

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, January 27, 2009 at 6:00 PM at the Department of Administration; Conference Room A; One Capitol Hill, Providence, RI

**MEMBERS**

Mike Tikoian, Chair  
Paul Lemont, Vice Chair  
Ray Coia  
Don Gomez  
David Abedon  
Neill Gray  
Bruce Dawson  
Michael Sullivan

**MEMBERS ABSENT**

None absent

**STAFF PRESENT**

Grover Fugate, CRMC Executive Director  
David Reis, CRMC Spv Environmental Scientist  
Brian Goldman, CRMC Legal Counsel

1. Chair Tikoian called the meeting to order at 6:00 p.m. and made a brief statement on the council's permitting process.

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

Mr. Coia, seconded by Mr. Sullivan moved approval of the minutes of the January 13, 2009 meeting as presented.

3. **SUBCOMMITTEE REPORTS**

Vice Chair Lemont

4. **STAFF REPORTS**

There were no staff reports

Chair Tikoian announced that only one semimonthly meeting would be held in February as the Ocean SAMP Stakeholders meeting was scheduled for that evening. The next meeting of the full Council would be on Tuesday, February 24, 2009 starting at 6:00 p.m., same location. A preliminary quorum count of the council members was taken for February 24<sup>th</sup> meeting to assure quorum.

5. **Educational Series presentation by Eric Scherer of USDA/NRCS.**

Mr. Scherer gave a power point presentation informing the Council members about the programs that NRCS is involved in such as soils, clean water and preservation of water, plant and animal communities

and shellfish programs. NRCS assists with both technical and financial aspects. Mr. Scherer spoke about the beneficial relationship between CRMC and NRCS.

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

All were present.

**7. Petition for Reconsideration of Full Council Decision of January 13, 2009 on Application 2007-09-055 JAMES BENINCASA** to construct a residential boating facility to consist of a 4' x 92.5' fixed timber pier, a ramp and 3 floats (5' x 30 = 150 sq ft). The terminus of the dock extends to 95.5 feet beyond MLW requiring a 45.5- foot variance to the 50-foot MLW standard. Located at plat 16, lot 17; 17 Baker Road, Portsmouth, RI.

Mr. Benincasa was present as well as his legal representation, Kristen Sherman, Esq of Adler Pollock and Sheehan. Chair Tikoian stated that due to conflicts of several Council members the quorum could not be met and rescheduled the agenda item to Tuesday, March 10, 2009. A preliminary quorum check was done to assure quorum for this date. Agenda item held until March 10, 2009.

**8. COASTAL HABITAT RESTORATION TRUST FUND APPLICATIONS BEFORE THE COUNCIL FOR REVIEW AND DECISION:**

**Full Funding**

1. Pawtuxet Dam Removal (\$50,000)
2. Blackstone Fish Passage Restoration (\$50,000)
3. Silver Creek Salt Marsh Restoration (\$9,879)
4. Shannock Falls Fish Passage Restoration (\$50,000)
5. DEM Mosquito Abatement Equipment (\$4,500)

**Partial Funding**

1. Gooseneck Cove Salt Marsh Restoration (\$25,000)
2. Manton Pond Fish Passage Restoration (\$29,200)
3. Brenton Cove Salt Marsh Restoration (\$6,421)

**Contingency List**

1. Gooseneck Cove Salt Marsh Restoration (up to \$25,000 as needed for project completion)
2. Manton Pond Dam Fish Passage Restoration (\$20,800 remainder of request)
3. Buckeye Brook Habitat Restoration (\$10,000)
4. Pawtuxet Dam Removal (remainder of amount needed for non-federal match)
5. Blackstone Fish Passage Restoration (remainder of amount needed for non-federal match)

Director Sullivan requested that the DEM Mosquito Abatement Equipment project funding proposal be heard separately as he would have to recuse himself from that vote.

CRMC staff member Caitlin Chaffee briefed Council stating that the Coastal and Estuarine Habitat Restoration Fund is the money received by CRMC each year from the state Oil Spill Prevention and Response (OSPAR) Fund to help fund the planning, design and construction of habitat restoration projects. The Fund has always been an important source of state funding that is used to leverage federal dollars for larger projects. This year, the total amount of the Restoration Fund was \$225,000. The Technical Advisory Committee (TAC) met on January 14<sup>th</sup> to review this year's applications for funding. The TAC recommends five proposals for full funding and three proposals for partial funding

for FY09 (project list and proposals in agenda packet). Of the approved projects, 4 are fish passage restoration projects, three are salt marsh restoration projects and one is a restoration equipment request. In addition, the TAC approved a contingency list of projects to be funded should any of the approved projects fail to go forward for unforeseen reasons. Typically this list is not used, but would facilitate the reallocation of funds should an approved project fall through.

Mr. Lemont asked Ms. Chaffee about CRMC procedure on Project updates. Ms. Chaffee stated that project status updates started in 2007 where award recipients have been required to submit annual and final project reports to CRMC that provide details on their project's status and the Trust Fund monies spent to date. Annual reports from FY 07 projects have been received and are being compiled into a project status report that will be presented to the Council. Mr. Dawson motioned, seconded by Mr. Coia, for the approval of the fifth project on the full funding list (RIDEM project). Approved on unanimous voice vote with Mr. Sullivan recusing himself on this particular project vote. Mr. Coia motioned, seconded by Mr. Gray, the approval of the remainder of the projects – four full funding, three partial funding and the contingency list. Approved on unanimous voice vote.

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

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

**2008-04-022 ANTHONY AND ELAINE ALTRUI -- Construct and maintain: a residential boating facility consisting of a 4' x 8' landing that leads to a 4' x 19' stairway that leads to a 4' x 50' fixed timber pier that leads to a 3' x 25' ramp that leads to a 6' x 20' terminal float. The proposed facility is to extend 34 feet seaward of the cited mean low water mark. The structure lies over the southern property line extension, and as a letter of non-objection has not been received, the applicant seeks a variance to RICRMP Standard 300.4.E.3.k. Located at plat Y-1, lot 244; 20 Wheatfield Cove Road, Narragansett, RI.**

Chair Tikoian recused himself on this application. Vice Chair Lemont ran the meeting for these two applications.

The applicant, Mr. Grundy, and his attorney, John Kupa, are both present. Also present is Herb Sirois as Engineer for the applicant. Mr. Reis gave council an update on the application and how it is interrelated to the Altrui application which is the next application to be heard. Mr. Reis also states that there is no staff objection to the approval of both docks. Mr. Reis stated that testimony had been given by abutter furthest to the south, Mr. Davis at the CRMC meeting on October 14 2008. Mr. Kupa introduced Herb Sirois and submitted his resume (exhibit -- Gallant 1) to the Council to be approved as expert witness. Mr. Sirois was sworn in by legal counsel. Mr. Sirois explained to the Council how the measurement discrepancy on the original Gallant dock plans came about saying that because a survey was not required by CRMC for dock applications at the time of the original submittal, the information was gained from field observations, principally the dock to the right (owned by Ernest Gabouri) of the Gallant/Grundy dock. Mr. Grundy was sworn in and questioned by Mr. Kupa. Mr. Grundy stated that the amount of space between his dock and the Gabouri dock is tight but has not had any navigational problems and it meets the purpose of hold his boats in season. Mr. Gray questioned Mr. Grundy about boat configurations on dock. The Council reviewed plans in application package during discussions

with Mr. Sirois. Vice Chair Lemont summed up circumstance by suggesting that the Council handle the applications in one batch so as to alleviate any concerns from abutters. Attorney Riffkin spoke on behalf of his client, Mr. Altrui, stating that an objection was filed based upon proposed plans, not as-built dock. Mr. Riffkin stated that Mr. Altrui was willing to withdraw his objection providing the Altrui dock permit is granted. Mr. Riffkin stated that the only objection was from Mr. Davis regarding difficulty in maneuvering his 14-foot sailboat. Mr. Gray suggests making the space between each dock as equal as possible. Mr. Davis' attorney, Margaret Laurence, questioned Mr. Sirois on the effect of the Gallant/Grundy dock being built where it was originally proposed. Mr. Sirois stated that it would have moved the Altrui dock about 10 to 12 feet away from the Davis dock. It was established that the Davis and Gabouri docks are grandfathered in. Mr. Kupa stated that Mr. Sirois has proposed as close to equal distance for each property owner that there can be. Mr. Gray clarified CRMC's position in response to the application requirements at the time of the original Gallant dock application being submitted which did not require a survey. Vice Chair Lemont called Mr. Riffkin to present for the applicant Anthony Altrui. Mr. Riffkin stated that Mr. Sirois had indicated that he has made the plans for the Altrui dock consistent with the rules and regulations of the Council and that it is the best placement for the Altrui dock. Mr. Riffkin had no further argument. Attorney Laurence brought Mr. Davis' October 14 comments to the attention of the full Council. Ms. Laurence also stated that the Davis' own other boats that they dock at their facility. Mr. Gray asked what boats the Davis' have. Mrs. Davis is sworn in and speaks to the Council in regards to their living situation and boats that they own. Discussion on the number of vessels docked at a residential facility. Mr. Goldman clarified the term riparian rights as opposed to extended property lines. Mr. Goldman also clarified that anything below mean high water is public trust waters which is owned by the State and held by the General Assembly in trust for the public. Clarification and discussion of ownership rights to wharf out. Mr. Altrui is sworn in to answer questions from the Council on boat ownership. Mr. Altrui stated that he did not have a boat at this time, that he has had boats in the past, and that he would be keeping a boat at his dock. Mr. Sullivan stated that he would like to see a condition set that no vessel be permanently docked that is wider than 50% of the distance less some dimension 4 or 5 feet, so that there is passageability and boats are not whacking into each other. Mr. Sullivan also stated there should be a condition on maximum beam for safety issues. Vice Chair Lemont stated that he wanted to consolidate the applications so that the vote would be on the Gallant/Grundy as-built and the Altrui dock as proposed. Mr. Gray questioned Mr. Sirois on presence of lateral access for both docks. Mr. Sirois stated that there was lateral access. Mr. Sullivan motioned, seconded by Mr. Gray, to consolidate the applications of Altrui and Gallant/Grundy to a single consideration of action before the Council. Motion carried on unanimous voice vote. Mr. Gray suggests to make a beam limit on all docks of 11 feet without consideration and agreement with their neighbor for an alteration of that. Mr. Sullivan confirms that he has read the entire record. Mr. Sullivan motions, seconded by Mr. Gray, that the Council approves as proposed, based on the equitable division of space along the cove, with the condition that no vessel with a beam greater than 11 feet be docked unless the abutter agrees to a variance. Motion carried on unanimous voice vote.

Chair Tikoian calls for five minute break.

**11. Category "A" List**

There were none held.

There being no further business to discuss. The public meeting adjourned at 8:15 p.m.

Respectfully submitted,