In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, February 13, 2007 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 Zarrella
Bruce Dawson
Dave Abedon
Neill Gray
Mike Sullivan, DEM
Tom Ricci

STAFF PRESENT

Grover Fugate, CRMC Executive Director

Jeff Willis, CRMC Deputy Director
Dave Reis, CRMC Environmental Scientist
Tom Medeiros, CRMC Engineer
Lisa, Mattscheck, Office Manager

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:

Mr. Gray requested that page 11 of the minutes under program changes be amended to change the word "unexcused" to "unnoticed". Mr. Gray wanted to make sure that Mr. Shekarchi's suggestion of without proper notice be used instead of unexcused. Vice Chair Lemont, seconded by Mr. Coia moved approval of the minutes of January 23, 2007 as amended. The motion was carried on a unanimous voice vote.

3. SUBCOMMITTEE REPORTS

There were no subcommittee reports.

4. STAFF REPORTS

There were no staff reports.

5. CONTINUANCES:

1996-02-044 ROBERT AND JANET FROST – 1st Extension request. Project located at Plat 13D, Lot 324; 15 Read Avenue, Warren, RI

The applicant was not present. Chair Tikoian stated that the applicant indicated to staff that he would not be present. Chair Tikoian said it was up to council members if they wanted to hear the application without the applicant being present or continue the application. Chair Tikoian noted that there were members of the public present that wanted to be heard on this application. Vice Chair Lemont, seconded by Mr. Ricci moved to continue the application. Mr. Ricci asked if the applicant was told that he did not have to present. Ms. Mattscheck stated that she spoke with Mr. Frost today and that he was out of town and was unaware that a continuance had not been granted at the time of his request. Chair Tikoian noted that they did not want to make a decision on this outside the council because this particular issue has drawn a lot of attention in that area. The motion was carried on a unanimous voice vote. Ann Morrill, Kickicuit River Council requested that the application be continued to the first meeting in April. Mr. Goldman noted that the first meeting in April would be April 10th. The application was continued to the April 10th meeting.

6. OTHER BUSINESS

Mr. Zarrella noted that a dock application in Wickford had been voted down on a 4-3 motion at the last meeting. Mr. Zarrella stated that he had a chance to review the application and requested that the application be brought back before the council, as he did not feel the decision should have been voted the way it was. Mr. Zarrella asked what the procedure was to bring the application back before the council. Mr. Goldman explained that the council follows Roberts Rules and under Roberts Rules a member from the prevailing side of the motion would have to make the motion to reconsider and that motion would have to be adopted by a majority of the vote. Mr. Goldman said if a motion was approved the matter would be back before the council and placed on a subsequent agenda. Mr. Goldman said someone who voted to deny the application would have to make the motion to bring the matter back before the council. There was no motion and there was no second.

7. PRESENTATION - CRMC Staff Procedures

- **Front Office and Data Management – J. Willis, L. Mattscheck**
- **Major Permit Applications – D. Reis**

Mr. Fugate explained that Mr. Willis would give a presentation on the procedural aspects of an application with Lisa Mattscheck, the office manager, as backup. Mr. Fugate said Mr. Reis would then give council members a presentation on major application review and how they are processed through the office. Mr. Fugate said this would give council members a feel for how applications actually flow through the office and how they are processed. Mr. Willis introduced Lisa Mattscheck, the CRMC office manager, and said that Lisa sets the tone for how things work, all the paperwork, how all procedures are handled on an administrative level and how they work their way through the agency. Mr. Willis explained that Lisa has three staff members to assist her: Rita Martini, data entry operator, Pam Casey, clerk secretary and Ryan Moore, word processing clerk who also serves as the agency receptionist. Mr. Willis said they handle all the telephone calls, paperwork, all mailings and get the agenda out with the assistance of Willie Mosunic. Mr. Willis stated that Willie Mosunic and Brian Kavanagh are both the application coordinators and assist the permit staff with actual application reviews, as well as putting

agendas together and delivering them. Mr. Willis stated that the permit team does the technical review of an application and they look for all the prerequisites permits such as ISDS approval, etc. Mr. Willis stated that if all the information is in the file they accept the application and the time clock begins. Mr. Willis noted that the council receives on average 1,700 applications that are processed. Mr. Willis stated that he did a quick statistical search on the database and that over the 35 plus history of the council they have process over 30,000 applications. Mr. Willis explained the three different kinds of applications: Category A, Category B, and FONSI's (findings of no significant impact). Mr. Willis explained the application process from the time it is received, the materials and approvals that are needed and the review process to determine whether it is approved administratively or needs council approval. Mr. Willis also noted that the front office staff doesn't just handle paperwork and try to put information in folders to pass it off for staff review, they do a very good job talking to the potential applicants, answering phone calls and answering their questions. Mr. Willis also noted that Willie and Brian handle the FONSI application request immediately and they can literally process these applications in 15 to 20 minutes. Mr. Willis said the front office does a good job bringing applications in and the permit staff does a great job in reviewing applications. Mr. Fugate emphasized that the council's jurisdiction is extremely broad as they regulate from flagpoles to power plants and any alteration or activity within 200 feet requires a permit. Mr. Fugate noted that the FONSI process has been a great tool to relieve the regulatory burden on applicants and allows them to come in and get their necessary assent. Mr. Zarrella stated that he has never heard a complaint about staff and that things are done in a timely manner. Mr. Zarrella commended staff on the great job they do.

Mr. Reis submitted a packet to council members on major permit applications. Mr. Reis said basically a major permit application is just a large project which can be a large residential subdivision, commercial development, mixed use developments, large marinas, RI DOT project and anything that is a relatively large project. Mr. Reis noted that most of the major permit applications are handled by him and Mr. Anderson. Mr. Reis explained Section 320 and said this encourages applicants to submit applications at the early stages of design so the agency can review the application, talk with the applicant about their application and help them in designing their project. Mr. Reis explained the Development Review Act passed in 1992 and said this was a preliminary review of an application, which is an assessment of the project and not a permit. Mr. Reis said they have meetings with other agencies to review the application and then issue a preliminary determination on the application. Mr. Reis explained Urban Coastal Greenway (UCG) and said this requires preliminary determination on applications in the metro bay areas. Mr. Reis said it also requires marinas to file a preliminary determination for marina review. Mr. Reis noted that on page 11 of the packet was a sample of a Preliminary Determination Report issued by staff and that this also gives staff guidance on the application as to what rules apply to the application and what steps they need to take. Mr. Reis noted that on page 15 was a sample of the staff report issued after a preliminary determination. Mr. Reis said this was designed to help applicants get all the information up front and to get local and state agencies on the same page so that the applicant can meet all the necessary requirements.

Chair Tikoian thanked staff for their presentations.

8. RHODE ISLAND CLEAN MARINA PROGRAM FOR COUNCIL ADOPTION:

• The Clean Marina Program is a voluntary initiative designed to reward marinas that go beyond regulatory requirements by applying innovative pollution prevention best management practices (BMPs) to their day-to-day operations. Cooperatively developed with the RI Marine Trades Association, RI Department of Environmental Management, EPA and Save the Bay, the Clean Marina Program will help to protect the state's coastal waters and benefit the marina industry in Rhode Island. The Clean Marina Program assists marinas to achieve the designation as a Rhode Island Clean Marina to distinguish them as top tier "green" businesses that offer clean, safe, and environmentally friendly marine facilities.

Mr. Willis explained that The Rhode Island Clean Marina Guide book was delivered in a black binder to council members. Mr. Willis stated that this is a voluntary program that the council worked on with DEM, the Marine Trades Association, Save the Bay and EPA to come up with a program in Rhode Island that would entice and be an incentive for the marine industry, primarily marinas, boatyards and yacht clubs. Mr. Willis said this would help them employ the best management practices and also make sure their regulatory requirements are kept up to date and in order. Mr. Willis said if they meet the guidelines they would receive a clean marina certification and fly a banner that said so and they could also put a logo on their letterhead that said this and market themselves as a clean marina. Mr. Willis noted that Allen Harbor in North Kingstown was the first to submit a certification form or pledge that they will participate in the clean water program. Mr. Willis explained that they go through a self-assessment checklist and make sure they meet the criteria of the program which addresses non-point source pollution, best management areas, such as oil collection, boat washing, boat storage and things along that nature. Mr. Willis stated that Allen Harbor has done this and has met the minimum criteria and pledged to be a clean marina. Mr. Willis said staff from CRMC, DEM and a member from the Marine Trades Association will meet with them in April to make sure the guidelines are met. Mr. Willis noted that there are three other clean marina pledges in the office now, possibly a fourth. Mr. Willis requested council approval for this voluntary program. Director Sullivan, seconded by Mr. Coia and Mr. Dawson moved to adopt the Rhode Island Clean Marina Program. Mr. Zarrella asked if he knew how many marinas there were with pumpouts. Mr. Willis replied over 60 marinas have pumpouts. Mr. Gray asked how the program was being introduced and promoted. Mr. Willis replied that they held 3-4 outreach workshops in the fall and that the Marine Trades Association is putting this out in their newsletter and email. Mr. Willis also said it would be in the CRMC newsletter. Mr. Gray said the Marine Trades Association was promoting this with their members but wanted to make sure other marina owners are aware of this and that the council get the word out as this would be beneficial to them. Mr. Willis agreed and said he would follow-up on this. Mr. Fugate said a press release would go out on the first clean marina certification. Director Sullivan said this was a very good outgrowth of what EPA calls the environmental results program. Director Sullivan noted that the Marine Trades Association is reaching out actively to nonmember as wells as members trying to get the word out. The motion was carried on a unanimous voice vote.

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

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

2005-07-132 ANDREAS AND CARA LUDWIG – Construct and maintain a wooden stairway on a coastal cliff. Located at Plat N-S, Lot 452; 256 Colonel John Gardner Road, Narragansett, RI.

Chair Tikoian recused himself. Vice Chair Lemont presided over the application. Joseph DeAngelis, attorney for the applicant was present. John Carter, the applicants' registered landscape architect and land erosion specialist, Leonard Bradley, the applicants' engineer and Joe Klinger, the applicants' geologist were also present on behalf of the applicants. Dan McDonald, an objector was also present. Mr. Medeiros gave council members a brief summary on the application. Mr. Medeiros stated that the application was to construct a cliff walkover structure on a Type 1 water shoreline in the west passage of Narragansett Bay. Mr. Medeiros said the recommendation of staff is to deny the application based on the fact that they feel it is inconsistent with the requirements of the RICRMP. Mr. Medeiros stated that this project was subject to a prior preliminary determination on the application (Application No. 2002-12-32) in January 2003 and this report has been adopted by the current staff. Mr. Medeiros noted that two separate sets of staff reviewed the application and the same issues of concern were found with the application. Mr. Medeiros said some of the issues of concern were that this project is located on a sea cliff about 50' tall and is well vegetated and the construction of the stairway on the bluff would be inconsistent with the CRMC program, which is a restriction of Section 210.4.C.3. Mr. Medeiros said staff recommends denial of the application. Mr. Willis stated that in his role of policy staff, he was asked to look at the question on where the coastal natural area is as it relates to this application and that the program mentioned Bonnet Point as being a coastal natural area. Vice Chair Lemont asked if it was his opinion that this project is prohibited under the rules and regulations. Mr. Willis replied yes that it is his position that the coastal natural area designation for Bonnet Point holds for this site, as well as, the rules and regulations Mr. Willis said because this site is located in the Bonnet Point coastal natural area. Mr. Goldman said the council needs to make a threshold determination whether or not the prohibition of 210.4 kicks in. Mr. Goldman said if the council makes the determination that it does, the application would require a special exception. Vice Chair Lemont stated in reading the materials there is a disagreement between staff and Mr. DeAngelis' experts as to whether or not this is a coastal natural area in Bonnet Point. Mr. DeAngelis replied there is disagreement on the location of the coastal natural area. Mr. DeAngelis stated that he had a number of discussions with Mr. Willis on this issue and they disagree. Mr. DeAngelis explained that 5 years ago they requested a preliminary determination in 2003 and that resulted in a recommendation of denial of the application. Mr. DeAngelis stated that received zoning approval from the Town of Narragansett. Mr. DeAngelis stated that in 2005 they filed their formal application with CRMC and that there are no variances are being sought and no special exception is needed. Mr. DeAngelis said the issues were whether Mr. Willis is right that Bonnet Point runs the entire length and breath and the water type changes from type 1 to type 2 waters and if it does change they are not prohibited but have to meet 5 certain standards which he felt they met and he has three expert witnesses, the landscape architect, geologist and professional engineer who will address those 5 standards. Mr. DeAngelis said they felt Bonnet Point was at the tip of the point of Bonnet Point and did not run with entire length of Colonel John Gardner Road. Mr. DeAngelis stated that the people of RI have a constitutional right to access to the water. Mr. DeAngelis qualified John Carter as an expert landscape architect and land erosion expert. Mr. Coia, seconded by Mr. Zarrella moved to accept Mr. Carter as an expert landscape architect and land erosion expert. The motion was carried on a unanimous voice vote. Mr. DeAngelis submitted Mr. Carter's CV as an exhibit to the council. Mr. DeAngelis submitted a copy of Mr. Carter's

report, which was already in the CRMC packet, to the council as an exhibit. Mr. Carter designed the site to council members, which was depicted on page 5 of his narrative. Mr. Carter said the lot is located on the easterly side of the Bonnet facing the passage with Jamestown to the east. Mr. Carter stated that the property is approximately 13,250 s.f. in size with a 50' high bluff where it drops down to a rocky shoreline. Mr. Carter said approximately 43% of the site is below the bluff. Mr. Carter stated that there is a single family home on the property with a CMRC approved buffer zone. Mr. Carter stated that access to the water cannot be done without the stairway. Mr. Carter referred to maps of Bonnet Shores in the Town of Narragansett Section 3 dated 10/19/28 and Section 2 dated 4/17/29, which was when the plat was recorded. Mr. Carter explained the maps and stated that they felt Bonnet Point area was on Section 3 at the tip of the point which is 5-acres. Mr. Carter stated that Mr. Seavy's report stated that the Bonnet Point is approximately 5 acres and felt it ran along the shoreline. Mr. Carter felt that the Ludwig property was outside the 5-acre area. Mr. Carter said that 5 houses along the cliff have access to the water with conventional and non-conventional methods. Mr. Carter stated that page 6 in his packet is a photograph with the house on the top of the site with the Photoshop simulation of what the stairway would like. Mr. Carter stated that he took pictures of two sites with access to the water 400' and 800' away which were approved by the council. Mr. Carter felt if the application was granted there would be no degrading effect on the scenic value of Bonnet Shores. Mr. Carter referred to page 15 in his packet which were two photographs taken from 1/4 mile off shore and ½ mile off shore and you could not see the structure. Mr. Carter said you would not see the structure from the road or the water. Mr. Carter noted that a house to the south had been permitted on the point and one of the CRMC requirements was that the owner grant public access to the water via 5' path. Mr. DeAngelis asked about Section 210.4 which discuss tourist attractions. Mr. Carter felt that the point had tourist attraction but the area down Colonel John Gardner Road was not a tourist attraction, it was privately owned property. Mr. Carter wanted to clarify to the board that they felt Section 210. 4 did not apply to the application as the Bonnet point did extend to their lot. Mr. Zarrella asked if the applicant's deed made any reference to Bonnet Point. Mr. DeAngelis replied no. Mr. DeAngelis submitted a copy of the property deed to the council as an exhibit. Mr. Goldman requested a certified copy of the deed for the file. Mr. Zarrella asked when the plat and lots were recorded. Mr. Carter replied April 17, 1928 at 2:59 p.m. in Book 4 page 43. Mr. Zarrella asked if you were to run the 5 acres from the point would it take the applicant's lot. Mr. Carter felt it would not cross the applicants' property. Mr. Ricci asked if it was Mr. Carter's testimony that the property abuts property owned by the Bonnet Shores Association. Mr. Carter replied yes. Mr. Ricci stated that he and his wife own property in Bonnet Shores and are members of the association. Mr. Ricci felt based on this he must recuse himself. The quorum was maintained. Mr. Coia asked if the walkover structure was constructed as proposed would it have any effect on the scenic view of the property or any of the surrounding properties. Mr. Carter replied no, it would just be seen by the southerly neighbor. Mr. Coia asked it would impair the view of the vista or the water of that neighbor. Mr. Carter replied no. Mr. Gray referred to the Seavy report on Bonnet Point and the 5 acres. Mr. Gray said Mr. Carter mentioned Bonnet Point and 5-cares and drew a line were the 5-acres were. Mr. Gray said in reading Mr. Seavy's report it refers to the large cliffs and rock outcropping on the entire eastern edge of Bonnet having a scenic and geologic significance. Mr. Gray said that Mr. Seavy's report described the whole eastern edge as Bonnet Point. Mr. Carter said there are many maps and charts of the area that differentiate between the Bonnet Point and the Bonnet. Mr. Carter said that people refer to Bonnet Point at the tip of the point not as running along the eastern edge. Mr. Gray felt that Bonnet Point included the area of the cliffs and could not accept Mr. Carter's interpretation of the 5-acres. Vice Chair

Lemont noted that on the last page of Mr. Seavy's report regarding recommendations for private owners which reads "The use of Bonnet cliffs as an educational and scenic resource is appropriate. Private owners should avoid activities which might increase cliff erosion or general degradation of both the cliffs and the pond" and asked what it mean to him. Mr. Carter replied no structures or people walking over the cliff and that these types of activities should not occur. Vice Chair Lemont asked if the bearing of the pillars for the walkover would increase cliff erosion. Mr. Carter said from his personal observation no. Mr. Zarrella stated that the council needs to decide where Bonnet Point is and where the 5-acres. Mr. Abedon noted that Mr. Seavy's report on page 43 defines Bonnet Point as cliffs and rock outcrops the whole area not just the point. Mr. Abedon felt Mr. Seavy was defining the point as rocks and outcrops. Director Sullivan had a couple of question's of Mr. Carter and his credentials in terms of an erosion and sediment control specialist and asked him to explain what the common activities are executed by a professional with that designation. Mr. Carter explained that there is a lot of overlap as a landscape architect and erosion control specialist. Director Sullivan asked what the length of the walkway was. Mr. Carter replied the cliff is approximately 50' above sea level. Mr. Medeiros noted that he measured the length and it is 85' when measured on the plan. Mr. Carter agreed. Director Sullivan said based on the photo simulation what is the length of the span that passes currently vegetated land as opposed to rock face in the cliff. Mr. Carter replied approximately 25% of the cliff is vegetated. Director Sullivan asked if there was shade over the vegetation would there be impact to the vegetation. Mr. Carter replied depending the vegetation, it would either inhibit the growth or enhance the growth. Director Sullivan asked what percentage of light reduction would he expect above and below conditions. Mr. Carter could not answer the question. Director Sullivan asked if it was his conclusion that there would be no change in the stability of the cliff face. Mr. Carter replied based on his field observations. Mr. DeAngelis objected to the questions as he presented Mr. Carter to discuss the aesthetics and vistas and provide history on the application. Mr. DeAngelis said he had two other experts a professional engineer and geologist to address these questions. Vice Chair Lemont replied if he can't answer he could say he does not know. Director Sullivan noted that Mr. DeAngelis presented Mr. Carter as an erosion and sediment control specialist and should have functional knowledge of sediment and control processes. Mr. Carter stated that he reviewed other sites with similar existing structures and that there is no lack of vegetation underneath the stairs. Director Sullivan asked if he had any knowledge about the nature of the vegetation that existing in the site prior to the staircases. Mr. Carter replied no. Vice Chair Lemont stated that in Mr. DeAngelis opening stated he indicated that the State of Rhode Island, the Constitution grants the right of property owners access to the water. Vice Chair Lemont asked if he felt this was an unfettered right. Mr. DeAngelis said it was not unfetter. Director Sullivan felt the witness did not answer his question whether there would be no change in the site by construction of the proposed walkover structure and asked how he drew this conclusion. Mr. Carter felt he answered the question and that he observed this on the other sites with similar structures. Mr. Zarrella asked if the three existing stairways were permitted or if they were before the CRMC regulations. Mr. Medeiros replied that he had looked at these and they predated the CRMC and one was allowed to be maintained by FONSI approval and there are no new structures in the area. Mr. Zarrella asked if supported Mr. DeAngelis statement that people should have access to the water. Mr. Medeiros replied if they meet the rules and regulations but not if you were destroying something to get to the water. Mr. Zarrella stated that he has not heard anything stating they would impede the vegetation there except in his report.

Vice Chair Lemont called for a recess at 7:57 p.m. Vice Chair Lemont called the meeting back to order at 8:00 p.m.

Mr. DeAngelis noted that this was Mr. Bradley's first time before the council. Mr. DeAngelis qualified Mr. Bradley as an expert professional engineer. Mr. Coia, seconded by Mr. Abedon moved to accept Mr. Bradley as an expert engineer. The motion was carried on a unanimous voice vote. Mr. Bradley stated that he was the designer of the walkover structure in 2003 and now. Mr. DeAngelis submitted photographs taken by Mr. Klinger, the applicants' geologist, of the other structures and coastal bluffs as exhibits. Mr. Bradley described the design of the structure, the location of the structure and explained that there would be four landings on the walkover one at the top, one at the bottom and two in the middle. Mr. Bradley said he determined the best way to build the stairway, what materials they should use and the timber to be utilized. Mr. Bradley stated that the walkover structure would be anchored to the bluff. Mr. Bradley stated that this would be a private stairway. Mr. Bradley said the stairway would be 36" instead of the previous 41" width and have handrails 42" in height on either side of the stairway. Mr. Bradley said the rise to run of the stairway would be 8 to 12 inches. Mr. Bradley said there would be 2x4 bracing in a truss-like fashion to stabilize the columns. Mr. Bradley stated that all the connections would consist of bolted galvanized steel fasteners. Mr. Bradley noted that this was depicted in the photographs submitted of the other structures. Mr. Bradley said they would connect the structure to the bluff and that the stairway to the north appears to be resting on the bluff. Mr. Bradley said the bolts would be imbedded into the rock and they would drill and grout the bolts into the rock. Mr. Bradley said there would be a lot of manual labor to build the stairway and they would use a boom truck to lower the materials to the workman who would have safety harnessed to do the work. Mr. Bradley said they would put hay bales along the work area to prevent erosion. Mr. Bradley said there would be some vegetation cleared during the construction of the bluff. Mr. Bradley said the bluff is 70% of the 50' face, which is rock, and it is not vegetated there. Mr. Bradley said the vegetation was on the top of the cliff and there is not a lot of vegetation on the lower section of the cliff. Mr. Bradley said they would work around the vegetation. Mr. Bradley explained the elevations of the structure. Mr. Bradley said in the design of the plan he took in the site conditions by the natural process such as the slope and stratigraphy. Mr. Bradley said he also took into account the requirements of Section 210.4. Mr. Bradley said in his opinion if the walkover structure was approved it would not accelerate erosion or cause degradation to the slope any more than Mother Nature has already done. Mr. Zarrella asked the application was approved did he think it would be reasonable to post a $10,,000 bond for restoration of the cliff if any damage was done and that any restoration be done within 30 day, the month to be determined by staff. Mr. Zarrella also suggested that their contractor meet with staff to talk about the work being done on the bluff and asked if most of the work would be done by rope. Mr. Bradley felt these were reasonable requests but felt that 2 months for restoration was more reasonable. Mr. Zarrella asked if the council has ever had anyone post a bond in the past. Mr. Goldman replied yes. Mr. Gray had a question on profile view on page 17 which depicted 4x4 posts for support. Mr. Bradley replied yes. Mr. Gray noted that there would be 18 posts being secured to the cliff and asked if thought this would degrade the cliff. Mr. Bradley did not think it would and more than what Mother Nature would do. Mr. Gray asked about what kind of rock the cliff was made of and asked if drilling this many holes three feet deep into what appears to be shale rock would cause damage to the cliff. Mr. Bradley said Mr. Klinger, their geologist would have to testify on the type of rock but as to the drilling he said the postings would be grouted and filled in and there would be no voids. Mr. Gray said the construction of the structure is 5' off the face with the upper

section closer to the face. Mr. Gray asked if it was possible to get the structure closer to the face. Mr. Bradley replied it was their intention to get the structure closer to the face. Mr. Gray said this was a very exposed face. Mr. Gray said there would be wave action on the lower portion of the structure as well as wind action on the upper portion. Mr. Bradley said when they go through the building process they are going to have to give detailed structural drawings and at that time they look at snow loads, wind loads, dead loads and live loads and put them all in their calculations. Director Sullivan asked about Mr. Bradley's testimony that in his opinion there would be no direct impact on the vegetation. Mr. Bradley said there would be negligible impact. Director Sullivan asked him to define what he meant by direct impact to the vegetation. Mr. Bradley replied direct impact meant the type of footprint and what damage or disturbance there would be and what disturbance they would do to the bluff to build the structure. Mr. Bradley said he also looked at the physical features and felt that any impact from the structure on the rock would be negligible. Mr. Bradley said you would not see any worse erosion due to the structure than you would from any normal storm or freeze/thaw cycle that the property would go through on a yearly basis. Director Sullivan stated that temperature is a physical attribute and asked if he agreed that the temperature differentials can lead to cracking of a solid meteor. Mr. Bradley replied yes. Mr. DeAngelis presented Joe Klinger, the applicants' geologist as his next witness. Mr. Zarrella stated that Mr. Klinger's company has done work for him in the past and that he feels he can look at the evidence and vote fairly on the application. Director Sullivan asked if he had a current relationship with Mr. Klinger's company and works them and plans to use them in the future. Mr. Zarrella replied that they are not under contract now but he has used them in the past. Director Sullivan asked if he planned to use them in the future. Mr. Zarrella replied yes. Vice Chair Lemont noted that the issue is whether or not he is using them now and paying them now. Director Sullivan felt the issue of future use was relevant in this instance. Mr. Gray explained that it just isn't if he used them in the past but if he plans to use them in the future as well meaning they would have an ongoing relationship. Mr. Zarrella said his position is he is not the applicant and is just an expert witness. Mr. Zarrella felt he could vote fairly on the application. Mr. DeAngelis qualified Mr. Klinger as an expert geologist. Vice Chair Lemont, seconded by Mr. Abedon moved to accept Mr. Klinger as an expert geologist. The motion was carried on unanimous voice vote. Mr. Klinger described his visits to the site and said the first time he visited the site was in September 2004 from the landside and seaward side. Mr. Klinger described the other sites with existing structures for erosions and fractures of the rock and he did not notice any erosion or fracturing of the rock over the years he has visited the site. Mr. Klinger stated that he took photographs of the existing structures. Mr. Klinger said the rock type formations is a metasedimentary, which is a sedimentary rock was subject to pretty extreme temperature and pressures with make it more resistant. Mr. Klinger stated that he had reviewed the plans and the anchoring methods and compared them to the two existing walkover structures and he did not believe there would be any erosion caused, exacerbated or damaged to the rock based on the fastening systems. Mr. Klinger addressed frost wedging which is when a rock or other materials expand and contract. Mr. Klinger said if water gets into the crevices or pores when it freezes it enlarges and can fracture the rock. Mr. Klinger said he did not see any of the existing anchoring systems causing any of the frost wedging. Mr. Klinger also felt this project would not cause any frost wedging if constructed in accordance with the plans. Mr. Klinger stated that he review Section 210.4.D regarding geological evidence on the issue of erosion and felt this is not relative to this site. Mr. Klinger felt that the construction of the walkover facility would not cause or accelerate erosion on the site. Director Sullivan asked if he agreed that if fractures ocurred when you drill holes or other openings and water gets into the fractures it could exacerbate further fractuing. Mr.

Klinger agreed. Director Sullivan asked as a geologist if he agreed that a thermal gradient could be a significant cause of fractures in a solid plan or this rock. Mr. Klinger replied yes.

OBJECTORS:

Dan McDonald, a neighbor of the applicants, was opposed to the proposed plan. Mr. McDonald felt the applicant must demonstrate a hardship burden to be granted relief for this kind of structure. Mr. McDonald questioned the need for an 85' structure, as there is already public access at Bonnet Point for all Bonnet Shore residents. Mr. McDonald stated that the applicant only lives on the property two months out of the year and lives 10 months in Denmark. Mr. McDonald did not feel a walkover structure was necessary and felt the cliff should be left as it is. Mr. McDonald requested that the council deny the application. Mr. DeAngelis asked Mr. McDonald if he knew where Bonnet Point was. Mr. McDonald felt that Bonnet Point was the entire area of Bonnet Point was from the point down the coast. Wendy Waller, Save the Bay, stated that they support staff's recommendation for denial of the application under Section 210.4.C-3. Ms. Waller also felt that the application should denied pursuant to Table 1A under Section 110 as recreational structures are prohibited on headlands, bluffs, cliffs and rocky shorelines adjacent to Type 1 water. Ms. Waller stated that it was their position that this was considered a recreational structure under Section 300.3.A.3. Ms. Waller encouraged the council to act on staff's recommendation to deny the application. Mr. McDonald wanted to make the council aware of an event that happened on Colonel John Gardner Road where 20' of a cliff fell in the ocean as a result of construction next door on a new home and digging in the area. Mr. Medeiros stated that staff is aware of this and it is noted in their report. Vice Chair Lemont asked staff to comment on what is known as Bonnet Point and where the definition came from. Mr. Willis explained that the Seavy report described and defined Bonnet Point as the entire eastern edge of the Bonnet. Mr. Willis felt that Bonnet Point extends to the north and includes the applicant's property. Mr. Willis stated that yesterday he came across a map that depicted the Bonnet Point area as a coastal natural area. Mr. Willis stated that the map was a designation of the New England natural areas and that it designed the natural area of Bonnet Point as 174. Mr. DeAngelis stated that his experts had not had a chance to examine these documents and requested a continuance on the application. Mr. Coia, seconded by Mr. Dawson moved to continue the application to the February 27th meeting. The motion was carried. Director Sullivan was opposed.

11. OTHER BUSINESS

Director Sullivan there are some policy items that he feels the council should consider that deal with review of activities that have interstate coastal effects and interact with the Coastal Zone Management Act, where they may need to update federal activities or federal permitted/licensed activities. Director Sullivan requested that a portion of a future meeting be a discussion of consistency of State and Federal rule particularly to the area of security and interstate commerce.

12. Category "A" List

There were none held.

There being no further business to discuss, the meeting was adjourned at 9:17 p.m.

Respectfully submitted,

Grover Fugate, Executive Director

Reported by Lori A. Field