

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, June 24, 2008 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
Don Gomez
Jerry Zarrella
Neill Gray
Bruce Dawson

MEMBERS ABSENT

Joe Shekarchi
Tom Ricci
Dir. Michael Sullivan
D. Abedon

STAFF PRESENT

Jeff Willis, CRMC Deputy Executive Director

Ken Anderson, CRMC Senior Engineer

John Longo, CRMC Deputy 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. **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING:**

Mr. Gray requested that page 3 – 9 lines up from the bottom delete “Mr. Altrui had a letter from the abutter” and replace it with “Mr. Altrui said no he did not have the information from his abutter”. Mr. Coia, seconded by Mr. Zarrella moved approval of the minutes of the June 10, 2008 meeting as amended. The motion was carried on a unanimous voice vote.

3. **SUBCOMMITTEE REPORTS**

Chair Tikoian said sometime ago they formed a subcommittee on a Narragansett case and asked if the subcommittee had been formed and asked for an update on that matter. Vice Chair Lemont replied they met, concluded and made their recommendation and were waiting to bring it to the full council. Mr. Goldman said he had the draft subcommittee recommendation.

4. **STAFF REPORTS**

There were no staff reports.

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

6. **CONTINUANCES:**

2007-04-079 ROBERT LAMOUREUX -- Construct and maintain: a 3 bed-room single family residence serviced by public water and by a denitrifying ISDS. In order to access the site the applicant proposes to construct a 10 foot wide gravel drive leading east from Ocean Road. The applicant seeks variances to the RICRMP's buffer and setback requirements. Located at plat M, lot 161; Ocean Road, Narragansett, RI.

The applicant was not present. Mr. Fugate stated that the applicant's legal counsel sent in a request three days ago stating he could not make the meeting and requested that the application be continued. Chair Tikoian continued the application to the next meeting.

2008-02-006 COVE HAVEN CORP -- Modify and existing Marina Perimeter Limit (MPL) south. There is no increase in the boat count proposed. The modification of the MPL is to accommodate larger vessels. Located at plat 1, lots 50 and 51, plat 13, lots 2, 3, 4; 101 Narragansett Avenue, Barrington, RI.

The applicant was not present. Mr. Fugate said the applicant's legal counsel indicated that the applicant is unavailable for the hearing tonight and requested a continuance on the application three days ago. Chair Tikoian continued the application.

06-0088 MICHAEL HYCHKO – Unauthorized vegetative clearing, fencing and increase of parking area beyond permit limitations. Located at plat 9, lot 51; Charlestown Beach Road, Charlestown, RI.

The applicant was not present. Mr. Fugate said he received correspondence today for a request for a continuance. Ms. Sherman noted that Mr. DeAngelis previously represented the application and she only received the notice today in a P.O. Box and requested a continuance on the application. Chair Tikoian continued the application at Ms. Sherman's request.

7. **Presentation:** Lawrence Taft, Executive Director, Audubon Society

Mr. Taft gave council members a brief presentation about who the Audubon Society is and how they interact with the CRMC and a general overview about the Audubon's background. Mr. Taft said the Audubon Society of Rhode Island is 110 years old and their mission is to carry out a broad program of public education, to foster conservation of wild birds and other animals and plant life, to conserve wild habitat, unique areas, through acquisition or other means, focus public attention on natural resource problems, provide leadership and action on natural resource problems, if necessary, and to take action to foster better

management of the natural environmental for the benefit of people and other life. Mr. Taft said the Audubon Society could be summed up in three words: conservation, education and advocacy. Mr. Taft said as part of conservation they protect land from development and they own 93 parcels of land in 30 communities around the state. Mr. Taft said they are protecting 9300 acres most of which is fee ownership that they own outright or through conservation easements. Mr. Taft stated they are Rhode Island's largest land trust. Mr. Taft said they work in close cooperation with the US Fish & Wildlife Service, DEM and the Nature Conservancy in caring for these properties. Mr. Taft stated they also provide public access and are probably the largest nongovernmental provider of passive recreation in the State with over 30 miles of trails maintained at 40 refuges which are open to the public around the state. Mr. Taft showed council members a map from the "Providence Journal" which showed their refuges. Mr. Taft said they also have several nature centers around the state. Mr. Taft mentioned the marsh fire in March on April 17th at Baggy Wrinkle Cove which spread through the marsh and explained how they applied for a maintenance permit with CRMC and that CRMC was great in helping guide them through the process. Mr. Taft said the Audubon talks about conservation in education and trying to promote environmental literacy. Mr. Taft said they do advocacy work. Mr. Taft said the Audubon started out as an advocacy organization back in 1987 lobbying for passage of the Migratory Bird Protection Act. Mr. Taft said as part of current legislation this year they have been trying to promote passage of an open space bond, protection of conservation lands, as well as promoting the Federal No Child Left Behind legislation. Mr. Taft explained the Audubon works indirectly with CRMC by either testifying, submitting testimony or writing letters concerning habitat protection or aquatic and terrestrial habitats within the 200-foot jurisdiction buffer. He said they have made comments on the SAM Plan for the Metro Area Upper Narragansett Bay, the SAMP for the Salt Ponds and Boyd's marsh restoration in Portsmouth. He said they make comments on CRMC's administrative rules, comments to NOAA in review of the CRMC, permitting process and comments on any violations. Mr. Gomez asked if they work with and met with the Nature Conservancy regularly. Mr. Taft replied yes. Mr. Gomez asked if they had a collaborative with them. Mr. Taft replied yes. Mr. Gomez noted they have bonds for their funding source and asked if they had other major funding sources. Mr. Taft replied it is really the bonds and the Nature Conservancy which are their two major partners. Chair Tikoian thanked Mr. Taft for his presentation and is glad that CRMC has a great relationship with the Audubon Society.

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

2007-11-043 802 PARTNERS, LLC -- Authorize "as-built" 6' x 130' floating dock, and modify/expand, and revise the approved "marina perimeter limit", at the existing approved marina facility. The proposal requires a variance from RICRMP Section 300.4.C to encroach within 25' of property line extension (float is located south of applicant's property line extension, in its entirety). Located at plat 27, lot 133; 351 Thames Street, Newport, RI.

Turner Scott, attorney for the applicant was present. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson stated that the

application is to authorize an existing float 6'x30' that has been in existence for a few years and to expand the existing marina perimeter limit to encompass the float. Mr. Anderson said the application was originally interpreted to require a variance because the float was over the property line extension but it has been clarified and the standard does not apply. Mr. Anderson said this is not considered a significant marina expansion and does not require a variance. Mr. Anderson said staff has no objection to the application and there is no objection from the abutting property owner where the float sits in the riparian line. Mr. Scott requested that the conditions from the Newport Waterfront Commission submitted to staff be included in any approval by the council. Mr. Gomez noted that there were a number of stipulations on page 2 of Mr. Anderson's report which include the three stipulations mentioned by Mr. Scott. Mr. Scott stated they have no objection to the staff stipulations. Mr. Dawson noted one of the conditions of the City of Newport was that no more than two boats be rafted together and not exceed a combined beam width of 25 feet and asked how it would be monitored and if it would be simpler that no boats be rafted. Mr. Scott explained that there are temporary boats rafted on a temporary basis and would not be on a long-term basis. Mr. Scott said this was addressed with the Waterfront Commission and this was the compromise they came up with. Mr. Gray, seconded by Mr. Dawson and Mr. Zarrella moved approval of the application with staff stipulations A through F which include the City of Newport stipulations. The motion was carried on a unanimous voice vote.

2007-10-064 KENDALL & JOSEPHINE DRAKE -- Construct and maintain proposed work for the subdivision will include the construction of approximately 3,200 feet of public road, including a cul-de-sac. Work will also include the construction of twenty-six single-family homes and eight multi-family structures containing four condominium units each. Associated with the residential structures will be the construction of private wells and individual sewage disposal systems (ISDS), driveways and landscaping. Located at plat 13, lot 34-4; 3900 Old Post Road, Charlestown, RI.

Ken Stasinunes, the applicant was present. Donald Packer, attorney for the applicant was present. Mr. Packer said he is filling in for Margaret Hogan who is recovering from surgery. Tm Daly, who did the nitrogen loading for LFR, West Grant and Manny Andrews from Environmental Planning & Surveying were also present on behalf of the applicant. Mr. Reis gave council members a brief summary on the application. Mr. Reis stated the application is to construct a residential subdivision consisting of 24-single family homes and eight multi-family structures containing affordable condominium units for a total of six units. Mr. Reis said the development is a 34.72 acre site and currently contains 2 single family homes which will bring the total units to 58. Mr. Reis explained the site would be serviced by an on-site water treatment system and private wells; construction of approximately 2,300 l.f. of public roadway with cul-de-sacs; and the storm water runoff will be managed with a series of four swale systems and five infiltration basins. Mr. Reis stated this is a low moderate income housing project. Mr. Reis said the staff recommendation on this is to defer to the council. Mr. Reis said the project meets the regulatory requirements of both the Salt Pond Area Management Plan and the freshwater wetlands program. Mr. Reis said however they could not conclude that the project would be protective of Greenhill Pond because at the same time CRMC has sponsored studies which are

contained on the CRMC website and currently indicate that Green Hill Pond is in very difficult shape due to bacteria and nitrogen and the studies indicate that the nitrogen needs to be reduced by 50 to 80 percent. Mr. Reis said there have been objections to the application by the Salt Pond Coalition and the Charlestown Conservation Commission and residents. Chair Tikoian clarified that staff has no objection to the application because it fulfills all the requirements with all the regulations but relative to Greenhill they are concerned the project may hurt the pond. Mr. Reis replied not this particular application would hurt Green Hill Pond. Mr. Reis explained the project lies within the Green Hill Pond watershed and the nitrogen needs to be reduced dramatically to restore the water quality in the pond. Chair Tikoian stated they are deferring to the council but they are not giving any guidance as to what position staff is taking. Chair Tikoian said it sounds like they are deferring and saying the application meets the rules but referring that there is a problem out there. Mr. Gray said the concern is the current rules say there is no problem with the project but the current rules are not covering or as intensive on the nitrogen loading that will affect the pond. Mr. Reis agreed and said the current rules were amended by the council in 1999 and since then there have been additional studies sponsored by CRMC that indicate there is some real concern for this particular water body and that the nitrogen loading needs to be reduced. Mr. Packer said he has reviewed the application and the staff reports and the application meets the standards. Mr. Packer said this is the first comprehensive permit in Charlestown for age restricted affordable housing that has been approved by Charlestown. Mr. Packer explained that the affordable component of the project is 58 percent of the project and the mandate is 20 percent so this project is significantly higher than the state actually requires. Mr. Packer noted that the Town of Charlestown almost doubled percentage for affordable units. Mr. Packer said there are 36 age restricted units that are the affordable units and they are one and two bedroom units. Mr. Packer said compared to putting in single family homes which have a minimum DEM ISDS requirement of three bedrooms they have significantly reduced components in the ISDS impacts a result of the age restricted units. Mr. Packer stated they have DEM water quality approval, Town of Charlestown Planning Board preliminary approval and a DOT physical alteration permit. Mr. Packer said their expert witnesses have submitted reports to staff. Chair Tikoian asked if Mr. Reis had reviewed the reports. Mr. Reis replied yes. Chair Tikoian asked if based on his review of them did he feel it was accurate and fair. Mr. Reis said yes. Chair Tikoian asked if his recommendation still stood. Mr. Reis said yes because there is still a concern in this particular area and it was difficult to say that the concern does not exist. Mr. Zarrella asked if the application met the standards in place right now. Mr. Reis said yes. Mr. Gray had a question on the increased density and asked if they are looking at the numbers as indicated by Mr. Packer as a unit or as bedroom size and how many individuals there might be. Mr. Fugate replied it was built on the assumption of a three-bedroom dwelling. Mr. Gray said they are looking at units not beds. Mr. Fugate replied yes. Mr. Dawson said Mr. Packer mentioned that the town doubled the density. Mr. Packer explained this is a R40 zone which would allow them to put in 29 or 30 units and the Town allowed them to put in 58 units which added to the density as a result of comprehensive permit. Mr. Dawson said he had come across something like this in the Town of North Kingstown where they are making recommendations above and beyond what the applicant is asking for. Mr. Dawson stated it looks like the Town of Charlestown is trying to knock that

number off in one fell swoop. Mr. Dawson was concerned with the density and the studies that are going on there which showed the pond is not in good condition. Mr. Gomez asked what type of maintenance is proposed for the wastewater treatment system because on page 4 the report it showed several different techniques for the maintenance. Mr. Reis replied this was part of the DEM on-site wastewater treatment system approval and does require a maintenance contract that the applicants have to sign. Vice Chair Lemont noted that Mr. Reis was ambivalent about the application and noted concern for the health of Green Hill Pond. Mr. Reis said this was correct. Vice Chair Lemont asked if there was any other developable land in the area this would have a cumulative impact upon if it were developed or is this a case of this is the first guy being marginal and the next guy would create a problem. Mr. Fugate explained that some communities are going through and looking at affordable housing projects within the SAM plan area and there are two zones where they do not tend to locate because of the density - self-sustaining areas and beyond carrying capacity areas. Mr. Fugate said in trying to help the towns meet their affordable housing requirements and looking for guidance from CRMC, they have directed the Towns to look in these lands beyond carrying capacity as the place to put these because there is no density requirements. Mr. Fugate said the towns are reacting to the Council's guidance in terms of where to locate within the SAM plans and these are the directions they should be going in. Vice Chair Lemont asked Mr. Reis if he would be supportive of this project and if he thought it would have a cumulative impact for the next guy who wants to build. Mr. Fugate said each project is reviewed on its own terms. Chair Tikoian asked if DEM had the same concerns as Mr. Reis. Mr. Reis replied yes. Chair Tikoian noted in a letter dated March 6th from Mr. Chateaneuf from DEM it stated that all the requirements of DEM have been met but the project would also require a water quality certificate from DEM prior to construction. Mr. Reis said the water quality certificate has been granted. Mr. Gagnon stated that one of the conditions of the water quality certificate is for the project use, pressurized narrow drain fields as part of the leach field which would offer additional nitrogen removal above the 50 percent required by technology. Mr. Packer said this was also a staff recommendation by Mr. Reis. Mr. Dawson asked how many units were in the original application. Mr. Packer replied 58 units were submitted and approved by the Town of Charlestown. Chair Tikoian said Mr. Reis indicated in his opening remarks that one of the reasons for his concerns was because of the letters of objections and that none of the objectors were present. Chair Tikoian asked if he had any conversations with the objectors. Mr. Reis replied no. Mr. Gomez asked how much they need to be shaded by affordable housing and how much does this impact the CRMC mission and what they should be doing. Mr. Goldman replied the task of the council is to determine if it meets current CRMC regulation. Mr. Goldman said if the regulations need to be changed you can change them but you cannot change regulations in the middle of an application. Mr. Zarrella agreed with the Chair and said the Town of Charlestown does not have affordable goals and looks at the council for guidance. Mr. Zarrella said nobody has said that if you vote for this you are going to impact the pond and make a problem here. Mr. Zarrella said he was waiting for Mr. Reis to tell the Chair to vote against the application or cut it down but that didn't happen. Mr. Zarrella said if someone meets the standard, the council has to approve the application - how could they deny it. Mr. Reis stated staff would have no problem of cases like this and bring the best information to the council. Mr. Reis said they

offered additional recommendations to further minimize environmental impacts and associated stipulations should the council approve the application but this was not a case where they could say this project would not have an impact. Mr. Coia, seconded by Mr. Zarrella moved approval of the application with all staff stipulations. Mr. Packer wanted to address the staff stipulations. The motion was withdrawn. Mr. Packer addressed the conservation easement on page 8 of Mr. Reis' report. Mr. Goldman explained in the past the Council has allowed the Town to be a co beneficiary of the open space easement but the Council needs to be a beneficiary as well so they have a standing for the provisions of open space. Mr. Stasiunas said through the subdivision approval process with the Town they have agreed to dedicate the open space in the infrastructure to the Town of Charlestown. Mr. Packer asked if the conservation over the wetland and buffer areas of CRMC and the Town has the open space access for whatever they want to do with it. Mr. Fugate replied they are typically looking at wetlands, buffers and additional open space. Mr. Goldman asked if Mr. Packer had an issue if whatever open space DEM requires that CRMC is a co-beneficiary along with the Town. Mr. Packer replied no. Mr. Packer had a question on the issue of excerscaping which prohibits any outdoor lawn and landscape watering except by manual watering devices such as watering cans or buckets. Mr. Packer said the age of residents are 55 and older and felt this might create a problem. Mr. Fugate said they could look at this and drip irrigation systems that minimize water. Mr. Stasiunas said they would put together a document for homeowners required excerscaping document and file it with the land evidence records as part of the homeowner's association requirements. Mr. Packer said CRMC would get prior review of the document for their approval. Mr. Packer had a question on the stipulation for the deed restriction and that an assent be recorded in the land evidence records for each lot under the subdivision and that it be done within 90 days. Mr. Packer felt that 90 days might not be doable. Mr. Packer wanted a stipulation that the documents be submitted to CRMC and recorded prior to issuance of the building permits. Mr. Goldman said subsequent lot owners need to be on notice of what the restrictions are because in the past they have had instances where the new lot owner got them and claimed they had not notice of the restrictions. Mr. Goldman agreed this could be done prior to any transfer of title of individual lots. Chair Tikoian said the Executive Director and legal counsel could sign-off on the language of the stipulations before any final issuance of the assent. Mr. Coia, seconded by Mr. Zarrella moved approval of the application and sign-off on the language of the staff stipulations by the Executive Director and legal counsel. The motion was carried on a unanimous voice vote.

Chair Tikoian recused himself from the application and Vice Chair Lemont presided. Chair Tikoian announced there would only be one meeting in July and one meeting in August. Chair Tikoian called for a moment of silence in with respect to passing of Narragansett Bay Commission Chairman Vincent Mesolella' s daughter.

Chair Tikoian left at 7:20 p.m.

1995-07-232 ARCHES PROPERTY OWNERS ASSOCIATION – Modification of existing Assent by removal of existing 3' x 10' fixed pier, 3' x 10' ramp and three 4' x 10' floats as assented (A1995-07-232). Construct a fixed timber pier 4' x 65'. The new facility will extend 15' beyond the existing facility (65' beyond mean low

water). A variance to RICRMP 300.4.E.3(j) is required (the facility is 6' from the west property line extension and 4' from the east property line extension, standard distance is 25'). A variance to RICRMP 300.4.E.3(k) is required (proposed length is 65' beyond mean low water, standard is 50' beyond mean low water). Located at plat 10, lot 4; 3 Arches Road, Charlestown, RI

Kristen Sherman, attorney for the applicant was present on behalf of the applicant. Herb Sirois, the applicant's engineer was also present . Sam Jensen, Margaret Verdon and Grace Sparrow, the objectors were present, along with Ernest George, their engineer. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson noted he distributed two memos dated April 14 and June 19 council members dealing with this case. Mr. Anderson said the application had been brought back before the council in May but there was no quorum and the matter was postponed. Mr. Anderson said at that meeting he received additional information which prompted his second memo dated June 19. Mr. Anderson explained that the original application requested a 15 foot extension of the existing 50 foot dock in Ninigret Pond to extend 65 feet. Mr. Anderson said there were objections to the application because of navigational interference and obstructions. Mr. Anderson stated at the February meeting they asked the parties to submit a consensus plan to staff as to the agreed upon location of the rocks and obstructions. Mr. Anderson said the rock locations had been agreed to and the dock length has been revised and shortened to 56 feet from 65 feet which is shown on page 4 of the memo dated April 14th. Mr. Anderson said at the May meeting, which had not been heard by the council, he was advised by the applicant's attorney that they did not agree to revise the dock length and wanted to pursue the original length of 65 feet, which is the subject of his June 19th memo. Vice Chair Lemont asked if he had any objection to the 65 feet length. Mr. Anderson replied no. Vice Chair Lemont said the parties agreed to the location of the rocks. Mr. Anderson replied yes. Mr. Anderson stated there are no staff engineering or biological objections to the dock and deferred to the council on accessing the validity of the objection. Mr. Gray asked Mr. Anderson to identify the page the plans are on that he is referring to. Mr. Gray said they agree that the rock actually falls underneath the proposed dock. Mr. Anderson replied yes. Mr. Gray said the rock is at the terminus of the dock. Mr. Anderson said yes - it is referred as rock #1 in the testimony. M Mr. Gray said page two of two of the second memo is the dock back to the original 65 feet length where they started from in the beginning. Mr. Anderson replied yes. Ms. Sherman said she had a copy of the large-scale plan if the council needed it. Mr. Gray said he was trying to clarify where they were. Mr. Gray said there are two plans one at the 65-foot length and one at the 56-foot length and that the locations of the rocks have been agreed upon. Mr. Gray said people testified last time regarding the ability to get through this area when the dock was 65 feet and it being too restrictive between the end of the dock and the rock which is the channel. Mr. Gray said there had been discussion at the last meeting to shorten the length of the dock back to where the rock is and maintain the full opening between the two rocks currently there without the dock. Mr. Gray said he was satisfied as to where the rocks are and that the dock is not going to encumber them to put boats alongside the dock, which had been a concern. Mr. Gray said they now need to hear if there is any discussion on the navigation issue of this channel and the distance between the obstructive rock that is out by

the rock field and the other rock. Mr. Gray asked if they had the numbers on the distance. Mr. Anderson replied if the dock is 65 feet, the distance between the rocks is 20 feet and if the dock is 56 feet, the distance between the rocks is 30 feet. Mr. Zarrella said there is 30 feet rock to rock and the shorter distance is 20 feet. Mr. Anderson replied yes. Ms. Sherman made a brief statement on the application. Ms. Sherman stated she has expert witnesses to address the navigational issues. Ms. Sherman said the reason the dock has to go out an extra 15 feet and they need variance is because of the site conditions and the existing vegetation in the first 20 feet or so from the shore. Ms. Sherman said they are looking for 15 feet in length to make up for the 20 feet they cannot use. Ms. Sherman said there is no staff objection to the application. Ms. Sherman noted that Mr. Sioris testified that there would be no significant adverse impact to navigation and it meets Section 120 criteria. Vice Chair Lemont said they have heard the case previously and now know where the rock is and wanted to hear from the objectors.

OBJECTORS.

Sam Jensen, an objector said they have agreed on the location of the rocks but were still concerned with the navigation of the area. Mr. Jensen said they agreed to compromise on the length of the dock and felt that a 65' length dock would be a problem for them to get in and out of the pond. Mr. Jensen said they would rather have no dock extension but supported the compromise length of 56 feet and felt this was fair. Mr. Fugate noted that Mr. Jensen was referring to page 4 of 4 in the April 14th memo and not page 2 of 2 in the June 19th memo. Ernest George, the objector's engineer, said that he met with Mr. Sirois and Mr. Dowdell a few times and he thought they agreed that this dock would not extend beyond the 53 feet of the first rock. Mr. George said had nothing to add to the Mr. Jensen's comments. Mr. Zarrella asked if there was any way he could navigate through this and asked how long he has been navigating. Mr. Jensen replied he has been navigating the area about 4 years and navigates off the applicant's dock and said this is a tight area. Mr. Zarrella asked if the rocks are covered at high tide. Mr. Jensen replied yes. Margaret Verdon, an abutting property owners, had a question on why this was considered an existing dock when there is no association dock. Ms. Verdon stated that this dock had belonged to her mother, Margaret Murphy and Bob Orrell. Ms. Verdon felt this was not an existing dock and should be considered a new dock application. Mr. Fugate explained that this was a modification of an existing dock and the original assent was 1995-0-232 so it was not a completely new dock but a modification of an existing dock. Mr. Gray said he was hearing an ownership issue here. Mr. Fugate responded that the ownership issue had been litigated. Mr. Fugate stated that on page 5 and 7 in the packet is a letter from Mr. DeAngelis indicating that a consent order had been entered into on the ownership with a copy of the dismissal stipulation. Mr. Gray asked if she was saying the physical wood belonged to her mother but the land belongs to the association. Ms. Verdon replied yes and felt this would be new dock application. Mr. Gray asked Mr. Anderson if the old dock was coming out. Mr. Anderson replied yes. Mr. Fugate explained that the applicant had a previous assent which they were seeking to modify the length of the dock they are changing the alignment of the dock but the process itself is essentially the same as a new dock and they had to go through the same engineering studies and public notice, etc... Mr. Fugate said there is no difference in terms of staff review and modification of a new

dock. Mr. Zarrella was concerned that the application had been sent back so they could negotiate a compromise and Mr. Jensen said the compromise is not what they agreed to. Mr. Anderson said they submitted a consensus plan and Mr. George submitted a plan that represented the agreement between the parties for the reduced dock length. Vice Chair Lemont asked if this was the plan on 4 of 4. Mr. Anderson said yes, then the applicant's attorney said they did not agree to reduce the dock length and wanted to restore it back to the 65' dock length and submitted a new survey plan with the new longer dock on it which is on page 2 of 2. Mr. Gray said there is no mutual agreement and they are back to the original application length with knowledge of the obstruction. Ms. Verdon said she did not see any hardship presented by the association and questioned whether they needed the dock length variance. Ms. Verdon was concerned with her riparian rights and safety issues. Ms. Verdon was also concerned with the effect the floating dock would have on their dock. Mr. Anderson said the consensus plan showed the revised dock length and the new location at the MLW mark. Mr. Anderson said the dock does not extend 50' beyond that and it does not need a length variance. Mr. Anderson clarified that the 65' dock extends 42' beyond the MLW mark and no variance is needed. Mr. Gagnon asked if she was party to the agreement on the dock length. Ms. Vernon replied no she was not at the meeting. Grace Farrell, an objector, informed the council that she does not have motor boats and has sailboats and was concerned with navigation and wanted the council to take that into consideration. Mr. Gomez asked Ms. Farrell if she agreed with the consensus plan and the compromised 53' length dock in the April 14th memo. Ms. Farrell replied no and said she has no objection to the plan. Mr. Gray noted when the council sent them back to get a consensus plan on the location of the rocks and not the dock length. Mr. Gray said the dock length is up to the council to determine. Ms. Sherman said they couldn't reach an agreement on the dock length so they are adhering to the 65' dock length request. Mr. Anderson noted that 3 feet of the dock is on land so it's a 56' dock versus a 65' dock. Vice Chair Lemont said the distance between the dock and rock would be 30' distance shown on page 4 of 4 or a 21' distance shown on page 2 of 2. Mr. Anderson said correct. Ms. Sherman said she had Mr. Sirois, their engineer present to testify on the navigational issues. Mr. Gray said an engineer could not testify on navigational issues. Mr. Gray said he can give the council site conditions but not navigation of vessels. Robert Orrell, owner of lot #4 and a member of the association, testified that he drives a 17' Boston Whaler and navigates the channel and does not have a problem. Mr. Orrell said he goes through the channel with his motor tilted. Mr. Orrell said the water depth is 15' at low tide near the rocks. Mr. Orrell felt there were no navigational issues and said the length of the dock was requested because of the eel grass. Mr. Orrell felt you could not go through this area with a sailboat because of the prevailing winds. Ms. Sherman made a closing statement and said the objector did not present expert testimony on the navigational issues. Ms. Sherman said the applicant meets the criteria for a variance and requested that the council approve the application for the 65' dock length. Ms. Sherman stated there is no navigational issues. Vice Chair Lemont was concerned that the parties agreed to a 53' dock length and then there was no agreement and the applicant wants the 65' dock length. Vice Chair Lemont said he was not willing to approve a 65' dock length. Ms. Sherman stated there was no agreement on the dock length. Mr. Zarrella was concerned with having a boat tied up at the end of the dock because it would cut into the navigation of the

channel. Vice Chair Lemont stated that the council has three options: deny the application in its entirety, approve the 53' dock extension; or approve the 65' dock extension. Vice Chair Lemont said the council has the authority to modify the application. Mr. Dawson, seconded by Mr. Gomez moved approval of the application with a 56' dock length as shown the plan on page 4 of 4 and all staff stipulations. Mr. Coia asked if the 56' dock length included the 3' on land. Mr. Goldman replied yes. Mr. Gray asked if they can have 4 boats on the dock. Mr. Goldman replied yes. The motion was carried on a unanimous voice vote.

11. Category "A" List

There were none held.

There being no further business to discuss. The meeting was adjourned at 8:18 p.m.

Respectfully submitted,
Grover Fugate, Executive Director

Reported by Lori A. Field