

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, March 10, 2015 at 6:00 p.m. in Conference Room A of the Administration Building, One Capitol Hill, Providence, RI.

Members Present

Anne Maxwell Livingston, Chair
Paul Lemont, Vice Chair
Don Gomez
Ron Gagnon
Raymond Coia
Tony Affigne
Joy Montanaro
Jerry Sahagian

Staff Present

Grover J. Fugate, Executive Director
Jeff Willis, Deputy Director
Richard Lucia, Spv Civil Engineer
David Beutel, Aquaculture Coordinator
Jim Boyd, Coastal Policy Analyst
Caitlin Chaffee, Coastal Policy Analyst
Ross Singer, Sr. Civil Engineer
Brian Goldman, Esquire

Members Excused

Paul Beaudette
Mike Hudner

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**

Chair Livingston called for approval of the minutes from the previous meeting. Vice Chair Lemont motioned for approval of minutes from February 10, 2015; seconded by Mr. Gomez. Motion carried on unanimous voice vote.

3. **STAFF REPORTS**

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

- Providence Journal article by Alex Cuffner about Dale Leavitt and oyster aquaculture growth within the state stating that the oyster industry eclipsed the quahog industry in the state and continues to grow every year.
- Meeting with Deepwater CVA today to go over project and design. Present at the meeting was a BOEM representative, along with the Deepwater Project Manager and Modeler who are working to submit documents to us for April 15th after which we will meet with them again. It is anticipated that Deepwater will bring the final design before the Council at first meeting of May – June for pile driving operation with a completion of sometime in August 2015. The plan is to install towers this summer and install the mast and nasal in the summer of 2016 for a two year construction window. They have secured financing and RI will be the first in the nation to get steel in the ground. Mr. Goldman stated that at the meeting there was discussion on the duty and loyalty of the CVA and making sure they knew that they worked for benefit of the Council and not Deepwater Wind. Mr. Goldman stated that after the conversation, they had a very good meeting and the CVA understands what their role is and they understand their rule of loyalty is with us. Chair Livingston stated that she found the meeting very interesting and informative.
- The Ocean SAMP is celebrating its five year mark, and that the process to update the SAMP is starting.

- CRMC Seminar for Council and Staff at Alton Jones Campus on Wednesday, April 8, 2015 from 8:30 a.m. until 4:00 p.m.

Vice Chair Lemont recognized CRMC Aquaculture Coordinator David Beutel for his work with the aquaculture community and the growth of the industry.

Mr. Gomez asked about whether Policy and Planning Subcommittee could start a proactive process to map the best sites for aquaculture to avoid mixed use scenarios in application procedure.

Mr. Beutel gave an update on Sun Farm Oysters in Block Island stating that the lease holder had submitted a modification of assent which will change a method that will address most of the problems that had come to light at the Council meeting of February 10, 2015. Mr. Beutel informed the Council that the modification was in the Public notice phase of the application which ends on April 6.

Ms. Chaffee informed the Council that RI Public radio was airing a story on Wednesday, March 11 regarding salt marshes and sea level rise.

4. **SUBCOMMITTEE REPORTS**

None

5. **COASTAL HABITAT RESTORATION TRUST FUND APPLICATIONS BEFORE THE COUNCIL FOR REVIEW AND DECISION:**

The projects recommended for full funding are:

1. **Mussachuck Creek Fish Passage Enhancement (\$5,000)**
2. **RIDEM Low Ground Pressure Excavator Maintenance (\$13,508)**
3. **Goosewing Beach Salt Marsh Restoration (\$9,300)**
4. **Seapowet Point Restoration and Coastal Resilience Project (\$30,759)**
5. **Shady Lea Dam Removal (\$100,000)**

The projects recommended for partial funding are:

1. **Edge Restoration in the Blackstone Park Conservation District, Phase II (\$30,000)**
2. **Barrier Beach Protection and Plant Community Restoration on Social Trails at Napatree Point (\$20,433)**
3. **Rose Island Nature Preserve Restoration (\$16,000)**

The projects not recommended for funding are:

1. **Cocumscussoc Brook and Meadow Brook Wetlands Restoration**

In addition, the committee has created a contingency list of projects to be funded in the event that a project recommended for funding is unable to go forward or the requested funds are not needed due to unforeseen circumstances.

2014-20145 Contingency List:

1. **Seapowet Point Restoration and Coastal Resilience (additional funding if needed for monitoring)**
2. **Shady Lea Dam Removal (additional funding if needed for construction)**

Ms. Chaffee gave a brief overview of the funding requests to the Council referring to a map to show locations of project and showing the geographic distribution of project funding. Ms. Chaffee stated that this was Year 12 of Habitat Restoration funding with 96 projects funded to date and over 300 acres of habitat restored.

Chair Livingston asked about CRMC staff follow up of projects? Ms. Chaffee stated that the applicants are required to submit yearly reports and monitoring reports and that also summary data is included in their re-submittals. Ms. Chaffee stated that CRMC staff members work very closely with applicants.

Vice Chair Lemont inquired about Watchemoket Cove in the City of East Providence.

Mr. Gomez recognized Ms. Chaffee for a job done well and asked about the decline in the matching of funds.

Mr. Gomez motioned to approved as presented with a second from Vice Chair Lemont.

Motion carried on a voice vote with Mr. Gagnon of RIDEM abstaining.

6. Applications which have been Out-To-Notice and are before the Full Council for Decision:

2013-10-026 KEVIN DELANE & SUZANNE FROST -- The Petition seeks to amend Sections 920.1.B.2(f) and (g) of the CRMC Salt Pond Region Special Area Management Plan (SAMP) as they pertain to parcels of land located within CRMC-designated Lands of Critical Concern of the Salt Pond Region SAMP. Sections 920.1.B.2(f) and (g) require a 225-foot setback and a 200-foot buffer, respectively, for all development activities within Lands of Critical Concern. Relief from the setback and buffer regulations requires a Special Exception as defined in Section 130 of the Coastal Resources Management Program unless the land was subdivided before the SAMP regulations adoption. For Section 920.1.B.2(f) the adoption date is April 12, 1999 and for Section 920.1.B.2(g) the adoption date is November 27, 1984. A similar rule is in effect for the CRMC Narrow River SAMP. The Petitioners seek to amend the SAMP regulations by exempting parcels from the Special Exemption requirement provided that they were originally platted prior to the respective SAMP rule adoption dates and then were subsequently the subject of an administrative subdivision. The proposed rule change could affect parcels in CRMC-designated Lands of Critical Concern located within the Towns of Westerly, Charlestown, South Kingstown and Narragansett.

Mr. Goldman gave a briefing to the Council regarding the application and the outcome of the review of the application by the Policy and Planning Subcommittee. Mr. Goldman stated that the Subcommittee recommendation was to deny the applicant's request for rule change. Mr. Goldman explained that only new evidence would be accepted at this meeting and that he would poll council members on the reading of the record prior to decision process.

Attorney Melissa Horn was in attendance representing the Delanes' and gave a brief statement to the Council stating that her client's land was originally platted before the SAMP was adopted and that administrative subdivisions are different than subdivisions, as defined in state law. Ms. Horn clarified that that is where the dispute lays in regards to the Subcommittee Recommendation to the Council. Ms.

Horn argued that the definition of an Administrative subdivision as defined in the Development Review Act is the moving of lot lines or resubdivision to create fewer lots for development which she stated is clearly different than the definition of a subdivision, which results in additional new lots. Ms. Horn argued that the Council could not review the petition request without giving deference to the Development Review Act and that it was improper for the Subcommittee to pick and chose which definitions it will comply with. Ms. Horn stated that the request would not be subject to the same special exception requirement because of the Development Review Act definition. Ms. Horn also argued that this case is very different than the PZ Realty case which went to superior court to affirm that a resubdivision is a subdivision in which the Court followed the rules of statutory construction.

Ms. Horn explained that with the approval of the regulatory change, the agency would not need to be concerned with increased residential development because in this case, that concern has been satisfied with sufficient legally competent evidence.

It was her opinion that the Staff report submitted in advance of the hearing did not give specific analysis of each individual parcels involved and that if the Council read the recommendation carefully the Subcommittee recognized that the evidence of the potential increase was not adequately supported; meaning that the evidence does not support denial of the request.

Ms. Horn emphatically stated that the CRMC must treat an Administrative subdivision different; and requested that the Council vote to adopt such a revision.

Mr. Goldman explained to the Council that the Subcommittee Recommendation for the request was before them to adopt, modify or reject the recommendation. Mr. Goldman stated that no new evidence had been offered and that the Council could discuss the recommendation.

Mr. Affigne pointed out that while local municipalities review administrative subdivisions differently than the CRMC regulatory review process, the subdivision must meet all CRMC (state) environmental regulatory requirements

Chair Livingston reminded the members that all the information before them was considered by the subcommittee and that it was not necessary to reargue the issue.

Mr. Affigne stated that there were points he felt it necessary to clarify for the appeal possibility.

Mr. Gomez stated that he read through the findings of fact; that it was very well written, and that he intended to support it.

Vice Chair Lemont motioned to adopt the recommendation of Subcommittee. Mr. Gomez seconded the motion.

Mr. Goldman polled all the members on the reading of the record. All members present confirmed reading of the record.

There was no further discussion on the motion.

Mr. Goldman called for a roll call vote on the motion to adopt the Subcommittee Recommendation:

Mr. Gagnon	Yes
Mr. Affigne	Yes
Ms. Montanaro	Yes

Mr. Sahagian	No
Mr. Gomez	Yes
Mr. Coia	No
Vice Chair Lemont	Yes
Chair Livingston	Yes

Motion carried to uphold the recommendation of the Subcommittee with a 6 to 2 roll call vote.

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

2014-08-089 TOWN OF JAMESTOWN -- Construct and maintain: a shoreline protection facility consisting of an approximately 400’ rip rap revetment. Located at plat 8; lot 338; Bay View Drive, Jamestown, RI.

Mr. Lucia gave a brief overview of the application stating that the proposed revetment was to protect the public roadway and the utility (sewage line). Mr. Lucia pointed out that both the Town of Jamestown and Save The Bay had worked together on the project to provide beach access, a boat launch ramp and possible beach nourishment at some point in the future. Mr. Lucia stated that CRMC staff had no objections and introduced CRMC’s newest engineer, Ross Singer, who was the lead engineer for this project. Mr. Sahagian asked about the meeting with the Town of Jamestown on October 1 and if the plan was modified due to the concern of ponding. Mr. Singer stated that the plan was modified to include details on additional drainage. Mr. Sahagian asked the Town representative if they agreed to the staff stipulations to which they responded that they agreed.

Mr. Sahagian motioned for approval with a second from Mr. Coia.

Mr. Gomez inquired as to why the Town proposed using a hardened riprap structure when the Council had been leaning toward soft armoring. Mr. Singer stated that the Town’s primary concern and the reason for the requesting hardened shoreline were to protect the utilities in roadway.

Chair Livingston stated that, as a resident of Jamestown, she is familiar with the project area and is happy it is being addressed.

Mr. Sahagian’s motion to approve was carried on a unanimous voice vote.

2014-07-067 DEVON CAMPANALE – Perform aquaculture: a 2.58 acre oyster farm using the cage and bag method west of Ram Island in Point Judith Pond, Narragansett, RI.

Mr. Beutel gave a brief overview of the application stating that the proposal asked for common methods for the area and that the lease was in the shape of a rectangle and out of the way of any other pond uses. Mr. Beutel stated that the Preliminary Determination process went well. Mr. Beutel stated that it was recommended that Mr. Campanale move his original proposal site as there was a significant number of quahogs found in their assessment of the area. Mr. Campanale’s new area has medium depth with 5’ of water over the cages and 4’ of water over the rack and bag; both depths being good for boat navigation. Mr. Beutel stated that due to scattered boulders in the area it was not an area that people water skied on. The objections received were all in the form of a

form letter from one neighborhood association which Mr. Beutel stated was a reaction to a different application which has not yet come before the Council using the same letter. Mr. Beutel stated that it was Staff's opinion that the pond use does not overlap lease or it is a hazard to navigation. Narragansett Harbor Commission stated that the location is a good place for aquaculture as it was out of the way. Mr. Beutel stated that Mr. Campanale attended Dale Leavitt's aquaculture class. Mr. Beutel stated that CRMC staff recommended approval of application.

Mr. Beutel assured the Council that he would stipulate boundary markers using heavy anchoring.

Chair Livingston asked what percentage of Pt Judith Pond was devoted to aquaculture. Mr. Beutel stated that with the approval of the lease it would be up to 3.5% of the pond.

Mr. Sahagian motioned approval with a second from Vice Chair Lemont.

Motion carried on a unanimous voice vote.

6. ADJOURN

Vice Chair Lemont motioned, seconded by Mr. Sahagian, to adjourn. Motion carried on unanimous voice vote. Meeting adjourned at 7:05 p.m.

Respectfully submitted,

Lisa A. Turner
Recording Secretary