

**In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, September 09, 2014 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, RIDEM  
Mike Hudner  
Don Gomez  
Joy Montanaro  
Paul Beaudette  
Tony Affigne

Staff Present

Grover J. Fugate, Executive Director  
Jeffrey M. Willis, Deputy Director  
  
Brian Goldman, Legal Counsel

Members Excused:

Jerry Sahagian

**1. CALL TO ORDER**

Chair Lemont 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, for the approval of the previous meeting of Tuesday, August 26, 2014. Chair Livingston clarified that the minutes referred to the next meeting as September 8<sup>th</sup> when in fact it should have stated September 9<sup>th</sup>. Motion carried with change on a unanimous voice vote

**3. SUBCOMMITTEE REPORTS**

There were none.

**4. STAFF REPORTS**

Mr. Fugate informed the Council of the following:

Attorney John Boehnert, in conjunction with the American Bar Association, wrote a book called "Zoning the Ocean" which was about the RI Ocean Special Area Management Plan which is leading the national framework on ocean planning.

CRMC was asked to present at Senator Whitehouse's Environmental Day on CRMC's Beach SAMP during the session on Community Resilience. Mr. Fugate stated it was very well attended.

EC4 (Executive Committee on Climate Change Coordination) is now put into place as act by the Legislature. CRMC has been asked to sit on several of the major subcommittees, one being Storms and Storm issues. The Committee is working right now to try to get information integrated into conference and plans by 2016.

CRMC has been asked to speak on the Beach SAMP at the Northeast Shore and Beach Preservation Regional Conference being held in Taunton, MA on September 17, 2014.

Mr. Fugate has been asked to give a presentation on the Beach SAMP at the Rising Seas Conference in New York City the end of this month.

Mr. Goldman informed the Council of the following:

A Superior Court Decision for Kilmartin vs Barbuto case involving the Attorney General's office. This case involved a tract of land in the Misquamicut area of Westerly. CRMC was involved as it involved public access. Mr. Goldman informed the Council that the Superior Court did not agree with the Attorney General's position and that it was never the grantor's intent in 1909 to dedicate the beach area landward of Mean High Tide to the public. Mr. Goldman stated that the appeal period would be soon and that CRMC might offer some input as the decision may have ramifications for some right-of-ways CRMC has in that area of Westerly.

**5. Consideration and/or Approval of the Certified Verification Agent for the Deepwater Wind Block Island, LLC project:**

Mr. Goldman briefed the Council on the consideration and approval of Certified Verification Agent for Deepwater Wind project stating that Deepwater Wind approved the CVA but that it required CRMC acceptance. Mr. Goldman stated that through discussions with Deepwater Wind regarding their consideration of ABS for the CVA, changes proposed by CRMC were agreed upon. Mr. Goldman stated that outside Counsel of Schectman, Halperin, Savage reviewed the agreement.

Mr. Goldman and the Council went through the Agreement regarding:

- Choice of Law provisions should be Rhode Island not New York as it is taking place in our tidal waters
- ABS loyalty to CRMC not Deepwater Wind
- Scope of work cannot change without CRMC concurrence
- CRMC is a 3<sup>rd</sup> party beneficiary of this contract
- CVA agreement cannot be modified without CRMC concurrence
- Services Agreement states that the CVA is tasked with verifying the decommission
- Technical changes –
- Insurance provisions – sign off insurance coverage
- CRMC concurrence with the insurance company that ABS picked.

Chair Livingston had some minor grammatical changes and additions to the document.

Chair Livingston questioned the timeframe for termination of the agreement which stated “upon start up” of the project. Mr. Fugate stated that the CVA would continue to perform services. Mr. Goldman confirmed that the Agreement would reflect that.

Chair Livingston questioned the amount of insurance which stated “up to” \$2 million. Mr. Goldman confirmed that the language and amount came from our outside legal sources Scheprin and Halperin and that the insurance amount is the greater of the two -- \$2 million dollars or the price of the contract.

Mr. Hudner questioned the withholding of payments to ABS from Deepwater if owed money. Mr. Goldman confirmed that Deepwater could not withhold funds without notice to ABS and the concurrence of CRMC. It was agreed upon by all parties to remove this sentence but the final sentence would be left in.

Mr. Affigne expresses appreciation to Mr. Goldman for his fine work as CRMC Counsel in this case and in all cases of CRMC business. Council concurred as well.

Chair entertained a motion to approve ABSG Consulting, Inc.

Vice Chair Lemont motioned, seconded by Mr. Coia, for the approval of ABSG Consulting for CVA in connection with the Deepwater Wind project under the terms set out in the services agreement as modified. Motion carried on a unanimous voice vote.

## **6. Enforcement Action before the Full Council**

**10-0029 BEACHVIEW PARTNERSHIP – Unauthorized structural shoreline protection located at plat 92-3, lot 7; 921A Matunuck Beach Road, South Kingstown, RI.**

Mr. Fugate informed the Council that notices were mailed to the location of the property and that they were not received. Notification was received by a business legal agent of the owner and informed them of the hearing date. A request for continuance was received and granted due to insufficient notification. Chair Livingston agreed to continue the application.

## **7. ADJOURN**

Mr. Hudner motioned, seconded by Vice Chair Lemont, for the adjournment of the meeting. Motion carried on a unanimous voice vote. Meeting adjourned at 7:00 p.m.

Respectfully submitted,  
Lisa A. Turner, Recording Secretary