

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, May 8, 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
Bruce Dawson
Dave Abedon
Bob Balou, DEM (Representing Dir. Sullivan)
Donald Gomez
Neill Gray
Tom Ricci
Joe Shekarchi (arrived at 7:18 p.m.)

MEMBERS ABSENT

Jerry Zarrella

STAFF PRESENT

Grover Fugate, CRMC Executive Director

David Alves, CRMC Aquaculture Coordinator
Ken Anderson, CRMC Senior Engineer

John Longo, Deputy Legal Counsel

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

Ms. Field read a brief statement of clarification on the council's permitting process.

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

Mr. Coia, seconded by Mr. Dawson moved approval of the minutes of the April 24, 2007 meeting. The motion was carried on a unanimous voice vote.

3. **SUBCOMMITTEE REPORTS**

There were no subcommittee reports.

4. **STAFF REPORTS**

Mr. Fugate announced that the council conducted a workshop last week with URI's Coastal Resources Center and Sea Grant. Mr. Fugate said experts were brought in from around the

country to look at working waterfronts. Mr. Fugate said they particularly looked at urban port issues and ways they can improve and sustain these working waterfronts. Mr. Fugate said it was an excellent workshop and the overall review was good and the feedback would be very useful as they work to move forward to preserve and enhance these water dependent issues which are vital to the State.

Mr. Fugate also said he attended a Natural Fishery conference today, which is looking at re-authorization of CRMC and the Federal Coastal Zone Management Act and how they might improve it. He said he also has another workshop tomorrow to attend which he will make a presentation on coastal development.

Mr. Fugate informed council members that there would be a national conference hosted by NOAA to discuss disasters and hazard resistance for communities which CRMC will be participating in.

Chair Tikoian requested that Mr. Fugate email all the conferences and themes to council members. Chair Tikoian felt these conferences would supplement the educational seminars that the council is doing now.

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

6. **CONTINUANCES:**

2002-06-054 ROCCO D'ANGELO – Construct single-family dwelling served by Town water and sewer service. Located at plat N-E, lots 3, 4, 5; Circuit Drive, Narragansett, RI.

The applicant was not present. Chair Tikoian stated that the applicant had requested a continuance and that the continuance had been granted. The application was continued.

7. **PRESENTATION - Presentation: Introduction to CRMC responsibility for Aquaculture – Grover Fugate, CRMC
Aquaculture Policy – David Alves, CRMC**

Mr. Fugate explained that aquaculture has a long history in Rhode Island and that Rhode Island is one of the largest aquaculture producers in the country. Mr. Fugate stated that council members should have received a copy of this year's aquaculture report. Mr. Fugate gave council members a brief history on aquaculture in Rhode Island. Mr. Fugate noted that in 1996 Rep. Naughton, who was present, was instrumental in bringing aquaculture to the forefront particularly with the legislature. Mr. Fugate stated that Rep. Naughton had introduced another piece of legislation to create the Biosecurity Board which is responsible for ensuring that tidal waters are managed and kept in secure position in terms of invasive species.

David Alves, CRMC Aquaculture Coordinator, explained the CRMC aquaculture policy and regulations and showed the council some of the processes that are used. Mr. Alves defined aquaculture which is defined as a culture of aquatic species under natural conditions. Mr. Alves stated that CRMC is the lead agency for all aquaculture permitting in Rhode Island. Mr. Alves said that CRMC recognizes that commercial aquaculture is a viable means for supplementing wild harvest fish and shellfish and they support commercial aquaculture in locations which can accommodate them along with the other users in Rhode Island waters. Mr. Alves explained that

the first step in the aquaculture permit process is a preliminary determination meeting and this is where staff meets with state, federal, local and NGO's to review new applications. Mr. Alves stated that they also invite other federal agencies, such as the National Marine Fisheries, EPA, Fish & Wildlife and the Coast Guard to participate. He said the state agencies include DEM Fish & Wildlife, Water Quality and the Dept. of Health and for NGO's they have the RI Shellfisherman's Association, the RI Saltwater Angler's Association and the State Ocean Fisherman's Association. Mr. Alves said the town level includes the Town Manager, Harbormaster, Conservation Commission and Town Planner. Mr. Alves stated they all work together to try to find out if there is a problem with a site and try to rectify any problems before they go further and this process has worked and the meetings have been very successful. Mr. Alves stated that after the preliminary determination he writes a report and the application and go for a full commercial application, there is a 30-day public comment period, notice is sent to the towns and the preliminary determination participants. Mr. Alves stated that the application also goes to the Shellfish Advisory Panel of the RI Marine Fisheries Council which gives their opinion and they also receive recommendations from The DEM director and the Chairman of the Marine Fisheries Council. Mr. Alves gave examples of the working process in Rocky Point and Ushers Cove. Mr. Alves noted that an aquaculture in Point Judith was denied because they were notified by Fish & Wildlife that there was eelgrass in the area. Mr. Alves stated that they permit upwellers for shellfish seed. Mr. Alves noted that the Biosecurity Board advises CRMC on aquaculture disease issues and species introduction. Mr. Alves stated there are policy prohibitions and if a lease is not actively farmed for a year the lease is revoked. Mr. Alves said all seed into the state has to be certified disease free feed and they have to notify DEM that seed is coming into Rhode Island. Mr. Alves said there are certain lease requirements and that once a lease is granted there is a \$5,000 minimum performance bond required and this was to ensure that if the leaseholder goes out of business they can clean up the bottom and take all the gear and stuff out. Mr. Alves said performance bonds go as high as \$30,000. Mr. Alves said there is a yearly lease signed, notarized and there is a lease fee. Mr. Alves noted that Rhode Island has one of the highest lease fees in the country \$150 per acre for the first acre per year and \$100 for each acre after that year. Mr. Fugate explained that the lease is for a 12 month period but the performance bond is for 18 months just in case they terminate the lease they have six months to pull out the gear. Mr. Alves noted that there are 28 aquaculture farms in Rhode Island. Mr. Alves stated that CRMC is working on future issues facing aquaculture policies and that the CRMC working group is reconvening to work on aquaculture regulations. Mr. Alves said in conclusion that aquaculture in Rhode Island is subject to many restrictions. Mr. Dawson asked besides oysters what other species are farmed. Mr. Alves replied clams. Chair Tikoian asked when they changed some of the CRMC polices to move some of the permitting to the administrative level did this include aquacultures. Mr. Fugate replied yes. Chair Tikoian noted that aquacultures go through a rigorous process through all the agencies before the application comes to the full Council without an objection. Chair Tikoian said they should look at moving more of the aquaculture applications administratively. Vice Chair Lemont noted that salmon fish was fewer and asked if they have given any thought about doing things for fish as well as with the hard shell clams, quahogs, etc.. Mr. Alves replied yes but the problem with fish pens to raise fish is he asking for enhancement or just for aquaculture. Vice Chair Lemont replied to address the increase and demand for fish. Mr. Alves noted that 43% of all consumed seafood is from aquacultures. Chair Tikoian asked if they were monitoring the quality of water before and after aquacultures and filter feeders. Mr. Fugate replied yes and they started a research group to look at this. Mr. Fugate stated that Senator Reed's office contacted them because they are trying to organize a meeting between the USDA senior staff and CRMC staff and others in the state that work on aquaculture to see their aquaculture efforts because of the potential it holds.

Tim Scott, Ph.D., Roger Williams Center for Economic and Environmental Development gave a presentation on aquaculture research in the ocean state. Dr. Scott stated that aquaculture is underwater farming and today 40% of all seafood is farmed not caught in wild. Dr. Scott stated that according to the global fisheries / aquaculture statistics this a \$70 billion industry and aquaculture is a growing industry. Dr. Scott said people are eating more seafood and buying more seafood. Dr. Scott stated that 80% of the seafood we consume is imported. Dr. Scott stated that Rhode Island ranked 50 in the nation 10 years ago in aquaculture and now is ranked 47th. Dr. Scott stated that aquaculture sales in Rhode Island were \$1,348,525 in 2006 per the CRMC Annual Aquaculture report. Dr. Scott stated that we need to look at how to help the aquaculture industry grow in Rhode Island, how to maintain a healthy regulatory environment, and how to expand, improve and diversify the industry. Dr. Scott explained the benefits of aquaculture: quahog disease studies, oyster restoration and repopulating the bay, and develop local disease resistant strains. Dr. Scott stated that they need to look at aquaculture public education and outreach, habitat restoration for eelgrass and new species development. Dr. Scott noted that Rhode Island's aquaculture initiatives include CRMC, NOAA, Roger Williams University, URI and Sea Grant of RI. Chair Tikoian noted that Virginia Lee, URI and Representative Eileen Naughton were present and have been instrumental in the aquaculture process. Chair Tikoian asked if they did public outreach to educate the local town council and governments on aquaculture. Mr. Alves replied that they work with the towns and more education is always valuable. Rep. Naughton stated that she enjoyed the presentation and appreciated CRMC's efforts and proactiveness in aquaculture. Rep. Naughton stated that when you create a produce that has the highest economic multipliers and the money circulates in the state an average of four times before it leaves this border so four entities benefit through the product being created in Rhode Island. Rep. Naughton said there is a public benefit for aquacultures. Chair Tikoian thanked Mr. Alves and Dr. Scott for their presentations.

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

2005-08-101 KATHLEEN GALANT -- As-built residential boating facility shown on the attached plans. The facility location relative to the property line extensions was not correctly shown on the plans previously approved by the CRMC. The facility actually extends over the southern property line extension, while the previous plans showed that the facility lay 16' distant from the property line extension. Located at plat Y-1, lot 243; 26 Wheatfield Cove Road, Narragansett, RI.

Joseph DeAngelis, attorney for the applicant was present. Mr. DeAngelis stated that he had been working with the objectors on attempting a compromise between the applicant and the abutting property owner and he thinks they made some progress. Mr. DeAngelis requested a month continuance so that the plan can be redrawn to satisfy everyone. Mr. Riffkin, the objector's attorney, stated that they have reached some compromise but want time to confer with the other abutters and the engineer on this matter. Mr. Coia, seconded by Mr. Gray moved to continue the application one-month. The motion was carried on a unanimous voice vote.

9. APPLICATION REQUESTING EXTENSION BEFORE THE FULL COUNCIL FOR DECISION:

1998-07-052 Tower Hill Group, LP – Requesting extension of permit to subdivide 123.2 acres into 34 single-family house lots due to active negotiations with the Town of South Kingstown for

development rights. Located at Plat 50, lot 2; plat 50-2, lot 1; Tower Hill Road, South Kingstown, RI.

Tom Ricci, Tower Hill Group, the applicant was present. Sean Coffey, attorney for the applicant for the application was present, as well as, Attorney Dave Igliazzi, who is representing the applicant in the sale with the Town. Mr. Nickerson, Planning Department, Town of South Kingstown, was present on behalf of the town. Mr. Fugate gave council members a brief summary on the application. Mr. Fugate stated that the applicant had received its last extension before the council. Mr. Fugate stated that the town has been trying to acquire this area as part of some open space funding and they are working to negotiate with the developer on this parcel. Mr. Fugate stated that the applicant is asking the council to freeze the current assent so they can work out the negotiations to purchase the property otherwise it would force the developer to start to put in the infrastructure. Mr. Fugate thought the better solution was to allow the negotiations to go forward. Mr. Coffey explained that the application was granted for a 34-lot subdivision. Mr. Coffey stated that there had been some previous litigation on the application which has been worked out. Mr. Coffey stated that since the beginning of 2005, Mr. Igliazzi who has been handling the negotiations with the town on behalf of Mr. Ricci with respect to the potential acquisition and development rights allowing Tower Hill Group to recoup its investment and limit the number of lots dramatically to five or six lots that would ultimately be developed. Mr. Coffey stated that there are currently 2 dwellings on the property. Mr. Coffey stated that they began discussions with the town in 2005 regarding the acquisition of the land. Mr. Coffey stated that they can either continue and do the work, altering the land permanently which would be a detriment of the goals of the town in trying to preserve the acreage. Mr. Coffey stated that they are asking for a stay of the assent either to extend for multiple years or stay the running of the current assent. Mr. Coffey said they understand that this is the last extension they are entitled to. Mr. Coffey wanted a stay on the extension until they have reached an agreement with the Town or they have to proceed with the development. Chair Tikoian stated that he was uncomfortable with a stay and would be more comfortable with having a time period so that they have checks and balance. Mr. Coia asked if the council was empowered to create a stay. Mr. Fugate replied that the council can freeze the period and often does that when parties are involved in litigation until the litigation is cleared up. Mr. Fugate stated that the council can freeze the extension to provide the applicant and the town time to pursue negotiations. Chair Tikoian stated that the council has not done this outside of litigation but there is a provision in the management procedures that allows the council go beyond their normal extension period and this deals with public infrastructure. Mr. Gray asked if they stay or freeze the extension does this mean that nothing physically can happen on the property while they are negotiating. Mr. Fugate replied yes. Vice Chair Lemont asked how long this would take. Mr. Igliazzi replied they are waiting for grant money and are at the mercy of the town. Mr. Nickerson gave a little background on the process and stated that the town has completed the appraisal in accordance with the Federal guidelines for land acquisition. Mr. Nickerson said they applied to NOAA, through CRMC for their estuarine protection program and that it would be October 1, 2008 before they would hear anything. Mr. Nickerson said they have another application to USDA under the farm and rich lands protection program which would take a couple of months. Mr. Nickerson stated that the town has bonding authority. Mr. Nickerson stated that they hope to hear something positively this year but if not there will be another round next year. Vice Chair Lemont stated that he did not think anyone was against what they are trying to do in protecting the land but wanted to know how long of a time they were talking about. Mr. Nickerson said they were looking at two years because of two years of grant rounds, if they did not get approval this year they would have to wait until next year. Chair Tikoian noted that if they granted a one-year extension now that would give the applicant 1 1/2 year extension. Chair Tikoian stated that he did not want to violate the management procedures and that extensions cannot be granted any more than the rules but it does allow for an extension for projected associated with public infrastructure and this can be

considered that because they are trying to save open space. Chair Tikoian asked if the council was comfortable with a one year extension and then bringing the application back to the council for review and giving the applicant another year if its necessary. Vice Chair Lemont, seconded by Mr. Coia moved approval of a one year extension of the assent until January 2008. Vice Chair Lemont questioned the applicant being back in January. Chair Tikoian replied that if the extension was granted until January 2009 that would give them two grant cycles to get approval. Mr. Gray asked what happens in four months if they decide to split the venture does this still give the application a year and a half extension. Chair Tikoian replied yes. Mr. Gray thought they were talking about a freeze on the assent and there would be no action on the assent then the applicant would pick up on his normal extension process. Vice Chair Lemont noted that the goal was to preserve the land and during the year and a half nothing is going to happen to the land. Mr. Gray was concerned that if the negotiations did not work out how much time the applicant would have to complete their project. Chair Tikoian replied the applicant would have the remaining six months on the extension. Mr. Coffey said this was a concern of theirs if the negotiations did not work out in a year and two months that would only leave them with four months to complete the project. Mr. Coffey wanted to preserve the remaining six months on the extension in case the negotiations did not work out. Mr. Iglizzo stated that they have a deadline of June 1 to begin the work in order to get it done by the January deadline because the road would have to be completed by Thanksgiving. Mr. Iglizzo said giving them the year no they would basically have to start work by June 1, 2008 if there are no negotiation. He said they would be back in May 2008 asking for another year if they needed it. Chair Tikoian stated that if the council voted to approve this for one year and they have a six month window until January 2009 and the would need a decision by the town by June 2008 to decide if they complete the project. Mr. Iglizzo replied yes or they would be back again in January 2009. Chair Tikoian noted that anything less than a year the applicant would be back for another extension. Mr. Coffey stated that they would like nothing better than a favorable conclusion to these discussion but they wanted to protect Mr. Ricci's interest. Chair Tikoian suggested adding language in the assent to add an additional year extension if the negotiations were not concluded by January 2009. Mr. Coffey wanted clarification if the extension was from January 2008 or January 2009. Mr. Iglizzo replied January 2009. Chair was recommended an automatic one year extension so that the applicant did not have to come back before the council. Mr. Fugate stated that they would be extending the third extension and not actually granting a fourth extension. Mr. Shekarchi stated that based on the rules they are considering the extension because there is a public component and they are not going to do this for everyone. Chair Tikoian replied yes this is a unique situation. Mr. Gray stated that they are giving them one year to go through the first round of grants and if they need to go back again for a second round of grants the extension allows them to do this. Vice Chair Lemont wanted only the one-year extension as it gives everyone a timeframe to get things done and if this doesn't work they can come back for another extension. Mr. Shekarchi understood what the Vice Chair was saying but was concerned that after the 18-months the negotiations with the town don't work out you would lose the public component to grant another extension. Mr. Coia asked what length of time the council could grant for an extension in the public interest. Chair Tikoian replied more than one year. Mr. Coia suggested maybe granting a two year extension. Mr. Gray suggested making is conditional upon them going for another round of grants. Vice Chair Lemont stated that he made a motion for a one year extension and it was seconded and felt the applicant was only asking for a one year extension and that a one year extension was reasonable period of time. Vice Chair Lemont said if the need more time they can get another extension. Mr. Ricci noted for the record that he is not related to Mr. Ricci and did not have any interest in Tower Hill Group. The motion carried. Chair Tikoian and Mr. Shekarchi were opposed.

10. Category "A" List

There were none held.

There being no further business to discuss. The meeting was adjourned at 7:35 p.m.

Respectfully submitted,

Grover Fugate, Executive Director

Reported by Lori A. Field