tikoian agreed and said that when staff reviews an application they look at the cumulative impacts. Mr. McDonald asked what the appeal process was. Mr. Goldman replied that he needed to talk t his own lawyer on that one. Director Sullivan asked if staff look at, in an attempt to estimate either the individual or cumulative impact of approved and/or applications. Mr. Reis replied no, he can't say that staff looks at the cumulative impact of each dock. Mr. Reis said they typically look at the environments the docks are going into in terms of their psychological value like salt marshes and SAV beds and where there resources occurs and are impacted. Mr. Reis said it was a very difficult thing for staff to evaluate. Director Sullivan stated that granted it is difficult for staff to evaluate one individual application did it ever enter into their matrix of considerations to view it in terms of its cumulative impact for granted, existing or pending application. Mr. Reis replied that he did not review this particular application. Mr. Reis said they look at the shoreline to determine if there is anything of particular significance. Mr. Reis said there are a lot of shorelines that are 50 to 100 feet wide and you would have a real potential for cumulative impacts but you have lots that have 500-600 feet and the cumulative impacts are much less than in areas where there is small frontage on the waterfront. Mr. Fugate said that construction is this area is just starting up. Mr. Fugate also noted that staff had proposed to change this area to type 1 waters prior to the construction of any docks but that the council did not approve the change. Mr. Coia, seconded by Vice Chair Lemont moved approval of the application with all staff stipulations and the variance. Chair Tikoian and Mr. Zarrella were opposed. The motion carried.

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There were none held.

11. <u>Category "A" List</u>

There were no Category A's held.

11. Other Business

Director Sullivan stated that the council needed to judge an application on the rules, terms and conditions that they empower staff with and the council's criteria. Director Sullivan felt they need to address the cumulative impacts in the very near future before proliferation truly exists. Chair Tikoian said that he had spoken with the Executive Director and they are going to work on a new agenda to add a policy component to the meetings to discuss pending policies staff is working on and policies the council members want P and P to come up with. Chair Tikoian noted that they are working out the logistics and details on how this is going to work.

Mr. Zarrella had five issues/ things he wanted to put in front of the board because he never gets the opportunity to speak on any of these. Chair Tikoian said if they are enforcement actions that he discuss those with the executive director and i they are pending litigation matters that he discuss them with legal council. Mr. Zarrella felt that he needed to discuss these issues with all the council members. Mr. Zarrella wanted to know why Mr. Fugate's contract had never been signed when the council voted on it two years ago. Chair Tikoian asked how he knew it had not been signed and asked Grover if he had a contract. Vice Chair Lemont felt this was a personnel matter and requested that it be discussed in executive session. Mr. Zarrella asked Mr. Fugate if his five-year contract had been signed. Mr. Fugate replied that Brian had the signed version he did not have a signed version. Director Sullivan called for a point of order and said that Vice Chair Lemont said this was a personnel matter and unless the individual suggest that it can be discussed in open session on an approved agenda it was inappropriate under RI Law unless the employee opts out of it under executive session.

Mr. Zarrella also stated that Mr. Goldman has been representing the CRMC in the courtroom and saying that council members do not have to testify on some pending litigation. Chair Tikoian said this is a legal matter and not open for public discussion. Mr. Zarrella said he would like to testify and wanted Mr. Goldman to know so that when he goes to court he could say that there is at least one member who wants to testify. Chair Tikoian asked on which matter. Mr. Zarrella replied the Champlin's appeal. Chair Tikoian said this was a pending legal matter. Mr. Zarrella said that Mr. Goldmand is arguing on his behalf. Chair Tikoian replied on the agency's behalf. Mr. Zarrellla requested that the agency pay for an attorney for him. Vice Chair Lemont left the meeting and made a motion to adjourn. Chair Tikoian said there is no quorum the meeting adjourned.

There being no further business before the council the meeting, the council adjourned at 8:05 a.m.

Respectfully submitted,

Grover Fugate
Executive Director CRMC

Reported by Lori A. Field