

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, September 14, 2010 at 6:00 p.m. in Conference Room A, Administration Building, One Capitol Hill, Providence, RI.

**MEMBERS PRESENT**

Michael M. Tikoian, Chair  
Paul Lemont, Vice Chair  
David Abedon  
Bruce Dawson  
Donald Gomez  
Michael Sullivan  
Robert Driscoll  
Ray Coia

**STAFF PRESENT**

Grover J. Fugate, Executive Director  
Jeffrey M. Willis, Deputy Director  
Laura Ricketson Dwyer, Public Education/Outreach Coord  
David Beutel, Aquaculture Coordinator  
  
Brian Goldman, Legal Counsel

**1. CALL TO ORDER**

Chair Tikoian called the meeting to order at 6:00 p.m.

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

Chair Tikoian called for approval of the minutes from the previous meeting. Vice Chair Lemont, seconded by Mr. Dawson, motioned to approve the minutes of the previous meeting. Motion carried on unanimous voice vote.

**3. SUBCOMMITTEE REPORTS**

No reports.

**4. STAFF REPORTS**

Mr. Fugate stated were no staff reports as the meeting will be devoted to the OSAMP.

**5. APPROVAL OF THE PERIOD 8 PROGRESS REPORT OF THE R.I. OCEAN SAMP**

Chair Tikoian stated that usually the progress reports were approved by the Ocean SAMP Subcommittee but that those meetings were no longer being held so the reports would now be brought before the full Council for approval so that it can be submitted to EDC. Jen McCann of URI, gave brief overview of report stating that during this time frame a significant amount of time was dedicated to writing the chapters and that the technical researchers worked to complete their reports for incorporation into the SAMP.

Mr. Gomez expressed concern regarding the amount of work that still needs to be completed and that it appears in some cases percentage completed is less than the estimated time originally thought. Mr. Gomez stated that he was concerned about adopting a program that would not reflect what the Council stated they would produce. Mr. Gomez gave example of wave and storm surge characterization document that was withdrawn and asked if the

document was available and who it was available to. Ms. McCann stated that they are slightly behind but not by much. Ms. McCann informed the Council that all the technical reports are in the final stages of being peer reviewed which is why many of the areas stated 90% completion. Mr. Dawson expressed concern as well stating that although much data has been gathered, it appeared that the information still needed to be analyzed. Ms. McCann stated data was still being analyzed due to the public comments received. Mr. Fugate stated that data that is still being collected and being added to repository which will be stored in Pell Library with availability to general public. Ms. McCann explained that the Management Team consisted of Grover Fugate, Jen McCann, Sam Deveau, Malcolm Spaulding. Mr. Fugate stated that additional money has gone into project to map additional area as part of the RFI process. Mr. Fugate explained that three primary data sets team has been asked to look at – geophysical surveys, avient studies and fisheries study for which some of them extend further out of the SAMP area. Mr. Fugate stated that there will be ongoing studies well into 2011 and into beginning of 2012. Chair Tikoian asked when the final progress report would likely to be submitted. Ms. McCann stated that the final Progress Report will be submitted at the end of December. Chair Tikoian asked the Team to have a report of the areas that are being studied further for submittal to the Council and whether or not the study analysis would cause the SAMP to need changing. Mr. Fugate stated that the additional study data analysis would unlikely change the SAMP other than maybe minor mapping changes and that a budget document would be prepared for the next SAMP meeting. Vice Chair Lemont motioned, seconded by Mr. Coia, to approve progress report with revised budget document. Motion carried on unanimous voice vote.

## **6. PUBLIC HEARING ON THE RI COASTAL RESOURCES MANAGEMENT PROGRAM: Ocean Special Area Management Plan in its entirety**

**The purpose of the Ocean Special Area Management Plan (Ocean SAMP) is to serve as a regulatory, planning and adaptive management tool of the Rhode Island Coastal Resources Management Council (CRMC) to uphold its regulatory responsibilities. Using the best available science and working with well-informed and committed resource users, researchers, environmental and civic organizations, and local, state and federal government agencies, the Ocean SAMP provides a comprehensive understanding of this complex and rich ecosystem.**

Chair Tikoian stated that there are two documents that are being focused on – Recommended changes for Substantive changes and Recommended changes for Technical Changes. Chair Tikoian stated that the Technical changes appear to be grammar, language and typographical changes and that the Substantive changes appear to be a result of the comments received and are recommendations to the Council. Chair Tikoian clarified with Mr. Fugate the directive given that a planning process be created to educate staff on the SAMP and to come up with permitting process to applications submitted within the purview of the OSAMP. Chair Tikoian and Mr. Fugate discussed that the applications with respect to renewable energy or any Type 6 construction activity would have a public hearing process before the Full Council and that they would not received Administrative Assents. Mr. Fugate stated that the only application that would still be eligible for Category A would be for those projects that are inside the 500 feet, but then they would not be part of the OSAMP. Chair Tikoian asked Mr. Fugate to brief the Council on Administrative Assents in the form of a monthly report to keep the Council up to date on these types of Administrative approvals.

Mr. Fugate stated that the comments period for the OSAMP document formally ended on September 9, 2010 and that the management team had received 430 comments that they are now reviewing and preparing responses to. Mr. Fugate stated that they will still be receiving comments from the Federal Government until October 12<sup>th</sup>. Mr. Fugate stated that the Management Team would follow the same format as done at this meeting for the next meeting using two documents one for substantive comments and one for technical changes. Discussion on timeframe of when these documents should be posted and distributed prior to the October 12, 2010 meeting. Mr. Goldman stated that he had met with Mr. Fugate and Ms. McCann to discuss the time frame and that the goal is to have it available on September 24<sup>th</sup> 2010. Ms. McCann stated that they already had a good handle on preparing responses for the 430 comments received, however, comments were still being received from Federal Agencies to make sure that the suggested changes reflect what RI wants as well as response to Federal agency as well. Mr. Fugate stated that there are two NOAA divisions that comments are expected from.

Director Sullivan asked to discuss a response to public comment by Eugenia Marks regarding area of mutual interest (AMI). Mr. Fugate stated that during the last public hearing for the OSAMP a map was being discussed regarding the clarification between State waters and Federal waters as well as Rhode Island waters and Massachusetts waters. Mr. Fugate stated that an MOU exists between the two states. Mr. Fugate stated that there were e-mails from NOAA stating that enforceable policies have to be clear that they are for State waters only and would not apply to federal waters. Chair Tikoian asked that the e-mails be distributed to the Council.

Chair Tikoian opened the meeting to the public. Discussion on when the documents with recommended changes were made available to the public. Ms. McCann explained to the Council members the format used when responding to the comments received and that also the response to every single comment received are on-line in the comments response matrix.

Director Sullivan stated that the subject of carbon foot printing was not defined nor a way to calculate it and that there should be specific language addressing this. Mr. Fugate stated that carbon foot printing would vary from project to project which would not allow a calculation procedure. Director Sullivan agreed that there were many factors to consider but maintained that some conditioning language that described what is being factored into the project decision. Mr. Fugate stated that the management team would address the carbon foot printing issue in the SAMP.

Ms. Karp asked a question regarding bureaucratic scheduling and the accessibility of the OSAMP document while searching on line. Ms. Karp stated that she would like to see the entire document changed each time as opposed to have two memos along with the OSAMP that needs information to be incorporated. Mr. Goldman explained the program change public hearing process.

Ms. Jedele, Director, Conservation Law Foundation, expressed confusion with respect to whether or not the comments submitted by CLF were addressed in the two documents being discussed and that it looked as though the comments submitted by CLF in an August 24<sup>th</sup> memo were not addressed as of yet. Ms. McCann confirmed that. Ms. Jedele addressed again comments filed on August 6 and 12 which remain unaddressed. Ms. Jedele stated that she would like to see a clearer distinction between areas identified as areas of particular

concern and areas designated for preservation and how protective status is determined. Ms. Jedele stated that CLF would like to see the document address the need for management of sustainable fisheries and that a better process should be spelled out about the relationship that CRMC and DEM regarding this issue. Ms. Jedele addressed the Council regarding what she refers to as the “avoidance doctrine” set out in OSAMP Chapter 11, Section 1160.2, sub 2 page 21. Ms. Jedele feels the statement made is too ambiguous and that the avoidance doctrine be coupled with a citing standard that establishes a rebuttable presumption. Ms. Jedele also commented on the Fisheries advisory board stating that the board should include habitat and ecosystem protection or that there should be two boards, one for fisheries and one for habitat and ecosystem protection.

Kevin Essington, Nature Conservancy, commended the Management Team and OSAMP writers for impressive document. Mr. Essington stated that the Nature Conservancy submitted written comments on September 9, 2010 but that he felt he should reiterate Nature Conservancy’s views on Ms. Jedele’s last comment and that the Nature Conservancy encouraged CRMC and the OSAMP team to consider a habitat science advisory board to assist with adaptive management and developing environmental criteria.

Jonathan Stone, Save the Bay, stated that they had also submitted extensive written statements but also wanted to echo CLF and Nature Conservancy’s concern in regards to habitat science and establishing protection criteria. Mr. Stone stated that a permitting flow chart would be helpful for the general public explaining the steps that must be gone through.

Eugenia Marks, Audobon Society, stated that written comments were also submitted, but wanted to highlight certain areas. Ms. Marks stated the Audobon Society would like to see the definition of ecology-based management should reflect the ecosystem integrity of itself or at least recognize that there are other users besides human users. Ms. Marks also stated that in the goals area should be a statement of fact that one of the goals of the OSAMP team would be to assure funding for the continuation of the project. Ms. Marks also stated that her written comments included the addition of dumping to the list in development so that it is recognized and managed. Ms. Marks stated that the definition of certified manager should be reworded to better quality the expertise of the agent requiring a registered engineer. Mr. Fugate agreed to tighten up the wording on the engineering issues.

Gary Mataronas, Sakonnet Point Fisherman’s Association, read his comments into the record stating that the Fisheries Advisory Board should be made up of fishermen so that they would be able to communicate with developers as they know the location of fishing activities where other environmental groups may not be as familiar with the territory. Mr. Mataronas stated that the fishermen want to work with other boards but feel that if they want to meet with developers it should be done in a timely fashion as opposed to having to schedule around so many groups. Lanny Dellinger, RI Lobsterman’s Association, stated that he would have to sit down with his group to discuss all possibilities and get the sense of the group prior to agreeing to any changes. Director Sullivan requested that all groups get in touch with each other make sure everyone is on the same page in regards to the advisory panel.

Bill McElroy, local fisherman, stated that after talking to other fishermen and also Massachusetts fishermen, he felt that the function of the Fishermen’s Advisory Board is not related to other interests. Mr. McElroy stated that they have expertise to offer and that while

they think that the interest of the NGO's should be represented, the fishermen don't think that the Fishermen's Advisory Board is the proper board for that.

Ted Platts, RI Fishermen's Association, stated that in his opinion there is a place for environmental community on the Fishermen's Board to discuss the duality purpose of projects. Mr. Platts stated that the issue needed to be discussed at the fisheries center before an official stance is taken.

Caroline Karp, Professor, Brown University, expresses concern regarding whether it is an aquaculture application or renewable energy application, the applicant should pay attention to ecosystem-based issues. Ms. Karp agrees with having a joint Fisheries, Habitat and Ecosystem Board. Ms. Karp expresses concern that she does not see the OSAMP being coordinate with the State Guide Plan or other State documents. Ms. Karp reiterated her concerns from the last meeting regarding technological issues, submarine cabling issues, referencing sonic testing of bedrock.

Chair Tikoian thanked everyone for their comments stating that he liked the idea of a glossary to ensure transparency and also the flow chart on permitting.

Mr. Gomez asked to make it clear that there is a firewall in place that keeps the generation of the OSAMP document separate from potential contractors. Mr. Gomez also stated that he agreed with the idea of the Advisory Board and thought that two boards would be better than one.

## **6. CATEGORY "A" LIST**

Accepted as presented.

Chair Tikoian stated that the next meeting would be September 28, 2010 and would follow a regular permitting format and that the next OSAMP meeting would be October 12, 2010.

## **7. ADJOURN**

Mr. Gomez motioned, seconded by Mr. Driscoll, to adjourn meeting. Motion carried on unanimous voice vote. Meeting adjourned

Respectfully submitted,

Lisa A. Mattscheck