

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Wednesday, January 13, 2010 at 6:00 p.m. in Conference Room C, Administration Building, One Capitol Hill, Providence, RI.

Members Present

Michael M. Tikoian, Chair
Paul Lemont, Vice 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
Danni Goulet, Dredge Coordinator
David Beutel, Aquaculture Coordinator

1. Chair Tikoian called the meeting to order at 6:00 p.m. and read a brief statement on the Council's permitting process for the record.
2. **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING:**

Mr. Coia motioned, seconded by Mr. Sullivan, to approve minutes of previous meeting, December 8, 2009. Motion to approve minutes was carried on unanimous voice vote.

3. **SUBCOMMITTEE REPORTS**

There were none.

4. **STAFF REPORTS**

- Brian Goldman and Grover Fugate gave a brief overview to the Council on the Weaver's Cove Energy, LLC litigation. Mr. Goldman explained the federal consistency review process to the Council members stating that the agency has six months to determine consistency. Mr. Goldman stated that the **Executive Director* determined that the application was not complete and notified the applicant of the deficient information which included stamped engineered plans, DEM Water Quality Certificate and information on the upland disposal of the dredge material. Mr. Goldman stated that Weaver's Cove's position was such that they did not think they needed stamped plans, a WQC and that the disposal location was out of state therefore not a concern of CRMC. Mr. Fugate stated that when the application was submitted to the office it was submitted as both a Federal Consistency and a Category "B" application which would be reviewed in much the same fashion. Mr. Fugate stated that **he* requested information from Weaver's Cove for two years without receiving adequate documentation. Mr. Fugate stated that Weaver's Cove took the position that since they had not received a determination from **the Executive Director* within a 6 month period that "Federal Consistency was Presumed." Mr. Goldman stated that Weaver's Cove also took the position that the Category B review required was preempted by the Natural Gas act and that the only authority **the Executive Director* had was the consistency review. Mr. Goldman stated that Weaver's Cove filed with Federal Court because **the*

Executive Director had not rendered *his* decision within the normal 6 month period. District court confused CRMC statute with DEM statute, stating that the RIDEM list for disposal sites was adequate for *the Executive Director's* Federal Consistency review and rendered the decision that Presumption of Concurrence was appropriate. Mr. Goldman stated that the Presumption of Concurrence decision was appealed to 1st Circuit Court and that the Presumption of Concurrence decision was upheld. Mr. Lemont stated that CRMC was not asleep at the wheel and that it would seem that legal theory still needed to be resolved. Mr. Fugate stated that the case was written up in the Energy Law Journal. Mr. Goldman stated that Rhode Island and Massachusetts worked very closely in the litigation process.

- Jeffrey Willis gave brief overview of the BioSecurity Board requirements to the Council stating that the members needed to be updated and that Council concurrence was required. Mr. Sullivan motioned, seconded by Mr. Coia, to approve members of the board.
- Jeffrey Willis reported that a transfer of lease from CRMC Assent 2002-03-044 was completed for aquaculture from Chris Warfel to Chris Littlefield as per Section 300.11.
- Jeffrey Willis reported that an imminent peril assent (2009-12-015) was issued to the Narragansett Electric Company for mitigation of hydrocarbon materials leaking into the Seekonk River.

5. **CHAIR TIKOIAN 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:**

2009-06-087 SUN FARM OYSTERS – A shellfish aquaculture site of 0.56 acres to grow oysters, bay scallops, and razor clams. Site to be located in Trims Pond, New Shoreham, RI.

Dave Beutel gave brief overview of the project to the Council stating that the project comprised of an aquaculture site of 0.28 acres (not 0.56 acres) to grow shellfish. Mr. Beutel stated that meetings were held and no objections to the project were received. Mr. Beutel stated that RIDEM did express concern regarding the 5% capacity limit for Trims Pond. Mr. Beutel explained that the CRMC geologist Janet Freedman's position is that the pond is all one pond and therefore the 5% is nowhere near being leased. Chair Tikoian asked Mr. Beutel what the capacity is in the pond at this time to which Mr. Beutel answered less than 2%. Mr. Beutel stated that RIDEM also suggested that aquaculture sites be set up in waters open all year long to which he answered that the Town of New Shoreham directs all aquaculture sites to Trims and Harbor pond and until that plan is altered those are the only sites under consideration. Mr. Beutel stated that CRMC staff recommended approval of application. Vice Chair Lemont motioned, seconded by Mr. Coia and Mr. Driscoll, approval of application based on staff reports. Mr. Sullivan stated that he believed increased water quality monitoring was in order and therefore could not support the expansion. Application approved with seven ayes and one opposed.

2009-09-034 MARGIN STREET MARINE -- Construction of a new *25 slip marina with a 2850 square foot support building, a new stacked granite bulkhead, and a parking area. There will be approximately *5150 cy of material dredged to provide adequate depth and flushing for the marina. The dredge material will be reused on site. The applicant is requesting a variance from RICRMP 300.4(e)(1) that requires all new marinas have a pump out. Located at plat 86, lot 57; 73 Margin Street, Westerly, RI.

Danni Goulet gave brief overview of the application to the Council stating that the applicant had gone through the Marina preliminary determination process for new marinas making the application review process go smoothly. Mr. Goulet stated that the applicant was requesting a variance to the pump-out regulation because there are two pump-outs in the very close vicinity and the vessel size will result in the majority of the vessels not having marine heads. Mr. Goulet stated that CRMC staff recommended approval of application. Mr. Goulet stated the RIDEM had issued a Water Quality Certification. Mr. Sullivan motioned, seconded by Mr. Lemont, approval of application. Motion carried on unanimous voice vote.

7. Public Hearing on Program Changes before the Full Council:

**RI Coastal Resources Management Program: Ocean Special Area Management Plan:
Chapter 6: Recreation & Tourism**

Grover Fugate gave brief overview of the OSAMP process to the Council talking about chapter writing, stakeholder process, Ocean SAMP Subcommittee and workshop processes. Mr. Fugate stated that in the Workshop that was held for public comment discussion, only one person attended and gave no comment.

Power Point Presentation given by Michelle Armsby explaining the Sections of Chapter 6: Recreation and Tourism of the OSAMP focusing on offshore environment water-based recreation such as recreational fishing, sailing and wildlife watching; Recreational fisheries which would also be addressed in Fisheries chapter; Sail boat racing which includes buoy racing and distance racing; cruising activity; offshore diving on dive charter boats; offshore wildlife watching; cruise ship tourism.

Mr. Fugate stated that CRMC started the review process as transparent as possible by asking for input from as many stakeholders and potentially affected groups as possible, such as the Narragansett Indian Tribe and all tribal nations, many federal agencies, National Ocean Policy Commission which is using Rhode Island's OSAMP document and process as the model for future SAMPS in other U.S. coastal states. Ms. Armsby informed the Council members of comments received by BI Tourism, RI Bays Rivers and Watersheds, RI Party Charter Boat and the Town of New Shoreham.

Mr. Gomez asked if the approved chapter will be posted on the CRMC website. Mr. Fugate stated that it would be added to the regulations subdirectory.

Chair Tikoian acknowledged the historical significance of the approval of Chapter 6 of Rhode Island's Ocean Special Area Management Plan.

Mr. Sullivan suggested that when the approved chapter is posted on the website that the Track Changes format be kept.

Ms. Eugenia Marks of the Audubon Society thanked the Council and staff for the opportunity to review and comment on Chapter 6: Recreation and Tourism. Ms. Marks stated that the Audubon Society's concern is for land-based birds whose flight pattern is by way of the water to Block Island at any time and also with their southern migration. Ms. Marks asked that this be further looked

Mr. Ames Colt of RI Bays, Rivers, and Watersheds Coordination Team, commented on the efforts of the OSAMP developers to avoid the specifics of wind farm development but that the potential impacts of the wind farms should be incorporated into a chapter to address intensive marine construction, boundary setting for boat traffic. Mr. Fugate stated that in regards to renewable energy references in the SAMP that it is better aggregate information in chapters relative to specific areas.

Chair Tikoian closed public hearing.

Mr. Coia motioned, seconded by Mr. Dawson, for the adoption of Chapter 6 of the Ocean SAMP. Chair Tikoian thanked the Council members for their input in the development of the chapter.

Motion carried on unanimous voice vote.

Chair Tikoian granted two minute recess.

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

None were held.

9. Executive Session pursuant to R.I.G.L. 42-46-5(a)1 Personnel

Vice Chair Lemont motioned, seconded by Mr. Coia, to hold and Executive Session pursuant to R.I.G.L. 42-46-5(a)1 Personnel.

Roll Call Vote:

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

Council entered Executive Session.

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