

**THE HEARING  
PROCESS**

**Common Questions and Answers**



**Rhode Island  
Coastal Resources Management Council**

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## **THE HEARING PROCESS**

The following information has been compiled to help explain the Coastal Resources Management Council's formal hearing process:

### **WHAT IS THE COASTAL RESOURCES MANAGEMENT COUNCIL'S HEARING PROCESS?**

As an agency of the State of Rhode Island, the Coastal Resources Management Council must abide by its rules and guidelines. As such, the Council functions as a quasi-judicial body. In so doing, the Council is required to hold a public hearing for contested cases.

### **WHAT IS A QUASI-JUDICIAL BODY?**

A quasi-judicial body is a state administrative agency which functions much like a court as it hears testimony, receives evidence, and makes a decision based upon the record, the testimony, and the evidence.

### **WHAT DOES THIS MEAN IN THE HEARING PROCESS?**

This means that the Council acting as a quasi-judicial body must adhere to procedures in a very specific format when dealing with the public hearings and contested cases. This is why there is such an obvious formality to the hearing process.

### **IS THE PUBLIC ALLOWED TO PARTICIPATE IN THE HEARING PROCESS?**

Yes. The public is given an opportunity to provide input at the appropriate time. However, the public must abide by certain structured procedures and may only address questions through the Chair.

### **WHAT ARE THE TYPES OF HEARINGS?**

There are two types of public hearings. One consists of public hearings held at the semi-monthly Coastal Resources Management Council meetings which are usually held on the second and fourth Tuesdays of the month. Public hearings can also be held by a Subcommittee when legally substantive objections are received during the public comment period, the Chairman decides to appoint a Subcommittee, or when requested by four or more Council members.

### **HOW DO I KNOW ABOUT THESE PUBLIC HEARINGS?**

Notices of public hearings for contested cases are published in the legal notice section of The Providence Journal. In addition, hearings are publicized through postings at Town Halls, the Council offices, and through direct mailings to interested parties who have asked to be put on the Council's list for mailings.

## **HOW ARE THE PUBLIC HEARINGS CONDUCTED?**

Operating as a quasi-judicial body, the Council takes evidence, hears testimony, deliberates, and votes. During the hearing process, no questions are answered by the Council, except procedural questions. The Council acts like a panel of judges and directs the proceedings, but it does not answer general questions or respond to statements.

## **CAN I BE REPRESENTED BY AN ATTORNEY?**

Applicants, as well as any other parties involved in a hearing, may represent themselves or retain an attorney.

## **HOW DOES THE PROCESS START?**

For each application under consideration, the Chairman introduces the application and determines whether the applicant is in attendance and is prepared for the hearing. The Chairman will also determine if objectors are present. The applicant will then be called upon to fully present facts relevant to each case.

## **ARE THERE ANY RULES AS TO PRESENTING EVIDENCE?**

Yes. The case must generally be presented following the rules of evidence as applied to civil proceedings in the Superior Court since this is a quasi-judicial hearing.

## **CAN THE APPLICANT OR WITNESSES BE CROSS EXAMINED?**

Since the applicant's comments are considered official testimony, cross examination can take place by attorneys. After the applicant rests its case, other interested parties can make their presentation by statement or through an attorney. Applicant's attorneys are entitled to cross examine anyone who testifies in opposition to the application. Applicants or individuals from the general public who are not represented by an attorney are allowed to ask questions of the Chairman. If individuals from the general public are represented by counsel, their attorneys may direct cross examination.

## **WHAT HAPPENS WHEN A QUESTION IS DIRECTED THROUGH THE CHAIR BY A MEMBER OF THE GENERAL PUBLIC?**

The Chairman decides what question is proper (does it generally follow the rules of evidence) and whether the witness should answer it. Repetitious, irrelevant evidence can be excluded from the hearing.

## **IN WHAT FORMAT IS THE TESTIMONY GIVEN?**

Everyone who testifies in a contested case is sworn in. If an individual has religious or moral objection to being sworn in, the individual may give testimony by affirmation. Documents and testimony are officially entered in the record of Council meetings and hearings.

### **HOW DOES ONE REVIEW THE TESTIMONY?**

A formal record is taken at each of the contested hearings. This means that a stenographer takes down and transcribes all that is said. The record also includes all official documents that are submitted. Before the hearing ends, all testimony will have been received, and objecting parties will have had an opportunity to state their positions.

### **WHAT HAPPENS AFTER TESTIMONY IS CLOSED?**

The Council will then vote to approve or deny the application.

### **WHAT HAPPENS IF AN APPLICANT MISSES THE COUNCIL MEETING?**

The applicant has three opportunities to appear before the Council for hearing before the file is cancelled.

### **WHAT IF THERE IS NO SUBSTANTIVE OPPOSITION TO MY APPLICATION?**

The matter then is deemed uncontested and is assigned to the full Council for a vote. The applicant or his legal representative must be at the meeting to answer questions should the Council have any.

### **IF I CANNOT ATTEND THE MEETING, MAY I HAVE SOMEONE REPRESENT ME?**

The Council's policy is to allow representation by legal counsel, applicant's engineer, or an immediate relative of the applicant. However, if an engineer is sent, the engineer may only present evidence concerning engineering matters.

### **WHEN IS A SUBCOMMITTEE HEARING HELD?**

A Subcommittee Hearing is held if the Chairman or Executive Director makes a determination that there are legally substantive objections received during the public comment period which requires a separate Subcommittee meeting or when requested by four or more members of the Council.

### **AFTER THE SUBCOMMITTEE HEARING, WHAT HAPPENS?**

After the Subcommittee hears all evidence and testimony, a non-binding recommendation is formulated by the Subcommittee for the Council to consider.

### **WHAT HAPPENS THEN?**

The Subcommittee recommendation is then received by the full Council, and a vote is taken at a regularly scheduled semi-monthly Council meeting.

### **HOW DO I KNOW WHEN THE REGULARLY SCHEDULED SEMI-MONTHLY MEETING WILL BE HELD ON MY APPLICATION?**

The applicant, abutting property owners, and interested parties receive a hearing notice which provides the scheduled date and time of the meeting. The applicant is informed that their presence is required.

**AFTER A PUBLIC HEARING IS HELD, CAN IT BE RE-OPENED?**

Once a public hearing has been held by a Subcommittee and is closed, it cannot be re-opened unless the Chairman of the Council or the Council itself orders it opened for the submission of new evidence that was not previously available to the Subcommittee.

**WHEN THE COUNCIL HEARS THE SUBCOMMITTEE RECOMMENDATION, CAN TESTIMONY BE SUBMITTED?**

The only testimony or evidence that can be submitted to the full Council after a Subcommittee hearing has been closed is new evidence not previously available when the Subcommittee met.

**WHAT HAPPENS AFTER THE FULL COUNCIL ACTS ON A CONTESTED CASE?**

In a contested case, a final written decision is rendered and mailed to all interested parties after a vote of the Council.

**WHAT IF I WANT TO REVIEW THE RECORD?**

Transcripts of testimony are available at the Council’s office for examination by any party at the proceeding. Transcripts of testimony are also available from the transcript service. A copy of the CRMC transcript may be signed out with the Executive Director’s approval for a period of 24 hours in for your review.

**MAY I APPEAL THE COUNCIL’S DECISION?**

An applicant or an objector is eligible to enter into the judicial review process when all administrative remedies available within the agency have been exhausted. An appeal to the Superior Court is the next step. An appeal process is available in accordance with the Administrative Procedures Act.

**HOW LONG DO I HAVE TO APPEAL?**

An applicant or objector has 30 days after the rendering of a decision to appeal to Superior Court.

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We hope that the above explanations help to clarify the Administrative Hearing Process in the format that is followed to resolve contested matters before the Council. The Council will do its utmost to accommodate anyone involved in this process while following the procedures required by State Law.

If you still have questions regarding these procedures, please contact our office at (401)783-3370.

