

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, January 11, 2011 at 5:30 p.m. in Council Chambers of the Narragansett Town Hall, 25 Fifth Avenue, Narragansett, RI.

**MEMBERS PRESENT**

Paul Lemont, Chair  
David Abedon  
Raymond Coia  
Donald Gomez  
Robert Driscoll  
Bruce Dawson  
Robert Ballou, RIDEM

**STAFF PRESENT**

Grover J. Fugate, Executive Director  
Kenneth Anderson, Spv Civil Engineer  
Amy L. Silva, Sr. Environmental Scientist  
Danni Goulet, Marine Infrastructure Coor  
  
Brian Goldman, Legal Counsel

**1. CALL TO ORDER**

Chair Lemont called the meeting to order at 5:30 p.m. and stated that the Full Council would be deliberating on the Champlin's matter.

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

Chair Lemont called for approval of the minutes from the previous meetings. Mr. Coia motioned, seconded by Mr. Dawson, to approve the minutes of the previous meeting of Tuesday, December 14, 2010. Motion carried on unanimous voice vote.

**3. APPLICATION BEFORE THE FULL COUNCIL IN ACCORDANCE WITH REMAND ORDER FROM THE RHODE ISLAND SUPREME AND SUPERIOR COURTS AND CONTINUANCE ORDER ISSUED ON NOVEMBER 18, 2010:**

**2003-05-155 CHAMPLIN'S REALTY ASSOCIATION -- Expansion of existing marina facility consisting of an additional 2,990 linear feet of fixed pier, and 755 linear feet of floating docks, with corresponding expansion of existing marina perimeter limit (area) by approximately 4 acres, however, it should be noted that the requested marina perimeter limit ("MPL") seeks approximately 13 acres. The stated increase in marina capacity is 140 boats. Additionally, this matter was consolidated with the Town of New Shoreham's request for CRMC approval of its Harbor Management Plan. The Harbor Management Plan issues were limited to the location and size of Mooring Field E. Project to be located at plat 19; lots 5 and 6; West Shore Road, New Shoreham, RI.**

Chair Lemont read the Champlin's project description stating that Champlins is seeking a 13 acre Marina Perimeter Limit (MPL) and that the requested increase in marina capacity is 140 boats. Chair Lemont stated that the Champlin's matter was consolidated with the Town of New Shoreham's request for approval of their Harbor Management Plan limited to size of Mooring Field E. Chair Lemont stated that Council will deliberate without further argument of Counsel.

Chair Lemont introduced Council members stating that Robert Ballou of the RI Department of Environmental Management was designated by previous DEM Director, Michael Sullivan, and

current DEM Director, Janet Coit, and that Mr. Ballou had read the entire record. Chair Lemont introduced Counsel for applicant, Robert Goldberg, Thomas DiPrete, and Kathy Managhan. Chair Lemont introduced Counsel for objectors Dan Prentiss, Don Packer and Jerry Elmer.

Chair Lemont stated that CRMC was in receipt of an objection that was filed in CRMC offices today by Goldberg Law Offices objecting to Bob Ballou sitting as designee. Mr. Goldman having previously reviewed the objection filed stated that CRMC statute says designee of DEM sits at the Council and as Director Sullivan and new DEM Director Janet Coit both appointed Mr. Ballou as designee it is proper for Mr. Ballou to sit. Mr. Goldberg's objection is noted and no other objections heard.

Mr. Goldman polled members of the Council as to the reading of all the documents/record. All seven Council members affirmed to having read the record.

Mr. Goldman gave status of previous decision and subcommittee recommendation stating that when a Supreme Court case law is remanded to an agency with the hearing of additional evidence, the matter is heard de novo by the agency. Mr. Goldman stated that the Supreme Court decision invalidated both the full Council decision and the Subcommittee recommendation therefore the Council is tasked with the approval, modification or denial of application for Champlin's and Mooring Field E.

Mr. Goldman stated that the procedural issue of which RICRMP version of 300.4 should apply and stating that it was clear from case law that the application is subject to regulations effective at time of original application. Mr. Goldman stated that it was his understanding that it was agreed upon by all parties to use Section 300.4 from prior to 2008 regulations.

Chair Lemont opened floor for discussion of Agenda item stating that all information was available if Council members had any questions.

Discussion started with Mr. Abedon who asked which mooring field should be approved, the 1987 or the 1993 depiction. Mr. Goldman states that a map that was introduced as an exhibit depicts both versions (1987 and 1993); staff puts map up on easel. Mr. Goldman stated that one of the decisions of the evening would be which Mooring Field E configuration should be approved. Review of the map Champlin's #14 by all parties.

Mr. Ballou stated that he had conducted an analysis of record and put together a chronology of events for understanding purposes. Mr. Ballou stated that in January 1988 the CRMC approved an Interim HMP and in July 1988 the ACOE issued a permit approving trapezoid shaped field in which the Town could maintain 55 existing moorings and add additional 25 moorings. Mr. Ballou went on to explain that in 1991, CRMC approved the HMP for town for a period of five years. Mr. Ballou further explained that in September of 1994, the Town of New Shoreham applied to the ACOE to add 20 moorings to existing Town rental mooring field which was approved by ACOE in 1995 giving the Town of New Shoreham a new mooring field total of 100. Mr. Ballou stated that the trapezoid field is very different than what was permitted by the ACOE and that it appeared that the ACOE based their authorization on a mooring field that had not been approved by CRMC. In 1996 the HMP five year approval issued in 1991 expired and in 1999, the Town adopted a new HMP with mooring Field E as depicted in 1992 ACOE approval with no action taken by CRMC. Mr. Ballou stated that in 2003 Champlin's Marina application for expansion submitted and requested CRMC to consolidate the Marina expansion and HMP review

to which a 2003 interim approval to the HMP was granted with the exception of Mooring field E which is before the council now for approval of proper configuration. Mr. Goldman stated that the reason the CRMC did not take action from 1999 to 2003 was that we were in litigation with the town over who had jurisdiction of the Great Salt Pond which was resolved in 2003 with CRMC having jurisdiction. Mr. Ballou explained three options for Mooring Field E which were the approval of the trapezoid area, adopt more expansive area as referenced and attached in 1995 permit, or adopt an alternative configuration. Mr. Ballou stated that he favored the third option of adopting an alternative configuration for Mooring Field E. Discussion on which version allowed for the 100-foot fairway between Champlin's and Mooring Field.

Mr. Dawson stated that he felt the decision regarding the marina expansion should be made first before the decision is made on Mooring Field E. Mr. Dawson stated that the Great Salt Pond is one of Rhode Island's unique pieces of property and that he could not support an expansion which would take four more acres away from the pond.

Mr. Abedon stated that he was concerned with the use of the perimeter limit that was already in existence as it could be managed in many ways and be a more efficient use of a public resource. Mr. Abedon also stated that the pond is already compromised by navigational congestion and would not want to see any further congestion from expansion. Mr. Abedon stated that he agreed with objectors that there was really no clear public access plan. Mr. Abedon stated that for the reasons he expressed, he could not support the expansion.

Mr. Gomez stated that the purpose of the remand hearings was to either uphold or not the previous Council's decision and also to get the Goulet plan on the record. Mr. Gomez stated that he did not like the idea of the expansion getting close to the existing mooring field. Mr. Gomez stated that the idea of expansion to the West might be a possibility but that he could not support the application as submitted and he rejected the Goulet plan.

Mr. Coia stated that much review went into the preparation for the meeting and decision to be made and that he was the only remaining original member who voted for the subcommittee recommendation of a 170 foot expansion as he felt that the evidence at that time warranted some expansion as did other Council members. Mr. Coia stated that he still held that some expansion is warranted and after review of staff reports and expert testimony some expansion is supported.

Mr. Ballou stated that there were four givens: an existing marina extending 420' out into Great Salt Pond; an existing mooring field per the two versions offered as part of record; the marina and mooring field contribute to activities in pond; and the pond ecosystem duly unimpacted largely due to balance of uses. Mr. Ballou stated that he reviewed application based on RICRMP Sections 200.3, 300.1, and 300.4. Mr. Ballou stated that he saw no compelling evidence that the applicant had sought to reconfigure slips in existing marina and that CRMC staff's position was that efficiency of slip configuration was not employed at the marina. Mr. Ballou stated that the proposal did meet the standards and policies set forth in coastal program and that he could not support the expansion.

Mr. Dawson stated that another thought process was that there were three marinas in the Great Salt Pond which are different than any other marina in the state as most marinas rely on seasonal boating but these marinas look for transient boaters on weekends. Mr. Dawson stated that the marinas were full only three or four weekends during a season and the rest of the season the percentage is approximately 50-60% which requires the marinas to configure differently and not

have slips. Mr. Dawson stated that based on inventory of boats at this marina on three or four weekends, he did not think expansion is warranted.

Chair Lemont stated that he spent time contemplating this matter. Chair Lemont stated that he was the Council member who sought a compromise and afforded that but it was rejected. Chair Lemont stated that in reviewing the matter again, looking at memorandum prepared and the decision including concerns with unresolved issues on water quality impact. Chair Lemont states that with his concerns regarding navigation, fishing, public trust, scenic impact, geologic conditions and the mooring field configuration, his conclusion is to reject.

No other comments

Chair Lemont stated that a vote to support the application would approve a 13 acre expansion including 4 acres of docks. Mr. Goldman concurred. Chair Lemont stated that a vote to reject would still leave the mooring field on docket. Mr. Goldman concurred stating that there were two issues to vote on.

Mr. Dawson motioned, seconded by Mr. Driscoll, to deny application before the Council on Champlin's.

Roll call vote in which a vote in the affirmative is a denial of the application.

Mr. Dawson	Yes	Mr. Gomez	Yes
Mr. Abedon	Yes	Mr. Coia	Yes reluctantly for full expansion
Mr. Driscoll	Yes	Chair Lemont	Yes
Mr. Ballou	Yes		

Motion to deny carried with unanimous vote.

Chair Lemont asked for discussion on Mooring Field E. Mr. Goldman stated that an approval can be made for the 1995 ACOE permit, the 1987 configuration or a hybrid of both.

Mr. Gomez stated that mooring field that is in use is field approved by ACOE in 1993 and that he felt CRMC Council should support what is being used should support 1993 acoe approval with additional mooring field but not trapezoidal field

Mr. Fugate stated that CRMC was not recognizing any mooring field for Mooring Field E and that he wanted to point out that an existing structure from Champlin's is encroaching on Mooring Field E. Mr. Fugate explained plan on page 75 of agenda packet stating that problems could arise with two entities co-existing in the same area. Mr. Fugate confirmed that it could be severed which would solve the problem.

Mr. Ballou began by talking about the 1993 mooring field version stating that with the lobe extending to west area there would be improper extension shoreward. Mr. Ballou is also concerned that the 1993 field is only setback 100 feet from the edge of Champlin's and that in order to have safe and convenient navigational and use of area off Champlin's there needs to be an appropriate width. Mr. Ballou stated that he had settled on two times the largest vessel of 165 feet as an accepted standard requiring a 330 foot fairway and that the existing distance between the end of dock at Champlin's and the mooring field is 310 feet which would be the bare

minimum necessary to accommodate the open area off Champlin's for safe and well managed use of Great Salt Pond so that boats are not mooring as close to 100 feet off dock.

Mr. Gomez stated that the boat length to use in calculations should be smaller as the 165 foot boat was stated to be a rare occurrence. Mr. Gomez felt that a 150' length used in calculating is sufficient.

Mr. Driscoll stated that making fairway wider is critical

Chair Lemont asks Mr. Fugate to clarify the location of Mooring Field E which Mr. Fugate does on the color plan stating that a dock belonging to Champlin's falls within the area. Discussion using Champlin's #14 in which Mr. Fugate explains the position Mooring Field E. Mr. Fugate stated that the Town was not using all of Mooring Field E.

Mr. Dawson motioned, seconded by Mr. Abedon, that the fairway width be set at 250 feet from the existing marina perimeter and to eliminate the lobe for Mooring Field E.

Mr. Ballou states that 250 feet is reasonable. Mr. Dawson states that he would be willing to adjust to 300 feet. Mr. Ballou states that 300 feet is a nice healthy open water area that is in keeping with the nature of the pond and helps provide for a well-managed harbor.

Mr. Abedon withdrew his second and Mr. Dawson modified his motion so that the fairway width would be set at 300 feet from the existing marina perimeter and to eliminate the lobe of Mooring Field E. Mr. Abedon seconded the modified motion

Chair Lemont asks for a roll call vote

Mr. Goldman states that a roll call vote in the affirmative adopts motion of 300 feet from existing structure of Champlin's and eliminates lobe of Mooring Field E.

Mr. Abedon	Yes	Mr. Gomez	Yes
Mr. Dawson	Yes	Mr. Coia	Yes
Mr. Ballou	Yes	Chair Lemont	Yes
Mr. Driscoll	Yes		

Motion carried with unanimous vote.

Mr. Goldman stated that he would circulate a draft decision for council to edit, comment and sign.

**4. Category "A" List -- None held**

**5. ADJOURN**

Mr. Driscoll motioned, seconded by Mr. Dawson, to adjourn. Motion carried on unanimous voice vote.

Respectfully submitted,  
Lisa A. Mattscheck