

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, September 19, 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
Joe Shekarchi
Tom Ricci
Jerry Zarrella
Dave Abedon
Bruce Dawson
Neill Gray
Dir. Michael Sullivan

STAFF PRESENT

Grover Fugate, CRMC Executive Director

Jeff Willis, CRMC Deputy Director
Ken Anderson, CRMC Senior Engineer
Dave Alves, CRMC Dredge Coordinator
Janet Freedman, CRMC Coastal Geologist
Tracy Silvia, CRMC Engineer

Brian Goldman, Legal Counsel

1. Chair Tikoian called the meeting to order at 6:00 p.m.

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

2. **READING OF THE MINUTES OF THE PREVIOUS MEETING:**

Director Sullivan, seconded by Vice Chair Lemont moved approval of the minutes of the August 8, 2006 meeting. Mr. Coia requested that the minutes of the August 22nd reflect the reason he was not present at the meeting. Chair Tikoian replied that there were no official minutes from the August 22nd and that they would not be posted but he could make comments. Mr. Coia wanted to address statements made at the last meeting which indicated that he was absent and also indicated that he had spoken with staff the day before and indicated he was intending to be present. Mr. Coia said due to a complication from a last minute medical procedure done on Tuesday at 2:30 p.m. he was unable to make the meeting. Mr. Coia said statements indicate that because of a lack of a quorum it was termed a disserve to the people who were present for their applications. Mr. Coia wanted to go on the record that his absence was not an intended absence and did not want his absence termed a disserve to the people who were present. Mr. Coia said for years he has diligently made every effort to attend the meetings and thinks the Chair and other members can attest to that. Mr. Coia wanted to co on record indicating that his absence was due to a last minute medical complication. The motion was carried on a unanimous voice vote.

3. SUBCOMMITTEE REPORTS

Vice Chair Lemont reported on the P&P subcommittee recommendations from the August 15th meeting changes/revisions to Management Procedures Section 5.12 – Permit Extension; Section 4.3 – Schedule of Fees, Revise Section 4.3.2T – CAD cell disposal fees; RICRMP revise Section 110 Category A and B applications – be reviewed and granted administratively. Chair Tikoian requested that they accept the report and put them out for 30-day public notice period and be placed on the next available agenda for further action.

4. STAFF REPORTS

Mr. Fugate announced that the mics are not working tonight. Mr. Fugate announced that the Council sponsored in cooperation with the URI Sea Grant and Coastal Resources Center two courses that have just been completed for government officials on low-impact development techniques focusing on the Metro Bay area and the other on coastal construction. Mr. Fugate said approximately 70 to 80 people attended the courses. Mr. Fugate also said that they would be offering another course on low impact development techniques for developers and consultants so they can get the latest information on storm water management systems and the best techniques that are out there in terms of managing storm water particularly for urban area. Mr. Fugate said the courses are on the CRMC website.

Chair Tikoian congratulated both CRMC and DEM for receiving an award from Coastal America for the fine work they've done in cooperation with other Federal and State agencies regarding habitat restoration.

Chair Tikoian also stated that they have a lengthy agenda but part of the transition of CRMC moving towards its policy role they have set up a series of educational presentations from now through December.

5. POLICY DISCUSSIONS ON COASTAL HAZARDS – J. Boothroyd, URI

Chair Tikoian stated that Jon Boothroyd, a professor from URI would discuss policy discussions on coastal habitat and Pam Rubinoff from URI Sea Grant would discuss the Metro Bay Plan. Mr. Fugate stated that as part of the policy discussion they thought it would be appropriate for the first section of the policy discussion to be on coastal hazards, as we are now in hurricane season, and the other aspect of coastal hazard the storm events themselves.

Mr. Boothroyd gave council members a presentation on Storms as Modifying Agents in the Coastal Environment and addressed storm intensity, storm duration, tidal phase, time between storms and the path of a storm with respect to the shoreline.

Ms. Rubinoff gave council members a presentation on Increasing Resilience along RI's Coast for Metro Bay SAMP, the coastal hazards and their impacts, increase preparedness and reduction to the impact of natural hazards.

Chair Tikoian thanked Mr. Boothroyd and Ms. Rubinoff for their presentations.

6. CONTINUANCES:

2005-01-087 DARTMOUTH HOMES, INC. – To further subdivide “Lot 5” of a 5 lot subdivision granted final plat approval by the Town of Charlestown in January 2001 to create a sixth subdivision lot. Located at plat 20, lot 91; 30 Clarkin Pond Road, Charlestown, RI.

The applicant was not present. Mr. Fugate said the applicant had requested a continuance but it was not received in a timely manner and they were told that they had to be present to request a continuance.

7. APPLICATIONS REQUESTING AN EXTENSION OF EXISTING ASSENT:

1992-01-046 ROBERT SETTIPANE – Applicant requesting 2nd Full Council Extension. Project location 21 & 23 White Avenue, East Providence, RI.

Robert Settipane, the applicant was present. Mr. Fugate stated that this was the second full council extension request. Mr. Fugate noted that there were no enforcement issues and it was properly before the council. Mr. Sahagian, seconded by Mr. Coia moved approval of the second extension of the assent. The motion was carried on a unanimous voice vote.

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

2006-04-077 RHODE ISLAND STATE PIER PROPERTIES, LLC -- Assent to maintain “As-Built” 16’ x 90’ float and ramp system, to be used by RIPTA seasonal passenger ferry service. Located at plat 46, lots 181, 481, 501; 180 Allens Avenue, Providence, RI.

Mr. Shekarchi recused himself.

Christopher Clark, an authorized agent for the applicant was present. Mary Shekarchi, attorney for the applicant was also present on behalf of the applicant. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson stated that the application was to maintain an as built 60’x90; commercial float to be used for the RIPTA ferry service. Mr. Anderson said staff has no objection to the application. Ms. Shekarchi stated that they have reviewed the staff comments and stipulations and agree to them. Mr. Sahagian, seconded by Mr. Coia moved approval of the application with all staff stipulations. The motion was carried on a unanimous voice vote.

2005-10-033 CITY OF EAST PROVIDENCE/TOCKWOTTEN HOME -- Construct and maintain rip rap armor stone revetment along approx. 430 linear feet of shoreline. The revetment is to be constructed by RIDOT in conjunction with new “Waterfront Drive” (Warren Ave to Bold Point Park extension) project. (Pursuant to CRMC Assent B2004-12-066). Located at plat 16, lot 22-001; Waterfront Drive, East Providence, RI.

Richard Sherman, attorney for the applicant was present. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson stated that the application was for 430 linear feet of structural shoreline protection and said this was essentially an approved theory of another application to do improvements to Waterfront Drive in East Providence. Mr. Anderson said the application was consistent with the conditions of the prior assent dealing with the design of the revetment. Mr. Anderson said staff has no objection to the application. Mr. Sherman noted that the applicants were both the

Tockwotten Home and the City of East Providence who are the owners of land upon which the revetment will be constructed. Mr. Sherman said the actual construction and maintenance of the revetment will be done by the RI Department of Transportation. Mr. Sherman said that they have reviewed the staff stipulations and have no objections to them. Mr. Sahagian, seconded by Mr. Coia moved approval of the application with all staff stipulations. The motion was carried on a unanimous voice vote.

2006-04-099 LOUIS RICCIARELLI -- Establish a 2 acre aquaculture farm for the culture of the American oyster. Located on Sauga Point, North Kingstown, RI.

Louis Ricciarelli, the applicant was present. Mr. Alves gave council members a brief summary on the application. Mr. Alves said this was a proposal for a two-acre aquaculture site off of Sauga Point in North Kingstown. Mr. Alves said the applicant had a commercial lease there for the last year and there are no issues with that. Mr. Alves stated the applicant had a lease off of Wild Goose Point for about seven years and there have been no issues there either. Mr. Alves said staff recommended approval. Mr. Sahagian, seconded by Mr. Zarrella moved approval of the application with all staff stipulations. Director Sullivan requested that a some point asked that the Council undertake a more definite education process on the way aquaculture permits are done. Director Sullivan said at some point they would be faced with increasing conflicts of use and some of what Professor Boothroyd presented. Chair Tikoian said the best way to do this would be to get DEM participation and do it collectively. Director Sullivan said he would be happy to participate. Mr. Dawson said when he was part of the North Kingstown Harbor Commission they have suggested that some proposed aquacultures be moved and not be put where they were originally requested. The motion was carried on a unanimous voice vote.

2002-10-038 DAVID ROEBUCK – Modification of existing aquaculture farm to increase the farms leased acres by 8 acres for a total of 17 acres. Located in Point Judith Pond, Narragansett, RI.

David Roebuck, the applicant was present. Mr. Alves gave council members a brief summary on the application. Mr. Alves stated that this was an 8-acre expansion of an existing 9-acre aquaculture in Point Judith Pond. Mr. Alves said this farm will not utilize any gear and this expansion will end up with less buoys in the water as a result. Mr. Alves stated that because the lease is kind of odd-shaped there will be one big square with no gear in the water. Mr. Alves said there have been no issues with this or the existing lease and staff recommends approval. Mr. Ricci, seconded by Mr. Zarrella and Mr. Coia moved approval of the application with all staff stipulations. The motion was carried on a unanimous voice vote.

2004-01-042 STANDISH BOAT YARD -- Place fill in tidal waters at an existing marine rail launching area. In order to secure the fill, a stone retaining wall will be constructed and the top section will be paved. Stated purpose for the project is to provide better

access to boat slips to the north of the marine railway. Located at plat 6-3; lots 12, 13, 14; 1697 Main Road, Tiverton, RI.

Ken Hilton, Vice President of Standish Boat Yard, the applicant was present. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson stated that the application is to fill an existing marina railway which is essentially an indentation in the shoreline at the marina in Tiverton. Mr. Anderson said they would be filling approximately 1,026 s.f. of which 774 s.f. is below mean low water. Mr. Anderson said staff felt that the applicant had met the Section 300.10.E conditions for filling tidal waters and staff recommends approval with a couple of conditions. Mr. Anderson said staff defers to the council on consideration of any fees pursuant to Section 160 for filled lands created. Chair Tikoian noted the condition in public access and asked how you would make it. Mr. Anderson replied by a permit condition and by monitoring. Mr. Dawson said the marine railway is basically no longer in use. Mr. Hilton replied they do not use it because of economic reasons and it's too cost intensive. Mr. Dawson said before this was built it was to accommodate marine railway. Mr. Hilton said since its been in his family the railway has been there. Mr. Dawson said this would be putting back what was taken out at one point. Mr. Hilton replied yes. Mr. Dawson seconded by Mr. Zarrella moved approval of the application with staff stipulations. Mr. Shekarchi abstained as he had not had a chance to read the information in the packet and did not feel comfortable voting aye or nay on it.

1987-05-035 ROSE ISLAND LIGHTHOUSE FOUNDATION – Modify approved boating facility, to wit, extend fixed timber pier portion of facility by 20' (6' x 20' total area), to gain additional water depth for seaward float section; replace float and piles, in kind. Located at plat 45, lot 2; Rose Island, Newport, RI.

Charlotte Johnson, Executive Director of Rose Island Lighthouse Foundation, the applicant was present. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson said the application is to extend an existing commercial pier 20'x 6' and extend float. Mr. Anderson said staff recommended approval of the application with stipulations for the biologist recommendations for eel grass mitigation. Director Sullivan, seconded by Mr. Abedon moved approval of the application with all staff stipulations. Mr. Sahagian asked if the applicant was aware of the stipulations and accepted them. Ms. Johnson replied yes. The motion was carried on unanimous voice vote.

9. PUBLIC HEARING ON SPECIAL EXCEPTION BEFORE THE FULL COUNCIL:

2006-05-095 RHODE ISLAND COUNTRY CLUB – The Project will include: Conduct activities designed to impose tidal flow within the Nayatt Road March and within Mussachuck Creek and its associated wetlands

The activities proposed are the latest in a multi-stage project whose ultimate goal is to convert Phragmites dominated wetlands into Spartian dominated wetlands. Other ancillary benefits cited by the applicant are the enhancement of stream habitat continuity, the improvement of fish passage, and the improvement of playing conditions on the RICC golf course on which many of the activities are to occur.

Specifically the project includes:

1. the establishment of linear inlet and channel for Mussachuck Creek from mean low water to west of Washington Road, by the dredging of approx 1770 CY of sediment. The sediment will be used as fill to accomplish grade changes on the RICC course. The channel side slopes are to be stabilized within riprap.
2. Approx 7,000 CY of sediment is to be excavated from Mussachuck Creek east of Washington Road and bulkheads are to be constructed in several locations to improve flow conditions. The material will once again be utilized to effect grade changes on the golf course.
3. Approx 400 CY of sediment is to be recovered from existing mosquito ditches, within the Nayatt Road Marsh.
4. Extensive filing, removing and grading activities are proposed within the RICC golf course. This work is designed to improve the course drainage, and to promote better safety and play.

Wetland creation is proposed as part of this work.

Chair Tikoian recused himself as his partner his a member of the Rhode Island Country Club.

Vice Chair Lemont presided over the application. Sam Whiten, of the Rhode Island Yacht Club was present on behalf of the applicant. Ms. Silvia gave council members a brief summary on the application for a special exception. Ms. Silvia said this project is for a wetland restoration project and it's the final phase of a multi-phase project that CRMC permitted. Ms. Silvia said this particular project involves dredging the inlet area of Mussachuck Creek in Barrington and filling both upland and in some areas of the wetland. Ms. Silvia also said it involves wetland creation associated with upland earth work and various improvements to the drainage issues. Ms. Silvia said the application requires a special exception for alternation of wetlands. Ms. Silvia said staff recommended approval of the project. Vice Chair Lemont opened the public hearing and asked for public comment. There was no public comment. Director Sullivan, seconded by Mr. Sherkarchi moved to close the public hearing. The motion carried.

Mr. Coia, seconded by Mr. Zarrella moved approval of the special exception application. Vice Chair Lemont called for a roll call vote on the motion:

Director Sullivan	Yes	Mr. Shekarchi	Yes
Mr. Gray	Yes	Mr. Dawson	Yes
Mr. Abedon	Yes	Mr. Coia	Yes
Mr. Zarrella	Yes	Mr. Sahagian	Yes
Mr. Ricci	Yes	Vice Chair Lemont	Yes

10 Affirmative 0 Negative 0 Absentation

The motion carried.

Mr. Whiten said he read the staff stipulations and agreed to them. Gray McClain, 1st VP of the RI Country Club also said they agreed to the staff stipulations. Director Sullivan asked if they also agreed to the 31 conditions on the WQC from DEM. Director Sullivan, seconded by Mr. Zarrella moved approval of the application with all staff stipulations. The motion was carried on unanimous voice

Vice Chair Lemont called for a recess at 7:28 p.m. The meeting was called back to order at 7:35 p.m.

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

2005-06-003 MICHAEL & MAUREEN ANTONELLIS – Seeking Administrative Approval
-- before the Council for decision. Applicant proposes to raze and remove existing (uninhabited) cottage dwelling and construct a new, two bedroom residential dwelling, a DEM approved individual sewage disposal system (ISDS), install town water supply, relocate drainage pipe, permeable driveway, associated utilities and grading. Located at plat 40, lot 30A; 312 Prospect Lane, Portsmouth, RI.

Chair Tikoian recused himself.

Vice Chair Lemont presided over the application.

Sean Coffey, attorney for the applicant was present on behalf of the applicants. Erica Bigelow, attorney for the objectors was also present. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson stated that the application was to redevelop an existing site that has a small uninhabited cottage on it. Mr. Anderson said the application is a proposal for a small dwelling and Advantex septic system. Mr. Anderson said the application is subject to both the coastal regulations and the freshwater wetland regulations. Mr. Anderson said the application meets the setback and buffer zone requirement but needs a variance for the location of the septic system. Mr. Anderson said there is no staff objection to the application and felt that the applicants met the variance criteria. Mr. Sherkarchi had a question on the septic system. Mr. Anderson said this and an Advantex system which is a proprietary aeration box with a bottomless sand filter leach field. Vice Chair Lemont suggested that the council hear from the objectors first so they could see what the objections to the application were. Mr. Coffey agreed.

Objectors.

Ms. Bigelow stated that she represents the McBanes and Mr. Wittington who own property that abuts this lot on either side. Ms. Bigelow submitted photographs of the site to the council as exhibits. Ms. Bigelow addressed the staff report which said the structure on the property was a house and they did not feel this was a house because there was no foundation, plumbing or sanitary facilities. Ms. Bigelow said they disagreed that this was an existing dwelling. She also said that they sent a letter of appeal to the zoning board regarding local approval and that the application was reheard and the decision on local zoning approval was upheld. Ms. Bigelow said the zoning board heard their appeal regarding their challenge of signoff on the application but it was dismissed. Ms. Bigelow felt the signoff on the plans are significantly different from what is in the council's packet. Mr. Sahagian asked if the applicant had all the necessary local approvals and was properly before the council. Mr. Anderson replied yes. Ms. Bigelow addressed the request for a 100% variance for the intermittent stream and felt that the applicant did not meet the variance criteria. Mr. Coffey addressed the issues raised by the objector and said the zoning board felt the appeal was premature. Mr. Coffey said the Portsmouth records show that there is a structure on the property classified as a 2 bedroom home. Mr. Coffey explained that the structure was built in the 1930's and there was no abandonment of the existing structure. Mr. Coffey said the applicant wants to raise this small house and replace with another larger home. Mr. Coffey said the house was outside of the setbacks and they had revised the plan to address staff concerns from CRMC and DEM ISDS staff. Mr. Coffey said there was no staff objection to the application and they read the staff stipulations and agree to them. Mr. Coffey requested council approval on the application. Mr. Gray noted that in reading Amy's report dated

last year there was an issue regarding public access and asked if any progress had been made on the public access issue. Mr. Coffey replied that he had submitted a letter regarding this and that this is a 20-foot easement rather than public access and there is public access on foot to the shore. Mr. Coffey said they are not impeding any right of passage. Mr. Gray said this was not general public access. Mr. Dawson was concerned about a contradiction of a new improved septic system over current disposal system and felt this was a play on words if there is no septic system there now. Mr. Coffey replied that this was built as a residence cottage in 1930 and classified by the Town of Portsmouth as a 2-bedroom home with direct discharge into the bay or solids in a drum. Ms. Bigelow felt that the structure was condemned. Vice Chair Lemont asked if she would agree that a new building is an improvement. Ms. Bigelow said she agrees that the new building is a house and disagreed that this is a structure. Vice Chair Lemont asked if this was a bare piece of land and they wanted to build a house would they still object. Ms. Bigelow felt that this was not a buildable lot it was only 11,000 s.f. not 20,000 s.f. Mr. Sahagian said it was a substandard lot. Mr. Zarrella asked if she was asking the council to take the applicant's property. Ms. Bigelow replied no. Mr. Zarrella asked what she was asking the council to do. Ms. Bigelow replied that they have offered the applicant money to leave property as is and remain open. Mr. Sherkarchi asked why her issues were not raised in Portsmouth. Ms. Bigelow replied because the CRMC rules said you need local approval. Ms. Bigelow disagreed with the building inspector's letter. Mr. Fugate addressed the issue of local zoning approval. Mr. Fugate said in most instances the council does not have building permits in hand but that they require the applicant to meet local zoning and get their zoning approval which are not done until CRMC approves the plans. Mr. Fugate said there was no requirement that a building permit be in place but that the project does have to meet local zoning regulations. Mr. Gray asked what happens if there is no building permit. Mr. Goldman replied that the assent is null and void. Vice Chair Lemont said the council can approve the application subject to local building and zoning approval. Mr. Goldman replied yes. 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.

11. Enforcement Report – July 2006

There were none held.

12. Category "A" List

There were none held.

13. Other Business:

Chair Tikoian stated that Mr. Ricci wanted to make some comments under personal privilege. Mr. Ricci said he felt he had to respond to an article in the Providence Journal yesterday regarding Champlin's. Mr. Ricci said since the passage of separation of powers the council has been decimated from 15 members to 10 members and it's difficult to get a quorum of seven. Mr. Ricci addressed a brief filed by Attorney Prentiss with the court. Mr. Ricci felt that this was an unfair characterization about the council and bordered on slander and libel. Mr. Ricci said the article indicated that the Champlin's issue has turned council members against council members. Mr. Ricci addressed several points raised in the article regarding affidavits of council members, the subcommittee refusal to hear important evidence or allow a staff engineer to testify and saying that council members have made up their mind prior to the completion of

evidence. Mr. Ricci felt that Mr. Prentiss saying “The CRMC subcommittee or CRMC orchestrated a process for reviewing of its application was a shameful charade” was a persona attack. Mr. Ricci said he had not accused anyone on the council of wrongdoing in his affidavit and is personally offended by what Attorney Prentiss had to say. Mr. Zarrella called for a point of personal privilege. Mr. Zarrella wanted to clarify a statement made by Mr. Prentiss about him being a Block Island representative. Mr. Zarrella stated that he is a registered voter there and has lived there for 20 years. Mr. Zarrella felt that he was duly appointed by the Chairman to the subcommittee even though a person on the Block Island Town Council opposed his appointment. Mr. Zarrella felt that he was properly appointed to the subcommittee and that Mr. Prentiss stepped over the line when he attacked this board.

There being no further business, the meeting adjourned at 8:07 p.m.

Respectfully submitted,

Grover Fugate, Executive Director

Reported by Lori A. Field

1990-10-040 PAUL & CATHERINE NEVILLE (originally Water Street Realty Trust) – Applicant requesting 2nd Full Council approval extension. Project location of plat 21, lot 4; Sakonnet Estates, Portsmouth, RI.