

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, November 27, 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
Donald Gomez
Michael Hudner
Tony Affigne
Guillaume deRamel
Jerry Sahagian

Staff Present

Grover J. Fugate, Executive Director
Jeffrey M. Willis, Deputy Director
Kenneth W. Anderson, Spv Civil Engineer
Jim Boyd, Coastal Policy Analyst

Brian A. Goldman, Esq.

Members Excused

Raymond Coia

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. Hudner, approval of the minutes from the November 13, 2012 Semimonthly meeting. Motion carried on unanimous voice vote.

3. SUBCOMMITTEE REPORTS

None

4. STAFF REPORTS

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

A meeting was held of the Regional Planning Body that was formed by executive order that creates the National Coastal Council under President Obama consisting of 20+/- states that conduct regulation of coastal areas with appointments to the Council from senior level of each agency. Mr. Fugate stated that he and Janet Coit, Director of RIDEM were nominated by Governor Chaffee to represent Rhode Island. Mr. Fugate stated that a regional marine spatial plan will be developed. Mr. Fugate stated that he was elected to be the lead for the New England Regional states and that he is also the State lead for the Ocean Planning Committee for the NE Regional Ocean Council.

The Town Manager of Westerly has asked for a meeting with CRMC and DEM which was scheduled for Wednesday, November 28, 2012 at 6:00 p.m. in Westerly to discuss redevelopment issues of the commercial interests in the Misquamicut area. Mr. Fugate stated that Greg Baribault, Chair Livingston and himself would be attending.

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

2012-07-001 SAKONNET POINT CLUB -- Relocate Reverse Osmosis (RO) discharge outfall to Sakonnet Harbor. Located at plat 9, lot 434-1; 11 Bluff head Avenue, Little Compton, RI.

Mr. Anderson gave a brief overview of the application to the Council stating that the request was to relocate the discharge from an approved small desalination unit which discharged into the Sakonnet River and was damaged multiple times from different storm events. Mr. Anderson stated that the application was for relocation from Sakonnet River to Sakonnet Harbor with a better design. Mr. Anderson stated that the applicant had secured the appropriate approvals from RIDEM RIPDEC and Water Quality Certification was pending. Mr. Anderson stated that there were no objections from CRMC staff. Mr. Sahagian inquired as to permitting stipulations. Mr. Anderson stated that standard stipulations would be sufficient with the approved set of plans outlining construction methods. Vice Chair Lemont asked about the possibility of diminished value of water if the discharge were not out where the tide moved quickly. Mr. Anderson stated that the RIDEM RIPDES permit covered that issue and that it was concluded that it is acceptable based on flow rate and discharge volume. Mr. Gagnon stated that the diffuser or larger which will spread the discharge out to get a lot of mixing with the water. Mr. Goldman explained that a comment was received regarding the CRMC notification process and was concerned that the owner of the abutting marina was notified but not each individual boat owner at the marina. Mr. Sahagian, seconded by Vice Chair Lemont, motioned to approve the application with staff stipulations.

Kelly Sheridan of the Sakonnet Point Club was present to answer questions. Mr. Sheridan stated that the club has not received any storm damage but the outflow pipe that runs underneath the ground was damaged in two successive storms and the system had to be shut down leaving the marina without a water source. Mr. Sheridan explained that series of events leading to the relocation application such as getting data about flushing in the harbor and checking the well water. Mr. Sheridan explained that commercial fishermen were informed and all their concerns were satisfied.

Motion carried on a unanimous voice vote with Mr. Hudner and Mr. Gomez abstaining from the vote.

6. PUBLIC HEARING ON PROGRAM CHANGES TO THE RHODE ISLAND COASTAL RESOURCES MANAGEMENT PROGRAM:

Mr. Boyd began by stating that a comment was received from Jane Austin of Save the Bay and so the CRMC staff asked to proceed with Management Procedures 5.9 and RICRMP Section 210.3 by asked the Council to allow a withdrawal of Section 130 and 210.2 and approve a renote of 210.2.D.9 as all can be accomplished in the one change to 210.2.D.9.

Management Procedures

Section 5.9 - Presentation of Expert and Lay Testimony -- Revise 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.

Mr. Goldman explained the reasoning behind the update to Management Procedures 5.9 by stating that due to circumstances in which objectors who have not formally intervened in a matter have come before the Council represented by a lawyer and brought witnesses to testify but there had been no prior notice that witnesses were being brought in. Mr. Goldman stated that under the regs, the attorneys are supposed to give the Council five days notice prior to the meeting as to who the witnesses are going to be. Mr.

Goldman stated that the change was to benefit CRMC staff so that they may be available to respond in the event witnesses are brought forth to testify. Discussion on the interpretation of “interested parties” and “expert witnesses.” Mr. Goldman stated that the change was not meant to prevent the general public from coming and giving testimony but for those who come represented by legal Counsel to present evidence refuting staff reports and creating the need to possibly continue the application so staff can review the evidence. Mr. Affigne suggested language clarification by Policy and Planning Subcommittee. Chair Livingston opened the public hearing. Ms. Austin commented stating that Save the Bay’s concern is that the general public has the ability to appear before the Council without representation and providing notice before hand. Brian Wagner spoke, representing the Surfrider Foundation, stating that in some cases a five day notice may not be possible for smaller organizations who would like to provide educated comment to the Council. Mr. Wagner asked that the language be clarified and looked forward to reviewing the new language. Mr. Goldman stated that the change was meant to facilitate an orderly hearing process where everybody is informed. Chair Livingston remanded Section 5.9 back to Policy and Planning Subcommittee.

RI Coastal Resources Management Program - Redbook

Section 210.3 – Coastal wetlands -- Revise Section 210.3.B (Findings) and 210.3.C (Policies), and add new Section 210.3.D (Prohibitions) -- To add new findings and Council goals regarding coastal buffer zones and add a new prohibition section consistent with existing policies.

Mr. Boyd briefly stated that the changes proposed to Section 210.3 were house keeping changes to incorporate sea level rise wherever appropriate within various sections of the program. Mr. Boyd also stated that the existing prohibitions within the policy section were moved to a separate prohibition section. Mr. Boyd also stated that in Section 210.3.B.7 the word “compensation” would be changed to “mitigation: to be consistent with existing policy in Section 300.12. Mr. Affigne noted the Council’s goal that they “should” require a minimum 25-foot buffer on small lots would become a de-facto standard even in cases where the Council should impose a much larger buffer. Mr. Fugate explained that it was important for the Council to have flexibility and the Council agreed. Chair Livingston opened the public hearing. Ms. Austin of Save the Bay addressed the Council that they were withdrawing their concerns about this change after discussion with Mr. Boyd. Chair Livingston closed the public hearing. Vice Chair Lemont motioned, seconded by Mr. Hudner, to amend the policies as discussed. Motion carried on a unanimous voice vote.

7. CATEGORY “A” LIST/ ENFORCEMENT REPORT

None were held. Chair Livingston asked staff to research the history on why the Category “A” list appears on the Agenda.

8. ADJOURN

Vice Chair Lemont motioned, seconded by Mr. Hudner, for the meeting to be adjourned at 7:05 p.m.

Respectfully submitted,
Lisa A. Turner, Recording Secretary