

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, July 22, 2008 at 6:00 PM at the Narragansett Bay Commission Boardroom – One Service Road, Providence, RI.

**MEMBERS**

Mike Tikoian, Chair  
Paul Lemont, Vice Chair  
Tom Ricci  
Don Gomez  
Jerry Zarrella  
Neill Gray  
Bruce Dawson  
Director Michael Sullivan  
Joe Shekarchi

**MEMBERS ABSENT**

Ray Coia  
Dave Abedon

**STAFF PRESENT**

Jeff Willis, CRMC Deputy Executive Director

David Reis, CRMC Environmental Scientist  
Tracy Silvia, CRMC Biologist  
Dan Goulet, CRMC Dredge Coordinator

Brian Goldman, CRMC 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:**

Director Sullivan requested that the minutes be amended to recognize that Ron Gagnon had represented him at the meeting. Vice Chair Lemont, seconded by Mr. Zarrella moved approval of the minutes of the June 24, 2008 meeting as amended.

3. **SUBCOMMITTEE REPORTS**

There were no subcommittee reports.

4. **STAFF REPORTS**

There were no staff reports.

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

6. **Presentation:** RI Department of Transportation  
Robert Shawver – Associate Chief Engineer

Robert Shawver, RIDOT Associate Chief Engineer and CFO for the department Emily Holland of the RIDOT Environmental Section and and Bob Smith, RIDOT Acting Chief of Design. Mr. Shawver said the mission of the department is not purely environmental were present. Mr. Shawver gave a brief presentation on the department's mission, what obstacles they are going through, what obstacles they are facing, what there priorities are and about they interface with the CRMC and the environment. Mr. Shawver said their mission is to maintain and provide a safe, efficient, environmentally, aesthetically and culturally sensitive intramodel transportation network that offers a variety of convenient cost effective mobility opportunities for people in the movement of goods supporting economic and improve quality of life. Mr. Shawver said they are more than highways. Mr. Shawver said they operate, maintain, and repair about 70 miles of the interstate system. State highways, pavement, state bicycle network and 772 bridges. Mr. Shawver said they also develop and contract for rail service and new transportation facilities. Mr. Shawver said approximately 50% of the 772 bridges need work, 21% are structurally deficient and 19% are functionally obsolete. Mr. Shawver said that this does not mean they are unsafe for travel if they were they would close them. Mr. Shawver noted that the State provides only enough funding to match Federal funds for capital projects. Mr. Shawver said they developed a bicycle pedestrian program that has bout 50 miles of paved bicycle paths and another 40 miles of paths are under design. He said they have enhancement programs using Federal funds that provide nontraditional transportation projects including the rehabilitation of lighthouses and historic districts and easements and walking paths. He said they are working on a program to bring rail service to 20 miles south of Providence to the Wickford junction with a stop in the Warwick intermodel station and additional stations in Cranston, East Greenwich, Davisville, Pawtucket, Kingstown, Westerly and Woonsocket. Mr. Shawver said bridges are their priority right now along with the completion of the relocation of 195. Mr. Shawver said they want to develop a rail service that protects the assets they have. He said they do not have enough money to fully repair roads but they can do the crack ceiling and thin overlays to keep them from getting worse. Mr. Shawver showed the council pictures of the Pawtucket I-95 Bridge 550 and Sakonnet River Bridge which would be replaced. Mr. Shawver said the transportation improvement program establishes their work and the capital work program which are lists of projects eligible for the Federal funding. Mr. Shawver said the transportation improvement program is a public process that they work jointly with Statewide Planning to develop. Mr. Shawver said they develop a TIP list for projects they propose to undertake. Mr. Shawver said throughout a project development, the natural resources unit in the environmental section oversees the environmental permitting and compliance process. Mr. Shawver said they work with the project design team to look for opportunities to incorporate environmentally beneficial project components and ensure compliance with environmental regulations. He said during construction the RIDOT construction personnel are required to ensure that all environmental regulations are met. Chair Tikoian thanked Mr. Shawver for his presentation.

Mr. Shekarchi asked when they develop the TIP list if there is a lot of municipal and local input in that TIP list and it's not just the DOT that makes the decision. Mr. Shawver said yes, the Transportation Advisory Committee has 26 members with 6 or 8 members from government or State agencies and the rest are members of the public. Mr. Smith said the initial request for a proposal comes from the local communities. Ann Morrill, Kickemuit River Council, said they wrote a storm drain system plan to RI DEM to assess if there were any illegal tie-ins and that the RI DOT provided the maps which were very helpful.

**7. REQUEST TO WITHDRAW APPLICATION:**

**2005-05-149 ELTON DURFEE & WAYNE DURFEE – Requesting to withdraw application to construct and maintain a 2 bedroom residence, serviced by public water and by a denitrifying ISDS. The project requires the issuance of variances to the RICRMP buffer and setback standards. Located at Plat R-3, Lot 46: Barnacle Road, Narragansett, RI.**

Elton and Wayne Durfee, the applicants were present. Mr. Willis said that this was request for a withdrawal of an application. Mr. Willis explained that once staff reports are completed on an application that any changes to the application have to go before the full council. Mr. Willis stated that the applicant is looking to do a number of different types of work and activity at the site. Mr. Willis said the applicant is requesting to withdraw their application so they can submit a new application and start the process over. Mr. Willis said this is an action the full council has to take. Mr. Durfee had no comments to add. Mr. Shekarchi, seconded by Mr. Zarrella moved to allow the applicant to withdraw the application. The motion was carried on a unanimous voice vote.

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

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

Robert Lamoureux, the applicant was present. Michael St. Pierre, the applicant's attorney, Craig Carrigan, the applicant's engineer, Scott Rabideau, the applicant's biologist and James Almonte, the applicant's landscape architect were also present on behalf of the applicant. Tracy Silvia gave the council a brief explanation on the application. Ms. Silvia said the project is for a 3-bedroom house serviced by public water and on-site septic located on the southern tip of Point Judith in Narragansett. Ms. Silvia said the application includes a driveway and earth work associated with some storm water improvement. Ms. Silvia said several applications on this property have come through for information requests, preliminary determinations since 1986. Ms. Silvia explained the current design has gone through numerous revisions amongst staff and the applicant and his consultants. She said staff believes at this point the applicant has done pretty much what staff has asked as far as the

design parameters. Ms. Silvia said the project requires a 95 percent buffer variance and a 100 percent setback variance along certain portions. She said the required buffer zone is 125 feet with a 150' setback. Ms. Silvia said the house and setback meet the minimum 50-foot setback and the house and septic system also meet the 50-foot freshwater wetland rules setback. Ms. Silvia addressed the driveway and said portions of the drainage system and some of the stockpiling areas do not meet the setback or buffer requirements. She said one of the original designs proposed the driveway access in a limited portion of the lot coinciding with the wetland edge with no direct impact. Ms. Silvia said staff did not feel this would be a reasonable on-site activity and would likely end up with some enforcement action. She said after some staff input and redesign, the applicant is now proposing a temporary wetland impact in the area of fragmites and other invasive species which would require a special exception. Ms. Silvia said even though they have done everything that staff has asked for the fact remains its made the variances on the lot that has a coastal wetland. She said there would likely be environmental impact to water quality and habitat. Ms. Silvia said staff could not support the application. Chair Tikoian asked if there were two or more variances before the council. Ms. Silvia said it depends if the council agrees there is no special exception issue there would only be the buffer and setback variances. Mr. Shekarchi noted that the application has local approval. Mr. Shekarchi asked what the RIDEM OWTS meant. Ms. Silvia explained that this was new language for the ISDS for on-site wastewater treatment system. Mr. Zarrella said he did not see the ISDS approval in the file and asked if they had a copy of the ISDS approval. Ms. Silvia replied yes they received it in August 2007 with a stamp date of December 19, 2006. Mr. St. Pierre gave council members a chronology of the application and noted that they have modified and redesigned the house from a 4- bedroom house to a 3- bedroom house and have addressed a number of the impacts.

Craig Carrigan, the applicant's engineer, described the property and said the property is a vacant single-family residential lot with some upland on the southern side and a thin strip along the full southern boundary going out to ocean road. Mr. Carrigan said there is a isolated pond between lots 161-1 and 161 that is a freshwater wetland adjacent to Type 1 section of Rock Beach on the south coast of Narragansett. Mr. Carrigan said the proposal is for the installation of a narrow driveway along the southern property boundary going up towards a proposed single-family dwelling with an Advantex AX pre-treatment unit followed by a BSF for waste water treatment. Mr. Carrigan sated that the original approved from the Town was for a 30'x40' dwelling and after meeting with staff, they reduced it down to a 3-bedroom dwelling to provide a minimum 50-foot setback from the coastal features. Mr. Carrigan noted that the Natural Resource Services flagged the coastal and wetland features on the property. Mr. Carrigan said they proposed a precast retaining wall along the section of the driveway closest to the wetlands to avoid any impact. Mr. Carrigan stated that the disturbed area would be re-established once the construction was completed. Mr. Carrigan felt that there would be no substantive adverse impact on the wetlands and the surrounding property if the variances were granted. Mr. Carrigan said they have a drainage plan to address the runoff and explained their proposed plan. Mr. Carrigan said they would also have a 3-bedroom septic system with an Advantex AX pretreatment unit followed by a bottomless sand filter for the discharge of actual waste. Mr. Carrigan said the Advantex is the

approved denitrifying technology from DEM. Mr. Carrigan felt there would be no substantial adverse impact on the wetland. Mr. Carrigan felt denial of the variances would cause the applicant an undue hardship. Mr. Shekarchi noted that the original ISDS approved from DEM was for a 4-bedroom home which has been reduced to a 3-bedroom home. Mr. Carrigan replied yes. Mr. Shekarchi asked if the property was serviced by well or Town water. Mr. Carrigan replied municipal water. Mr. Shekarchi asked what local permits they had. Mr. St. Pierre replied they received a special use permits from the Town for the wetlands and high water level overlay. Mr. Carrigan stated that the Narragansett Zoning Board requirement for the coastal and freshwater wetlands overlay district is 150 feet setback from any wetland and they granted the required relief. Scott Rabideau, the applicant's wetland biologist, explained that this was an undeveloped parcel of land about 65,000 s.f. with a contiguous freshwater wetland and a coastal pond complex on it. Mr. Rabideau said there is also a beach area with an associated bluff. Mr. Rabideau showed council members a 2006 aerial photograph of the area and said the area shaded in blue is the contiguous vegetated area that exists adjacent to and around the property which is about 3.9 acres. Mr. Rabideau said he superimposed the driveway and house area on the plan to show the council what they are planning to do. Mr. Rabideau said they are looking to use 13,343 s.f. of the property for the house and driveway. Mr. Rabideau said the light blue area on the photograph is the actual vegetative wetland. Mr. Rabideau stated that the small coastal pond and the contiguous freshwater wetland make up over 50 percent of the available area and the habitat area. Mr. Rabideau said the areas to the north and south are developed and an island of habitat exists along the coast and provides a valuable function for wildlife. Mr. Rabideau said they tried to minimize the alterations to the greatest degree and keep the house as far away from the coastal feature and wetland as possible. Mr. Rabideau stated that the driveway is 5 feet from the coastal wetland and the length of the driveway is 150 feet. Mr. Rabideau said there would be a temporary 480 s.f. alteration to the wetland during construction and that it would be restored upon completion of the project. Mr. Rabideau said the house is 50' from the contiguous portion of the freshwater wetland. Mr. Rabideau said there would be a fully vegetated buffer zone between the house and the coastal feature. Mr. Rabideau felt these were the minimum variances necessary. Mr. Rabideau said the house would not be visible from the road during the summer months and would have no scenic value impact. Mr. Rabideau felt there would be no substantial impact on the surrounding areas or the wetlands. Mr. Shekarchi asked what materials the driveway would be made of. Mr. Rabideau replied it would be a crushed stone driveway. Director Sullivan said there was a fairly significant portion of the Atlantic Flyway which represents a kind of a niche environment which he did not comment on as to the adverse impact or their attempt to minimize the impact on the flyway. Director Sullivan asked if he formed an opinion or conducted any studies on this. Mr. Rabideau replied yes and it was referenced in his report. Director Sullivan stated while they are eliminating 13,000 s.f. and fragmites, asked if the owner might enhance the vegetation to provide or make some compensation to offset the loss. Mr. Rabideau said the applicant would be more than willing to work with staff to develop a buffer zone management plan that serves to manage invasive species and restore areas that have fragmites. Director Sullivan asked if he formed professional opinions on both the vegetation and wildlife habitat and if he felt it would be a challenge for them to make enhancements in vegetation in the

wildlife habitat to compensate for the 13,000 s.f. of lost. Mr. Rabideau replied no. Chair Tikoian asked about the 2,600 s.f. temporary stockpile area near the dwelling and asked if this would be lawn. Mr. Carrigan replied yes. Ms. Silvia clarified that the blue area on the plan is not owned by the applicant. Ms. Silvia stated that even though only 8% of the wetland area is being altered it's a third of the lot. Ms. Silvia said the habitat area showed in blue to the south towards the lawn area on the plan is also not owned by the applicant. Ms. Silvia stated that the area surrounding the wetland complex is existing vegetation and buffer to protect the area. Ms. Silvia said once the development goes through there would be no protection. Ms. Silvia noted that the existing road elevation is about 7 feet and the house is set up on a hill and would be visible. Ms. Silvia addressed the restorative plantings mentioned by Director Sullivan and said they do have wetland restoration applications and invasive management applications. Mr. Gray asked about lots 161 and 161-1 and asked if the applicant owned lot 161. Mr. Rabideau replied yes. Ms. Silvia noted that both lots were previously owned by the applicant in 1998 but the applicant sold lot 161-1. Mr. St. Pierre submitted James Almonte's, the applicant's landscape architect, CV to the council for identification. Mr. Almonte addressed the visual impact of the proposed dwelling. Mr. Almonte said the property is off Ocean Road just north of the Point Judith Lighthouse with existing developed properties to the north. Mr. St. Pierre submitted five photographs taken by Mr. Almonte from different angles from Ocean Road and from the water as exhibits. Mr. Almonte described his overlay site plan on one of the photographs which depicted the house and driveway. Chair Tikoian asked if the photographs had been provided to staff for their review. Mr. St. Pierre replied no. Chair Tikoian was concerned with them providing information for the first time that staff has not seen and asked if there was any particular reason this was occurring. Mr. St. Pierre replied the scenic issue was an important issue and once they reviewed the project they commissioned the photographs to be taken. Director Sullivan stated that he appreciated the enlightenment on the visual of the area but felt that Mr. Rabideau's comments and agreement with regard to the vegetation management called the validity of these images into question. Director Sullivan felt the vegetation would be anywhere from 4 to 5 feet and the view shed would be substantially changed and suggested they provided images with the shorter vegetation. Mr. Almonte described the photographs and the different views. Mr. St. Pierre requested that exhibit 2-6 be marked as full exhibits. Vice Chair Lemont and Director Sullivan objected to the photograph on the top with the drawing on them being marked as full exhibits as staff had not had a chance to verify them. Mr. St. Pierre felt they should be marked as full exhibits. Chair Tikoian ruled they would hold them for identification until staff reviews them. Director Sullivan asked if Mr. Almonte had any specific training with regard to shoreline vegetation or native materials on a site like this. Mr. Almonte replied no. Director Sullivan asked if he would agree that shorter vegetation between Ocean Road the proposed dwelling would result in a greater viewing of the structure. Mr. Almonte replied yes. Director Sullivan asked if greater viewing of the structure would cause a greater visual change in the view shed along the road. Mr. Almonte replied yes. Mr. Rabideau stated there is no invasive species management plan before the council and that they have this plan with no buffer zone or coastal wetland restoration proposal. Director Sullivan asked if his vegetation management plan might have just view shed disturbance in that they could replant on the site with valuable habitat materials and eliminate the invasive material. Mr. Rabideau said it could be

done. Chair Tikoian asked Mr. Lamoureux if he owned parcels 161-1 and 161 at one time. Mr. Lamoureux replied yes and that he subdivided them and then sold off lot 161-1. Chair Tikoian referred to Section 120 and said the applicant many have created his own hardship when he divided the parcel. Mr. St. Pierre stated when they did the original transfer the current regulations they seek relief from were not in existence and felt there was no self-created hardship. Mr. Shekarchi asked if the property was in a flood zone. Mr. Carrigan replied yes it's in a V zone as well as an A zone. Mr. Shekarchi asked if they would build to the flood zone specifications. Mr. Carrigan replied yes. Mr. Gray asked if the current design was according to FEMA requirements. Mr. Carrigan replied yes. Ms. Silvia noted that in a 1986 preliminary determination for the two lots a 75' buffer zone was recommended not the 125' buffer requirement now. Mr. St. Pierre made closing comments and requested that the council approve the application. Mr. Gomez wanted to have a conservation easement to prevent any further manipulation of the road, the surrounding area and the wetland. Mr. Lamoureux agreed to a conservation easement for the rest of the lot. Mr. Gray requested that they continue the application to allow staff to review the photographs and study the changes in possible FEMA regulations to make sure that Mr. Carrigan's representation would not change the elevation. Director Sullivan, seconded by Mr. Gray moved to continue the application to allow staff to review the photographs, look into having a vegetation plan and conservation an easement. The motion carried. Mr. Gomez, Mr. Zarrella and Mr. Shekarchi were opposed. Director Sullivan asked if the application could be turned around in fairly short order. Mr. Willis replied yes but if the council is asking for conservation easement language and vegetative plans to be reviewed they would need those plans relatively quickly.

**Chair Tikoian called for a recess at 7:50 p.m. Chair Tikoian called the meeting back to order at 7:55 p.m.**

**2007-11-52 LOUIS VARRICHIONE – Construct and maintain a residential boating facility consisting of a 4' wide x 167' long fixed timber pier that leads to a ramp that leads to a 150 s.f. terminal float. The proposed structure is to extend 71' =?- seaward of the cited mean low water mark. Located at Plat 121, Lot 159: 9 Slocum Street, Bristol, RI**

Louis Varrichione, the applicant was present. Ron Blanchard, the applicant's engineer was also present on behalf of the applicant. Geraldine Osmanski, an abutting owner and Anne Morrill, 1st VP of Kickemuit River Council, the objectors were also present. Ms. Silvia gave council members a brief summary on the application. Ms. Silvia said the application was for a residential boating facility on the Kickemuit River. Ms. Silvia stated that the proposed dock is 71 feet seaward of mean low water and requires a 21-foot length variances. Ms. Silvia noted that this dock would be constructed between two existing docks. Ms. Silvia said staff noticed some evidence of wetland mowing which is not uncommon in the area and the applicant agreed to discontinue doing this and they extended the landward portion of the facility further inland to elevate it over the wetland that had been disturbed. Ms. Silvia stated that the application meets the CRMC standards and staff has no objection to the application. Ms. Silvia said the application was deferred to the full council because of the two objections

received. Mr. Gray asked if the Town or the Kickemuit River Council responded on applications. Ms. Silvia replied the Kickemuit River Council frequently responds to the public notices on Bristol and Warren applications but the Town also receives a copy of the public notice. Ms. Silvia said if the town had a concern or had navigation issues they would send their Harbormaster. Chair Tikoian asked if the applicant had anything to add to the application. Mr. Varrichione replied no. Mr. Gray asked if land survey was required in this case. Mr. Willis replied it was not necessary. Mr. Goulet said it is the Executive Director's prerogative if it's within the 25' setback. Mr. Blanchard said he prepared the project plan and they realized this was a tight lot and said that they found two iron rods on the property line that are shown on the plan which shows the 25' setbacks. Mr. Gray asked if he was confident in what he found. Mr. Blanchard replied yes. Mr. Gray wanted to be sure during the construction the contractor put the dock in the correct place. Mr. Blanchard said they could do cross ties from the iron rods to a couple of pilings to establish the line and if they were not comfortable with that they would do a layout. Director Sullivan noted that there was a concern from the objectors regarding the materials used for the docks. Director Sullivan asked if they considered some of the newer technologies and piles specifically fiberglass or other composites to address the objectors concerns regarding the potential contaminants from CDA treated or other pressure treated timber. Mr. Blanchard said it would be more expensive for the applicant to use fiberglass pilings and was labor-intensive. Director Sullivan agreed the cost was higher but the pilings were lighter in weight and easier to drive and there are offsetting costs to using them. Director Sullivan said this would also address the objectors' concerns. Mr. Varrichione explained that it was 3-4 times more expensive to use the fiberglass pilings and he could not afford to put his dock in if had to use the fiberglass pilings. Director Sullivan stated they have been quoted lower costs in their projects and asked if the cost was neutral would he do it. Mr. Varrichione replied yes.

## **OBJECTORS**

Gerry Osmanski, an abutter, said she was concerned with the actual construction of the dock and whether it would encroach on her riparian rights. Ms. Osmanski noted that the dock built to her south did not parallel her property but angles into her riparian rights. Ms. Osmanski wanted assurance from the council that this dock would not be constructed in her riparian rights. Chair Tikoian asked the Deputy Director to send enforcement staff out to review this and make sure the dock was built in accordance with the CRMC assent. Ann Morrill, Kickemuit River Council said they are concerned with access along the shore and the proliferation of docks in Kickemuit River. She said they are concerned about the pilings going up all over the river and leaching chemicals into the water way and effecting people who swim in the waterway because they had conditional Class A saltwater. Ms. Morrill wanted the council in low flow estuaries to consider mandating fiberglass piers. Ms. Morrill said they would also like this on the Krupa dock. Ms. Morrill said they are not against the dock but are against using regular piles in the river because of the leaching of chemicals. Mr. Goulet replied that fiberglass piles as well as other types of pilings are permissible for residential docks except for steel and concrete. Mr. Goulet said there are other alternatives to fiberglass pilings that don't have treatment such as green pilings which is a very dense wood. Mr. Goulet noted that the green pilings are substantially more expensive than conventional treated pilings. Mr. Shekarchi

asked if they have a regulation that prohibits pressure-treated docks. Mr. Goulet replied no. Mr. Shekarchi asked if there was any evidenced that treated pilings cause damage to the pond. Mr. Goulet replied no. Chair Tikoian asked if contractors were getting more experience with the installation of fiberglass pilings or is this the beginning of a new process ant that is why the applicant is being quoted a higher fee. Mr. Goulet replied no that the applicant is correct the connection portion is much more labor intensive than timber pilings. Mr. Shekarchi, seconded by Mr. Ricci moved approval of the application with all staff stipulations and that the applicant explore the avenue of using fiberglass pilings or other alternatives. Vice Chair Lemont stated that on page 5 of the packet he could not see where the dock would be placed and asked where it would be placed. Mr. Blanchard replied the plan is on page 10 in the council's packet. Vice Chair Lemont asked if the dock would be parallel to the two existing docks. Mr. Blanchard replied the dock would be parallel to the dock to the north. Vice Chair Lemont noted that there have been a number of comments over the years about the number of docks in the Kickemuit River and asked if there was still a concern about the number of docks. Ms. Morrill replied yes because of its limiting people's access along the shore and pilings leaching affecting the water quality. Mr. Gray noted that all the newer docks have elevation so they don't lose access along the shore. The motion was carried on a unanimous voice vote.

**2008-01-88 – MAUREEN KRUPA – Construct and maintain: a residential boating facility consisting of a 4' wide by 105' +/- long fixed timber pier that leads to a ramp that leads to a 150 sf terminal float. The proposed structure is to extend 75' seaward of the cited MLW mark. Located at Plat 123B, Lot 7; 60 Everett Avenue, Bristol, RI.**

Maureen and David Krupa, the applicants was present. Ron Blanchard, the applicant's engineer was also present on behalf of the applicant. Geraldine Osmanski, an abutting owner and Anne Morrill, 1st VP of Kickemuit River Council, the objectors were also present. Ms. Silvia gave council members a brief summary on the application. Ms. Silvia said this application is similar to the previous application and is for a residential boating facility slightly to the south in Kickemuit River. Ms. Silvia stated that this dock is located within the 25-foot offset and the applicant obtained letters of no objection from both abutters. Ms. Silvia stated they are asking for a 25 foot length variance to get 24 inches of water. Ms. Silvia said there were letters of objection but staff supports the application as far as the construction is concerned. Mr. Gray asked what the elevation was at the mean low water mark. Ms. Silvia replied it was greater than 5 feet about 5 to 6 feet. Mr. Gomez referred to a Mr. Blanchard's letter on page 13 paragraph three regarding eelgrass and public right-of-ways and asked if she concurred with this statement. Ms. Silvia replied agreed that there was no SAV at this location and the public right-of-way is further south. Director Sullivan asked if they would be open to and willing to consider green pilings other alteranatives to pressure treated materials if they found those materials to be acceptable or comparable in price range. Mrs. Krupa replied yes. Mr. Gray had a question on the applicant's site plan on page 10 and asked why they were not going down the middle of the property to reduce the need for a variance. Mr. Krupa replied that they are trying to get more perpendicular to the contour lines so they can get as much water as possible with a shorter length dock. Mr. Gray was concerned with the two abutters on either side not objecting now but

might in the future. Mr. Gray asked why the dock was not parallel to the shore to avoid future crowding. Mr. Gray said he would vote for approval of this if the dock down the middle of the property line extensions and would not affect the abutters. Mr. Shekarchi agreed with Mr. Gray but felt this was more of a policy question and not necessary for this particular application as the abutters signed off on this. Chair Tikoian asked why they placed the dock at that shore point as opposed to moved it 50 feet or 25 feet towards the north. Mr. Blanchard said they choice this location to coincide with the stairs. Mr. Gray said he was not concerned with the starting point but at the outbound end line and felt if the dock was brought south it would not be crowding the property line. Mr. Blanchard said the applicant could relocate the dock 8 feet south for a 15 foot separation and still have 25 feet to the north. Mr. Gray had no problem with that. Mr. Shekarchi, seconded by Mr. Zarrella moved approval of the application with all staff stipulations, that the dock be moved 8 feet to the south and that the applicant look at alternative materials for the pilings. The motion was carried on a unanimous voice vote.

**2008-04-021 JOHN & SARAH BAKER – construct and maintain: a 4' x 211' residential pier, ramp, and an 8' x 18.75' float. The float includes a mechanical float lift. The proposed structure extends 119.6' seaward of the mean low water mark, therefore requires a 69.6' variance from RICRMP Section 300.4.E.3(1). The fixed pier includes a 54.8' timber section, and 156.2' aluminum section. Located at Plat 16, Lot 289; 27 Maple Road, Warren, RI.**

John and Susan Baker the applicants were present.

Mr. Reis gave council members a brief explanation on the application. Mr. Reis said the application is to construct a residential boating facility, which extends 119-foot seaward of mean low water and requires a 69.6-foot length variance. Mr. Reis said the pier includes a 54.8' timber section on the inboard side and a 156.2' aluminum section to the ramp and float on the seaward side. Mr. Reis stated that staff met with the applicants on site and there is a remnant groin on the site which is fairly degraded and broken material along the shore. Mr. Reis said part of the applicant's proposal as negotiated with staff is to move a lot of this material. Mr. Reis explained that there is an existing rock and the water is shallow in this area and the proposal is to extend the dock beyond the rock to achieve -2 to -3 at mean low water. Mr. Reis said staff had no objection to the application. Mr. Gray asked if this was a residential area. Mr. Reis replied yes. Mr. Gray noted that you cannot use steel in residential and that the dock way is aluminum and asked if this was allowed. Mr. Reis replied yes but a rewrite of the regulation it would not be allowed. Mr. Shekarchi, seconded by Mr. Zarrella moved approval of the application with all staff stipulations and that the applicant look at alternatives for the timber pilings. Mr. Barker replied that they are using fiberglass pilings. The motion was carried on a unanimous voice vote.

**2008-04-080 NORTHUP REALTY, LLC – Construct and maintain an 82 slip marina at the Quality Yachts location. The proposed marina requests 3 variances from standards outlined in Section 300.4 of the RICRMP, they are 300.4.C.1, 300.4.E.1.d and 300. 4.E.1.x. Located at Plat 72, Lots 1, 1A; 95 Riverside Drive, Tiverton, RI.**

Brad Waugh, principal of Northup LLC was present on behalf of the applicant. Sean Coffey, the applicant's attorney and Warren Hall, the applicant's engineer were also present. Mr. Goulet gave council members a brief summary on the application. Mr. Goulet said the application is for a proposed new marina at an existing boatyard that has some dockage and moorings. Mr. Goulet said the marina needs a variance for the boat density. Mr. Goulet explained that the marina has a unique design due to the significant current and water depths in the area they would be using bottom anchors and rods rather than typical piles as well as some large deep draft outer floats to protect from the current. Mr. Goulet said they met with the applicant and the issues and concerns raised by staff had been addressed and the plans has been modified. Mr. Goulet said staff had no problems with the modified plan. Mr. Coffey said the application is to convert an existing boatyard located in Tiverton on the Sakonnet River to a 74 slip marina. Mr. Coffey said this would be a full service marina for large beam vessels with parking, fueling and pump out facilities as well as marina buildings. Mr. Coffey said in April 2007 they applied for a preliminary determination and met with staff to modify the application. Mr. Coffey said the final application had been submitted in April 2008 and they have made further revisions to the dock as of today. Mr. Coffey said they agree to the staff biologist stipulations and they have addressed Mr. Goulet's concern with the outboard dock on the perimeter of the marina for docks A&D. Mr. Coffey said they resolved the size of the passage way and reduced the number of slips from 82 to 74 slips and addressed the variance criteria in their narrative. Mr. Coffey said the facility uses a C-flex anchoring system which does away with most pilings. Mr. Coffey showed the council the anchoring system that would be used. Mr. Coffey felt this was an innovative system. Mr. Coffey felt they meant the CRMC requirements, addressed staff concerns and the variance criteria. Mr. Coffey said the applicant would surrender the moorings. Mr. Coffey said they have a letter of support from the Historical Preservation Commission on page 41 of the council's packet. Mr. Coffey stated they would move the A dock on the south side closer to the Tiverton Yacht Club to reduce to three slips at for vessels greater than 50 feet. Mr. Coffey said Dock D would have limited usage to five slips to boats 50' or more. Mr. Coffey said they pulled in Dock D tighter to reduce the fairway from 95 feet to 85 feet and Dock C fairway reduced from 89 feet to 85 feet. Mr. Coffey felt they met the challenges of the new regulations and made a workable plan. Mr. Coffey requested council approval on the application. Mr. Gomez referred to a letter on page 17 from the Tiverton Yacht Club which agreed that the applicant would move slips 3 and 5. Mr. Coffey replied yes. Mr. Gomez also asked if they agreed to give Tiverton Yacht Club access to two small floating docks. Mr. Waugh replied this is correct. Mr. Gomez asked about conveying to Tiverton an area of land measuring 14.9 feet between the properties. Mr. Waugh agreed. Mr. Gomez asked what materials the anchoring mechanism would be made of Chris Clark, Marine Tech of North America explained the anchoring system and said it has been in service for 20 years. Mr. Clark said the will dive every 5 years to inspect the anchorage system as part of their maintenance agreement with the applicant. Mr. Gomez asked Mr. Goulet if he was familiar with the type of system. Mr. Goulet replied yes and he has no problem with this system and felt the applicant did a good job. Mr. Coffey clarified the 3 slips would be on the west end of A dock and there would be one dock for the public safety vessel. Mr. Gray asked how they are securing the anchoring system. Mr. Clark replied its attached to a driven steel pile into the sea bed by a stake pile on the two ends of

A and D Dock and on B and C Docks the stake pile will run up as a mooring pile and attach to the bottom of the mooring pile that way the loads are put in low on the pile for the high elevations. Mr. Clark also noted there is a bypass system in case of failure. Mr. Gray asked if this was a new system to Rhode Island. Mr. Goulet replied yes. Mr. Gray asked if there was a requirement in the stipulations that the system be inspected every year. Mr. Goulet replied no. Mr. Coffey said the inspection was part of their maintenance plan. Mr. Waugh said they would agree to yearly inspections of the system. Mr. Gray noted that they changed the fairways on the end of the piers and asked what the length of the slips were on Dock B. Mr. Waugh replied 39 feet they used a 1.5 ratio. Mr. Gray asked if the fairway was 60 feet. Mr. Waugh replied yes. Mr. Dawson asked if all the parking space numbers had been met. Mr. Goulet replied yes the applicant met the parking requirements and stormwater requirements. Mike Heiner, the Tiverton Yacht Club, said they indicated they would move D Dock back 10 feet to give them an additional 10 feet of access there. Mr. Heiner said there are slips in this area and asked if they were going to use them for public access. Mr. Waugh replied no for public enforcement for the harbormaster. Mr. Heiner wanted to make sure the boats would not overhang onto their property. Chair Tikoian noted that the Commodore for the yacht club has already signed off on this issue. Mr. Heiner said they does not have any questions and supports the application. Mr. Gray noted that there was no letter from the Harbor Commission and asked if there had been any comments or concerns. Mr. Coffey said they have a letter dated April 7<sup>th</sup> from the commission. Director Sullivan, seconded by Mr. Gray and Mr. Shekarchi moved approval of the application with all staff stipulations and yearly inspections as part of the operation and maintenance plan. Chair Tikoian requested a copy of the revised plan. Mr. Coffey said he would get them to staff. The motion was carried on a unanimous voice vote.

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

**2008-01-052 ROGER WILLIAMS UNIVERSITY – Construct and maintain a 6' wide by 150' long wetland walkover structure. The applicant seeks the issuance of a Special Exception to the prohibition listed in Section 300.17.E.2 of the RICRMP which prohibits wetland walkover structures in excess of 100 feet in length. Located at Plat 164, Lots 1, 2, 5, 8, 9, 10: One Old Ferry Road, Bristol, RI.**

Mr. Shekarchi recused himself on the application. Christopher Neronha, was present on behalf of Roger Williams University. Ms. Silvia gave council members a brief summary on the application. Ms. Silvia said the application requires a special exception. Ms. Silvia said the proposed project is for wetland walkover structure to connect two existing clamshell paths over part of previous CRMC assent for access along the shore. Ms. Silvia stated that the structure is 6' wide x 150' long over approximately 147 feet of wetland. Ms. Silvia said the applicant elevated the structure and will restore the area. Ms. Silvia said the application requires a special exception for wetland walkover structure more than 100 feet. Ms. Silvia stated the application also requires variances to the construction standard with regard to the height, width, time of year and handrails, which area part of the ADA requirements as well as a setback variance. Ms. Silvia said staff defers to the council on the special

exception and recommends approval of the application. Chair Tikoian opened the public hearing on the special exception and called for public comment. There was no public comment. Chair Tikoian closed the public hearing. Director Sullivan, seconded by Mr. Dawson moved approval of the special exception. Chair Tikoian called for a roll call vote:

On approval of the special exception:

Mr. Gray	Yes	Mr. Dawson	Yes
Director Sullivan	Yes	Mr. Gomez	Yes
Mr. Ricci	Yes	Vice Chair Lemont	Yes
Mr. Zarrella	Yes	Chair Tikoian	Yes

8 Affirmative            0 Negative            0 Absentation

The motion carried.

Director Sullivan, seconded by Mr. Ricci and Mr. Dawson moved approval of the application with all staff stipulations, the special exception and variances. The motion was carried on a unanimous voice vote.

## 10. PUBLIC HEARING ON PROGRAM CHANGES BEFORE THE FULL COUNCIL:

### RI Coastal Resources Management Program Management Procedures

- **Revise Section 5.1(3) – Notification**
- **Revise Section 5.14 – Withdrawal of Applications**

Mr. Willis explained that this is a revision to Section 5.1(3) and 5.14 on notification and withdrawal of an application. Mr. Willis said the change to 5.1(3) clarifies notification on an application for public notice and the change to 5.14 clarifies when an applicant withdraws their application they have to file a new application.

### RI Coastal Resources Management Program Red Book

- **Revise 300.4.A Recreational Boating Facilities/Definitions**
- **Revise 300.4.D Recreational Boating Facilities/Prohibitions**
- **Revise Section 300.16E.1 Boat and Float Lift Systems/Standards**
- **Revise Section 210.6.B.6 – Barrier Islands and Spits**
- **Revise References and Additional Sources of Information**

Mr. Willis explained the changes to Section 300.4 and 300.16 deal with marine railway systems to better clarify the definition of what a marine railway is relative to the terms that are previously used in marine elevator replacement. Mr. Willis said the changes to Section 201.B.6 – Barrier Island and Spits they are adding a new finding that looks at climate change, sea level issues and the research

associated with that data. Chair Tikoian opened the hearing for public comment. Director Sullivan felt the language in Section 5.14 was awkward and needed to be clarified. Chair Tikoian suggested holding this change and asked Director Sullivan to submit his comments on this to legal counsel. Director Sullivan was also concerned with the language “association with” in Section 300.16.E.1. Chair Tikoian suggested they also hold Section 300.16.E.1 to look at the language. Director Sullivan was concerned Section 300.6.B.6 and wanted to know how the language might be strengthened to address the suitability and maintenance practices also. Mr. Willis explained this is an additional finding just to recognize climate change and issues associated with it. There was no further public comment. Chair Tikoian closed the public hearing. Director Sullivan, seconded by Mr. Zarrella and Mr. Dawson moved approval of the changes to Section 5.1.3, Section 300.4.A, Section 300.4.D and Section 210.6.B.6 and that the revisions to Section 5.14 and Section 300.16E.1 be held to clarify the language. The motion was carried on a unanimous voice vote.

**11. HEARING CONTINUATION ON PROGRAM CHANGES BEFORE THE FULL COUNCIL**

**Rhode Island Coastal Resources Management Program – Management Procedures**

**Revise Section 4.3.2 – Schedule of Fees – Add 4.3.2(u) – submerged transatlantic telecommunications cables, annual: \$38,000**

Chair Tikoian stated that this was a public hearing on the submerged transatlantic cable fees. Chair Tikoian opened the public hearing. Edward Pare, attorney for AT&T, stated that they were not aware of the proposed regulation until after the hearing and have since submitted some comments with regard to the regulation. Mr. Pare explained that AT&T has one active transatlantic cable that actually lands in RI and goes to England and also has four other cables that go from RI to Shirley, New York. Mr. Pare said they have a problem with the proposed regulation and felt there were no definitions and it was not clear how the fees would be imposed upon submerged cables. Mr. Pare noted that 3 of AT&T cables are not operation and the 4<sup>th</sup> cable would be disconnected in 2009. Mr. Pare said the cost and the environmental impact of removing the cables and the significant fee placed on these transatlantic cables outweighs the benefit to just leaving them there. Mr. Pare was not sure that AT&T falls under this regulation and should be assessed a \$38,00 fee. Mr. Pare did not feel the fee was based on a comparable values. Mr. Pare said cable 12 would be out of service in 2009 and felt it was better to leave cables there then remove and cause harm to the environment. Mr. Shekarchi asked what he thought a reasonable fee was. Mr. Pare felt they need to look at all data and decide. Mr. Pare felt the regulation was not clear on how this affects AT&T and only cables that are in use. Director Sullivan said the General Assembly suggested a fee up to \$80,000 per cable. Mr. Colt explained that there is no distinction made between whether cables are active or inactive at this time. Mr. Colt stated that the February 5<sup>th</sup> memo did address the terms of the fee and that it was fair and appropriate. Vice Chair Lemont asked if they are saying when a cable is abandoned they should pay a fee. Mr. Colt replied yes. Vice Chair Lemont asked what the justification was for this. Director Sullivan said the law does not say that and felt that there needed to be proof that it is going to be abandoned in

the future. Vice Chair Lemont said a corporation is going have a pay a tax something they are not utilizing. Director Sullivan felt they need formal abandonment of the cable. Mr. Colt said this was not the issue of abandonment was not before the council only the issue of the amount of the fee was before the council. Mr. Pare felt the language was too broad and needed to be clarified. Chair Tikoian asked how many cables AT&T has. Mr. Pare replied 3 on Green Hill Beach. Mr. Shekarchi asked if the line from Rhode Island to New York was considered transatlantic. Director Sullivan replied no. Mr. Shekarchi felt the regulation should be clarified and needed more work. Mr. Ricci agreed. Mr. Zarrella asked how they could tax on abandoned property. Vice Chair Lemont felt you shouldn't have to pay a fee for abandoned property. Mr. Shekarchi suggested they table the matter for 30-60 days and have the House and Senate Policy staff look at this and give guidance to the council on the legislation intent. Director Sullivan moved passage of the regulation. There was no second. Mr. Shekarchi, seconded by Mr. Zarrella move to table the matter for 60 days to get clarification from the General Assembly Policy Staff or Legislative Counsel on the intent of the legislation and direct Mr. Goldman to write a letter requesting this. The motion carried. Director Sullivan was opposed.

**12 Enforcement Report - June 2008**

There were none held.

**13. Category "A" List**

There were none held.

There being no further business to discuss. The meeting was adjourned at 9:35 p.m.

Respectfully submitted,  
Grover Fugate, Executive Director

Reported by Lori A. Field