

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, January 14, 2014 at 6:00 p.m. in Council Chambers, East Providence City Hall, 145 Taunton Avenue, East Providence, RI.

Members Present

Anne Maxwell Livingston, Chair
Paul Lemont, Vice Chair
Ronald Gagnon, RIDEM
Mike Hudner
Donald Gomez
Tony Affigne
Raymond Coia
Joy Montanaro

Staff Present

Grover J. Fugate, Executive Director
Jeffrey M. Willis, Deputy Director
Richard Lucia, Spv Civil Engineer

Brian A. Goldman, 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

Minutes should reflect Joy Montanaro's attendance. Mr. Coia motioned, seconded by Vice Chair Lemont, for approval of the minutes with attendance correction. Motion carried on a unanimous voice vote.

3. SUBCOMMITTEE REPORTS

None

4. STAFF REPORTS

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

Taylor Swift's seawall permitting process.

ACOE BOEHM meeting to start to plan to do surveys offshore RI for resources.

Deepwater Wind Block Island LLC Public Hearing by subcommittee meetings tentatively set for February 4, 2014 and February 24, 2014. The Council members should be getting Hearing information packages on January 24th which will include staff reports. There is a substantial amount of information to review but the majority of the information has been dispersed to members over the last year. Along with staff reports, will be information on the new Narragansett location as well.

Beach SAMP funding proposal of 9.2 million dollars in federal funding and grants being applied for.

Regional Planning Body meeting to be held on January 22 and 23 (Wed and Thur) in Massachusetts. Mr. Fugate is state lead for NE states.

Chair Livingston given letter from NRC amending an interagency agreement.

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

2013-01-029 ARNOLDA IMPROVEMENT CORP -- Construct and maintain: a homeowner's association residential boating facility consisting of a 3.5' x 20' access ramp, 4' x 75' fixed pier, a 3.5' x 15' ramp and two 4' x 18.5' floats. The existing property line will be moved to the east to accommodate the proposed boating facility. Located at plat 7, lot 39 and 41; Hunters Harbor Road, Charlestown, RI.

Mr. Lucia gave a brief overview of application to Council stating that the Homeowner's Association was requesting to build a residential dock to accommodate four boats and would off a Right-of-Way on Hunter Harbor Road. Mr. Lucia stated that CRMC staff recommended in their staff report that a stipulation be approved for the subdivision that this would be the final dock request for the development. Mr. Lucia stated that the Arnolda Improvement Corp agreed and a statement was given that it would be the last dock. Mr. Lucia stated that CRMC staff had no objection now to 4 boats at facility with the movement of the float. Mr. Lucia stated that an objection was received from the abutting property owner but that CRMC staff has no objections as the project stands.

Matthew Oliveira, Esq. was present to represent the Corporation along with the James Arnold, the president of the Corporation, and the project engineer. Mr. Oliveira explained that there was a Consent Decree in place (user agreement) by dock association stating that any boats that are tied up should be no longer than 16' give or take. Mr. Oliveira assured the Council that the Improvement Association's dock committee regulated dock issues for the corporation.

William Landry, Esq. was present representing Mr. and Mrs. Bailey, abutting property owners to the west of the proposed dock location, who sent a written objection to CRMC regarding the project requesting that the dock be repositioned further away from their boat. Mr. Landry stated that the Bailey's main concern was accessing the dock and parking as the Bailey's property abuts the ROW which is only 24' wide in front of their driveway leaving no room to exit their property if someone is parked on the ROW. Mr. Landry stated that the Bailey's were also concerned with construction equipment and pile drivers would not have the room to access the site; or storage of material. Mr. Landry asked if a stipulation would be considered that there be no unattended vehicles on the ROW at any time. Mr. Oliveira stated that there is a restriction on parking in the Association by-laws and that any parking violation would be handled by the association who has worked diligently in formulating and adjudicating the by-laws and for their members. Mr. Landry expressed concern regarding a significant amount of activity in a very confined area but that if the Arnolda Improvement Corp was sincere and planned to enforce the "no parking" by law perhaps CRMC could put something in the assent to prevent such problems.

The Council asked questions regarding the number of boats would be docked and accessing the dock. Mr. Lucia stated that the applicant had agreed to move the dock away from SAV and in doing so alleviated staff concerns on allowing 4 boats which would be accessed by a pick up and drop off scenario. Mr. Oliveira illustrated using map which was marked Arnolda #1 by Mr. Goldman.

Mr. Oliveira clarified that the Bailey's driveway is the subject of an easement on the property owned by association, so that they could access their property.

James H. Arnold was sworn in and identified himself for the record. Chair Livingston asked why 4 docks were needed. Mr. Arnold stated that even with 4 docks there are more homeowners that do not have access to use of ROW docks and that the ROW was set up in 1930 for dock use and for access to the beach. No other objectors came forward to speak when asked.

Chair Livingston stated that the problems presented were not a concern for CRMC regulations. Mr. Arnold reiterated that the parking arrangements were outlined in the consent decree.

Mr. Lemont motioned, seconded by both Mr. Coia and Mr. Hudner that the application be approved with Staff stipulations. Motion carried on unanimous voice vote.

2013-05-131 LUIS & DJAMILIA JUNCO -- Construct and maintain: "as-built" structural shoreline protection facility (ref. Cease & Desist Order No. 12-0031, dated 5/9/12) and proposed additional structural measures (additional slope protection at west end; additional toe protection; additional pinning of structural components); approx. 163 linear feet total length. Located at plat 369, lot 242; 105 Budlong Farm Road, Warwick, RI.

Mr. Willis gave a brief overview of the procedure as stipulated by the Council and was very pleased with the cooperation between the CRMC staff and the property owner as a issue had been resolved.

Mr. Lucia gave a brief overview of the project stating that the applicant had agreed to redesign the wall; remove concrete curbing and replace with riprap revetment and that the toe of the revetment will be placed where the previous concrete curbing was located. Mr. Lucia stated that the project met all staff requirements and that there were no engineering objections. Mr. Lucia asked that the Council stipulate a certain timeframe for the removal of the old concrete curbing and the construction of the revetment. Mr. Lucia stated that there was an enforcement issue with the buffer requirement and that staff met with the owner's consultant and CRMC biologist has agreed to a variable buffer; meaning the same square footage as a 25' wide buffer zone but with a variable width. Mr. Lucia confirmed that plans were received from consultant that day which laid out the buffer and that the curbing would be removed from the existing revetment so that a more structurally sound stone revetment could be placed which will disperse the wave action more efficiently. Mr. Lucia also confirmed that the revetment will tie into the abutting property revetment with no gap and a more gradual return.

There were no objectors present.

Nicholas Gorham, Esq. was present for the applicant and assured the Council that the applicant was in favor of new design.

Mr. Lucia asked the Council to stipulate a timeframe for the work to be completed. Vice Chair Lemont suggested a 6 month timeframe and Chair Livingston suggested a 9 month timeframe. After much discussion, Mr. Coia motioned for the approval of the new design with staff stipulation on timeframe of 6-9 months on removal of curbing. Mr. Gorham expressed concern and believed they should have a year as they need to dispose of curbing and called project engineer Robert Fairbanks, PE to answer questions regarding removal process.

Mr. Fairbanks sworn in and identified himself for the record. Mr. Fairbanks explained that his concern with the timeframe involved the project needing to be worked on during the very busy summer months and his concern with safety and liability. Mr. Fairbanks stated that heavy equipment and material disposal could be done easier in the fall/winter time and asked for a year to complete the project. Chair Livingston suggested November 1, 2014.

Luis Junco was sworn in and identified himself for the record. Chair Livingston asked when he believed the curbing could be removed. Mr. Junco confirmed that the wall was constructed in winter months and the CRMC Cease and Desist Order issued in May. Mr. Gorham explained further using an aerial photo and stated that all the material used was from the property.

Mr. Affigne stated that he felt that although the owner built the wall without a permit, he was being very cooperative at his own expense to remove the structure and rebuild what CRMC will approve and CRMC should be flexible on the timing.

Staff timeframe was discussed by Council. Mr. Willis stated that 15 hours of staff time was spent on the review of the application and working with the applicant

Vice Chair Lemont expressed concern that the project was a serious violation and motioned for the applicant to have until September 1, 2014 to complete project.

Mr. Gomez agreed with both Vice Chair Lemont and Mr. Affigne that it was a very serious violation but applicant was being very cooperative and agreed there was a safety issue.

The second to Mr. Coia's motion was removed and Mr. Coia amended his motion to approve the project with the removal of the curbing by December 31, 2014. Motion seconded by Mr. Hudner.

Mr. Gagnon asked if a performance bond would be in order. Mr. Fugate explained both the performance bond and an escrow account. Mr. Gorham explained that the bond or escrow account would be a big expense for his client. Chair Livingston stated that CRMC would rely on the Administrative fine process if timeframe not adhered to.

Motion carried with all ayes and one in opposition from Vice Chair Lemont.

Public Hearing on Changes to the RI Coastal Resources Management Program:

RI Coastal Resources Management Program – Section 110 – Applications for Category A and Category B Assents

Revise Section 110.C as follows:

C. Applications eligible for administrative review include the following.

- Subdivisions of 20 units or less;
- Residential docks less than 200 feet (MLW) in length in the Sakonnet River or the open waters of Narragansett Bay; ~~up to 75 feet (MLW) in all other waters;~~
- Residential docks up to 75 feet (MLW) in all other waters;
- Terminal floats less than 200 square feet;
- Aquaculture sites of up to three (3) acres in the salt ponds or upper Narragansett Bay; less than 10 acres elsewhere;
- Structural shoreline protection facilities of less than 300 linear feet;

- Dredging, [and dredge material disposal at pre-approved locations](#) of less than 100,000 cubic yards for marinas or state navigation projects;
- [Beach Nourishment projects](#);
- Wetland mitigation that is habitat restoration when an applicant is a federal, state, or municipal entity;
- Harbor management plans that are recommended for approval;
- Boat and float lifts;
- [Habitat Restoration projects undertaken by public entities or in partnership with public entities](#);
- [RIDOT road and bridge projects](#); and
- [Limited Marinas \(defined in Section 300.4\)](#).

Purpose: To provide for additional application activities eligible for administrative review and approval.

Chair Livingston suggested remanding the program change back to the Policy and Planning Subcommittee with an agreement and a motion from Vice Chair Lemont, seconded by Mr. Gomez. Motion carried on unanimous voice vote. Mr. Goldman assured the interested parties that all objections are part of administrative record and will be presented to P&P.

Enforcement Report – November and December, 2013 – None held

Category “A” List – None held

10. ADJOURN

Vice Chair Lemont, motioned, seconded by Mr. Hudner, for the meeting to be adjourned at 7:00 p.m.

Respectfully submitted,
Lisa A. Turner, Recording Secretary