

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, April 23, 2013 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
Donald Gomez
Ronald Gagnon, RIDEM
Jerry Sahagian
Tony Affigne
David Abedon

Staff Present

Jeffrey M. Willis, Deputy Director
David Reis, Spv Environmental Scientist
David Beutel, Aquaculture Coordinator
Brian Goldman, Esq.

Members Excused

Raymond Coia
Guillaume deRamel
Mike Hudner

1. **CALL TO ORDER**

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

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

Vice Chair Lemont motioned, seconded by Mr. Gomez, for approval of minutes from April 09, 2013 meeting. Motion carried on unanimous voice vote.

3. **SUBCOMMITTEE REPORTS**

There were none.

4. **STAFF REPORTS**

Mr. Willis reported to the Council on:

CRMC's Council/Staff Conference was held on Thursday, April 18th at the Alton Jones Conference Center and was very successful. The topics covered were Beach SAMP Development focusing on structure and format; Post Tropical Storm Sandy impacts on the development of the Beach SAMP which included discussion on the studies and research needed; and also legislative issues and bills being heard along with budgetary issues.

Grover Fugate, Executive Director of CRMC will be in DC tomorrow (04-24-2013) making a presentation in front of bipartisan Senate Ocean Caucus to discuss sea level rise, erosion issues, and issues that Sandy brought to RI to bring members of Congress up to speed on RI's coastline status.

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

2012-10-066 EAST BEACH FARMS, LLC – Aquaculture commercial viability permit for rack and cage oyster aquaculture to be located in Quonochontaug Pond, Charlestown, RI

Continued from the last meeting. In light of letter from DEM withdrawing their opposition to the application, which was confirmed by Mr. Gagnon, Vice Chair Lemont motioned to approve the application; seconded by Mr. Gomez. Motion carried with Mr. Affigne abstaining from the vote. Mr. Beutel informed the Council that CRMC and DEM are in the process of developing protocol on how to deal with future matters in which CRMC and DEM disagree on aquaculture projects.

6. ADMINISTRATIVE APPLICATIONS BEFORE THE COUNCIL FOR REVIEW:

2009-02-022 FREDERICK AND BETHANN VOGT -- Construct and maintain a two bedroom dwelling with OWTS, private gravel driveway and Town water service. Located at plat 2, lots 12 and 13; Mount View Terrace, Portsmouth, RI.

Mr. Reis gave a brief accounting of the application to the Council explaining that the applicant was combining two lots to create a lot of approximately 10,000 s.f., and asking to construct a single family dwelling of approximately 25.5 x 22 feet. Mr. Reis stated that the buffer requirement is met but that a variance would be needed for the setback requirement. Mr. Reis explained that CRMC staff believed that the buffer being provided would be more beneficial to the coastal feature as opposed to setback as the marsh this project abuts is a significant wetland complex. Staff supported applicant's request to reduce setback and not buffer. Mr. Reis explained that there is a concern regarding access to the property as the lot is on an island and the roadway that exists now which provides access is subject to tidal flooding and the road may need to be upgraded for fire access and emergency services at some point but that the fire dept issued a finding that the roadway does not need to be upgraded but dwelling will have advance fire alarm system. Mr. Reis stated that there were objections to the application one of which was from Save The Bay (represented by Tom Kutcher, Bay Keeper).

Joseph DeAngelis, Esq. was present to represent Mr. and Mrs. Vogt as well as Lynn Small, PE, Roger Lizotte, Registered Land Surveyor, and Scott Rabideau, Environmental Consultant.

Mr. DeAngelis pointed out that the application would have received an administrative approval if not for the objections filed and that the applicants concur with staff recommendation and that he and the professionals present were prepared to respond to objections received from both Save The Bay and the Common Fence Point Improvement Association.

Mr. DeAngelis explained that the nature of the objections were regarding whether the survey was correct. CRMC staff suggested that the lot be resurveyed and lot lines reset. The professional land surveyor provided survey documentation which was found to be correct by CRMC staff.

Mr. Willis explained a meeting notice issue which involved the Common Fence Point Improvement Association. Mr. Goldman stated that the CFPIA did not ask for a continuance and that the meeting could be held but staff would be more diligent with meeting notification.

Mr. Gomez asked for a clarification of the location of the project and clarification on the type of coastal feature. Mr. Reis explained that the lots were located on an island that is north of the main shoreline of the northernmost point of Common Fence Point and that the coastal feature is the edge of the salt marsh.

Ms. Small was sworn in and identified herself for the record as working for NE Engineers and talked about the project location using the site map to explain.

Mr. Lizotte was sworn in and identified himself for the record as a Land Surveyor working for Northeast Engineers. Mr. Lizotte explained the survey process used to verify the lot lines stating that there was an error by the draftsperson that did the original survey. Mr. Lizotte explained that there were concerns because the physical features on the survey map did not match what was on the ground. Mr. Lizotte stated that a new plan was done and he staked out the property corners and the dwelling on the site, staff went to verify and were satisfied.

Mr. Kutcher of Save The Bay was sworn in and identified himself for the record. Mr. Kutcher read his letter of comment dated 08-21-2012. Letter put on the record along with GIS overlay.

Mr. DeAngelis objected to the Save The Bay objection regarding the survey and expressed concern that the application was in the process for a period of a year because of the objections from Save The Bay and Common Fence Point Improvement Association. Mr. DeAngelis objected to the submittal of GIS map from Save The Bay. Vice Chair Lemont asked about Hurricane Carol pictures. Mr. Vogt is sworn in and identified himself for the record. Mr. Vogt explained the 1955 Hurricane picture and showed on the plan where the house was located in the photograph. Vice Chair Lemont expresses concern if another hurricane comes. Mr. Vogt stated that in 1985 when Gloria hit the house did well; not even the carpet got wet. Mr. DeAngelis explained that the FEMA regulations require house at elevation 17.

Mr. DeAngelis questions Mr. Vogt about the history of his private residence on property. Mr. Vogt explained that their home was destroyed by fire in 1997 and they have been trying to rebuild and comply with local and state regulations ever since.

Vice Chair Lemont is concerned with safety wants to make sure it will be built above grade. Ms. Small explained the FEMA requirements, assuring that the house will be built up above 100 year flood, and will require a wind load analysis.

Mr. Reis stated that that survey disagreement stems from the appearance that the CFPIA fence was built in the wrong location which would go right through the Vogt property but the CFPIA says that the house will be built on their property. Mr. DeAngelis contends that the issue of property boundaries would be for another forum.

Mr. Affigne asked for clarification of the FEMA regulations. Ms. Small explained that FEMA redid all maps in 2010 and further clarified the FEMA regulations as pertaining to the Vogt site. Mr. Affigne questioned the positioning of the house based on the change in the coastal shoreline in the coming years.

Mr. Reis explained that the coastal program contained Section 145 Climate Change and Sea Level Rise which contains policies but no standards. Mr. Reis stated that in the review of the house project on a very difficult lot, they fall back on whether it meets relevant standards and this one did except for the variance for the setback.

Chair Livingston questioned the height of the columns. Ms. Small stated that the column height of 9' meets the code and is common for any coastal site.

Jerry Sahagian motioned approval with all stipulations. Vice Chair Lemont seconded the motion. Mr. Gomez noted that the Portsmouth zoning board had approved the project. Chair Livingston stated that the assent will be recorded. Mr. Abedon questioned the Save The Bay pictures of the access road underwater. Mr. Reis stated that there are a few CRMC permitted sites that require boat access.

Mr. Affigne commented that he understands the application meets existing regulations and it may be legal but maybe not wise.

Motion carried on a unanimous voice vote.

7. ENFORCEMENT REPORT – March, 2013

None held.

8. ADJOURN

Vice Chair Lemont motioned, seconded by Mr. Gomez, to adjourn. Motion carried on unanimous voice vote. Meeting adjourned at 6:50 p.m.

Respectfully submitted,

Lisa A. Turner
Recording Secretary