

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Wednesday, June 26, 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
Raymond Coia
Ronald Gagnon
Donald Gomez
Tony Affigne
Mike Hudner
Jerry Sahagian

Staff Present

Grover J. Fugate, Executive Director
Jeffrey M. Willis, Deputy Director
Richard Lucia, Prin Civil Engineer
David Beutel, Aquaculture Coordinator

Brian Goldman, Esq.

Members Excused

Dave Abedon
Guillaume de Ramel

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

Vice Chair Lemont motioned, seconded by Mr. Coia, approval of the minutes from the June 12, 2012 Semimonthly meeting. Motion carried on unanimous voice vote.

3. SUBCOMMITTEE REPORTS

Vice Chair Lemont reported that Administrative Fine Hearings were held on Friday, June 22, 2012 where three cases were resolved. Vice Chair Lemont stated that the Administrative Fine cases were all caught up.

4. STAFF REPORTS

Mr. Fugate reported to the Council on the following items:

- Ms. Dwyer sent out a press release as part of an on-going invasive species program Logo Design Contest.
- A Conference is scheduled on August 17th for the Invasive Species Program.
- The Bureau of Ocean Management, Dept of the Interior will be having a series of public workshops in RI on July 16th at the URI Bay Campus in the Coastal Institute. The workshop subjects are Habitat Advisory Committee, Fisherman's Advisory Committee, a General Public information session on the Environmental Assessment.
- Mr. Fugate explained the progress of the Deep Water Wind application process.

- Mr. Fugate announced that a Stakeholder’s meeting was held on the research agenda for the OSAMP. Mr. Fugate stated that the stakeholders were given 60 days to comment on the research agenda, then it will go before the OSAMP Subcommittee and then it will come before the Full Council for ratification and adoption into the Appendices for the OSAMP. Mr. Fugate stated that the Fishery Mitigation report is working its way through the comment process.

Chair Livingston went through the Agenda for applicant attendance.

5. RATIFICATION BY THE COUNCIL OF CRMC EXECUTIVE DIRECTOR'S FEDERAL CONSISTENCY DETERMINATION:

2012-01-027 RHODE ISLAND AIRPORT CORPORATION -- TF Green Airport – Extension of Runway 5-23 approximately 1530 feet south for a total runway length of 8700 feet and the relocation of Main Avenue to the south to facilitate the extension at the Runway 5 end. In addition, Runway 16-34 safety enhancements will require a partial relocation of Airport Road 100 feet north of the current intersection with Post Road to accommodate the installation of engineered materials arresting system (EMAS). EMAS will also be installed at the Runway 5 end to reduce the degree of relocation needed for Main Avenue. The safety improvements to Runway 34 end, which include EMAS, necessitate the placement of fill material into approximately 5.0 acres of freshwater wetlands that form the headwaters of Buckeye Brook. The proposed wetland fill activity triggers both federal (USACE) and state (RIDEM) wetland permit requirements. Located at 2000 Post Road, Warwick, Rhode Island.

Kevin Dillon, Executive Director of the Rhode Island Airport Corporation, Kendra Beaver, RIAC Environmental Compliance Officer, and Sue Moberg, Consultant, were present for the application. Mr. Boyd gave a brief overview of the application summarizing the staff report and also stated that the draft letter to ACOE from Executive Director was in the record as well as responses to comments received related to the project from City of Warwick and from Richard Langseth of the Greenwich Bay Watershed Association. Mr. Boyd stated that the project would have no direct impacts on any coastal resources but that the project is in a coastal community and a portion of the project is within the Greenwich Bay watershed area pulling in a review from The Greenwich Bay SAMP. Mr. Boyd stated that the project involved alteration of freshwater wetlands at the Runway 34 end as a result of the improvements that are being done on the extension of the runways. Mr. Boyd stated that all the wetland impacts will be issued a State permit by the RIDEM as well as the ACOE. Mr. Boyd stated based on his review of the project documentation and submittals, it was determined that the project is consistent and therefore he recommended to the Executive Director that a positive consistency determination should be issued.

Mr. Goldman explained the purpose of the ratification of the Executive Director’s decision for positive consistency determination saying that it was before the Council as it is considered a high-profile case.

Vice Chair Lemont asked about the previous delay in review of the application and whether or not new information had been submitted. Mr. Boyd stated that no new information had been received and explained the reasons for the delays. Vice Chair Lemont motioned approval to ratify the Executive Director’s determination of consistency. Mr. Gomez seconded the motion. The motion was put on hold for discussion.

Mr. Affigne asked about the comments received. Mr. Boyd explained that the City of Warwick was concerned about the secondary impacts from stormwater runoff. Mr. Boyd stated that all concerns were addressed satisfactorily and that the City has resolved its differences with RIAC through a Memorandum of Agreement and withdrawal of its appeal of the FAA Record of Decision.

Vice Chair Lemont motioned, seconded by Mr. Hudner, for the ratification of positive consistency determination of the Executive Director. Motion carried on a unanimous voice vote.

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

2009-06-090 H. H. ACQUISITIONS CORP. -- The existing crushed stone roadway (Church's Lane) will be augmented with a layer of gravel creating an even 12' wide roadway. The on-site end of this improved roadway will include a 20' wide emergency vehicle turnaround. In addition two (2) 10' wide shoulder turn-offs will be created. These improvements to Church's Lane are being proposed to provide access to a proposed dwelling. The improvements to the roadway will require alterations to 13,296 square feet of freshwater wetlands. The project will incorporate creation of wetland replication area because of this alteration. This wetland replacement area will be excavated to create a new continuous wetland (27,885 square feet). This replacement wetland is approximately 1,293 square feet larger than required (required is twice the size of impacted wetland or 26,592 square feet). A variance to RICRMP Section 100.4.(F.1) is required. Specifically, filling, removing or grading of any tributary wetland is prohibited. However, an exception to this prohibition may be permitted by the council "where filling is required to access otherwise buildable land and where no other reasonable alternative for access exists and when the applicant has satisfied the variance burdens of proof set forth in Section 120 of the RICRMP" (RICRMP Section 120, Variances). Located at plat 5, lot 36, 38; 120 Church's Lane, Little Compton, RI.

Michael Hudner recused himself from the Council. There was discussion on Mr. Hudner representing himself. Mr. Goldman stated that Mr. Hudner would have to be represented by either an Attorney or a member of family; Mr. Rabideau could not represent him. Other options were considered, such as letting the record stand for itself and voting based on documented information or giving authority to the Executive Director to review application. Application continued to the July meeting.

2011-11-021 CURTIS JACKSON -- Construct and maintain a three acre aquaculture lease in Bluebell Cove, Portsmouth. The operation plan is for clams under tents, and oysters in bags on a bottom longline. Please see the attached documents for the plan and location. Located in Bluebell Cove, Portsmouth, RI.

Mr. Jackson was present. Mr. Beutel gave brief overview of application stating that the applicant was proposing a one acre aquaculture lease to grow soft shell clams, steamers and oysters. Mr. Beutel stated that steamers are a new species to be grown in aquaculture in Rhode Island. Mr. Beutel stated that the operation would be located in Blue Bell Cove about 200 yards away from the shellfish closure warning. Mr. Beutel stated that both the RI Shell Fishermen's Association and the Shellfish Advisory Committee voted to object to the proposal and that Mr. Jackson brought the project to the Marine Fisheries Council who voted to offer no objection to the application. Mr. Jackson was sworn in and identified himself for the record and gave a brief background on himself. Mr. Coia motioned, seconded by Mr. Hudner, for the approval of application. Motion carried on unanimous voice vote.

2012-02-041 MICHAEL & LAUREEN COSTA -- Construct and maintain a residential boating facility consisting of a 4 ft. wide by 97.5 ft. long fixed timber pier that leads to a ramp that leads to a 7.5 ft. by 20 ft. terminal float. The proposed facility is to extend 102 ft. seaward of the cited Mean Low Water mark, and therefore requires the issue of a variance for RICRMP dock standard 300.4.E.3.I. Located at plat 123, lot 11, 12; 70 Everett Avenue, Bristol, RI

Michael and Lauren Costa were present. Mr. Willis gave a brief overview of the application to the Council stating that the applicant proposed to build a residential boating facility in the Kickemuit River,

which is designated as Type 2 waters. Mr. Willis stated that the dock would extend 102 feet beyond mean low water. Mr. Willis stated that there was a letter in the file from the harbor master stating that there would be no interference with moorings in the area. Mr. Willis stated that staff recommended approval of dock application. Mr. Costa was sworn in and identified himself for the record. Chair Livingston asked for clarification on the reasons for the dock length. Mr. Costa stated the length was required for water depth. Mr. Costa asked if they could reorient the landward side of the dock a few feet to the south to make the structure more perpendicular. Mr. Willis stated that the request to reorient the dock would require revised plans from the engineer. Mr. Fugate stated that the sideline setbacks would have to be met. Mr. Costa explained that the dock was configured that way for aesthetic purposes. Mr. Costa opted to keep the dock orientation as is on the plans. Mr. Coia motioned, seconded by Mr. Affigne, to approve the dock application.

7. **Public Hearing on Changes to the Rhode Island Coastal Resources Management Program:**

RICRMP Section 300.7. -- Construction of Shoreline Protection Facilities

Modify 300.7.A.1 as follows:

1. Structural shoreline protection facilities include revetments, bulkheads, seawalls, groins, breakwaters, jetties, and other structures, the purpose or effect of which is to control the erosion of coastal features, [and includes any sheet pile walls, concrete or stone walls, or other structures that are located within the 50-foot minimum setback or the erosion setback pursuant to Section 140 and which would extend to a depth below grade to protect land or structures from active or future shoreline erosion.](#)

Add new 300.7.B.4 as follows:

[4. Any sheet pile walls, concrete or stone walls, or other structures that are located within the 50-foot minimum setback or the erosion setback pursuant to Section 140 and which would extend to a depth below grade to protect land or structures from active or future shoreline erosion shall be defined as a structural shoreline protection facility. Such facilities shall comply with the policies, prerequisites, prohibitions, and standards herein.](#)

Modify 300.7.C.1 as follows

1. Permits for projects with structural shoreline protection facilities located below mean high water must be obtained concurrently from the Army Corps of Engineers and the CRMC. Council and Army Corps requirements are designed to complement one another; applicants should consider the requirements of both agencies when beginning the permit process. In some cases, the Council may require an applicant to obtain applicable Army Corps of Engineers permits prior to applying to the Council. A CRMC Assent is not valid unless the applicant has received all required Army Corps of Engineers approvals. [For purposes of federal consistency the CRMC shall require applicants to submit a copy of the completed Army Corps of Engineers application to partially fulfill the federal requirements pursuant to 15 CFR § 930.](#)

The purpose of these proposed changes are to define certain structures within CRMC defined setbacks as structural shoreline protection facilities, and provide specific requirements for federal consistency activities involving structural shoreline protection.

Mr. Boyd gave a brief overview of the changes to Section 300.7 Structural Shoreline protection stating that the change would define certain structures located within CRMC setbacks, whether it's the 50' setback or an erosion setback, whichever distance is greater. If the structures are designed to a depth below grade that would provide protection from shoreline erosion at a future date, they would be defined as a structural shoreline protection and they would be subject to any prohibitions or any other standards in the program.

Mr. Boyd stated that comments were received from Jane Austin of Save The Bay stating that they had reservations about things like landscape walls or stonewalls that might be installed within the 50' area and then coming back in later saying its structural shoreline protection. Mr. Boyd alleviated their concerns by saying that such a wall would not be constructed to a depth to provide protection at a future date once the erosion met that particular point. Mr. Gagnon asked if this program change would allow for new technology type protection features. Mr. Boyd stated that without knowing the exact technologies, he did not believe that the experimental technologies that were used around the world and are installed basically in the surf zone for trapping sediment would not fit within this definition. Chair Livingston closed the public hearing. Mr. Hudner motioned, seconded by Mr. Coia, to approve program changes. Motion carried on a unanimous voice vote.

8. COASTAL EDUCATION SERIES

John Torgan, Director of Ocean and Coastal Conservation, The Nature Conservancy

Mr. Torgan began by thanking the Council for service to RI and recognition of the CRMC staff. Mr. Torgan went on to educate the Council on The Nature Conservancy's programs and how they interact with the CRMC.

9. CATEGORY "A" LIST/ ENFORCEMENT REPORT

None were held.

10. ADJOURN

Mr. Hudner motioned, seconded by Vice Chair Lemont, to adjourn. Motion carried on unanimous voice vote. Meeting adjourned at 7:15 p.m.

Respectfully submitted,
Lisa A. Turner, Recording Secretary