

In accordance with notice to members of the Rhode Island Coastal Resources Management Council, a meeting was held on Tuesday, May 10, 2016 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
Ron Gagnon, DEM Rep
Raymond Coia
Don Gomez
Paul Beaudette
Mike Hudner
Jerry Sahagian
Joy Montanaro

Staff Present

Jeffrey Willis, Deputy Director
Dave Beutel, Aquaculture Coordinator
Richard Lucia, Spv Civil Engineer
Tracy Silvia, Prin Environmental Scientist

Members Excused

Tony Affigne

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.

Mr. Coia motioned for the approval of the minutes from the April 26, 2016 Semimonthly meeting; seconded by Vice Chair Lemont. Motion carried on unanimous voice vote.

3. **SUBCOMMITTEE REPORTS**

None were heard.

4. **STAFF REPORTS**

Mr. Willis reported on the following items:

- Alton Jones workshop June 10th sending info on that
- DWW tour May 27th – Let Lisa know availability
- June 2nd Aquaculture Tour in the Salt Pond – Let Laura Dwyer know availability
- Matunuck issue – after last meeting CRMC staff had a very productive meeting with the applicants regarding our expectations of what we expect in a maintenance application. We expect to receive information by the beginning of week May 16th and then the hearing will be scheduled for first meeting of June.

Chair Livingston clarified that the May 24th meeting venue would be Admin Building in Providence at the regular time of 6:00 p.m. and the June 14th meeting would be in Narragansett at URI Bay Campus at the regular time of 6:00 p.m.

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

2015-12-072 WASHINGTON COUNTY COMMUNITY DEVELOPMENT CORP. -- The project will include construction of "Churchwoods" -- a 24-unit affordable senior housing for low and moderate incomes. Proposed improvements include new stormwater management and treatment systems. Wastewater will be treated by five RIDEM approved denitrifying On-site Wastewater Treatment Systems. Located at plat 13, lot 43, 4130 Old Post Road, Charlestown, RI.

Mr. Lucia gave overview of the application explaining that the project was within the Salt Pond Special Area Management Plan and that the applicant's had that the project would be treated by a denitrifying OWTS and a public well. Mr. Lucia explained that an objection was received based on water quality through private well and that water quality was not within the CRMC regulatory review but he contacted Department of Health who confirmed that the department does not have objection to the project and that the plan meets their requirement. Mr. Lucia stated that the objector no longer has objections as long as the construction maintains the parameters of approval. Mr. Lucia explained that the Department of Health prefers that the CRMC permit is issued prior to their approval being sought. Mr. Lucia stated that the OWTS was being approved by the RI DEM. Mr. Lucia stated that the CRMC staff does not have objections to project.

Mr. Sahagian motioned, seconded by Vice Chair Lemont, for the approval of the application with staff stipulations.

Mr. Beaudette asked if there were plans to mitigate as there seemed to be imperviable area near the pond. Mr. Lucia explained that the applicant proposed less impervious area within the radius of the well.

Motion was carried on a unanimous voice vote.

Nancy Letendre, attorney for the applicant, asked if the CRMC Assent would be issued quickly so that the applicant could receive their approval from the Department of Health. Chair Livingston confirmed a reasonable turnaround.

2014-06-008 EDWARD & HELENA RIBEIRO -- Construct and maintain a residential boating facility consisting of a 4' x 120' fixed pier leading to a ramp and 10' x 15' (150sf) terminal float. The facility is proposed to extend ~75' seaward of the cited MLW mark, requiring a variance to RICRMP Section 300.4.E.3l. Located at plat 79, 497; 5 Brookwood Road, Bristol, RI.

Ms. Silvia gave a brief overview of the project to the council explaining that the original submittal was for the proposed facility to extend 75' beyond Mean Low Water (MLW). Ms. Silvia explained that CRMC had asked informed the applicant that there had been objections to the length of the facility and asked that they reduce the length. The applicant's agreed to reduce the length to 50' beyond MLW removing the need for the length variance. Ms. Silvia explained that the applicant

could not meet the sideline setback standard and did not receive letters of no objection from the abutting neighbors creating the need for a 5' sideline setback variance from the Council. Ms. Silvia stated that objections were also received from the Harbor Commission and Shellfishing Commission.

Ms. Silvia clarified for Mr. Coia that the variance required was for 5' on each side and that the dock was centered on the property.

Ms. Silvia confirmed for Mr. Sahagian that the applicant did not subdivide the property and therefor did not create their hardship.

Chair Livingston asked about the open environment of the dock. Ms. Silvia confirmed that although it was a high fetch area, that CRMC had approved other docks in the area.

Mr. and Mrs. Ribeiro and Ron Blanchard of Site Engineering were sworn in and identified themselves for the record. Mr. Blanchard confirmed there are docks within a mile to the north of the property and that the owners had done the best they could to meet the requirements.

Ms. Silvia confirmed for Mr. Beaudette that lateral access would not be affected at the dock would extend off of a wall and the elevation at MLW would be at least 5'.

Objectors:

Salvatore Crisafulli and Julianna Hutchinson were both sworn in and identified themselves for the record as abutting neighbors. Mr. Crisafulli owns to the north and Ms. Hutchinson owns to the south.

Mr. Crisafulli began stating that the construction of the dock would not meet the 25' sideline requirement specified by CRMC regulations and that if a boat was docked it would further compromise the 25' rule. Mr. Crisafulli expressed his concern that if this dock was approved and built, a precedent would be set and the area would be overrun by docks. Mr. Crisafulli was concerned about the effect on the clamming, fishing and recreational boating activities for the area if the dock was allowed to be built. A question was raised in regards to the objection received by the Bristol Harbor Commission. Chair Livingston stated that an email was received from Jim Dollins on behalf of the Bristol Harbor Commission, removing their objections. Mr. Crisafulli also mentioned that he was concerned about the lights on the dock being an issue in regards to where his bedroom windows are.

Ms. Hutchinson expressed her concern regarding allowing docks to be built in the cove area stating that the area was so tight that having multiple docks in the area would create a space limitation boat maneuverability and docking. Ms. Hutchinson expressed concern that the addition of a dock would be intrusive to recreational activity. Ms. Silvia clarified that the actual structure would be 125' in length but that the distance beyond MLW is 50'.

Mr. Sahagian clarified that the variance concern and discussion was the sideline setback.

Chair Livingston clarified for Ms. Hutchinson the process by which an applicant would require and ask for a variance.

Bristol Harbor Commission Chair, Dominic Franco, was sworn in and identified himself for the record. Mr. Franco stated that the main reason the harbor commission objected was because of the variance required for the sideline setback and the precedence it was setting for others in the area. Mr. Franco also stated that the commercial fishermen have complained that the dock will interfere with the fishing territory.

Chair Livingston stated that an email had been received from Jim Dollins, Vice Chair of the Harbor Commission stating that the members voted to remove objections to the Ribeiro's request for variance. Ms. Silvia confirmed the receipt of the email and stated that to her knowledge there had been no other conversations regarding side line issues and that there had not been an objection from the local harbor master.

Mr. Beaudette asked that if tonight's decision sets a precedent what would it do to future Council applications. Mr. Goldman answered that although there are lawyers and consultants that will come before the Council and plead cases based on previous Council decisions; each case that the Council hears is judged on its own merits. Mr. Willis added further that the sideline setback is a standard and not a prohibition as lots and projects are different in each case. Mr. Lucia added that the CRMC followed ACOE rule of 25' between prop lines so that the two dock sill have 50' between them giving space for boat maneuverability.

Mr. Gomez pointed out that there were only small areas that would be affected by the variance in the sideline setback standard.

Mr. Hudner motioned, seconded by Mr. Gomez for the approval of the application. The motion carried on a unanimous voice vote.

Dave Beutel, CRMC Aquaculture Coordinator, gave a Power Point Presentation as an overview of the Jamestown Aquaculture applications:

- Mr. Beutel stated that there currently were three sites permitted in the area equaling approximately 15.25 acres owned by Goerner, Silkes and Pinheiro;
- The Agenda's pending aquaculture applications would increase the acreage by approximately 8.86 acres;
- Map was reviewed showing all locations both permitted and pending;
- Mr. Beutel stated that the area shoreline is rocky, and the applications for the sites are close to rocky areas;
- Mr. Beutel went over the Aquaculture application process via a flow chart;
- No objectors were present.

Mr. Beaudette asked about public access and allowances from aquaculture farms all along the area shore as well as public use boating. Mr. Beutel stated that there was a lot of space there and that most of the sites abut the rocky shore which is not navigable by boats, swimming or clamming. Mr. Beutel stated that kayaks could still traverse. Mr. Beutel stated that it was a perfect area for aquaculture sites.

Mr. Beutel stated that the letters of objection are identical to all applications questioning all aquaculture in Dutch Harbor and that his report responds in an identical rebuttal. Mr. Coia asked/motioned to approve all applications as they do not have any objectors present. Chair Livingston stated that she wanted the Council to deal with each matter individually.

2015-11-032 WILLIAM CREGAN -- Create and maintain a 3.86 aquaculture farm using floating cages. Please see the attached map. A complete copy is available electronically upon request. Located in the West Passage of Narragansett Bay (Dutch Island Harbor), Jamestown, RI.

Chair Livingston stipulated lighted corner markers and Mr. Beutel explained that the town agreed to work with the applicant to have the right corner markers. Chair Livingston asked that the applicant check periodically to make sure that the lights are all in working order.

Mr. Coia motioned, seconded by Mr. Hudner, for approval with staff stipulations.

Motion carried on a unanimous voice vote.

2015-09-105 WALRUS & CARPENTER OYSTERS (Jules Opton-Himmel) -- Construct and maintain: a two acre oyster aquaculture site in combination with application 2015-09-103 for winter storage and summer grow out of oysters. Cages would be used for winter storage, while cages and floating gear are proposed for the other months. Located in the West Passage of Narragansett Bay (Dutch Island Harbor), Jamestown, RI.

Mr. Beutel stated that this was the farm furthest to the east and that the farm is tucked in amongst the boulders on site.

Vice Chair Lemont motioned, seconded by Mr. Gomez, for the approval of the application.

Motion carried on a unanimous voice vote.

2014-12-056 ANTONIO & JOSEPH PINHEIRO -- Modification for an existing 2.0 acre aquaculture site: by adding 115 floating cages; 433 submerged cages; and quahogs *Mercenaria mercenaria*; soft shell clams *Mya arenaria*; bay scallops *Argopecten irradians*; and edible seaweed. Located in the West Passage of Narragansett Bay (Dutch Island Harbor), Jamestown, RI

Mr. Beutel explained that the applicant was requesting a modification to add multiple species but the recommendation from staff is to not be allowed to farm steamers and quahogs at this location. Mr. Beutel explained that staff agreed to the addition of bay scallops to the site. There was

discussion on scallop farming. Mr. Beutel stated that staff recommended approval for floating cages, more bottom cages and the addition of bay scallops.

Vice Chair Lemont motioned, seconded by Mr. Coia, for approval of application as recommended by staff.

Mr. Pinheiro was sworn in and identified himself for the record as Joseph Pinheiro. Mr. Pinheiro stated that he was okay with being granted permission for only the addition of bay scallops as he understood he could request the other species at another time.

With no further discussion, Vice Chair Lemont's motion to approved carried on a unanimous voice vote.

2015-08-073 JESSE BAZARNICK -- Construct and maintain an approximately three acre aquaculture site for growing oysters in floating cages in the northern section of Dutch Harbor. A scanned copy of the application is available upon request. Located in the West Passage of Narragansett Bay (Dutch Island Harbor), Jamestown, RI

Mr. Beutel stated that Mr. Bazarnick was asking for an oyster farm that is slightly more offshore than others and would be over lobster habitat that was created as a result of the Prodigy oil spill.

Mr. Sahagian asked about the stipulations. Mr. Beutel stated that they would be standard stipulations with lighted corner buoys and that because of the hard bottom, he recommended the use of 4000 pound anchors.

Mr. Sahagian motioned, seconded by Vice Chair Lemont, for the approval of the application with staff stipulations.

Motion was carried on a unanimous voice vote.

2015-12-014 CARL BERG – Construct and maintain a 3.2 acre oyster farm using cages on trawls in the Sakonnet River. Located SW of Jacks Island (Sakonnet River), Tiverton, RI.

Mr. Beutel briefed the Council stating that the farm site would include bottom cages for oysters that would be trawls (ten cages attached to one line at max; and there would be 30 lines equaling 300 cages). Mr. Beutel stated that the farm would be located in the Sakonnet where he found a now density of quahogs and no eel grass. Mr. Beutel stated that the water depth was about 7-13' at MLW which would provide more than 40 inches of water over the tops of the cages. Mr. Beutel commented that Mr. Berg did an outstanding job on his application submittal and that as Mr. Berg is a commercial fisherman by trade, he is very knowledgeable in the area of how to work trawls of cages. Mr. Beutel stated that staff recommended approval of application.

Mr. Gagnon also commented on the well-preparedness of the application and asked about the cooker for cleaning the algal growth from the oyster cages.

Mr. Berg was sworn in and identified himself for the record. Mr. Berg explained that a “cooker” fueled by propane is a box in which water is heated inside to kill marine growth that is potentially harmful to oysters. Mr. Berg stated that as his site was in deeper water, it would be more advantageous to clean the cages this way as his docking area is not close to the farm. Mr. Berg explained that a cage submerged for 20-30 seconds in 180 degree water will kill any harmful growth. Mr. Berg assured Council that the waste will not go back into the water.

Mr. Coia motioned, seconded by Vice Chair Lemont, for the approval of the project with staff stipulations.

Motion carried on an unanimous voice vote.

10. **ADJOURN**

Vice Chair Lemont motioned, seconded by Mr. Beaudette, to adjourn.
Motion carried on unanimous voice vote. Meeting adjourned at 7:15 p.m.

Respectfully submitted,

Lisa A. Turner
Recording Secretary