

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, August 23, 2011 at 6:00 p.m. in Community College of RI, One John H. Chaffee Boulevard, Newport, RI.

Members Present

Anne Maxwell Livingston, Chair
Paul Lemont, Vice Chair
Bruce Dawson
Ray Coia
Guillaume de Ramel
Dave Abedon
Ron Gagnon, RIDEM

Staff Present

Grover J. Fugate, Executive Director
Ken Anderson

Brian A. Goldman, Esq.

Members Excused

Donald Gomez
Tony Affigne
Mike Hudner

1. **CALL TO ORDER**

Chair Livingston called the meeting to order at 6:36 p.m.

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

Chair Livingston called for approval of the minutes from the previous meeting. Mr. Coia motioned, seconded by Mr. Dawson, for approval of minutes from July 26, 2011 meeting. Motion carried on unanimous voice vote.

3. **SUBCOMMITTEE REPORTS**

There were none.

4. **STAFF REPORTS**

Mr. Fugate informed the Council that the Secretary of the Interior was in RI the previous week for an official announcement of the call of interest which is a public notice for developers to express interest in area of equal interests off the coastal of RI for leasing for offshore wind. Mr. Fugate stated that two companies had submitted bids for the area. Mr. Fugate stated that the Secretary of the Interior also announced a new program called Smart from the Start, which is a process of environmental assessment prior to the issuance of a lease. Mr. Fugate explained this process. Mr. Fugate informed the Council that he and the Chair had attended a Marine Trades Association quorum that day in which Senator Whitehouse expressed interest in trying to facilitate the retreat for the marina trade development.

5. Mr. Fugate made an opening statement and Chair Livingston did a roll call for applicant's presence.

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

2011-05-051 TOWN OF MIDDLETOWN -- Stormwater discharge improvements: Redirect stormwater currently discharging at an outfall near Atlantic Beach to a new outfall 1,000 feet south and extending 500' into Easton Bay, and incorporate a diffuser to improve mixing to reduce concentration of stormwater contaminants (namely bacteria) reaching the beach area. Also, construct a riprap revetment along coastal beach at outfall location. The project is prohibited per RICRMP Sections 210.4.C.3, 210.5.C.3 and 300.6.D (to alter coastal bluff, rocky shoreline and construct a new point source discharge to Type 1 waters) and requires a Special Exception per RICRMP Section 130. Located on Esplanade, Middletown, RI.

Town of Middletown, Assistant Town Solicitor, Frank Holbrook, present along with, Sean Brown, Town Administrator; Warren Hall, Town Engineer; Tom O'Laughlin, Department of Public Works; Art Webber, Town Council President.

Mr. Anderson gave brief overview of the application to the Council stating that the application was to relocate an existing stormwater outfall discharging at First Beach to a location 1,000 feet away, extend it out into Eastern Bay approximately 500 feet and provide a diffuser at the end of that to reduce the high bacterial counts at the beach area. Mr. Anderson stated that a special exception of RICRMP Section 130 is required for this project as it is a prohibited activity in Type 1 waters. Mr. Anderson stated that staff deferred to the Council on the assessment of the special exceptions. Mr. Anderson stated that some of the construction techniques had yet to be disclosed to staff and that the final contractor had not been chosen by the Town so CRMC staff will stipulated in the assent that this information be provided to staff prior to construction and staff or Council will be sign off prior to any construction. Vice Chair Lemont stated that he would prefer to be able to have all information presented to them prior to voting on application. Mr. Fugate stated that it was not uncommon to approve an application and ask for final elements prior to construction to be reviewed by staff as contractors are not always hired until approval is given. Discussion and agreement to move forward. Mr. Holbrook stated that a contractor had just been selected and was in the process of putting together a contractor work plan for submission to CRMC staff. Mr. Dawson inquired about timeframe. Janice Greenwood with Woodard and Curran was sworn in and stated that the project timeframe would be provided by the contractor and also explained the performance spec that was put together for project Ms. Greenwood stated that the majority of the concerns with the project is with the construction not the finished product. Ms. Greenwood explained that one of the performance specs was for the limiting of turbidity and described the process for blasting within a causeway which will be removed when the project is completed.

Anne Burns was sworn in and expressed concern with the project regarding procedural/process matters and timeframe. Mr. Burns stated that she had worked diligently with some of the Rights of ways in this area and was concerned that they remain in tact and readily available for use. Sean Brown was sworn in and stated that the Town's objective is to start the project is September which will provide the least disruption to the beach access and to the economic balance of the rental properties in the area. Mr. Brown also stated that the Town had no intent on impacting any right-of-way with this project and that, unfortunately, their budget would not allow for the building of stairs at the right of way in question. Mr. Anderson explained that the preferred option would be to restore the slope as it exists now. Ms. Burns also inquired into the water quality aspect of the water requesting testing to obtain a baseline to

see if the new procedure is affecting the water quality. Ms. Greenwood stated that part of the modeling for the project was to include the ambient bacterial level in the bay which was received from DEM.

David McLaughlin was sworn in and expressed concern on behalf of Clean Ocean Access an organization that became involved with the water quality at their adopted Right of Way -- Y1. Mr. McLaughlin expressed concern that the water quality of Y1 will be adversely affected. Document provided marked as Clean Access Exhibit 1. Mr. Holbrook stated that the RIDEM had issued a Water Quality Certification for the file.

Kathleen Connor was sworn in and also expressed concern regarding the potential adverse effect on the water quality in the area and asked for periodic testing of the area.

Mr. Fugate explained that although the Council appreciated everyone’s concern over the water quality issues in this area, the RIDEM had reviewed and dealt with all the issues in their Division of Water Quality and issued a Water Quality Certificate which meets the requirements of the RICRMC application process.

Mr. Dawson motioned, seconded by Mr. Abedon, to grant the special exception. Mr. Goldman took a roll call vote.

Mr. deRamel	Yes	Mr. Abedon	Yes
Mr. Gagnon	Yes	Mr. Dawson	Yes
Mr. Coia	No	V. Chair Lemont	No
Chair Livingston	Yes		

Motion carries 5 to 2 in favor of the special exception.

Discussion regarding Consent Agreement entered into by the Town of Middletown with Plaintiffs from the City of Newport and National Environmental Law Center to study and make improvements within that watershed and the timeline the Town had agreed to.

Mr. Dawson motioned, seconded by Mr. de Ramel, to approve the application with the stipulations of staff. Motion carried on a unanimous voice vote.

2011-04-045 TOWN OF NEW SHOREHAM – Construct and maintain a “riprap revetment” approximately 500 linear feet total length along seaward side of Corn Neck Road. The project is prohibited per RICRMP Section 300.7.D.1 and requires a Special Exception per Section 130. The project also requires variances to Section 300.7.F revetment design standards. (The application proposes to utilize boulders recovered from Old Harbor bulkhead project.). Located on plat 5, lot 2; Corn Neck Road, Block Island, RI.

Present for the Town was Attorney Don Packer, Town Solicitor for New Shoreham. Mr. Anderson gave a brief overview of the project to the Council stating that the Town applied to construct a riprap revetment on a barrier beach on Block Island. Mr. Anderson stated that the work had already been completed as part of another project. Mr. Anderson stated that as a prohibited activity under the coastal program it requires a special exception pursuant to Section 130. Mr. Anderson stated that the staff deferred to the Council on the assessment of the special exception and recommends that if it is approved, that the variances to the design also be approved as well. Mr. Packer stated that after a substantial storm in June of this year there was no shoulder to the road as the bank had eroded right up to the asphalt of the road. Mr. Packer stated that the Town submitted an imminent peril application

request. Mr. Packer stated that the road is a State road and that RIDOT was very supportive of the work done to keep the road from falling into the ocean. Mr. Coia motioned, seconded by Mr. Dawson, to approve the special exception.

Mr. Goldman took a roll call vote for the special exception.

Mr. de Ramel	Yes	Mr. Abedon	Yes
Mr. Gagnon	Yes	Mr. Dawson	Yes
Mr. Coia	Yes	V. Chair Lemont	Yes
Chair Livingston	Yes		

Motion to grant the special exception approved with a unanimous vote.

Mr. Coia motioned, seconded by Mr. Dawson, to approve the application with staff stipulations. Motion carried on a unanimous voice vote.

7. **CATEGORY “A” LIST**

None were held.

8. **ADJOURN**

Mr. Coia motioned, seconded by Mr. Dawson, to adjourn. Motion carried on unanimous voice vote. Meeting adjourned at 8:00 p.m.

Respectfully submitted,

Lisa A. Turner
Recording Secretary