

COASTAL FEATURES

March/April 1990

The Rhode Island Coastal Resources Management Council's Report on Current Events

George N. DiMuro, CRMC Chairman
Grover J. Fugate, CRMC Executive Director

CRMC RESPONDS TO SAVE THE BAY REPORT ON COASTAL MANAGEMENT

A recent report published by Save the Bay states CRMC has "a poor record" regarding recent application decisions and cites examples to "back up" its claims.

The report, which has been carefully reviewed by members of the Coastal Resources Management staff (including biologists and engineers) as well as professionals from the University of Rhode Island's Coastal Resources Management program, is very misleading and in many cases inaccurate.

Save the Bay indicates that the Council is under legislative mandate to "protect the coastline and Narragansett Bay from poorly planned and resource-damaging development" and that the Council must "consciously act on the side of environment and be accountable for its actions."

Council members and CRMC staff who believe in environmental management, recognize the clear dangers that development brings to the Rhode Island shoreline. The legislative mandate however, reads that the Council's job is to "preserve, protect, develop, and where possible, restore the coastal resources of this state . . . through comprehensive and coordinated long range planning and management (46-23-1)." The Council's role as a management agency is to balance development in Rhode Island with environmental concerns, and in each case to try to make the best decision for all. *In some cases, the Council's hands are tied, because a decision has been made in a previous agency, such as a local zoning board or at the Department of Environmental Management, that makes it impossible for the Council to act.*

• Review of Case Studies

*A case regarding Port Edgewood Marina in Cranston. Save the Bay charges CRMC issued after-the-fact permits on construction for an already built "heliport" and parking lot. Filling began at Port Edgewood Marina prior to the Council's inception in 1971. Although a cease and desist was issued during this time by the Department of Environmental Management, enforcement follow-up was not taken. At the same time, town zoning ordinances issued permits for construction under a special exception. In 1988, when an "as built" permit was issued by the Council, this project had received all prior approvals, including a water quality certificate from the Department of Environmental Management. Zoning plans were changed in Cranston, because of this incident, but the Council was unable, by law, to reverse the Town Zoning Board decision. The use of the property was a zoning use issue, and had to be dealt with by the town.

The CRMC is required by law to accept "as built" applications, under the 14th amendment of the U.S. Constitution. The Council is responsible for "weighing equities" in such cases. This means evaluating damage that is done to the environment, and damage that is done to the individual. Such cases are then decided on by superior and supreme courts for a final decision.

Under these new provisions, the CRMC can register cease and desist orders on titles of property. Individuals attempting to transfer this property will then be unable to do so. All assents and orders that the Council gives to a piece of property are also registered on the title. This is particularly important in subdivision development, where CRMC requirements may not be evident to individual lot owners. The new provisions make certain that assents and orders are listed on each lot's title.

*East Bay Christian Center in Warren, Save the Bay charges, was allowed by the Council to build a parking lot on a coastal wetland. No parking lot was ever built by this organization in a wetland area to the knowledge of CRMC. The building of a parking area was begun prior to CRMC involvement. The parking lot extended to the edge of the wetland in question. CRMC instructed the organization to restore a 75' buffer zone between the parking lot and the wetland area. This action was taken by the East Bay Christian Center.

*In the case of East Greenwich Yacht Club, it should be pointed out that CRMC is not responsible for the regulation of single point moorings. Local towns and the Army Corps of Engineers are the authorities. In the densely used coves of East Greenwich, a historic pattern had been set prior to the Council's involvement in this issue. The Council deferred action on the mooring issue because a local harbor management plan was not in place in East Greenwich. The Council did this not to negate their own responsibility, but to allow locals to regulate activities based on their harbor management legislation. The CRMC worked with East Greenwich to develop a harbor plan. *This plan was adopted by the town.* If Save the Bay objects to the numbers of moorings in Greenwich Cove, the organization should address this issue to the town. Again, CRMC does not issue permits for moorings. Local Harbor Masters issue approvals for moorings, in conformance with local harbor management plans.

• Coastal Zone Enhancement

The coastal zone in the U.S. is the most economically productive zone, the most populated zone and, currently, one of the most environmentally impacted zones. In Rhode Island \$9.1 million annually in revenues is directly attributed to the State's coastal zone, which supports these business activities. An estimated 60% of the GNP comes from the coastal zone.

The CRMC views its role as "responsible management of a very important area," says Council Chairman, George DiMuro. "Sometimes we have to walk a fine line to do that," he adds, "we have to look at all the needs — for the environment, for business, for the individual property owner. We have to enforce the law. If individuals or organizations don't like the current laws, and want us *only* to protect the environment, then the laws need to be changed, so we can carry out that charge."

• Enforcement

Under state law, the Council can, (and has at times) ask for enforcement assistance from the Department of Environmental Management.

The Council currently has two full time enforcement officers on staff and is in the process of hiring another to deal with offenders. The Council has also increased its fines and regulatory authority to make it more difficult for offenders to disobey the law.

RHODE ISLAND CRMC RECEIVES RECOGNITION IN FIVE CATEGORIES FROM FEDERAL GOVERNMENT

The Rhode Island Coastal Resources Management Council (RICRMC) has received national recognition from the U.S. Environmental Protection Agency (EPA) and from the U.S. Department of Commerce for providing leadership to other states in coastal zone management.

The U.S. Department of Commerce cited CRMC's efforts and achievements in Salt Pond management, particularly in regards to protecting shellfish beds and for its program in designating public rights-of-way. The Department of Commerce also recognized CRMC's work in finding solutions to nonpoint source water pollution.

Harbor planning and nonpoint source pollution control are two of the most important aspects of coastal zone management. The Rhode Island Coastal Zone Management Council has been working with shorefront communities in the development of local harbor management plans. The CRMC has also been instrumental in identifying nonpoint pollution runoff from highways and other secondary roads. Identification is the first step in controlling this type of runoff, which is a major contributor to the pollution of the coastal ponds.

The Rhode Island CRMC, along with the South Carolina program has been one of the most successful in the nation, primarily due to the involvement of a Council in all coastal decisions.

COASTAL VIEWS
 by Grover Fugate,
 Executive Director,
 Coastal Resources
 Management Council



Current legislation that would place the responsibilities of the CRMC under the authority of the Department of Environmental Management (DEM) may do a great deal to harm the Rhode Island coastline, rather than help it.

This new legislation, if passed, will give one individual at DEM primary responsibility for decisions regarding all coastal issues. One individual will make decisions currently ruled on by 17 Council members, who argue, debate, listen and who then vote on each coastal problem that comes before members. This democratic form of resource management would be replaced by a system in which the free exchange of concerns between an applicant and the Council would disappear.

Primary responsibility for the management of the coastal zone would be in the administrative branch of Rhode Island government. The legislative branch would lose a great deal of its governing authority, which is currently balanced between the legislative and the administrative sectors. The coastal zone, which is the most productive zone in the U.S. coastal states, relies on the revenue from coastal industries to support residents. It is also one of the most heavily impacted zones environmentally. But the answers to relieving these pressures do not lie in placing control for such an important resource in the hands of one person. The answer lies in changing the existing laws under which the CRMC must act. If individuals and agencies are not happy with the current situation, then look to the law. The CRMC has a charge to im-

plement the law. That law states that the Council must manage the coastline and balance environmental concerns with development issues. If the residents of Rhode Island want the coastal zone to be kept in its natural state, and to prohibit all development, then current laws which allow for building under outlined conditions need to be changed.

The Council's actions are based on its governing laws. These actions benefit the greater good of the State's population through enforcement of the law. As in all cases, the Council is not perfect, and sometimes errors are made. For the most part, however, this 17 member Council has done much to improve the management of coastal areas by balancing development issues with environmental concerns. When voting on this very important issue, the staff and council members urge legislators to consider CRMC's overall record, which in the last 19 years we believe, reflects responsible management of Rhode Island's diverse coastal areas. The program has been cited by the OCRM as one of the three toughest in the nation (along with South Carolina and California).

We would ask whether citizens of Rhode Island truly want the management of this most important area to be the sole responsibility of one agency, and a few individuals in that agency. Currently, any contested case must be heard by a local hearing officer besides Council members. This local representation will be lost in the state decision-making process if this action goes through. We would ask whether citizens truly want control of the coastal zone to be solely in the hands of the administrative branch of the state government, for this is where it will be if the authority is changed. The balance that now exists will most certainly be lost.

Those wishing to comment on articles in *Coastal Features* are invited to do so. Please send to:

Margaret Pratt, Editor
Coastal Features
 Coastal Resources Management Council
 Oliver H. Stedman Government Center
 Tower Hill Rd.
 Wakefield, RI 02879

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 Telephone (401) 277-2476

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Wakefield, RI 02879

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