

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, April 07, 2009 at 6:00 p.m. at the Department of Administration; Conference Room A; One Capitol Hill, Providence, RI.

### **MEMBERS**

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

### **MEMBERS ABSENT**

None Absent

### **STAFF PRESENT**

Jeffrey M. Willis, Deputy Director  
James Boyd, Coastal Policy Analyst  
Kenneth Anderson, Spv Civil Engineer  
Amy Silva, Sr Env Scientist  
Brian Goldman, Legal Counsel

1. Chair Tikoian called the meeting to order at 6:10 p.m. and made a brief statement on the Council's permitting process.
2. **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING:**

Director Sullivan opened discussion on item in minutes regarding previously heard application, CRMC File Number 2007-09-055 – James Benincasa, and the applicant's Petition for Reconsideration of Council decision to deny application. Director Sullivan motioned, seconded by Mr. Coia, to allow re-presentation of application before the full Council. Chair Tikoian stated the original application discussion had to do with the structure of the dock and also how the dock would be built. The applicant would like the chance to return and change some of the issues in accordance with recommendations of the Council. Motion carried. One vote to deny motion by Vice Chair Lemont.

Mr. Coia motioned, seconded by Director Sullivan, to approve minutes of previous meeting, January 27, 2009. Motion carried on unanimous voice vote.

3. **SUBCOMMITTEE REPORTS**

Vice Chair Lemont reported to the Council on proposed Program revisions that were approved by the Planning and Procedures Subcommittee at its February 17, 2009 meeting seeking Council concurrence to begin rule making on the following items:

#### **Salt Pond Region SAMP**

Section 920.1.A.2(d) – Policies and Regulations  
Section 920.1.B.2(d) – Policies and Regulations  
Section 920.1.C.2(a) – Policies and Regulations

RI Coastal Resources Management Program (Redbook)

Section 300.3.E.1 – Residential, Commercial, Industrial, and Recreational Structures

Guidelines for the Development of Municipal Harbor Management Plans

Section III.B.3(m) – Required Elements of a Harbor Management Plan

4. **STAFF REPORTS**

Mr. Willis informed Council members of a letter of Authorization issued to Southern New England Offshore Mussel Projects for CRMC File No 2008-11-054 commercial viability for aquaculture permit to determine marketability of blue mussels in this area. The permit will run from May 2009 until 2010. At the end of study, gear will be removed.

Prior to start of the application portions of the meeting, Chair Tikoian thanked Council members for changing their schedules to be available for tonight's meeting. Chair Tikoian stated that Executive Director Fugate was attending the Ocean SAMP Stakeholder's meeting and urged Council Members to try to attend Stakeholder meetings to learn about the Ocean SAMP process.

5. **CHAIR TIKOIAN READ THROUGH THE AGENDA TO SEE WHICH APPLICANTS/ ATTORNEYS WERE PRESENT.**

All applicants and their attorneys present except applicant Elton Durfee, before the Council to withdraw application.

6. **APPLICATIONS WHICH HAVE BEEN OUT TO NOTICE FOR 30 DAYS AND ARE BEFORE THE FULL COUNCIL FOR DECISIONS.**

**2008-06-031 ELTON DURFEE – Request of withdraw application to construct and maintain a 2-bedroom residence serviced by public water and by a denitrifying ISDS. Located at plat R-3, lot 46; Barnacle Road, Narragansett, RI.**

The applicant, Elton Durfee, was not present. Mr. Willis informed the Council that Mr. Durfee had requested to withdraw application. Mr. Goldman explained to Council that as of CRMC Management Procedures Section 5.14, after staff reports have been filed, the application may be withdrawn only with the permission of the Council. Mr. Lemont motioned, seconded by Mr. Coia, to allow withdrawal of application. Motion carried on unanimous voice vote.

**2009-01-020 DEPARTMENT OF ENVIRONMENTAL MANAGEMENT – Construct 18' x 112' extension to existing fixed timber pier (“working pier”) at State commercial fishing facility; construct maintenance repairs to existing “L-Dock” (no “footprint” expansion). Located at plat 16, lot 244, 245; 150 Long Wharf, Newport, RI.**

Jay McGinn was present on behalf of RIDEM. Mr. Anderson briefed Council on proposed project stating a previous approval had been granted by CRMC in 1988 but project never completed. Proposed project would extend the fixed pier 112' seaward resulting in a total fixed pier length of approx 307' from new bulkhead face. Project has received ACOE PGP approval. Mr. Anderson stated that there were no staff

objections to application proposal. Mr. Coia motioned, seconded by Mr. Dawson, for approval. Motion carried with Director Sullivan abstaining from the vote.

**2008-04-054 QUONSET DEVELOPMENT CORPORATION -- Construct Phase 2 of the Cross Park Avenue Project which will provide an access road within the Quonset Business Park which is intended to improve vehicle circulation through the business park. The project is considered a significant alteration of a freshwater wetland and is being processed as an “Application to Alter” pursuant to Section 9.05 of the CRMC’s Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast. Located at plat 183, lot 17; and plat 184, lot 11; Cross Park Avenue, North Kingstown, RI.**

Harold Luchka present representing QDC. Mr. Anderson gave brief overview on proposed project stating that “Phase 2” of the Cross Park Avenue Roadway construction and Infrastructure Improvements would result in the filling 4,700 square feet of an 8,700 square foot forested freshwater wetland. Mr. Anderson stated that there were no staff objections to the project. Chair Tikoian asked if Mr. Luchka would like to add anything to Mr. Anderson briefing. Mr. Luchka was satisfied and had nothing further to add. Director Sullivan motioned, seconded by Mr. Lemont, to approve application. Motion carried on unanimous voice vote.

**2002-05-034 PERRY RASSO -- Modify existing aquaculture lease by expanding the lease by two acres. Located in Potters Pond, South Kingstown, RI.**

The applicant, Perry Rasso, present. Mr. Willis gave brief overview on proposed modification to existing aquaculture lease stating that the modification to the lease was to gear only. No increase/expansion in the size of the lease is proposed. Director Sullivan questioned Brian Goldman regarding the legality of hearing the application with the misrepresentation of the project before the Council. Mr. Goldman stated that the Council could still hear the issue. Director Sullivan motioned, seconded by Mr. Lemont, to approve application. Mr. Lemont asked Mr. Raso if new gear would be visible to abutters of the pond. Mr. Raso was sworn in. Mr. Raso stated that the new gear would be floating on the surface of the water making 6” – 8” visible. There would be no obstruction of abutters’ views. Mr. Dawson asked Mr. Raso about the color of the new surface floating gear. Mr. Raso stated the gear would be black and gray to also minimize the visibility from shore. Motion carried on unanimous voice vote.

**2006-11-050 JOHN SOMYK -- Construct and maintain a residential boating facility to consist of a 4’ x 192’ fixed pier with a 4’ x 20’ lower access terminus, and a boat lift system. The terminus of the fixed pier will extend to 148’ beyond Mean Low Water (MLW) requiring a 98’ length variance from the 50’ MLW standard. Located at plat 16, lot 232; 401 Sea Side Drive, Jamestown, RI.**

The applicant, John Somyk, present. Mr. Anderson gave brief overview of project stating that the terminus of the fixed pier would extend 148’ beyond MLW requiring a 98’ length variance from the 50’ MLW standard. Mr. Anderson stated that the fixed pier would be elevated over submerged aquatic vegetation (SAV) and length variance is required to obtain greater water depth and to extend the dock beyond the SAV. Mr. Anderson stated that two objections were received and both objections were addressed in staff review of application. Mr. Anderson stated that there were no staff objections to the application. Chair Tikoian opened discussion on eel grass regulations and formal surveying of established dock facilities in SAV areas. Chair Tikoian asked if lateral access was sufficient. Mr. Anderson stated that there would be a minimum of 9’ of clearance at MHW. Mr. Dawson asked if there were other docks in the area. Mr. Somyk stated that

there were no docks directly abutting but there were docks close by. Vice Chair Lemont motioned, seconded by Mr. Gomez, approval of application. Motion carried on unanimous voice vote.

**2008-05-052 JOHN RICHIE -- Demolish existing two bedroom dwelling; construct new three bedroom dwelling, two car garage and individual sewage disposal system. Located at plat 34, lot 80; 98 Macomber Lane, Portsmouth, RI.**

The applicant, John Richie, was present along with attorney, Turner Scott, and environmental consultant, Chris Mason. Mr. Anderson gave brief overview of project stating that originally the applicant proposed to demolish the existing two bedroom dwelling and replace it with a new three bedroom house, two car garage and new advanced treatment septic system. Mr. Anderson explained that based on the original staff review, the plan was modified and the proposal was revised to a smaller house but still required a 45-foot buffer zone and a 70-foot setback. The applicant provided a 10 to 15 foot buffer zone and a 28 foot variance from the 70-foot setback. Based on review, staff concluded that the application did not satisfy all of the six variance criteria and recommended denial of the variances. Attorney Scott presented to the Council stating that Section 150 buffer zone criteria does not take into consideration the 45-foot naturally vegetated buffer established on the bank and down to the water. Attorney Scott presented pictures to the Council of houses larger than the one being proposed by Mr. Richie which are in the area along the Sakonnet. Attorney Scott stated that the RIDEM approved a 4-bedroom septic system for this property but they are proposing only three bedrooms. Mr. Richie was sworn in to testify on his behalf. Mr. Richie testified that his family currently resided in Woodstock Connecticut and bought this property five years ago as a retirement property. Mr. Richie stated that his original proposal was based on the size of the houses in the area. Mr. Richie testified that he met with Amy Silva of CRMC permitting Staff in response to a deficiency letter received after submittal of application. Mr. Richie stated that Ms. Silva discussed the issues with him regarding the application submittal and that she made recommendations. Mr. Richie stated that based on Ms. Silva's recommendations the house size was reduced to only a 50 percent increase in footprint, however, the garage footprint brings the increase over the 50% limit requiring a larger buffer zone. Director Sullivan pointed out that the footprint increase was in the area of 90% not 50%. Mr. Richie stated that he and Chris Mason, his environmental consultant, met with Ms. Silva to discuss alternative buffer zone solutions as well as a plant species plan. Attorney Scott asked Mr. Richie to describe the garage. Mr. Richie stated it was a standard size garage with space over the top of it which will hopefully be used as storage since the house was decreased in size. Mr. Richie stated that he and his wife are looking forward to retiring in the home and the garage would provide some safety and security for them as they age. Mr. Richie also stated that the garage would offer some protection for the environment as it would be used to store trash and recyclables. Chair Tikoian asked Mr. Richie if there were any recommendations made by CRMC staff that they did not like. Mr. Richie stated that staff wanted a reduction in the size of the house so that the combination of the house and garage would be a 50% increase. Mr. Richie stated that combining the two would make the house too small and that he could not push the house back because of the septic system. Mr. Gomez asked staff about the proposed stairway and if there were stairs there already. Mr. Richie stated that there was a pathway to the beach but no stairs. Mr. Gomez asked Mr. Anderson to explain CRMC's position on adding stairs to get to the beach in this area. Mr. Anderson stated that a single minimal access way to the shoreline would be allowed and that staff reviews the stairway for number of footings and disturbance to make sure it is minimized. Mr. Gomez asked Mr. Richie if he discussed the stairway with staff and would use their design recommendation. Mr. Richie stated that they had used staff recommendation and designed a zigzag style staircase that was 4' wide. Site plan dimensions were discussed. Vice Chair Lemont asked Attorney Scott to explain the pictures of the houses shown earlier and whether they had received CRMC approval. Attorney Scott stated that they had received permits from CRMC. Chris Mason of Mason & Associates, an environmental consulting firm, was sworn in by Attorney

Goldman. The Council recognized Mr. Mason as an expert as a coastal biologist. Attorney Scott established that Mr. Mason had been involved with the project since the beginning. Mr. Mason stated that he had submitted his report to CRMC which included variance criteria. Mr. Mason gave the Council a brief overview of his report which focused on the biology, coastal ecology and buffer management of this project. Mr. Mason showed the Council aerial photographs (photographed in 2004 and 2006) of neighborhood to give idea of area. Mr. Mason pointed out to Council the difference in development between the two years of the photos. Mr. Mason talked of the species of buffer plantings already on site which would allow the property owners to maintain a view corridor. Mr. Mason stated that the vegetation on the coastal bank and the 10-15 foot buffer proposed would be the minimal amount needed to support some of the environmental functions such as anchoring the very top of the bank and providing cover, food for wildlife habitat, and give the opportunity for pollutant attenuation which might be generated on the lot. Mr. Mason was stopped by Director Sullivan from talking about the septic system as it was beyond Mr. Mason's qualifications. Mr. Mason gave a brief explanation of his review of the stairs and briefed Council on his review of Section 150 buffer zones stating that he did not think that any of the six criteria were compromised by the proposed project and that the applicant had tried to promote and enhance the situation over the existing condition. Chair Tikoian clarified the buffer zone dimensions as per the coastal regulations. Discussion on septic system regulations and placement of septic system on property. Vice Chair Lemont asked Mr. Anderson to clarify the permitting situation with the surrounding neighborhood houses. Mr. Anderson advised that when looking at adjacent properties that CRMC has review and approved, it must be taken into consideration that expansion up to 50% of the existing footprint is allowed without requiring a buffer zone. Mr. Anderson clarified that some of the neighboring dwellings were eligible for administrative approval to expand at a greatly reduced setback than what would be required with today's regulations. Director Sullivan questioned Mr. Mason on revegetation plans. Director Sullivan asked Mr. Mason if he had any expertise on septic design. Mr. Mason stated that he had worked for EPA for eight years which did involve septic systems, but stated that he was not an engineer and expertise only relates to environmental impacts of the system. Attorney Scott gave closing statement. Director Sullivan motioned, seconded by Mr. Dawson, to deny application. Motion carried on unanimous voice vote. Application denied.

7. **Public Hearing on Changes to the RI Coastal Resources Management Program:**

**Management Procedures --Revise Section 5.12 – Permit Extensions**

Mr. Willis gave Council brief overview of proposed change for permit extensions for larger scale projects. Director Sullivan asked to clarify the language for public projects. Chair Tikoian closed the public hearing. Director Sullivan motioned, seconded by Mr. Gomez, to approve program changes with clarification language. Motion carried on unanimous voice vote.

**Coastal Development Regulations/Aquidneck Island Special Area Management Plan**

Mr. Boyd briefed Council on the process involved in developing this new plan and the coordination between the three island communities, Aquidneck Island Planning Commission, US Navy and other partners. Mr. Boyd stated that the coastal development regulations are the first phase of the SAMP for Aquidneck Island. Mr. Boyd was complimented by Council on his involvement. Chair Tikoian closed Public Hearing. Vice Chair Lemont motioned, seconded by Director Sullivan, to approve Aquidneck Island SAMP. Motion carried on unanimous voice vote.

**Greenwich Bay Special Area Management Plan -- Revise water types within the Greenwich Bay SAMP area.**

Mr. Boyd briefed Council on changes proposed which include changing the water type in Greenwich Bay adjacent to Baker’s Creek in the Nausauket are from existing Type 2 to Type 1 conservation waters. Mr. Boyd stated that in addition, water type changes are proposed around Chepinwanoxet Point, primarily owned by the City of Warwick as conservation land, from Type 2 to Type 1; also modifying the water type within the mouth of Greenwich Cove extending Type 2 waters along the westerly boundary, modifying Type 5 and Type 2 water boundary as well as making the quahog resource reserve consistent with that Type 5 boundary. Mr. Boyd stated that three pieces of correspondence in support of the proposed changes was received. Mr. Boyd corrected one typographical error. Chair Tikoian closed the public hearing. Director Sullivan motioned, seconded by Vice Chair Lemont, to approve changes. Motion carried on unanimous voice vote.

**8. Category “A” List**

None were held.

**Director Sullivan motioned, seconded by Mr. Dawson, to move to Executive Session.**

**Chair Tikoian called for a roll call vote on the motion**

Mr. Dawson	Yes	Director Sullivan	Yes
Mr. Gomez	Yes	Mr. Coia	Yes
Mr. Abedon	Yes	Chair Tikoian	Yes
Vice Chair Lemont	Yes		

7 Affirmative                      0 Negative                      0 Absentation

Motion carried unanimously.

There being no further business to discuss. The meeting was adjourned at 7:28 p.m.

Respectfully submitted,  
Grover Fugate, Executive Director

Reported by Lisa A. Mattscheck