

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, September 25, 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
David Abedon
Ronald Gagnon
Raymond Coia
Michael Hudner
Tony Affigne
Guillaume deRamel
Donald Gomez

Staff Present

Grover J. Fugate, Executive Director
Jeffrey M. Willis, Deputy Director
David S. Reis, Spv Environmental Scientist
Richard Lucia, Prin Civil Engineer

John Longo, Esq.

Members Excused

Jerry Sahagian

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. Gomez, approval of the minutes from the September 11, 2012 Semimonthly meeting. Motion carried on unanimous voice vote.

3. SUBCOMMITTEE REPORTS

Vice Chair Lemont read out the following program revisions that were approved by the CRMC Planning & Procedures Subcommittee at its September 18, 2012 meeting and are recommended for Council concurrence to begin the rule-making process:

Management Procedures

(1) Section 5.9 – Presentation of Expert and Lay Testimony – modify Section 5.9

Purpose: To add requirement for all interested parties in a Council application or matter to provide a list of witnesses and subject matter intended to be presented to Council or subcommittee.

RI Coastal Resources Management Program (“Red Book”)

(2) Section 210.2 – Barrier Islands and Spits – delete in its entirety Section 210.2.D.9 and modify Section 210.2.D.5.

Purpose: To combine utility/infrastructure prohibitions on barriers and add stormwater drainage improvement projects as an allowable activity on barriers provided such projects serve a state need and provide public benefit.

(3) Section 130 – Special Exceptions – modify Section 130.A.1(a)

Purpose: To correct section reference consistent with 210.2.D.5.

(4) Section 210.3 – Coastal Wetlands – modify Sections 210.3.B (Findings) and 210.3.C (Policies), and add new Section 210.3.D (Prohibitions)

Purpose: To add new findings and Council goals regarding coastal buffer zones and add a new prohibition section consistent with existing policies.

Vice Chair Lemont also reported that he chaired a regularly scheduled ROW Subcommittee meeting prior to the Semimonthly Meeting and that three ROW in the Town of North Kingstown would soon be put up for publication, vote and adoption leading to three new CRMC designated ROWs. Mr. Affigne asked for an update on the Fox Point ROW. Mr. Reis stated that permits were issued for the boat ramp and parking area and they are working on the stormwater treatment system and putting bids out for the construction.

4. STAFF REPORTS

Mr. Fugate reported out a few items:

On October 4, 2012 there will be a joint conference sponsored by Save The Bay and Roger Williams University regarding legal issues associated with climate change and that all the Council members are invited to attend.

On November 14th and 15th Roger Williams University would be sponsoring a two day symposium on climate change and how it affects the law called the Changing Seas.

The Moore Foundation released a video on the international symposium on planning that was held in Rhode Island. National and international participants were interviewed asking about their experience and what they saw as benefits of marine spatial planning. The video is called “Critical Resources” and can be found on YouTube. Mr. Fugate stated that two other videos would be posted as well, one on fisheries and one on marine spatial planning.

5. Applications Which Have Been Out-to-Notice for 30 days and are Before the Full Council for Decision:

2012-03-016 PETER AND KATHLEEN HENDRICKS -- Construct and maintain a 150 linear foot riprap revetment in the location of a coastal bluff. Armor stone will be placed from its existing toe to approximately 9’ up the coastal bluff. The remaining portion of the bluff will be replanted with native vegetation. Located at plat 42A, lot 72; 38 Lambie Circle, Portsmouth, RI.

Mr. Lucia gave a brief overview of the application to the Council explaining that the project was to construct a 150-linear foot riprap revetment placing armor stone approximately nine feet up the coastal bluff starting on the existing toe with the remainder of the bluff replanted with *rosa rugosa*. Mr. Lucia stated that no objections were received during the public comment period. Mr. Lucia stated

that the area was a stable location with very small erosion rate. Mr. Lucia explained that *rosa rugosa* is a non-native species and is not considered an appropriate species for mitigation to replace a heavily wooded coastal bluff. Mr. Lucia stated that the Council regulations favor nonstructural protection methods for controlling erosion such as stabilization with vegetation and beach nourishment. Mr. Lucia stated that the applicants had not submitted a preliminary determination prior to the application submittal nor was there a pre-application meeting prior to the application submittal. Mr. Lucia stated that it was the opinion of the biologist, geologist and engineer that the applicant had not exhausted all alternatives and that staff recommended denial of the application as proposed. Vice Chair Lemont inquired as to why the CRMC staff and applicant did not resolve the issue prior to sending the application for denial on the Council level. Mr. Lucia stated that staff was at a standstill because contact with the consultant still resulted in the applicant wanting to go through with rip-rapping the toe and planting the top of it with *rosa rugosa*. Mr. Fugate stated that the staff suggested that the applicant try using coir logs on the three foot erosive scarp. Mr. Fugate explained that the coir logs can be planted with vegetation and will stabilize the area for a period of time to allow the vegetative root system to take over. Mr. Fugate stated that the coir logs have been successful in certain areas with the same erosion rate and that he felt it was a viable alternative. Mr. Fugate stated that the use of invasive species as vegetative cover did not seem to be the way to go. Mr. Gomez asked if there was a compromise that could be agreed to and talked of his familiarity of the area. Mr. Gomez recognized in his review of the material that there was other riprap in the area and a precedent would not be set if this project was approved, but that he agreed with the Vice Chair that perhaps something could be worked out. Mr. Fugate stated that CRMC staff would like to see a smaller solution than what's being proposed, still preserving the slope and protecting the toe of the slope. Mr. Fugate explained that the maintenance of the coir logs depended on the storm activity of the area which is unpredictable; if the vegetation has a chance to get established it will hold but if a heavy storm activity comes through it could still sustain some damage. Mr. Reis stated that there was a coir log erosion control project on Warren's Point in Little Compton that had held up pretty well and that the Clambake Club in Newport, RI has had success with them. Mr. Reis also agreed that in some places the coir logs fail depending on the storm environment. Mr. Reis stated that Bayberry, Arrowwood, *Baccharis* all work well as plantings; anything typical to the shoreline. Mr. Reis explained that the coir logs are packed with soil, and soil is packed in between the logs for the vegetation to grow in and the root system goes into the coir logs creating a massive structure of interlocked roots. Mr. Gomez asked what would happen to the abutting property owner's land. Mr. Reis stated that soft solutions would not damage the abutting properties in regular storms but that damage would occur in any instance (armor or soft) from a strong storm activity. Mr. Gomez asked if the shoreline studies would include Sakonnet River at some point. Mr. Fugate stated that the SAMP is a three year process and that the Sakonnet would be phase III. Mr. Fugate explained what happens to areas with riprap revetment saying that the small sediment within the beachfront usually disappears leaving a coarse cobble which could eventually create public access issues as the shorelines on either side of the revetment recede. Mr. Reis offered that in certain area they have done applications that use a riprap toe protection and above the coir logs with plantings to try to preserve as much of the natural vegetation as possible. Mr. Reis stated that the hybrid solution works well and can be negotiated. Mr. Reis stated that the only other concern would be construction and how the stone would get to the shore-face without destroying the entire bluff. Mr. Affigne inquired as to why the applicant did not continue discussion with staff. Mr. Lucia stated that the applicant felt that the soft solution would not work. Mr. Lucia stated that he thought the solution had the potential of working. Mr. Affigne expresses his curiosity as to why the applicant would choose to face a denial recommendation on the Council level rather than working with staff. Mr. Gomez expressed concern with the break down in communications between the staff and the applicants. Mr. Fugate stated that if the applicants choose to renegotiate with staff and agree to the hybrid solution, it would be a Category B application

requiring a Council vote unless the Council signs off on a hybrid solution now. Mr. Longo talked with the applicants and their consultant and explained to the Council that the applicant would like to continue their application so that they have the opportunity to meet with CRMC staff. Vice Chair Lemont motioned, seconded by Mr. Gomez, to continue the application for two to four weeks and hopefully it can be resolved on the staff level. Motion carried on a unanimous voice vote.

2008-01-075 JAMES AND REBECCA DURKIN – Demolish existing residence and to construct a 4 bedroom residence serviced by a denitrifying OWTS and by public water; to install a new driveway and a stormwater infiltration system. Located Plat Y-1, lot 111, 112, and 113; 36 Cedar Island Road, Narragansett, RI.

Chair Livingston explained that a continuance request had been received and granted.

6. FY2014 State Budget Presentation

Chair Livingston introduced discussion on the Fiscal Year 2014 budget stating that a draft was submitted on Thursday, September 20th. Mr. Fugate stated that the matrix of the budget and the data were given to the CRMC analyst. Mr. Fugate confirmed that the narrative could still be changed. Mr. Fugate briefed the Council on the main points of the budget stating that operational costs comes out of the Federal budget and that the State budget account is basically salaries along with funding for legal and consultants. Mr. Fugate stated that the State is looking for a seven percent reduction on all agencies parts which unfortunately will result in layoffs which would affect 17% of CRMC compliment. Mr. Fugate stated that the CRMC budget proposed alternatives and are going in requesting the current service level to maintain operations. Mr. Fugate stated that the workload of the Council is going to exceed past years and place a tremendous strain on existing resources. Mr. Fugate stated that the Block Island project was submitted, an offshore project dealing with a potential lease sale, and ramping up on the Beach SAMP. Mr. Fugate stated that they have proposed the layoffs that would be necessary but that a request was also submitted that they not go forward with them and to give current service levels. Mr. Fugate stated that the budget also asked for new positions to handle to additional workload given to CRMC over the past years, but due to budget cycles we've been in, there has been no hope of getting the positions. Mr. Fugate explained that the positions lost in the past five years were mainly in the permitting section but that two were lost in the policy section. Mr. Fugate explained that Capital monies were for infrastructure related projects and could not be used for personnel expenses. Vice Chair Lemont asked what the Council could do to help. Mr. Fugate asked the Council to talk to their contacts in the General Assembly. Chair Livingston explained that at the end of last legislative session, they were asking CRMC to take over the Climate Change Agency Commission and CRMC asked them to veto it as it did not come with any more funds in the budget, and CRMC did not have the staff to handle such an endeavor. Mr. Affigne agreed with Vice Chair Lemont and asked for focused leadership on who to call and when to call. Mr. Fugate stated that they needed \$1.4 million for the three year SAMP effort and that seeking new Federal sources of funding has come to a halt. Mr. Affigne gave his perspective on the Federal budget process and reiterated his stance that the Council helps in the appropriate arenas. Mr. Fugate talked about the coastal areas of the state being the most economically vibrant sections and that the Block Island project alone will bring \$320 million into the economy. Mr. Fugate stated that there were other options such as looking at managing the revenues better to makeup for the shortfall. Chair Livingston stated that the Council members could ask for the constrained budget and Mr. Affigne added that they should advocate specific incremental increases in line items of the constrained budget.

Chair Livingston suggested that the Council revisit the budget in two weeks and asked Mr. Fugate to have a briefer narrative. Mr. Affigne asked if the legislative budget discussion could be placed on the next P &

P Subcommittee meeting agenda. Mr. Hudner expressed his state economical views and suggested using revenue or user fees of some sort. Mr. Fugate agreed that if you get revenue sources to offset the cost that you're going to cut, they would be more apt to listen and make budget adjustment. Chair Livingston stated that the Council should be doing more lobbying and get the word out as a Council and that she and Mr. Fugate would try to come up with a more strategic plan. Mr. Affigne asked for a list of legislators whose district includes a coastline. Mr. deRamel suggested asking Save The Bay, CLF and the like for help in getting a budget increase. Mr. Fugate stated that the suggested organizations have lobbied for CRMC in the past but that usually we can get by being such a small agency and it doesn't make sense to make a lot of cuts. Mr. Fugate stated that 70% of CRMC staff has statutory status which means if they are layed off due to CRMC budget cuts, they end up displacing another state employee with less seniority and without the knowledge to do that particular job. Mr. Gomez commented on the large value of corporate knowledge of the more senior employees. Vice Chair Lemont asked about the organizational chart. Mr. Willis stated that the organizational chart would be amended as requested

Vice Chair Lemont explained the Council's budget approval process as in the past stating that a few members of the Council would meet with the executive director and go over the budget line item by line item. Chair Livingston stated that she felt it was important for the entire Council body to have knowledge of the budget.

Mr. Affigne requested that the Budget be on the next P & P Subcommittee meeting for discussion. It was decided to have the budget discussion on the subcommittee level on October 16th at 8:30 a.m.

Mr. Gomez asked to see the numbers for the leverage the State gets from CRMC during their budget discussion.

Answering a Council members' inquiry, Mr. Fugate stated that the Champlin's case would be discussed at the next Executive Session.

7. CATEGORY "A" LIST/ ENFORCEMENT REPORT

None were held.

Mr. Coia led the Council in a moment of silence for the Joseph Paolino, Sr, former CRMC Council member. Mr. Affigne asked that a letter of condolence be sent to Joseph Paolino, Jr. and family.

8. ADJOURN

Vice Chair Lemont motioned, seconded by Mr. Coia, for the meeting to be adjourned at 7:20 p.m.

Respectfully submitted,
Lisa A. Turner, Recording Secretary