

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, February 28, 2012 at 6:00 p.m. in Conference Room A, Administration Building, One Capitol Hill, Providence, RI.

Members Present

Anne Maxwell Livingston, Chair
Paul Lemont, Vice Chair
Dave Abedon
Raymond Coia
Donald Gomez
Ronald Gagnon, RIDEM
Guillaume de Ramel
Michael Hudner
Tony Affigne

Staff Present

Grover J. Fugate, Executive Director
David S. Reis, Spv Environmental Scientist
Caitlin Chaffee, Policy Analyst
David Beutel, Aquaculture Coordinator

Brian Goldman, Esq.

Members Excused

Bruce Dawson

1. **CALL TO ORDER**

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

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

Chair Livingston called for approval of the minutes from the previous meeting. Vice Chair Lemont motioned, seconded by Mr. Hudner, for approval of minutes from February 14, 2012 meeting. Motion carried on unanimous voice vote.

3. **SUBCOMMITTEE REPORTS**

Vice Chair Lemont read out proposed changes to that had been discussed at the Policy and Planning Subcommittee Meeting on February 21, 2012, the first one being RICRMP Section 300.7 to amend Subsections A.1 Definition, B.4 Policies and C. Prerequisites with the purpose of defining certain structures placed within CRMC specified setback areas as structural shoreline protection facilities. Vice Chair Lemont stated that the second item involved the Narrow River Special Area Management Plan, Chapter 9, Regulations; Subsection 940.C.1.B, to address special exceptions and other sections for minor editing and consistency with existing rules. Vice Chair Lemont reported these proposed changes for public notice processing.

4. **STAFF REPORTS**

Mr. Goldman reported that a notification had been received from the Bankruptcy Court on the Koolen enforcement matter advising of a hearing on March 8, 2012 seeking relief of the automatic stay of the Bankruptcy Court so that CRMC can bring this matter back to Superior Court and continue on.

Mr. Fugate informed the Council that there was a press coverage package included in agenda materials to keep the Council abreast of all coverage on CRMC.

Mr. Fugate informed the Council that the Department of the Interior, Bureau of Ocean Energy Management was in Rhode Island on February 15, 2012 and had met with the Habitat Advisory Committee at the University of Rhode Island and then with the Fisherman's Advisory Board. Mr. Fugate explained that the meeting was to update the boards on the latest goings on in the area of mutual interest off Rhode Island. Mr. Fugate stated that BOEMRE also had various task force meetings on the MASS RFI.

Mr. Fugate informed the Council of an announcement made regarding the AMI map in which the Governor, and congressional delegation was in attendance at Save the Bay. Mr. Fugate stated that the announcement was that an area had been removed from the AMI based on the input received from the FAB.

Mr. Fugate stated that meetings will be held regarding requirements such as mitigation relative to the fishing industry in preparation for the potential hearings for the Block Island project. Mr. Fugate stated that mitigation techniques from across and Europe will be discussed.

Mr. Fugate informed the Council that a series of meetings were to be held at Roger Williams University on Monday, March 12, 2012 and Tuesday, March 13, 2012 by Northeast Regional Ocean Council to deal with a regional marine spatial planning effort.

Mr. Fugate informed the Council that CRMC, BOEMRE, and NOAA would be co-sponsoring an international marine spatial planning conference in May in Providence which will pull in marine spatial planners from around the world to discuss marine spatial planning issues.

Lastly, Mr. Fugate informed the Council that CRMC has entered into a new programmatic general permit with the US Army Corps of Engineers.

Mr. Gomez inquired about the Block Island project. Mr. Fugate stated the Deep Water Wind will be submitting an application shortly and may potentially qualify for funding on the federal level from Department of Energy.

5. Coastal Habitat Restoration Trust Fund Applications before the Council for Review and Decision:

The projects recommended for full funding are:

1. Restoring Fish Passage on the Upper Pawcatuck River: Phase 3- Kenyon Mill Dam; Wood-Pawcatuck Watershed Association (\$50,000)
2. Fish Passage Improvements at the Main Street Dam and Fishway; RI Dept. of Environmental Management (\$50,000)
3. Blackstone River Fish Passage; Friends of the Blackstone (\$40,000)
4. Diadromous Fish Passage Improvements at Palisades; RI Dept. of Environmental Management (\$25,000)
5. Salt Marsh Rapid Assessment; Save The Bay (\$12,500)
6. Caged Scallop Spawning Sanctuary; Save The Bay (\$6,536)
7. Ten Mile River Reservation Dam Assessment; RI Dept. of Environmental Management (\$5,000)
8. Winnipaug Marsh Restoration; Save The Bay (\$4,000)

The projects recommended for partial funding are:

1. Enhanced eastern oyster (*Crassostrea virginica*) restoration: experimental reef construction using defined baselines and goals in coastal salt ponds; Rhode Island, the Nature Conservancy (\$28,964)
2. Avondale Farm & Colonel Willie Cove Preserves Phragmites Control Project; Westerly Land Trust (\$3,000)

2011-2012 Contingency List:

1. Racquet Road Salt Marsh Restoration; Audubon Society of RI (\$8,700)
2. Cocumscussoc Brook and Meadow Brook Wetlands Restoration; the Cocumscussoc Association (\$18,710)
3. Enhanced eastern oyster (*Crassostrea virginica*) restoration: experimental reef construction using defined baselines and goals in coastal salt ponds, Rhode Island (\$10,252 remainder of request)
4. Avondale Farm & Colonel Willie Cove Preserves Phragmites Control Project (\$1,000 remainder of request)

Caitlin Chaffee, CRMC Coastal Policy Analyst, gave brief overview of the Coastal Habitat Trust Fund applications stating that the Technical Advisory Committee had met on February 15, 2012 to review the proposals received for this year. Ms. Chaffee stated that 16 full proposals were received this year which is a high number compare to previous years. Ms. Chaffee explained the procedure by which the Committee makes their decision. Ms. Chaffee stated that the agenda package included the summary of recommendations made by the Technical Advisory Committee. Mr. Gomez motioned, seconded by Vice Chair Lemont, to accept the Technical Advisory Committee's recommendations. Motion carried on unanimous voice vote.

Chair Livingston checked for applicant attendance. Mr. Fugate gave brief opening statement regarding assent procedures.

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

2011-11-016 PHILIP LARSON – Construct and maintain an educational oyster and hard clam aquaculture project with a nursery site within Sheffield Cove, and the grow-out site outside of Fox Hill Pond. Both aspects of the project will require floating gear. Located in Dutch Harbor/Sheffield Cove, Jamestown, RI.

Philip Larson was present. Mr. Beutel gave brief overview of the application to the Council stating that Mr. Larson proposed to conduct a research and education project in two locations, Sheffield Cove in Jamestown and Fox Hill Pond in Jamestown. Mr. Beutel explained that both locations were in unapproved waters, Sheffield Cove being permanently closed by RIDEM Office of Water Resources and Fox Hill Pond is closed seasonally by RIDEM Office of Water Resources. Mr. Beutel explained that aquaculture operations were prohibited in closed waters and that objections had been received from the Office of Water Resources, Department of Health and from Save the Bay. Mr. Beutel closed by saying that the project/operation could be valuable but in another location and stated that staff recommended denial of the application. Mr. Beutel explained to the Council that every aquaculture application submitted is vetted through RIDEM and DOH. Mr. Fugate explained the review process by both RIDEM and RIDOH. Mr. Beutel stated that the applicant mentioned using some of the oysters for a fundraiser which is prohibited under our research and educational lease as it would constitute a sale. Mr. Beutel explained that all permitted research and education projects do not harvest for consumption and are provided to DEM FW for restoration projects.

Mr. Larson was sworn in and identified himself for the record. Mr. Larson explained that the project was intended to show the importance of caring for the waters around Jamestown so that there is an opportunity to have active farms with marketable product for the area. Mr. Larson stated that as a chef, he appreciated being able to offer local seafood of high quality. Mr. Larson explained that he served on an oyster working group with Mr. Beutel to help create change for the future. Mr. Fugate stated that if Mr. Larson agrees not to allow the product to be consumed, the Council could give the other agencies a change to comment once again and suggested continuing the application. Mr. Fugate explained the positive benefits of large shellfish operations on water quality due to their natural filtering capabilities. Mr. Beutel stated that he would consider the application if Mr. Larson was moving the grown seed to seasonally approved waters and as long as they were not to be used for food. Mr. Larson explained that his reasoning for the location being in unapproved waters was for accessibility and went on to explain that if the pumpout stations were used more frequently the waters in the area would be cleaner. Mr. Coia motioned, seconded by Mr. Hudner, to continue the application based on comments by staff, product not entering into food chain and moving oyster seed at 32 millimeters. Motion carried on unanimous voice vote.

2011-07-026 HARRY STONE – Construct and maintain: a 4’ x 120.4’ residential pier. The facility will consist of a 4’ x 77’ fixed timber pier, a 3.5’ x 20’ ramp, and a 6’ x 25’ float. The facility will extend 75’ beyond mean low water. A variance of 25’ is required to the 50’ beyond mean low water (RICRMP 300.4.E.3.I). Located at plat 142, lot 45; 591 Shore Acres Avenue, North Kingstown, RI.

Mr. Stone was present as well as Turner Scott, Esq., and Warren Hall, PE. Mr. Reis gave a brief overview of the application to the Council stating that the applicant wished to construct a 4’ x 120’ residential boating facility to extend 75’ beyond Mean Low Water requiring a 25-foot length variance. Mr. Reis stated that an ACOE approval had been received but that objections had been received during the public notice period. Mr. Reis stated that the owner had alleviated one of the objections by removing the anchoring devices from the seawall that is shared with the objector but this did not alleviate her objections. Mr. Reis stated that staff has no objections to the project. Mr. Affigne asked about the effects of chromated copper arsenate (CCA). Mr. Reis explained that the coastal program allows the presence of CCA as the contamination would be limited to the area of pile penetration. Mr. Scott stated that the owner was there to answer questions of Council and that they would rest on staff comments. Karen Ann Collins was sworn in and identified herself as living at 587 Shore Acres Avenue. Ms. Collins distributed a packet of photos to Council that were already part of the record. Ms. Collins explained her objections stating that her main objection was to the integrity of the seawall that had been built when her grandfather owned the property. Ms. Collins also expressed concern regarding the aesthetic value of the surrounding area. Mr. Reis stated that the area was Type 2 waters in which docks are allowed, staff considered objections and weighed them against the program and believe that the project is consistent with the program. Vice Chair Lemont asked about the CRMC consideration regarding the Harbor Commission and Town Council views. Mr. Reis stated that CRMC most definitely considers local perspective but that the objection was not very specific in nature. Vice Chair Lemont motioned for approval, seconded by Mr. Gomez. Motion carried on a unanimous voice vote with one abstention from Mr. Affigne.

2011-10-019 HIGH TIDES, LLC – Subdivide AP 81-3, Lot 52 in South Kingstown into 41 lots. 40 lots are to be used to site single-family residences serviced by public water and by individual denitrifying OWTS. The remaining lot is to be used as open space. The applicant proposes to construct approximately 2,350 lf of roadway and associated stormwater drainage facilities. Located at Gooseberry Road, South Kingstown, RI.

Donald Packer, Esq representing applicant, Ann Fiore. Also present area: Scott Rabideau, NRS, John Carter, Landscape Architect, and Eric Prive, DiPrete Engineering. Mr. Reis gave brief overview of the application to the Council stating that the applicant wished to subdivide a piece of property into 41 lots to include 40 house lots with denitrifying septic systems and an open space lot

of recreational amenities. Mr. Reis stated that the project included roadways, surface settlement, public water lines, stormwater management practices and enhancement of wetland. Mr. Reis stated that the property is designated at lands developed beyond carrying capacity in the Salt Pond Special Area Management Plan but that the subdivision project meets requirements. Mr. Reis stated that the Homeowners' Association document will be proposed as a condition by staff because of the stormwater facilities need for maintenance by homeowners. Mr. Reis stated that the Town issued final approvals before homeowner's documents could be put together, so CRMC has agreed to a 120-day period to allow the Town to go through their final permitting. Mr. Reis stated that staff had reviewed the project determining consistency with the coastal program and recommended approval. Mr. Packer made brief opening statement introducing applicants representatives and informing Council that seven of the 40 home sites will be affordable/restricted pursuant to the Town of South Kingstown. Mr. Prive, PE with DiPrete Engineering explained the project to the Council in greater detail explaining that the subdivision would have 32 lots with 7 lots as affordable and one lot adding to the open space of 18 acres; landscaping and improvements to the existing pond which is groundwater. Jonathon Cornwell, abutter, asked for clarification regarding his property on the plans. Mr. Prive stated that the dotted line shown crossing the Cornwell's lot is the 150 foot line from the wetlands that is required by the Town. Katie Lewis was present to read a statement from owner of property of 147 Gooseberry Road, South Kingstown, RI. Ms. Lewis read statement which asked for clarification of drainage as there is the potential for the property at 147 Gooseberry Road to have a high water table. Ms. Lewis read that the increased traffic could make it difficult to exit the driveway safely. Mr. Reis explained that the runoff was being contained 100% on site and that the only impact could be from the Town water going into the septic systems but with the numbers he had seen it did not appear to make an impact. Mr. Gagnon inquired as to the depth of the groundwater that the septic systems were designed to. Mr. Prive stated that they were all conventional systems and that the depth was approximately eight feet. With no further comments or questions, Chair Livingston asks for motion. Mr. Coia motioned for approval, seconded by Vice Chair Lemont. Motion carried on unanimous voice vote.

6. PUBLIC HEARING ON PROGRAM CHANGES TO THE RI CRMP:

Management Procedures - Revise Section 4.3.1 Schedule of Fees/Determination Requests

Chair Livingston opened the public hearing on the program changes. Mr. Fugate gave a brief overview of the proposed changes to the Council stating that the first change is to the fee schedule adding a \$300.00 fee for a coastal feature verification. With no comments heard, Mr. Coia motioned to close the public hearing, with a second from Vice Chair Lemont. Motion carried. Mr. Coia motioned, seconded by Vice Chair Lemont, to approve program changes. Motion carried on a unanimous voice vote.

RICRMP (Redbook) - Revise Section 100, Table 1 and Type 6 water activity matrix

Chair Livingston opened the public hearing on program changes to RICRMP. Mr. Fugate gave a brief overview of the proposed changes to the Council stating that the changes were to clean up the language and clarifying language in the existing table. With no comments heard, Mr. Coia motioned, seconded by Vice Chair Lemont and Mr. Hudner to close the public hearing. Motion carried. Mr. Coia motioned, seconded by Vice Chair Lemont, to approve program changes. Motion carried on a unanimous voice vote.

7. ENFORCEMENT REPORT – January 2012
CATEGORY “A” LIST

None were held.

Mr. Affigne asked for status on the enforcement regulations statute. Mr. Fugate informed the Council that the statute had been introduced and was going through the process. Chair Livingston explained that the change included the increase of administrative penalties. Mr. Goldman stated the increase was for \$10,000 for the single violation and \$20,000 for the aggregate, max.

Mr. Hudner expressed his appreciation to staff regarding their participation and work on the agenda's applications.

8. ADJOURN

Vice Chair Lemont motioned, seconded by Mr. Coia, to adjourn. Motion carried on unanimous voice vote. Meeting adjourned at 7:30 p.m.

Respectfully submitted,

Lisa A. Turner
Recording Secretary