In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, August 26, 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
Neill Gray
Bruce Dawson
Director Michael Sullivan
Dave Abedon
Joe Shekarchi

MEMBERS ABSENT

Jerry Zarrella
Tom Ricci

STAFF PRESENT

Grover Fugate, CRMC Executive Director

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:

Vice Chair Lemont, seconded by Director Sullivan moved approval of the minutes of the July 22, 2008 meeting as presented. The motion was carried on a unanimous voice vote.

3. SUBCOMMITTEE REPORTS

Vice Chair Lemont reported that the Policy & Planning Subcommittee met on August 19th and recommended the proposed changes to RI Coastal Management Program Section 4.3.2.T – Schedule of Fees to revise the commercial facilities precluded fee from $15 to $17; Section 300.3 – Residential, Commercial, Industrial and Recreational structures to establish a structural perimeter limit for commercial and industrial structures and operations in tidal waters; and SAMP for Salt Pond and Narrow River Section 921.A.2(e) and Section 920.1B.2(F) to clarify that certain and specific instances of subdivisions within self-sustaining lands and lands of critical concern would not be subject to a special exception but subject to a variance. Chair Tikoian requested that the proposed changes be received and put out to public notice and then placed on a future semi-monthly calendar.

4. STAFF REPORTS

Mr. Fugate announced that there were a series of meeting and conferences over the net couple of months that staff would be participating in and giving presentations. A workshop on Greenwich Bay

buffer regulations next week, Sept. 23rd the Business Council workshop on alternative energy sources, Oct. 11-15 Restore America's Estuaries national conference, Oct. 19-21 the Beard Symposium on coastal sounds; Oct. 23-24 a Law Symposium on Renewable Energy in the Offshore Environment at Roger Williams University; Nov. 17-19 The Program Managers Regional Meeting in RI; and Oct. 16th a conference on Estuaries and Climate Change.

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

6. CONTINUANCES:

2007-07-059 MATISSA, LLC -- To construct an addition onto an existing residence with associated drainage and landscaping improvements. Located at plat 3, lot 96; 17 Willow Way, Barrington, RI.

The applicant was not present. Chair Tikoian stated that both parties had requested a continuance. The application was continued.

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

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.

Michael Keyworth, the applicant was present. Michael DeSisto, attorney for the applicant and Garcia, the applicant's engineer were also present on behalf of the applicant. Mr. Fugate gave council members a brief update on the application. Mr. Fugate stated that the application went back to staff and after a series a meetings they revised the plans to bring the marina perimeter line off the right-of-way which was perpendicular with the channel line and made it coincident with the property line extension. Mr. Fugate stated that no variance was needed for this. Mr. Fugate said they received a letter from the Barrington Town Council which did not make it into the council's packet. Mr. Fugate said on June 4th the Barrington Town Council meet on the application and received reports from the Harbor Commission and the Planning Board and heard from neighbors. Mr. Fugate said the council voted to object to two aspects of the plan expansion, the docks within 10 feet of the property line extension of Allen Avenue and the berthing of vessels on the southern side of the proposed new docks on either a permanent or temporary basis. Mr. Fugate noted that this was a letter addressed Cove Haven Marina from Mark Ursillo, the Barrington Town Solicitor which was cc'd to CRMC, the Barrington Town Council, Peter DeAngelis, Town Manager, Mr. Goldman and Attorney DeSisto. Mr. Gray said they don't object to just being 10 feet but they don't want anything within the 10 feet. Mr. Fugate replied yes. Mr. Fugate noted that there is no buffer built in the CRMC program but the town is asking for a 10-foot buffer off the property line extension and requesting no dockage within the 10-foot area of the property line extension. Mr. DeSisto stated that the applicant was before the council in March and the application was continued for the applicant to go before the Barrington Town Council and a request that the applicant's engineer be present at the next meeting. Mr. DeSisto stated that the plans have been modified and the marina perimeter line which was drawn perpendicular with the channel was now even with the riparian line. Mr. DeSisto said the proposal is to extend the marina perimeter limit 42-43 feet south on the landward side or east and about 22 feet on the western end or the channel side. Mr. DeSisto also stated they would be eliminating 5 slips. Mr. Garcia explained that he drafted the revised plan on 5/1/08 and that the plan differs from the original plan. Mr. Garcia said the plan shows the existing dock labeled AA being moved in a southerly direction to coincide with the revised marina perimeter limit. Mr. Garcia said in the original plan the perimeter line was 90 degrees to the channel rather than parallel to the southern line on Allen Avenue. Mr. Garcia stated that MPL increased 43 feet on the easterly side and 22 feet on the westerly side. Mr. Garcia said approximately 5 or 6 slips would

be eliminated. Chair Tikoian asked if the Town Council saw the plan that the council is seeing tonight. Mr. DeSisto replied yes. Chair Tikoian asked if the plan complied with the requests of the town council. Mr. DeSisto replied no. Vice Chair Lemont stated that he had been down at another marina in the area and stopped by this site this morning and had met a couple of the residents. Vice Chair Lemont noted one of their concerns is the visibility of the water and that the marina was visible. Mr. Garcia felt that there was no significant impact to the visibility of the water. Mr. Garcia noted they are shifting the marina 40 feet on this side and 22 feet on the other side. Vice Chair Lemont pointed out that the town's requested that there be no berthing on the southerly side of the dock. Vice Chair Lemont asked under the applicant's proposal how big are the boats that would be berthed there. Mr. Keyworth replied the boats range from 20 feet to 150 feet. Vice Chair Lemont noted that you build docks to hold a certain length boat and asked how big you would build it. Mr. Keyworth replied they are built to a standard that would hold a 150' boat. Mr. Keyworth said the northerly fingers are 50- feet. Vice Chair Lemont asked how long the berths would be. Mr. Keyworth said the berths are currently 50' slips. Mr. Keyworth also noted that the limit of dredging is only 70 feet from the dock. Mr. Gray asked the applicant about the complaints about the view being taken away if this was allowed. Mr. Garcia said they are moving the dock away from the channel and there would be no great visual impact. Mr. Garcia said the marina width from north to south is currently 626 feet and they are reducing it by 21 feet for a total width of 605 feet. Mr. DeSisto stated that the marina has been there since 1961 and there is a significant visual impact now and there would still be a significant visual impact even if the application was denied the visual impact would remain. Mr. DeSisto said increasing the MPL will not have any more visual impact than what it there now. Mr. Fugate clarified that the town is asking that there be no moorings on the south side of the dock and that the entire line of the docks shift 10 feet to give a buffer off the riparian line. Mr. Gray asked if the docks were on the property line extension. Mr. Garcia replied yes. Mr. Gray addressed the issue of obscuring the view and felt there would be some more impact on the visual than there is now but would not be excessive. Mr. Gray said if the vessels are tied up along the southern side which is part of the application, that it was a totally different story and there would be a major change in the view corridor. Mr. Dawson stated at the last meeting he asked if the applicant had any plans to put boats on the southern side of the dock and at that time the applicant said he hadn't considered it at that time. Mr. Dawson said there is no restriction on the southern side of the dock and was concerned with berthing on the southern side because it would affect the visual impact. Mr. Dawson felt there would be visual impact. Mr. Dawson said he was pleased with the revised dock layout without the exception of berthing on the south side. Mr. Keyworth said he modified the plan in good faith and felt if the council wanted no berthing on the south side he would agreed to that. Mr. DeSisto said even if there was no berthing on the south side there would still be a significant visual impact. Director Sullivan asked if a 100' vessel could be docked parallel to the south side. Mr. Keyworth replied yes. Director Sullivan asked if he would be adverse if the council were to agree to disagree with the town and allow some berthing on the south side but capped the dimension of the vessels. Mr. Keyworth replied yes. Mr. Shekarchi asked as the dock exists now do they berth on the south side. Mr. Keyworth replied no only periodically. Mr. Shekarchi noted that the number of boats would go down by six. Mr. Keyworth replied yes. Mr. Gray asked how wide the street is that abuts this property. Mr. DeSisto said the right-of-way is 40 feet with no parking on the north side of Allen Avenue. Mr. Gray was concerned with blocking the right-of-way access. Mr. DeSisto said they would agree to cap the size of the boats on the south side of the dock. Mr. Gray said he was concerned with boats on the south side. Mr. Keyworth conceded to no boats being berthed on the south side of the dock. Mr. Dawson said they would dredge 70 feet from the dock. Mr. Keyworth replied yes. Mr. DeSisto agreed to no berthing of boats on the south side of the dock

PUBLIC COMMENT

Tom O'Connell thanked the council for allowing this whole process to go through. Mr. O'Connell said the town wants the dock moved 10 feet to the north with no berthing on the south side. Mr. O'Connell wanted the council to go with the Barrington Town Council's recommendation. Chair Tikoian explained that the council asked that the application go back to the Town because the applicant had said he went to the town. Chair Tikoian said the council asked questions as a result of

the town council's outcome and were not satisfied with the answers and that is why they asked them to go back to the Town. Chair Tikoian said it is not a requirement of the council to send it to the town but it was a courtesy to show that a state agency can work with local municipalities and ask for there input. Mr. O'Connell said the Barrington Harbor Management Plan has not been approved and would be voted on in September. Mr. O'Connell felt the dock would affect the mooring field. Mr. Gray asked if there was a mooring field their now and the dock affects the mooring field. Mr. Gray said you could not overlay an existing structure and call it a mooring field. Mr. Gray said the right-of-way at the end of the street goes out to the channel and if the town set its mooring field here it would be in the right-of-way area. Mr. Gray stated a right-of-way is for everyone and moorings should not be there. Mr. Dawson , seconded by Mr. Gray moved approval of the application with revision of the new marina perimeter limit and that no boats are docked on the south side of the pier. Mr. Gray noted that his comments should not be taken by the public to characterize the operation of Cove Haven and he has known of the operation for years and its class 1 operation. Director Sullivan asked staff to communicate back to the council regarding the representation by Mr. O'Connell that the mooring field, in his view, would be in the right-of way and that this would be a concern of the council. The motion carried. Mr. Shekarchi was opposed.

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 was also present. Tracy Silvia gave the council a brief update on the application. Ms. Silvia stated that the application had been sent back to staff at the last meeting to have staff and the applicant's consultants discuss mitigation for the wetland and habitat. She said staff met with the applicant's consultants and they made some preliminary comments, they received conservation easement language and a draft wetland restoration plan. Ms. Silvia noted there is an addendum to the staff report dated August 21st. Ms. Silvia said the conservation easement language is standard but still needs to be reviewed. Ms. Silvia said the conservation easement gives up further development on the subject lot and the adjacent lot to the west. She said the wetland restoration plan is to improve the existing fragmites habitat to freshwater wetland species on both lots. Ms. Silvia stated the original application has extensive buffer zone and setback variances. Ms. Silvia noted that the plan has not changed but the applicant is proposing to improve the existing wetland habitat but the existing buffer and uplands will be severely impacted by the driveway and the development in the middle of the upland habitat. Ms. Silvia said staff thinks any development would affect the lot. Ms. Silvia stated staff recognizes that the applicant attempted to meet all recommendations throughout the project design. Ms. Silvia stated if the variances are granted they do not have any objection to the restoration proposal and the easement language. Mr. Shekarchi asked if the conservation easement was in place. Mr. Goldman replied it's a condition on the council granting the permit. Chair Tikoian asked if staff had no objection to the application. Ms. Silvia replied there is no objection to the proposed design but said the variances were excessive. Chair Tikoian asked if the applicant did everything to mitigate the impacts. Ms. Silvia replied yes. Mr. St. Pierre asked that the photographs submitted at the last meeting be marked as exhibits. Mr. St. Pierre said he stands on the previous testimony presented and requested council approval of the application. Chair Tikoian said there were two conservations easements in the packet for Lot 161 and Lot 161.1. Mr. St. Pierre replied there are two lots and there was some discussion with the neighboring owner of Lot 161-1 and there was an agreement as part of the conservation easement. Chair Tikoian asked who Jeanne Palmer is. Mr. Lamoureux replied Jeanne is his sister. Chair Tikoian stated that he read in the Providence Journal regarding the construction causing minimal disturbance. Chair Tikoian asked what stipulations they are requiring of the applicant to make sure that the disturbance is rectified after the completion of construction. Ms. Silvia replied the applicant has proposed a restoration plan for the temporary disturbance as part of their plan. Chair Tikoian asked how many square feet of

disturbance there would be. Ms. Silvia replied 480 s.f. Mr. Gray said number 5 of the staff report stated if the council approved the application for construction that the approval be conditional upon submittal of the applicant's final restoration plan and the conservations easements be recorded. Chair Tikoian replied yes. Mr. Fugate clarified that typically when conservation easements are recorded official copies are sent back to the council for their files then the assent is issued once the easements are recorded. Mr. Shekarchi, seconded by Director Sullivan moved approval of the application with all staff stipulations, a wetland restoration plan be submitted and the conservation easements be recorded. The motion was carried on a unanimous voice vote.

8. **Presentation:** Mark Gibson, RIDEM/Fish and Wildlife
Dennis Erkan, RIDEM/Marine Fisheries

Director Sullivan stated that he had asked his staff to give a very high-level overview of where their staff interacts or their jurisdictional authority meets with the CRMC jurisdictional authority. Mark Gibson, RIDEM/Fish and Wildlife and Dennis Erkan, RIDEM/Marine Fisheries gave a brief presentation to the council. Mr. Gibson stated that under Title 20 of the RI General Laws gives their general obligation and responsibilities. Mr. Gibson stated they are responsible to provide management plans for marine resources, provide for sustainable management, administer licensing programs, cooperate and interstate and federal fishery management programs , all of the overall arching emphasis on sustainable management conservation and protection of the habitats that marine organisms live in and provide for a viable commercial and recreational fisheries on those resources. Mr. Gibson said CRMC has substantive statutory authority to oversee and permit activates in the marine environment and coastal zone such as dredging, disposal of dredge spoils, aquaculture, siting of aquaculture, operation of aquaculture facilities, siting and operation of energy production and protection energy transportation facilities. Mr. Gibson stated they have a research vessel called the John H. Chafee which is their main research vessel which does sampling and bottom trawling surveys. Mr. Gibson said they do a number of fishery independent surveys. Mr. Gibson said they conduct bottom trawl surveys using fishing gear similar to commercial draggers. He said they conduct beach sand surveys, conduct a shellfish management program. Mr. Gibson said they conduct fisheries habitat assessment reviews which is important because this is where they intersect with CRMC to provide for input on essential fish habitat as it relates to potential in-water and coastal activities. Mr. Gibson said they have an extensive lobster research program. Mr. Gibson stated they have a cooperative study of the Narragansett Bay with the National Marine Fisheries Service and URI. He said they have a significant role in the Fish & Wildlife Divisions in terms of fish sampling and the water resources components. Mr. Gibson said they also participate on a coastal program with other states, the federal government and the Atlantic Coastal Statistics Program where they have an integrated data collection program for commercial fisheries statistics. Mr. Gibson said they respond to marine mammal strandings and fish kills as they occur in Narragansett Bay. Mr. Gibson explained the different programs of DEM with regard to their bottom trawl survey, beach sand survey, extensive lobster program and transplant programs for the fishing industry. He said they also conduct large scale transplants of quahogs. Mr. Gibson said they have a biological sampling on age and growth programs. Mr. Gibson stated that as part of their commitment to the Atlantic States Marine Fisheries and compliance with interstate fishery management plans they provide biological samples from their commercial fisheries. Mr. Gibson said another new project is the monitoring of the Jamestown reef. Mr. Gibson said they work with the commercial industry and have fisherman who catch fish for them and bring them to their lab for tanking purposes. Mr. Gibson said they believe in working with the fishing industry. Mr. Erkan gave a presentation on where DEM's obligations of the public trust management of the resources butt up against some of the obligations of CRMC. Mr. Erkan addressed the CRMC regulations and how they cooperate and work to address and sort concerns that are raised. Mr. Erkan noted that CRMC designates the water use categories and have their priorities and maps for water category use. Mr. Erkan said the water use category maps are based on factors such as habitat and watershed activities. Mr. Erkan said the trouble with the species is that they ignore the lines on the map and go where they want to go and sometimes this does not always work out. Mr. Erkan said when you look at the coastal features and alterations to

the coastal features they can result in impacts or problems with the species, which DEM is concerned with. Mr. Erkan explained that dredging no matter what category it falls under results in turbidity and concern about the timing and disposal. Mr. Erkan said from a biological perspective the type of approval required is not really the issue but the biological effect on the resources is. Mr. Erkan said they are also concerned with the cumulative impact on the environment. Mr. Erkan said they are also involved in representing the public's trust for use and access to resources themselves and that is where some of the controversy was with the aquaculture issue. Mr. Erkan said the Fish & Wildlife is supportive of aquaculture but wanted to make sure all users have access to share the limited space. Mr. Erkan said CRMC recently worked on a comprehensive aquaculture plan and the Marine Fisheries Council and their staff encouraged the plan to address these concerns and the plan also facilities the permit process by making sure everyone knows what to except. Mr. Erkan said their concern is recognizing that there are competing uses out there in aquaculture areas. Mr. Erkan said they wanted to make sure there are areas open to shellfishing in aquaculture areas. Mr. Erkan said they also work on cooperative restoration efforts such as oyster restoration in Ninigret Pond. Chair Tikoian thanked Mr. Gibson and Mr. Erkan for their presentations.

9 <u>Enforcement Report - July 2008</u>

There were none held.

10. <u>Category "A" List</u>

There were none held.

There being no further business to discuss. The meeting was adjourned at 7:58 p.m.

Respectfully submitted,
Grover Fugate, Executive Director

Reported by Lori A. Field