



State of Rhode Island and Providence Plantations  
**Coastal Resources Management Council**  
Oliver H. Stedman Government Center  
4808 Tower Hill Road, Suite 116  
Wakefield, RI 02879-1900

(401) 783-3370  
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## **AGENDA**

**Semi-Monthly Meeting – Full Council**  
**Wednesday, July 17, 2013; 6:00 p.m.**  
**Corless Auditorium, URI Bay Campus**  
**South Ferry Road, Narragansett, RI**

**Approval of the minutes of the previous meeting:** June 25, 2013  
**Subcommittee Reports**  
**Staff Reports**

**2013-06-118 DEPARTMENT OF TRANSPORTATION --** Conduct Emergency Maintenance repairs, restoration of, and improvements to, the Cliff Walk in Newport, Rhode Island resulting from the damage caused by Super Storm Sandy. The work includes slope protection measures, repair to structural walls, drainage, walkway and safety improvements, and landscaping. This project begins at The Breakers at Ruggles Avenue and continues to Bailey’s Beach at Bellevue Avenue. All work proposed falls within the coastal zone and within the jurisdiction of the CRMC (27 locations, total). The repair work at many of the locations consists of repairs to concrete and stone masonry walls, repairs to replacement of walkways, installation of new decorative railings, and landscaping. At three location (Location 16, 26, and 27), the work also involves placement of an “underwall”. The underwall is proposed to repair damage to the existing walls, which has resulted in loss of retained fill and subsequent undermining and failure of the walkway, thus creating a serious level of hazards and unsafe conditions for users of the walk. In addition, at Locations 9, 10, 11, 17 and 18, the existing armor stone which was dislodged by the storm will be supplemented, replaced, or repairs. The previous proposal (file no. 2013-03-001) has been modified substantially based on public and CRMC comments. The current proposal has been deemed to qualify for an emergency/maintenance permit by the CRMC. Located at the “Cliff Walk” Ruggles Avenue, Newport, RI.

### **Public Hearing on Changes to the Rhode Island Coastal Resources Management Program:**

#### **RI Coastal Resources Management Program - Ocean Special Area Management Plan (SAMP)**

#### **Revise Section 560.1.8 in Chapter 5 - Commercial and Recreational Fisheries (Section 560 Policies and Standards) as follows:**

8. The Council shall appoint a standing Fishermen’s Advisory Board (FAB) which shall provide advice to the Council on the siting and construction of other uses in marine waters. The FAB is an advisory body to the Council that is not intended to supplant any existing authority of any other federal

or state agency responsible for the management of fisheries, including but not limited to the Marine Fisheries Council and its authorities set forth in R.I.G.L. 20-3-1 *et. seq.* The FAB shall be comprised of ~~nine~~ up to eighteen (18) total members, ~~one~~ to include the following: up to two (2) members representing each of the following six Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and ~~three~~ up to six (6) members, ~~including two commercial fishermen and one recreational fisherman~~, who are Massachusetts fishermen who fish in the Ocean SAMP area to include four commercial fishermen and two recreational fisherman. When there are two members representing a fishing interest, only one vote may be cast on behalf of that interest. If the two members representing that fishery cannot agree on their vote then there shall be no vote for that fishery for the item under consideration. In any vote on a matter, there shall be no more than 6 votes total for RI interests and no more than 3 votes total for MA interests. The FAB members may elect a chair and a vice-chair from amongst its members. In addition the FAB may establish rules governing its members such as a minimum number of meetings each member must attend to maintain standing as a member. FAB members shall serve four-year terms and shall serve no more than two consecutive terms. The Council shall provide to the FAB a semi-annual status report on Ocean SAMP area fisheries related issues, including but not limited to those of which the Council is cognizant in its planning and regulatory activities, and shall notify the FAB in writing concerning any project in the Ocean SAMP area. The FAB shall meet not less than semi-annually with the Habitat Advisory Board and on an as-needed basis to provide the Council with advice on the potential adverse impacts of other uses on commercial and recreational fishermen and fisheries activities, and on issues including, but not limited to, the evaluation and planning of project locations, arrangements, and alternatives; micro-siting (siting of individual wind turbines within a wind farm to identify the best site for each individual structure); access limitations; and measures to mitigate the potential impacts of such projects on the fishery. In addition the FAB may aid the Council and its staff in developing and implementing a research agenda. As new information becomes available and the scientific understanding of the Ocean SAMP planning area evolves, the FAB may identify new areas with unique or fragile physical features, important natural habitats, or areas of high natural productivity for designation by the Council as Areas of Particular Concern or Areas Designated for Preservation.

**Revise Section 1150.4.8 in Chapter 11 - The Policies of the Ocean SAMP (Section 1150 General Policies) as follows:**

8. The Council shall appoint a standing Fishermen’s Advisory Board (FAB) which shall provide advice to the Council on the siting and construction of other uses in marine waters. The FAB is an advisory body to the Council that is not intended to supplant any existing authority of any other federal or state agency responsible for the management of fisheries, including but not limited to the Marine Fisheries Council and its authorities set forth in R.I.G.L. 20-3-1 *et. seq.* The FAB shall be comprised of ~~nine~~ up to eighteen (18) total members, ~~one~~ to include the following: up to two (2) members representing each of the following six Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and ~~three~~ up to six (6) members, including two commercial fishermen and one recreational fisherman, who are Massachusetts fishermen who fish in the Ocean SAMP area to include four commercial fishermen and two recreational fisherman. When there are two members representing a fishing interest, only one vote may be cast on behalf of that interest. If the two members representing that fishery cannot agree on their vote then there shall be no vote for that fishery for the item under consideration. In any vote on a matter, there shall be no more than 6 votes total for RI interests and no more than 3 votes total for MA interests. The FAB members may elect a chair and a vice-chair from amongst its members. In addition

the FAB may establish rules governing its members such as a minimum number of meetings each member must attend to maintain standing as a member. FAB members shall serve four-year terms and shall serve no more than two consecutive terms. The Council shall provide to the FAB a semi-annual status report on Ocean SAMP area fisheries related issues, including but not limited to those of which the Council is cognizant in its planning and regulatory activities, and shall notify the FAB in writing concerning any project in the Ocean SAMP area. The FAB shall meet not less than semi-annually with the Habitat Advisory Board and on an as-needed basis to provide the Council with advice on the potential adverse impacts of other uses on commercial and recreational fishermen and fisheries activities, and on issues including, but not limited to, the evaluation and planning of project locations, arrangements, and alternatives; micro-siting (siting of individual wind turbines within a wind farm to identify the best site for each individual structure); access limitations; and measures to mitigate the potential impacts of such projects on the fishery. In addition the FAB may aid the Council and its staff in developing and implementing a research agenda. As new information becomes available and the scientific understanding of the Ocean SAMP planning area evolves, the FAB may identify new areas with unique or fragile physical features, important natural habitats, or areas of high natural productivity for designation by the Council as Areas of Particular Concern or Areas Designated for Preservation.

*Purpose: To clarify the composition of the Fisheries Advisory Board and the voting procedures of its membership within the two applicable sections of the Ocean SAMP.*

## **Management Procedures**

### **Add New Section 15 – Access to Public Records**

#### **15. ACCESS TO PUBLIC RECORDS**

##### **15.1. Purpose & Authority**

The Coastal Resources Management Council is a public agency subject to the provisions of the Rhode Island Access to Public Records Act (APRA), codified at R.I.G.L. § 38-2-1, et. seq., and these Regulations are being adopted under the authority of that Act. These Regulations are intended to help the public obtain the information they request and to guide the Council staff as they comply with requests.

##### **15.2. Public Records Officer**

The person holding the position the Council Deputy Director shall be the Council's Public Records Officer. He or she may be contacted at 4808 Tower Hill Road, Suite 3, Wakefield, RI 02879, Phone (401) 783-3370, Fax (401) 783-3767. [As of January 1, 2013, Jeffrey M. Willis holds the position of Deputy Director.]

##### **15.3. What Records Are Public**

**15.3.1. Public Records and Availability** - Under the APRA, all records the Council keeps are presumed to be public unless they are deemed non-public by the Act. The Council shall make all records deemed public by the APRA available to any person that may request them. Such public records include all applications, transcripts, agendas, minutes, reports, documents, papers, letters, maps, books, tapes, photographs, films, recordings and computer stored records made

or received pursuant to any law or regulation, or in connection with the transaction of any official Council business, that are not otherwise deemed non-public by the APRA.

15.3.2. Non-Public Records - The APRA deems certain personnel, medical, trade secret, investigatory, law enforcement, preliminary drafts, notes, impressions, memoranda, working papers, and other documents non-public and the Council shall not make public any records deemed non-public by the APRA.

## 15.4. How To Make A Request

15.4.1. Who To Request Records From – Requests for public records shall be made to the Public Records Officer.

15.4.2. Written Requests Preferred – To help ensure the public obtains the records and/or information they request, to avoid confusion that has arisen in the past, and to ensure public record requests are recognized and handled expeditiously, the Council prefers public records request be made in writing and it may promulgate a form for such requests. The public does not have to use any specific form.

15.4.3. Requests for Certain Documents – Although written requests are preferred, consistent with State law and these Regulations, a written request is not required to access the following documents:

15.4.3.1. Documents prepared for the public;

15.4.3.2. Documents readily available to the public; and

15.4.3.3. Public information available pursuant to R.I.G.L. § 42-35-2<sup>i</sup>, which is a portion of the Administrative Procedures Act.

15.4.3.4. Council and Sub-Committee Agendas

15.4.3.5. Council and Sub-Committee Minutes

15.4.3.6. Council Transcripts

15.4.3.7. Council Decisions

15.4.3.8. Assents

15.4.3.9. Public Hearing Notices

15.4.3.10. Public Hearing Minutes

15.4.3.11. Public Hearing Transcripts

15.4.3.12. Public documents submitted at Council meetings or Public Hearings

15.4.3.13. Coastal Program (sometimes referred to as The Red Book)

15.4.3.14. Management Procedures

15.4.3.15. Council Orders

15.4.4. Purpose of Request – The Council may ask the purpose of a request in order to help identify the records requested but it shall not withhold any public records based on the purpose for which the records are sought, nor shall the Council require, as a condition of fulfilling a public records request, that the requestor provide a reason for the request.

15.4.5. Identity of the Requester – The Council may request the name and contact information for a person making a request in order to contact them if questions arise regarding their requests and to notify them when records are available. However, except as otherwise noted in these

regulations, the Council shall not require a person to identify themselves nor to provide any contact information.

**15.4.6. Identifying Records** – Requestors searching for a particular file or set of records are invited to search the Council website, <http://www.crmc.ri.gov>, to identify the appropriate file number for the records they desire.

**15.4.7. Staff Assistance Identifying Records** – Requestors are encouraged to speak with Council staff to help identify the records they wish to request. [In addition to the Public Records Officer, as of January 1, 2013, the following Council staff can assist requestors: Lisa Turner, Office Manager, [Lturner@crm.ri.gov](mailto:Lturner@crm.ri.gov), (401) 783-3370.]

## **15.5. Time for Complying with Requests**

**15.5.1. Time to Comply** – The Council shall endeavor to permit the inspection or copying of public records within ten (10) business days after receiving a request.

**15.5.2. Extensions of Time** – If the Council does not permit the inspection or copying of public records within ten (10) business days, it shall forthwith explain in writing the need for additional time to comply with the request. Any such explanation must be particularized to the specific request made. In such case, the Council may have up to an additional twenty (20) business days to comply with the request if it can demonstrate that the voluminous nature of the request, the number of requests for records pending, or the difficulty in searching for and retrieving or copying the requested records, is such that additional time is necessary to avoid imposing an undue burden on the Council.

**15.5.3. Records in Storage or Use** – If a public record requested is in active use or in storage and, therefore, not available at the time access is requested, the Council shall so inform the requestor and make an appointment for the person to examine such records as expeditiously as they may be made available.

**15.5.4. Records Generally Unavailable** – Records that are the subject of a scheduled Council meeting, hearing or workshop will generally be in use by the Council and not available for public inspection the day of the meeting, hearing or workshop.

**15.5.5. Timing of Requests** – The Council shall try to accommodate walk-in requests for readily available records but at least twenty-four (24) hours advance notice is strongly preferred because, among other reasons, the staff person who handles requests may not be available.

## **15.6. Methods of Complying With Requests**

**15.6.1. Inspection During Normal Business Hours** – The Council shall make public records in its possession, custody or control available for inspection during its normal business hours at its office in South Kingstown, Rhode Island. [As of January 1, 2013, those hours are 8:30 AM to 4:00 PM, Monday through Friday.]

**15.6.2. Inspecting Records** – When inspecting records, only one file or set of records at a time will be provided in order to reduce the risk of documents being misplaced.

15.6.3. Alternate Ways of Inspecting Records – A requestor may elect to obtain records in any media in which the Council is reasonably capable of providing them. At the election of the requestor, the Council shall provide copies of the public records electronically, by facsimile, or by mail in accordance with the requestor’s choice, unless complying with that preference would be unduly burdensome due to the volume of records requested or the costs that would be incurred. The requestor shall be responsible for the actual cost of delivery, if any.

15.6.4. Form of Records – The Council shall not be required to reorganize, consolidate, or compile data or records into any form it does not already maintain the data or records in at the time the request to inspect the data or records was made except to the extent that such records are in an electronic format and the Council would not be unduly burdened in providing such data.

Page Four

15.6.5. Transcripts - Requestors who desire a stenographic transcript of the Council proceedings may contact the stenographer directly. [As of January 1, 2013, Irons & Associates is the stenographic firm the Council utilizes. Irons may be contacted at (401) 861-0909.]

15.6.6. Checking-Out Transcripts - Requestors who provide their name, a valid government issued identification bearing their name and photograph, and their contact information, may also ‘check-out’ transcripts, and take them out of the Council’s office, for up to 24-hours if the Public Records Officer determines allowing the transcripts to leave the Council office will not interfere with the Council’s operations nor present more than a *de minimis* risk of not being returned.

## 15.7. Research and Copying Charges

15.7.1. Charges Authorized and Payment Required - The Council shall assess search, retrieval and copying charges in accordance with these Regulations. Upon request, the Council shall provide an estimate of the costs of responding to a request prior to fulfilling it. Upon request, the Council shall provide a detailed itemization of the costs assessed. The requestor shall pay the charges prior to inspecting or receiving the documents. The Council does not accept cash, credit or debit cards. The Council does accept checks and money orders.

### 15.7.2. Searching & Retrieval Charges

15.7.2.1. The Council shall not charge for the first hour of time spent searching for and retrieving records.

15.7.2.2. The Council shall charge fifteen dollars (\$15.00) per hour for each additional hour, after the first hour, spent searching for and retrieving records.

15.7.2.3. For the purposes of these regulations, multiple requests from any person or entity to the Council within a thirty (30) day time period shall be considered one request.

15.7.2.4. The Council may charge the reasonable actual cost for retrieving records from storage if it is assessed a retrieval fee.

### 15.7.3. Copying Charges

15.7.3.1. The Council can currently make copies of documents up to 11” x 17”.

- 15.7.3.2. The Council shall not charge for the first 5 pages of any copies it makes.
- 15.7.3.3. The Council shall charge \$0.15 cents per page for copies it makes in excess of 5 pages.
- 15.7.3.4. If a requestor desires copies of documents larger than 11" x 17", and the Council can reasonably do so, the Council will bring the oversized documents to a local vendor to make copies and the requestor may then pay the vendor for the copies.
- 15.7.3.5. Requestors who desire copies of documents larger than 11" x 17" contained in pending applications may also request them from the applicant, engineer or attorney involved. Applicants, engineers and attorneys are encouraged to make them available at costs.

## **15.8. Denial of Access**

- 15.8.1. Determining What Records Are Public - Consistent with these Regulations and the APRA, the Public Records Officer shall determine which records are public and which are not.
- 15.8.2. Records The Council Does Not Have - The Council shall inform the requestor if the records requested do not exist or are not within the Council's custody or control.
- 15.8.3. Non-Public Records and Redaction - If a record is deemed non-public pursuant to the APRA or these regulations, any reasonably segregable portion of it shall be available to the public after the deletion of the information which is the basis of its designation as non-public. If an entire record is deemed non-public, the Council shall state in writing that no portion of the record contains reasonable segregable information that is public.
- 15.8.4. Denying Access - If the Public Records Officer determines the requested records, or any part of the requested records, are not public, she or he shall inform the requestor of the specific reasons for the determination, in writing, within ten (10) business days of the request. The writing shall indicate the procedures for appealing the determination.
- 15.8.5. Appealing Denials - In addition to any appeal right contained in the APRA, the requestor may appeal the determination that records are not public to the Council's chief administrative officer. The Council's chief administrative officer is its Executive Director. Such appeals should be in writing. [As of January 1, 2013, the Council Executive Director is Grover Fugate.] The Executive Director shall review the Public Records Officer's determination and make a final determination whether or not to allow public access within ten (10) business days after the submission of the appeal.

## **15.9. Miscellaneous**

- 15.9.1. Posting on Web Site & Availability to Public - The Council's Public Educator and Information Coordinator shall cause a copy of these regulations to be maintained on the Council web site. [As of January 1, 2013, that person is Laura Dwyer.] The Council's Office Manager shall ensure a copy of these regulations is available to the public at the Council's office.
- 15.9.2. Disclosures to Attorney General - The Council's Executive Director shall identify, and then at least annually identify, in writing to the Rhode Island Attorney General, the Council's Public

Records Officer and the Executive Director shall annually confirm to the Attorney General that the Public Records Officer has been provided orientation and training regarding the APRA.

<sup>1</sup> **R.I.G.L. § 42-35-2 Public information – Adoption of rules – Availability of rules and orders.**

(a) In addition to other rule making requirements imposed by law, each agency shall:

(1) Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests;

(2) Adopt rules of practice, setting forth the nature and requirements of all formal and informal procedures available, and including a description of all forms and instructions used by the agency;

(3) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions;

(4) Make available for public inspection all final orders, decisions, and opinions.

(b) No agency rule, order, or decision is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection as herein required, except that this provision is not applicable in favor of any person or party who has actual knowledge thereof.

*Purpose: The Council is required to codify its public records' policies consistent with the Rhode Island Access to Public Records Act (APRA – R.I.G.L. § 38-2-1, et. seq.). These Regulations are intended to help the public obtain the information they request and to guide the Council staff as they comply with such requests.*

## RI Coastal Resources Management Program – Salt Pond Region Special Area Management Plan

Add new Section 980 - Experimental Coastal Erosion Control, as follows:

### 980. Experimental Coastal Erosion Control

#### A. Definition

1. Experimental coastal erosion control methods are unconventional methods that are intended to control erosion along coastal beaches or capture sand in shallow water depths parallel to the beach in order to restore beach profiles. These methods are defined as “experimental” because their effectiveness in controlling coastal erosion is highly variable. These methods have not been previously permitted and used in Rhode Island, but may have been used in other states with varying degrees of success. Such experimental coastal erosion control methods are temporary in nature and designed to provide short-term, localized erosion management while more comprehensive, long-term regional solutions are developed. Such long-term strategies will likely include the relocation (also known as retreat) of existing development and public infrastructure to more inland positions. By definition the term “experimental” refers to a product or method that is based on an untested idea or technique and has not yet been fully tested. Thus, inherent in the concept of “experimental” coastal erosion control methods is the understanding that the impact, results, success or failure of the untested methodologies: (a) cannot be readily predicted; (b) require special monitoring and supervision; and (c) may require unilateral, summary termination if a methodology results in detrimental impacts. Experimental coastal erosion control methods do not include revetments, bulkheads, seawalls, groins, breakwaters or jetties.

#### B. Findings

1. The Matunuck and Misquamicut Headlands, located in South Kingstown and Westerly respectively, are part of the barrier/headland complex that extends approximately twenty miles from Napatree Point in Westerly to the Point Judith Headland in Narragansett (See Figure 4-2 in Chapter 4). This south facing coastline is subjected to high energy coastal erosion processes, including storm surge and large waves during tropical and extra-tropical storms (i.e., hurricanes and Nor’easters). These processes erode the beaches, dunes and bluffs along this shoreline. The eroded sediment is transported along the shoreline into the coastal lagoons, across the shoreline on to the back barrier and low lying headland areas, and offshore where it may or may not return to the shoreline. These natural processes are constantly rearranging and reforming these familiar coastal features along this entire southern shoreline. Many activities proposed on shoreline features or in tidal waters directly adjacent to these shoreline features must be tightly controlled or prohibited to protect the natural shoreline types. See Coastal Resources Management Program (CRMP) Section 200.1.

2. These headland areas in the south shore barrier/headland system consist of Pleistocene-age till or glacial fluvial sediment. Wind blown loess deposits cover much of the glacial fluvial sediment with sand beaches fronting the headlands. In addition, thick sand overwash deposits may cover the adjacent headland sediment (See Figure 4-3 in Chapter 4).

3. The south shore barrier/headland complex erodes in response to coastal storms. Headlands comprised of unconsolidated sediment can have erosion rates similar to the barriers. The barrier and headland beaches recover after storms in an erosion/accretion cycle illustrated in Figure 4-8 of

Chapter 4. However, in recent decades there has been overall net erosion along the south shore. The beaches are dynamic features that by nature erode during storms and accrete during non-stormy periods. The glacial headland bluff edge only erodes. The eroded sediment from the coastal bluffs is sediment that is available to nourish the beaches.

4. The headlands and barriers of the south shore from Watch Hill in Westerly to Point Judith in Narragansett are generally eroding at a higher rate than other shorelines along the Rhode Island coast due to their exposure to ocean forces and geologic setting and composition. Although the barriers in general erode more easily than headlands, the headlands consisting of stratified glacial material, thick overwash or aeolian deposits, or a combination of these unconsolidated sediment have eroded at rates equaling those measured for the south shore barriers. The Misquamicut headland is subject to moderately high rates of erosion (approximately 90 feet of total shoreline displacement between 1939 and 2004) and is frequently exposed to washover processes in tropical and extra-tropical storms due to the low topography along the coast. Erosion rates on the Matunuck headland range from fairly low at the cobble terrace on the east end of the headland (approximately 75 feet maximum total shoreline displacement between 1939 and 2004) to high in the area between existing shoreline protection structures (approximately 150 feet of net erosion along the widest beach since 1963) to very high from the South Kingstown Town Beach to the Card Pond barrier (approximately 250 feet between 1951 and 2006).

5. The tidal waters abutting the entire south coast shoreline, including the headlands of Misquamicut and Matunuck, are classified as Type 1 in the State's coastal program. These Type 1 waters include "some of the most dynamic and naturally scenic features in Rhode Island" and "are particularly unsuitable for structures due to their exposure to severe wave action, flooding, and erosion." See Coastal Resources Management Program Section 200.1.

6. The shorelines of the Matunuck and Misquamicut Headlands contain high concentrations of residential and commercial development and public infrastructure, including roads and utilities, most of which was built prior to federal adoption of the State's coastal program in 1978. In addition, many of the properties along these two shorelines have been highly altered in the past with man-made structures that pre-date the State coastal program. These areas are exposed to high rates of shoreline erosion, which is the combined result of exposure to severe wave action and in some cases the effects of pre-existing or unauthorized shoreline protection structures. Structural shoreline protection facilities are prohibited under CRMP Section 300.7.D.1 along shorelines that abut Type 1 waters. It is well documented by the scientific literature that shoreline protection structures eventually result in the loss of beaches and adversely impact public access along the shoreline. This is particularly relevant in the face of rising sea levels.

7. The Rhode Island coastline, particularly the beaches located on headlands and barriers provide substantial public recreational opportunities. Many public recreational activities, such as swimming, fishing, surfing, etc., include use of the beach area below the mean high water mark. The State maintains title to these submerged lands that are held in trust to benefit the public and protect the public's use and interest in these lands. See R.I.G.L. § 46-23-1.

8. The existence of beaches at both Misquamicut and Matunuck are important tourist attractions and help to support local businesses that rely upon beach goers and tourism dollars to sustain the local economy. Recently it was reported that Misquamicut restaurants and hotels are an important

component of the \$1.2 million that the Town of Westerly receives as its share of State hotel and meal tax revenues (Westerly Sun: September 29, 2012).

9. The Matunuck Headland Business District extends from a revetment terminating at the South Kingstown Town Beach to a smaller shoreline protection structure approximately 1400 feet to the east (See Figure 9-10). The Matunuck Business District consists of commercial and residential properties. All properties within the business district along the south side of Matunuck Beach Road are located on or less than 50 feet from the beach. Several properties are currently located on the active beach and are at high risk for damage due to storms. Properties on the headland are at high risk for storm surge damage and erosion of the underlying headland and overwash sediment deposits. The erosion and undercutting of these deposits may lead to the collapse of the structures and damage to or loss of associated private and public infrastructure.

10. The Matunuck Headland Business District abuts a residential area to the east and open space and recreational area to the west. The headland area to the east, between Deep Hole and the Matunuck Business District and the district itself consists of very thick overwash sand deposits that extend inland tens of feet. Wind blown sand forms dunes in these overwash deposits where there is sufficient space between the beach and development. The upper shoreface seaward of the section of shoreline between the Matunuck Business District and Deep Hole consists of a shallow cobble terrace that extends several hundred feet offshore. This cobble terrace dissipates some wave energy before it reaches the shoreline, thereby reducing the erosive energy and erosion rates along this section of shoreline.

11. The Matunuck Headland has gone through cycles of erosion and accretion over the years with long-term net erosion. Erosion rates are lowest on beaches fronting the cobble terrace. The shoreline change rates at the South Kingstown Town Beach are very high with a total shoreline displacement of approximately 250 feet between 1951 and 2006. The shoreline displacement at the Matunuck business district is approximately 150 feet of net erosion along the widest beach since 1963.

12. The Misquamicut Headland Business District extends from the Maschaug Pond barrier, going easterly for approximately 3400 feet to the Misquamicut Barrier (See Figure 9-9) The Misquamicut Headland Business District consists of commercial, residential and recreational properties and the majority of these properties are located within fifty feet from the inland edge of the beach.

13. The Misquamicut Headland business district is a low lying headland area with thick and extensive sand deposits on the beach and abutting headland. Approximately forty percent of the Misquamicut Headland has some type of shoreline armoring. Many of the shoreline protection structures are covered with sand in the summer to create blanket space on the beach.

14. There can be extensive erosion on the Misquamicut Headland beaches during storms. Because of the low elevation of Atlantic Avenue, overwash processes tend to dominate in this section of shoreline. Atlantic Avenue is often buried under sand deposited as overwash fans following coastal storms with storm surges of 3 feet or more. Debris is removed from the sand and the sand is moved by bucket loaders to replenish the eroded beaches.

15. Long term erosion rates are moderate for the Misquamicut Headland with the highest rates of 1.3 feet/year average annual erosion rate on the western end in the residential areas. The eastern end of the Misquamicut Headland has experienced very low erosion rates of less than 1 foot per year,

probably due to the predominance of shoreline protection structures in this section combined with regular beach replenishment following erosive storm events. Total shoreline displacement on the Misquamicut Headland is lower on the eastern side gradually increasing to the west with a minimum shoreline change of 35 feet to a maximum of 88 feet between 1939 and 2004.

16. Beach replenishment and other non-structural shoreline protection techniques are permissible options under current coastal program policy and rules. Non-structural shoreline protection techniques include bio-degradable materials such as burlap, jute or coir sand filled bags, fiber logs, or other bio-degradable “soft” structures used to protect an eroding coastal feature.

17. Because experimental coastal erosion methods are largely untested under long-term conditions and subject to failure during large storm events, the CRMC finds that any Assent it issues shall include a stipulation for termination.

18. As of April 2013 the CRMC has initiated the Shoreline Change (Beach) Special Area Management Plan (SAMP) to address sea level rise, flood inundation and shoreline erosion issues along the Rhode Island coastline. It is expected that specific policies and standards will be developed within several years as part of the Beach SAMP to address erosion issues affecting the entire state shoreline, including the Misquamicut and Matunuck headland areas. Consequently, these Experimental Coastal Erosion Control rules may be superseded.

Given these findings, the CRMC has selected the Matunuck and Misquamicut Headlands as the *only* locations where the use of experimental coastal erosion techniques will be considered. Following the assessment of the effectiveness of any experimental techniques and mandatory monitoring and reporting requirements, the CRMC may determine the potential use of experimental coastal erosion control techniques for other areas of the state.

### **C. Policies**

1. Unless extended by the Council, these Experimental Coastal Erosion Control rules shall expire in their entirety six (6) years following their effective date of (insert effective date).

2. The Council considers experimental coastal erosion methods as temporary, short-term solutions while longer-term solutions are considered for these shorelines. Longer-term solutions may require a landward retreat of residential and commercial structures, including public infrastructure, as sea level rise and coastal storm surge impacts continue into the future.

3. It is the Council’s policy to carefully control and monitor the use of experimental coastal erosion techniques for use *only* in the Misquamicut and Matunuck Headland areas described below. Further, it is the Council’s policy to assess the effectiveness of experimental coastal erosion techniques before authorizing their continued use in these two headland areas. Therefore, since some experimental techniques could have detrimental and undesirable environmental and economic impacts on the coastal environment, it is the Council’s policy to evaluate such techniques over a multi-year period before approving their continued use.

4. It is the Council’s policy to require that any Assent issued under the provisions herein shall terminate at the end of three (3) years. If an experimental method proves successful during the initial permit period, then the applicant may apply for renewal of the Assent.

5. Because barriers are dynamic coastal features and are constantly shifting due to wave and wind forces, the Council will not authorize the use of experimental erosion control techniques on any parcels located on CRMC-designated barriers.
6. The Council may permit experimental coastal erosion control techniques along Atlantic Avenue between and inclusive of parcels 165-282 to 165-286 and 175-1A to 175-16 and 176-17 to 176-31. These parcels comprise the shoreline of the Misquamicut Headland. See Figure 9-9.
7. The Council may permit experimental coastal erosion control techniques along Matunuck Beach Road between and inclusive of parcels 92-2:46 to 92-3:9. These parcels constitute a portion of the Matunuck Headland west of the cobble terrace noted above in Finding 4. See Figure 9-10.
8. It is the Council's policy to require applicants or their agents to file a Preliminary Determination (PD) request with the CRMC. The CRMC shall not accept a formal application for an Assent until the Preliminary Determination has been completed and issued by the CRMC. There is no filing fee for the PD request. The PD process is an opportunity for a pre-application consultation and for CRMC staff, in consultation with the technical Review Panel, to provide an opinion as to whether the proposed experimental coastal erosion method is appropriate and whether a performance bond or escrow account will be required of the applicant. Pending violations shall also be reviewed and discussed during the PD meeting and a resolution of the violation(s) shall be formulated.
9. The Council's policy is that any experimental coastal erosion control technique approved for use by the Council may be subject to immediate suspension and/or termination in the event that the Council determines that the experimental technique is having a significant environmental or economic impact or a significant impact to public shoreline usage or accelerating erosion on the site or adjacent areas.
10. The Council's policy is that revetments, bulkheads, seawalls, groins, breakwaters or jetties are not authorized coastal erosion control methods for purposes of this section.
11. It is the Council's policy that unauthorized structures or unauthorized work must be removed or a valid CRMC Assent must be obtained for the unauthorized structure or work. Such unauthorized structures or work may be removed concurrently with the construction of experimental coastal erosion control techniques approved by the CRMC.
12. Erosion and the effects of an experimental coastal erosion control system are not restricted by property boundaries. Thus, it is the Council's policy to encourage joint applications amongst abutting property owners that seek to address erosion based on the natural physical environment rather than on a lot-by-lot basis. Individual applications, especially by owners of properties with limited coastal exposure will be closely scrutinized to prevent detrimental or undesirable impacts to surrounding properties and public infrastructure. The State holds the area below the Mean High Water (MHW) line in public trust.

#### **D. Other State or Federal Permits**

1. Applicants for experimental erosion control structures that are to be located in tidal waters or the intertidal zone, seaward of the mean high water (MHW) line, are required to obtain a federal Army

Corps of Engineers permit. Applicants are advised to apply for the federal permit concurrently with the CRMC permit. In addition, such applications may also require a DEM Water Quality Certification, and accordingly, applicants are advised to apply directly to DEM concurrently with the CRMC application process.

### **E. Prohibitions**

1. The installation or use of experimental erosion control systems is prohibited unless located within the CRMC-designated areas of Misquamicut and Matunuck described herein and permitted by the CRMC.
2. The installation of new revetments, bulkheads, seawalls, groins, breakwaters or jetties is prohibited, as specified in CRMP Section 300.7.D.1.

### **F. Standards**

1. The Council may only permit experimental coastal erosion control systems on the Misquamicut Headland along Atlantic Avenue between and inclusive of parcels 165-282 to 165-286 and 175-1A to 175-16 and 176-17 to 176-31, and on the Matunuck Headland along Matunuck Beach Road between and inclusive of parcels 92-2:46 to 92-3:9 only after review by the CRMC and after the applicant demonstrates the following conditions are met:

- (a) it is feasible on an engineering and ecological basis that the proposed experimental erosion control technique will minimize coastal erosion;
- (b) the proposed experimental coastal erosion control technique will not result in any long-term increased erosion on adjacent or downdrift properties and;
- (c) the proposed coastal erosion control technique will not detrimentally impact coastal habitat or public access.

2. A Technical Review Panel (TRP) consisting of, but not limited to the following: the CRMC Executive Director; the CRMC Coastal Geologist; a CRMC Engineer, a CRMC Environmental Scientist; a URI Ocean Engineering professor, a University Coastal Geologist, and a municipal official appointed by the Town Councils of South Kingstown and Westerly. The TRP will evaluate each experimental coastal erosion control method or technique as part of the CRMC Preliminary Determination review process and make recommendations as to whether such systems should be considered for use and permitted by the CRMC. The TRP may also make recommendations as to technology-specific permit conditions where warranted.

3. Applicants shall submit a Preliminary Determination (PD) request (no filing fee) to the CRMC detailing the proposed experimental erosion control project. Applicants or their agents shall participate in a PD meeting with CRMC staff. The CRMC shall not accept a formal application until the Preliminary Determination has been processed and issued. The CRMC staff in consultation with the Technical Review Panel will provide an opinion within the PD as to whether the experimental coastal erosion method is appropriate as proposed and whether a performance bond or escrow account will be required of the applicant. Performance bond/escrow account requirements will be determined on a case-by-case basis depending on the scope and complexity of the proposed project. In addition, a resolution to any pending violation(s) shall be formulated as part of the PD meeting.

4. Applicants seeking CRMC approval for experimental erosion control techniques in the designated areas must submit the following documentation along with their applications:

(a) Proof of ownership in the form of a current certified copy of the deed of the subject property;

(b) A current list of the property owners whose property lies within two hundred feet (200') of the proposed site (This list must contain the current mailing address of each property owner and must be accompanied by a radius map drawn to scale of not less than one inch to one hundred feet (1"=100') showing the properties, lot numbers, and corresponding owners within two hundred (200') feet of the proposed experimental erosion control site);

(c) A description of the experimental erosion control technique; an impact avoidance and minimization statement;

(d) For experimental erosion control installation **landward of mean high water (MHW) line** a site plan prepared by a Rhode Island-licensed land surveyor or professional engineer shall be submitted showing beach profile locations that are perpendicular to the shoreline and located along the property boundaries and every twenty-five feet within the property bounds. Beach profiles shall be marked with a physical datum point on the landward end of each profile. The top of each datum shall be surveyed and referenced to NAVD88. Profiles should extend seaward to MLLW, where possible. Datum should be placed deep enough so as to not erode and high enough so as not to be buried by storm overwash.

(e) For experimental erosion control installation on public lands **seaward of mean high water (MHW) line** a site plan prepared by a Rhode Island-licensed land surveyor or professional engineer shall be submitted showing beach profile locations that are perpendicular to the shoreline and located along the property boundaries and every twenty-five feet within the property bounds. Beach profiles shall be marked with a physical datum point on the landward end of each profile. The top of each datum shall be surveyed and referenced to NAVD88. Profiles should extend seaward to MLLW, where possible. Datum should be placed deep enough so as to not erode and high enough so as not to be buried by storm overwash.

5. The Council shall require the applicant to submit a detailed survey of current site conditions in the area subject to impact by the experimental erosion control system to serve as a baseline against which to measure the effectiveness of the system. Applicants shall use the Modified Emery Method (modified?) to develop a beach profile that shows current beach face elevations. A fixed control point shall be established based on a benchmark referenced to NAVD88 so that profiles can be compared to profiles in adjacent areas.

6. Unauthorized structures or unauthorized work shall be removed or a valid CRMC Assent must be obtained for the unauthorized structure or work. Such unauthorized structures or work may be removed concurrently with the construction of experimental coastal erosion control techniques approved by the CRMC. The applicant shall schedule a site visit with CRMC permit staff to ensure that the unauthorized structure was removed before or during installation of the CRMC-approved experimental coastal erosion method.

7. As determined through the Preliminary Determination process the CRMC may require the applicant to post a performance bond or provide an escrow account to ensure that failed erosion control systems are properly removed in the event of failure. The Council may require the applicant to restore the beach to pre-system installation conditions. Performance bonds or escrow accounts,

when required, shall cover 100 percent of expected removal and restoration costs. The term of the performance bond or escrow account must be for the entire life of the project.

8. All experimental coastal erosion control proposals shall be processed as a Category A\*/B application requiring public notice.

9. Monitoring requirements. The applicant must submit with their application a monitoring plan with protocols developed by a coastal engineer or coastal geologist or other qualified expert that provides for a minimum three (3) years of monitoring data that includes quarterly reports submitted to the CRMC. Permittees shall submit quarterly reports to the CRMC and include photographs and beach profiles with a fixed control point of reference. The CRMC will evaluate the plan and may require further monitoring conditions. A summary report shall be submitted to the CRMC within 30 days following the end of the 3-year period or when notified by the CRMC that details whether the experimental coastal erosion control was a success or failure and the reasons behind such success or failure.

10. Assents for experimental coastal erosion control shall only be valid for a three (3) year period, but may be renewable upon application. A Permittee must submit an application for renewal within sixty (60) days prior to the expiration of the Assent. Otherwise, the experimental coastal erosion control must be removed at the termination of the Assent and the site restored to pre-project conditions. Assents for experimental coastal erosion control are not subject to tolling as provided in R.I.G.L. § 46-23-6.3

11. Failure of experimental erosion control system shall be determined by the CRMC and may include, but not be limited to, any or all of the following:

- (a) poor performance that is below the projected claims of the experimental system manufacturer or applicant;
- (b) abnormal damage to properties or public infrastructure;
- (c) significant environmental damage (either cumulative or site specific);
- (d) presents a hazard to life or property;
- (e) significant detrimental impacts to public access; and
- (f) potential to become a significant hazard to public safety during a storm.

12. The fact that an experimental erosion control system has not been evaluated for the full monitoring period specified herein, shall not preclude a determination by the CRMC that the system has failed.

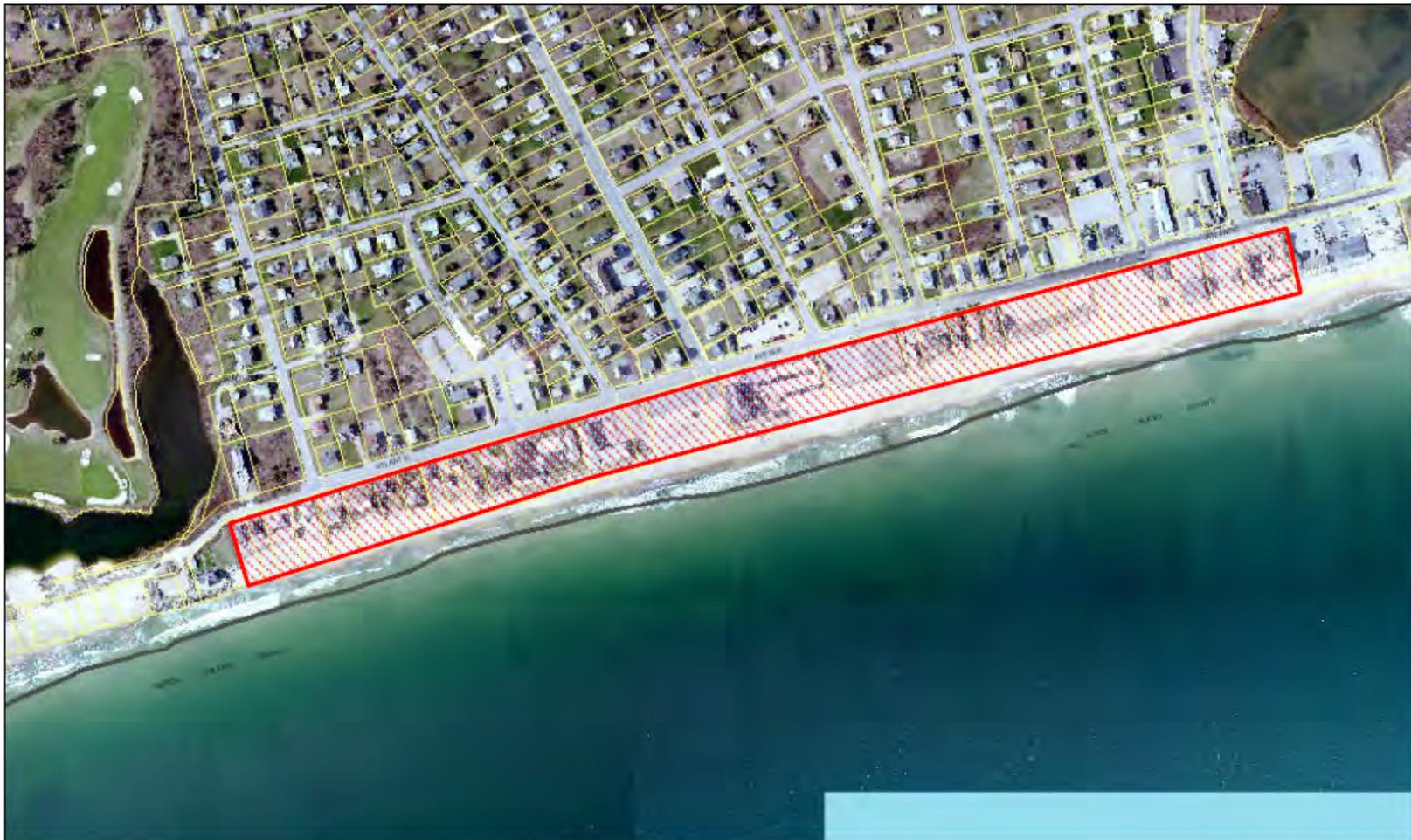
13. Upon determining that an experimental coastal erosion control system has failed, the CRMC will issue an Assent revocation notice to the Permittee and the Council will hold a hearing on the matter. The CRMC will order the Permittee to remove, and in some cases immediately remove depending on severity of impact, of any failed experimental erosion control system as defined above. The CRMC may utilize the Performance Bond or Escrow account to pay for the removal of structures and restoration of the beach in the event that the Permittee fails to do so as ordered by the Council.

14. The CRMC shall retain jurisdiction over any Assents issued prior to the enactment of these regulations that are the subject of an outstanding compliance order or other formal administrative, civil or criminal legal action initiated by the CRMC for the purpose of litigating or settling that action.

15. The CRMC shall retain jurisdiction over any Assent application(s) acted upon by the CRMC prior to the enactment of these regulations to permit the CRMC to defend or settle any legal proceedings brought against it as a result of those actions.

16. Any compliance order issued or other civil or criminal enforcement action taken by the CRMC prior to the enactment of these regulations shall continue to be subject to the CRMC's authority and to be governed by the rules and regulations in effect at the time the order was issued or action taken.

**Figure 9-9 - Misquamicut Headland Area depicting shoreline parcels eligible for experimental coastal erosion control**



**Town of Westery,  
Rhode Island**

**Misquamicut Headland**

The Town of Westery, RI makes no warranty as to the accuracy, reliability, or completeness of the information and is not responsible for any errors or omissions or for results obtained from the use of the information.

1  
N  
1 inch = 658 feet



Figure 9-10 - Matunuck Headland Area depicting shoreline parcels eligible for experimental coastal erosion control



Town of South Kingstown Web GIS

### Matunuck Headland

Parcel Boundaries as of December 2011. Not legally binding for title or zoning purposes.

Washington County, Rhode Island

Horizontal Datum is Rhode Island State Plane Feet, NAD83

The Town of South Kingstown makes no warranty as to the accuracy, reliability, or completeness of the information and is not responsible for any errors of omissions or for results obtained from the use of the information.



1 inch = 329 feet



[Table 9-2 Eligible Parcels](#)

**Experimental Coastal Erosion Control - Eligible Parcels**

<b>Westerly - Misquamicut</b>		<b>South Kingstown - Matunuck</b>	
<b>Parcel ID</b>	<b>Address</b>	<b>Parcel ID</b>	<b>Address</b>
165-282	149 Atlantic Avenue	92-2:46	811 Matunuck Beach Road
165-283	145 Atlantic Avenue	92-2:47	855 Matunuck Beach Road
165-285	141 Atlantic Avenue	92-3:1	883 Matunuck Beach Road
165-286	139 Atlantic Avenue	92-3:2	895A & B Matunuck Beach Road
176-17	137 Atlantic Avenue	92-3:3	907A & B Matunuck Beach Road
176-18	133 Atlantic Avenue	92-3:4	911A & B Matunuck Beach Road
176-19	129 Atlantic Avenue	92-3:5	915 Matunuck Beach Road
176-20	127 Atlantic Avenue	92-3:6	919 Matunuck Beach Road
176-21	121 Atlantic Avenue	92-3:7	921A & B Matunuck Beach Road
176-22	119 Atlantic Avenue	92-3:8	929 Matunuck Beach Road
176-23	117 Atlantic Avenue	92-3:9	933 Matunuck Beach Road
176-24	115 Atlantic Avenue		
176-25	111 Atlantic Avenue		
176-26	111 Atlantic Avenue		
176-27	109 Atlantic Avenue		
176-28	103 Atlantic Avenue		
176-29	89 Atlantic Avenue		
176-30	85 Atlantic Avenue		
176-31	83 Atlantic Avenue		
175-1A	75 Atlantic Avenue		
175-1	69 Atlantic Avenue		
175-2	65 Atlantic Avenue		
175-2A	57 Atlantic Avenue		
175-4	55 Atlantic Avenue		
175-5	53 1/2 Atlantic Avenue		
175-6	53 Atlantic Avenue		
175-7	51 Atlantic Avenue		
175-8	48 Atlantic Avenue		
175-9	49 Atlantic Avenue		
175-10	47 Atlantic Avenue		
175-11	45 Atlantic Avenue		
175-12B	45 Atlantic Avenue		
175-12	41 Atlantic Avenue		
175-12A	Atlantic Ave. Right-of-Way		
175-13	37 Atlantic Avenue		
175-14	35 Atlantic Avenue		
175-15	33 Atlantic Avenue		
175-16	31 Atlantic Avenue		

*Purpose: To add a new section within the Salt Pond Region SAMP to provide for use of experimental coastal erosion control methods, but limited to two areas within the SAMP boundary, the Misquamicut and Matunuck Headlands.*

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