

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, December 8, 2009 at 6:00 p.m. in Conference Room A, Administration Building, One Capitol Hill, Providence, RI.

Members Present

Paul Lemont, Acting Chair
David Abedon
Bruce Dawson
Ray Coia
Don Gomez
Michael Sullivan
Bob Driscoll

Brian Goldman, Legal Counsel

STAFF PRESENT

Grover J. Fugate, Executive Director
Jeffrey M. Willis, Deputy Director
Kenneth W. Anderson, Spv Civil Engineer
Danni Goulet, Dredge Coordinator
Tracy A. Silvia, Sr Environmental Scientist
Laura K. Miguel, Prin Environmental Scientist
Brian A. Harrington, Sr. Environmental Scientist

1. Chair Lemont called the meeting to order at 6:00 p.m. and read a brief statement on the Council's permitting process for the record.

Chair Lemont stated that the Executive Session and the presentation regarding Weaver's Cove would be postponed until the first meeting in January, 2010.

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

Mr. Sullivan motioned, seconded by Mr. Coia, to approve minutes of previous meeting, November 24, 2009. Motion to approve minutes was carried on unanimous voice vote.

3. **SUBCOMMITTEE REPORTS**

Chair Lemont, reported that at the regularly scheduled meeting on December 1st, Policy and Planning Subcommittee addressed seeking Council concurrence to begin rule making on Management Procedures Section 5.7 Continuance, to revise the existing regulation to add a provision for the Council to assess a fee for requests for continuances; as well as Section 4.3.2 Schedule of Fees to add new subsection 9 to create a fee schedule for requests for continuances. Chair Lemont also reported that under the Red book, revisions would be made to the water type designations as depicted on the Providence and East Providence quadrangle. Mr. Coia motioned to refer the P & P reported rule making changes; seconded by Mr. Dawson. Motion carried on unanimous voice vote.

4. **STAFF REPORTS**

No reports.

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

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

2008-11-014 SUSAN FOURNIER & JANET DESHAIES -- Construct and maintain a recreational boating facility to consist of a 4' x 90' fixed pier, a 3' x 20' ramp and a 10' x 15' (150 square foot) float. The terminus of the dock extends to 75-feet beyond mean low water requiring a 25-foot variance and to a water depth of approximately minus two and a half (-2.5') feet. An outhaul will also be removed. Located at plat 13E, lot 117; 100 Harris Avenue, Warren, RI.

Applicants, Ray and Janet DeShaies present, along with engineering consultant, Ron Blanchard. Mr. Anderson gave the Council a brief overview of the application stating that the applicant is requesting to build a residential boating facility to extend 75 feet seaward of mean low water requiring a 25 foot length variance. Mr. Anderson stated that the application received two objections from the Warren Conservation Commission and the Kickemuit River Council which were attempted to be addressed in the staff review. Mr. Anderson stated that there are no biological nor engineering objections. Mr. DeShaies made brief statement to the Council stating that they are only rebuilding what is already there. Mr. Sullivan motioned, seconded by Mr. Abedon, approval of application as presented by staff. Mr. Dawson questioned length of the dock, Mr. DeShaies stated that the dock would be nine feet longer than current dock. Motion carried on unanimous voice vote.

2008-12-008 DUNCAN & SANDRA SIMESTER -- Construct and maintain a recreational boating facility to consist of a (4' X 73'+/-) fixed timber pier with fiberglass mono-piles, a (3' X 20') ramp and a (10' X 15') 150 square foot float. The proposed dock extends to 75-feet beyond mean low water (MLW) to an average water depth of minus three and a half feet (-3.5'). A 25' length variance is required. Located at plat 17, lot 40; 49 Shore Drive, Warren, RI.

Applicant Duncan Simester present, along with engineering consultant, Ron Blanchard. Mr. Anderson gave the Council a brief overview of the application stating that the applicant is requesting to build a residential boating facility on the other side of the Kickemuit River than the DeShaies; application similar. Mr. Anderson stated that it required a similar 25' length variance so dock could extend 75' beyond MLW. Mr. Anderson stated that this application also received objections from Warren Conservation Commission and the Kickemuit River Council. Mr. Anderson stated that there were no staff objections to the project. Mr. Coia motioned, seconded by Mr. Sullivan, to approve application as presented by staff. Motion carried on unanimous voice vote.

2008-08-095 JOHN NAMIOTKA -- To perform new dredging at an existing residential boating facility. The existing facility was permitted with approximately 2' of depth at MLW, the request is for 4' of depth at MLW. The approximate volume of dredging is 278 cy over 3,820 sf. The proposed disposal location is the Cad Cell. Located at plat 91, lot 134; 189 Steamboat Avenue, North Kingstown, RI.

Applicant, John Namiotka present. Mr. Goulet gave the Council a brief overview of the application stating that the applicant is requesting to dredge about 300 cubic yards at an existing boating facility adjacent to a marina that has done significant amounts of dredging. Mr. Goulet stated that the material would be going into the CAD cell. Mr. Goulet stated that there were no staff objections to the project and that the staff biologist is recommending that the coastal buffer zone required on property by CRMC Assent 2004-09-022 be established prior to any dredging being undertaken. Mr. Namiotka is sworn in. Mr. Namiotka stated that a contractor is already hired to work on the buffer zone and that it would be worked on as quickly as they can, however, the dredging is only allowed until the end of January and he would really like to dredge this year. Chair Lemont read letter to Council submitted by Mr. Namiotka's contractor for the buffer zone. Mr. Goulet stated that Mr. Reis would recommend that the buffer zone be established in the spring as it would have a much better chance of establishment. Mr. Goulet suggested that a dredge window be worked out with Mr. Namiotka mentioning that the window for disposal into the CAD cell ends January 31st. Mr. Sullivan motioned approval with the

requirement of a bond for the buffer zone establishment no later than June 15th, 2010. Motion seconded by Mr. Coia. Motion carried on unanimous voice vote. Chair Lemont asked Mr. Namiotka to coordinate with staff on project start dates and bond requirements.

2008-06-001 ANDREAS and CARA LUDWIG – Construct and maintain a one-bedroom addition onto an existing residence and to replace ISDS with denitrifying OWTS. Located at plat N-S, lot 452; 256 Colonel John Gardner Road, Narragansett, RI

Attorney Joseph DeAngelis present for applicant, along with consultant John Carter and engineer, Len Bradley. Ms. Silvia gave brief overview of staff's review of application to the Council stating that the applicant proposed to construct an addition to dwelling and replace septic system for a residence previously approved in 1997 with a buffer zone variance. Ms. Silvia stated that the new work requires additional buffer which cannot be fully met on this site. Ms. Silvia informed the Council that several permits had been granted for buffer zone management on the site since the dwelling was constructed. Ms. Silvia stated that a site review to verify foundation and demarcation of buffer location was made and that there were unauthorized activities which staff agreed to let owner address in permit review. The applicant's variance request proposed no additional buffer zone. CRMC staff offered various alternatives to provide additional buffer zone and also resolve the unauthorized activities, however, the applicant did not chose to pursue any of the options provided. Staff recommended denial as proposed and sought resolution of the violations. After discussion, the Council agreed to remand the application back to discuss potential resolution, which includes additional buffer zone area, removing all recreational structures from the buffer and formalization of the view corridor and the path. Mr. Sullivan motioned tabling the application to remand back to staff for resolution with the applicant on an administrative level. It was decided to go forward with testimony.

The applicant's consultant, John Carter, was sworn in and affirmed the issues at stake and spoke on behalf of variance request.

Agreement to break to hear Martish case.

Mr. DeAngelis and Mr. Carter reviewed three photographs which were marked as exhibits and discussed the buffer area. Photos discussed were marked as exhibits.

Many options for resolution were discussed between staff, Council, and applicant's representative. Clarifications made by Mr. Fugate include moving the hot tub and the flagpole out of the buffer, additional buffer planting where the fence line is, move the fence line back and increase the buffer there.

Mr. DeAngelis agrees to remand to staff for further negotiations as long as applicant has option to return to Council if agreement cannot be sought.

Mr. Sullivan repeats motion. Seconded by Mr. Dawson. Motion to remand application back to staff carried on unanimous voice vote.

7. Enforcement Matter before the Full Council:

09-0047 GAIL L. MARTISH, TRUSTEE – Installation of unauthorized float in violation of the provisions of Chapter 46-23-1 et seq. a rule, regulation, assent or order or decision of the CRMC has occurred at your property located at plat 89, lot 152, 41 William Street, North Kingstown, RI.

Attorney Robert Goldberg present for Gail Martish. Mr. Goldman briefed that Council stating that during discussions with Mr. Goldberg and client, it was represented that the float was removed and that it would not be put in again. Mr. Goldman stated that it was agreed that Ms. Martish would enter into a Consent Agreement which he and Mr. Goldberg would negotiate. Mr. Sullivan motioned, seconded by Mr. Coia, to empower Legal Counsel to resolve the enforcement matter. Motion carried on unanimous voice vote.

8. Category “A” List and Enforcement report August 2009

None were held.

There being no further business to discuss. The hearing was adjourned at 6:54 p.m.

Respectfully submitted,
Grover Fugate, Executive Director

Reported by Lisa A. Mattscheck

Mr. Fugate gave an update on Ocean Special Area Management Plan which is attached in its entirety hereto.