

In accordance with notice to members of the Rhode Island Coastal Resources Management Council a meeting was held on Tuesday, January 28, 2003 at 6:00 PM at the Administration Building, One Capitol Hill, Providence, RI, Conference Room C, 2<sup>nd</sup> Floor.

**MEMBERS**

Mike Tikoian, Chair  
Paul Lemont, Vice Chair  
Joseph Paolino  
Jerry Sahagian  
Ray Coia  
Jan Reitsma  
Joe Shekarchi  
Turner Scott  
Neill Gray  
Pam Pogue  
Sen. Susan Sosnowski

**STAFF PRESENT**

Grover Fugate, CRMC Executive Director  
  
Willie Mosunic, CRMC Program Coordinator  
Dave Reis, CRMC Environmental Scientist  
Amy Silva, CRMC Environmental Scientist  
Dan Goulet, CRMC Dredge Coordinator

Burr Goloman, Legal Council

1. Chair Tikoian called the meeting to order at 6:06 PM.

Chair Tikoian brief statement of clarification on the council's permitting process.

Mr. Reitsma requested that page 3 of the minutes be corrected as follows: Line 18: Change first "DEM" to "EDC" and delete Line 27-28 as follows "Mr. Reitsma wanted the applicant to agree to each lot having their own stormwater plan." Mr. Coia seconded by Mr. Scott moved approval of the December 10, 2002 minutes as amended. The motion was carried on a unanimous voice vote.

2. **STAFF REPORTS**

There were no staff reports.

3. **SUBCOMMITTEE REPORTS**

Ms. Pogue requested that the council receive and put out the notice the following program changes to section 150.E.3.c, Section 300.5 and Management Procedures adding fee section for dredging applications

4. Chair Tikoian read through the agenda to see which applicants/attorneys were present.

5. **APPLICATION TO RI COASTAL AND ESTUARY HABITAT RESTORATION PROGRAM AND TRUST FUND:**

**National Oceanographic and Atmospheric Administration's (NOAA) Restoration Center – Requesting \$7,000.00 to restore dune habitat at Napatree Point, Westerly, RI.**

Mr. Fugate gave a brief explanation on the application. Mr. Fugate stated that this was a request for \$7,000 for habitat restoration, which had been approved by the restoration team. Mr. Fugate stated the funds would be matched by federal and local funding. Chair Tikoian explained that this fell under the \$250,000 approved by the general assembly for habitat restoration. Vice Chair Lemont, seconded by Mr. Scott moved approval of the application. Mr. Reitsma wanted documentation from the restoration team recommending approval of the funding request in the file. Mr. Fugate stated that he would make sure the documentation for approval was in the file. The motion was carried on a unanimous voice vote.

**6. REQUEST FOR RECONSIDERATION OF DECISION BEFORE THE FULL COUNCIL: '02-09-02 RI ECONOMIC DEVELOPMENT CORPORATION – Application consists of construction of 750-linear feet of new (single lane, two-way) roadway and related utilities to consist of a new water line system, sanitary sewer storm drainage, telephone and electric. Located at Plat 179/180, Lots 25-29, 20-25; Kiefer Park – Quonset Point, Whitecap Drive, North Kingstown, RI.**

John Reindeau, RI Economic Development Corporation, the applicant was present. Rob Stolzman, the applicant's attorney was also present. Chair Tikoian stated that this was a request to reconsider the council's denial of the application. Chair Tikoian explained that a member on the prevailing side of the motion for denial had to make the motion for reconsideration. Chair Tikoian asked if staff was familiar with the plan and the changes made to the plan. Mr. Reindeau explained that staff recommended a parking lot to address the public access issue for six public parking spaces. Mr. Reindeau stated that they had submitted the revised plan to staff. Mr. Scott asked if the six parking spaces were part of the larger right-of-way plan with the town. Mr. Reindeau replied no. Mr. Scott asked if the six parking spaces being provided would have signage to the parking spaces for public access. Mr. Reindeau replied yes. Mr. Scott, seconded by Mr. Reitsma moved to reconsider the application. Mr. Reitsma requested that the information supporting the reconsideration of the application be in the file. The motion was carried on a unanimous voice vote.

**7. APPLICATION REQUESTING ADMINISTRATIVE APPROVAL BEFORE THE FULL COUNCIL:**

**'01-11-81 CARL J. IZZO – Reduction in size of buffer zone from 75' to 20' per proposal plan to allow for common owner's beneficial use of property consistent with original approved design scheme. Located at Plat 1-2, Lot 34A; High Hill Road, Tiverton, RI.**

Chair Tikoian recused himself.

Vice Chair Lemont presided over the application.

Carl Izzo, the applicant was present. Joseph DeAngelis, the applicant's attorney, Scott Rabideau, the applicant's biologist and Mr. Godfrey, the applicant's real estate expert were also present on behalf of the applicant. Ms. Silva gave the council a brief history on the application. Ms. Silva explained that the applicant owns two adjacent lots, one is developed and the other is not developed. Ms. Silva stated an assent was issued for the undeveloped lot to clear it and leave a 75' buffer. Ms. Silva said the developed lot had a house, garage and septic system. Ms. Silva stated that there was a problem with the foundation of the house and that the applicant applied to the council to demolish the

existing house and rebuilt a new house and an assent was granted. Ms. Silva said the current application is for a reduction of the 75' buffer on the undeveloped lot. Ms. Silva said there is no use on the property so there is nothing for the staff to weight the variance request for a buffer against. Ms. Silva felt the applicant did not meet the variance request requirements. Ms. Silva felt the standard buffer requirement could be met. Mr. Shekarchi stated that there was no staff engineer recommendation in the file. Mr. Fugate explained that the staff engineer does not usually comment on buffers as they are an environmental issue and handled by the staff biologist. Mr. Scott asked Ms. Silva if she checked with the town record to see if both lots were buildable. Ms. Silva replied no. Mr. DeAngelis stated that the applicant owns two narrow lots, which are 89 feet in width. Mr. DeAngelis explained that the applicant owns lot 34 which has the family residence on it and lot 34A which is undeveloped but developable. Mr. DeAngelis said the applicant wanted the minimum buffer relief. Mr. DeAngelis said the applicant would agree to a deed restriction that there would be no residential development of Lot 34A and they were willing to work with legal counsel on the language for the deed restriction. Mr. DeAngelis disagreed with the staff report. Mr. DeAngelis said the applicant would agree to a 35' buffer relief instead of the 55' buffer relief requested and this would become a Category A application because it would be less than 50% relief of the buffer. Mr. DeAngelis stated that staff had not reviewed the new proposal and would agree to allow staff to review the new proposal to reduce the buffer relief request and await their recommendation. Mr. DeAngelis said the applicant had put a buffer in where there was no buffer previously. Mr. DeAngelis disagreed with staff regarding the six variance criteria's applying to the application and felt the application fell under the old buffer variance criteria because the application was filed prior to 2001. Mr. Goldman agreed with Mr. DeAngelis. Vice Chair Lemont stated that the lots are separate not merged and asked if the lot was sold could they build on it. Mr. DeAngelis replied yes. Vice Chair Lemont stated that the applicant is willing to give up the development rights on Lot 34A and requesting a 35' variance on the buffer instead of the original 55' buffer variance. Mr. DeAngelis said they were requesting a 35' variance of the buffer which is, less than the 50% request and they are willing to merge the two lots. Mr. Reitsma asked about the history of the previous assents and what changes were made. Mr. Reitsma also asked him to address the enforcement history on the lots.

**Witnesses:**

Mr. Scott, seconded by Mr. Sahagian moved to accept Mr. Godfrey as an expert on real estate. The motion was carried on a unanimous voice vote. Mr. Godfrey, real estate consultant and appraiser, stated that Lot 34A is a buildable lot according to the Town of Tiverton zoning and building codes. Mr. Godfrey said the fair market value of the property is \$600,000 to \$750,000. Vice Chair Lemont asked if he had anything in writing from the Town of Tiverton which stated that the lot is buildable. Mr. Godfrey replied no. Mr. Shekarchi asked what the zoning was in this area. Mr. Godfrey said R80 zone. Mr. Rabideau stated that he did the environmental assessment of the property and reviewed the aerial photographs of the area. Mr. Rabideau described the lot and said it has vegetation with an established screening vegetation mound which is 40-45 feet from the coastal feature. Mr. Rabideau said the applicant is requesting less of a buffer relief than in the original application. Mr. Rabideau stated a new house was built on the existing footprint of the previous house. Mr. Rabideau stated that the lot width is 89 feet. Mr. Rabideau said there is a patio off the existing house which is 12' wide by 20' in length. He said the edge of the property to the patio is less than 4 feet between the 75' buffer zone. Mr. Rabideau felt there would be no significant adverse environmental impact if the buffer was reduced. Mr. Rabideau felt the applicant met parts 1 & 2 of the criteria for a variance. Mr. Rabideau disagreed with "e" of the staff report which stated the property could maintain a 75' buffer with a structure on the property. Mr. Rabideau felt that it would not be a maintained buffer because they could put a view corridor in and

request a variance for reduction of the buffer. Mr. Rabideau said the location of the house would cause undue hardship if they had to maintain the full 75' buffer. Mr. Rabideau stated that this lot would be a recreational area for the applicant to use. Mr. Rabideau felt this was the minimum variance necessary. Mr. Rabideau said the lot had an 89' width which is a narrow lot to build on by most standards. Vice Chair Lemont asked if they mowed the grass in the 75' buffer area. Mr. Rabideau said yes. Mr. Reitsma stated that the blue line on the plan showed what the buffer should be according to the previous assent and the applicant violated this assent by mowing the area. Mr. Reitsma felt that it was not right for an applicant to come back to the council and ask them to reconsider the application when they are in violation of the assent. Mr. Reitsma felt this was making a joke of the council by coming back before them to validate what they did. Mr. DeAngelis said the applicant purchased the two lots in one deed. Mr. DeAngelis explained that when the applicant put the 20' buffer on the lot he was building his home he thought the 20' buffer was for both lots. Mr. Reis stated that he worked on several of these applications and they worked very closely with the applicant on the house application and the 20' buffer was because of the location of the septic system on the developed lot and this was over the objection by the town. Mr. Reis said only a 20' buffer could be given on the developed lot. Mr. Reis said Lot 34A could have 75' buffer and that the applicant cleared 60' of the buffer. Mr. Reis felt the applicant needed to clear up the violation of mowing the buffer. Mr. Reis stated that the assent for the 75' buffer on the undeveloped lot was issued prior to the buffer on the developed lot. Mr. Reis felt the applicant could meet the 75' buffer requirement. Mr. DeAngelis confirmed that Lot 34A received the assent for the buffer first and that the assent for the developed lot was granted with a 20' buffer. Mr. Izzo stated that he has owned the property since October 1994. Mr. Izzo said the two lots were in one deed and he considered it to be one parcel of land. Mr. Izzo explained that he thought the 20' buffer on lot 34 applied to both lots but an error was made. Mr. Reitsma asked when the applicant was put on notice of the violation. Mr. Izzo replied seven years later. Mr. Izzo said he thought he was in the buffer requirement. Mr. Izzo stated that he contacted CRMC to see what could be done to protect this. Mr. Scott asked if the lot was subdivided and asked how many tax bills the applicant received. Mr. Izzo stated that he received one tax bill for both lots and the lots were not subdivided and he purchased in one deed. Mr. Rabideau stated that the 20' buffer had been flagged by the applicant's engineer for both lots. Mr. Reis explained that the 75' buffer had remained undisturbed for a number of years and remained this way until Lot 34 was developed in 1998. Mr. Reis said the 20' buffer also had enforcement action because the applicant had altered it by putting a staircase on the bluff but that a consent agreement was reached. Mr. DeAngelis stated that the first assent which established the 75' buffer allowed some clearing. Mr. DeAngelis stated that the revised plan requested less of a buffer variance and that the applicant was willing to agree to a deed restriction that there would be no residential dwellings on lot 34A. Mr. Reis said the patio is 10 feet from the buffer not 4 feet from the property line. Mr. Scott asked when the application were processed were the assents on the lots done separately. Mr. Reis said yes. Mr. Gray asked if what the applicant was offering that the area be allowed to revegetate or be maintained naturally or with mulch. Mr. Rabideau said there will be mulch beneath the planting but it would remain a natural buffer. Mr. Shekarchi asked if the second lot was a buildable lot and has it merged with the other lot. Mr. DeAngelis replied the lot is a buildable lot but it has not been merged because the town merging provisions do not apply for this property. Mr. Scott said the applicant could get a certificate from the town zoning which stated that this is a buildable lot. Mr. Paolino, seconded by Mr. Coia moved approval of the application as submitted with all staff stipulations. Mr. Reitsma said he did not object to the applicant enjoying his property. Mr. Reitsma stated staff felt the applicant could meet the buffer requirements and this would not effect the use and enjoyment of the property. Mr. Reitsma felt the violation

should be cleared before the council took action on this application. Mr. Reitsma stated that he could not support the motion. Mr. Scott asked if the motion included that the lots be merged as stated by the applicant. Mr. Paolino said the approval was for one lot, a 35' buffer variance and a deed restriction that there would be no residential dwelling on the property. Mr. Scott asked legal counsel what buffer requirements did not apply to this application. Mr. Goldman said the economic demonstration because of a hardship requirement did not apply to this application. Mr. Gray asked if the council was voting on the application as presented with changes that the lots be merged and a 30-35' buffer variance. Mr. Rabideau said there would be a 40-45' buffer maintained on the property. Mr. Shekarchi felt this was a buildable lot and that the applicant was giving up something. Vice Chair Lemont called for a roll call vote:

On the motion for approval of the application.

Mr. Gray	Yes	Mr. Sahagian	Yes
Mr. Coia	Yes	Mr. Paolino	Yes
Ms. Pogue	No	Mr. Shekarchi	Yes
Mr. Reitsma	No	Sen. Sosnowski	Yes
Mr. Scott	No	Vice Chair Lemont	Yes

7 Affirmative      3 Negative      0 Absentation

The motion carried.

Mr. Reitsma stated that he would like to make an announcement. Mr. Reitsma said given what has transpired, he felt he was unable to continue serving on the council. He said he would sit out this particular session. He said he did mean very seriously what he said it was his own conviction. Mr. Reitsma said he thinks it's a joke. He said he was not going to participate in it. Chair Tikoian stated that he understood what Mr. Reitsma was saying but as Chairman of the council he was not going to accept his resignation. Chair Tikoian stated that he would like the record clear on this. Chair Tikoian stated that there has always been an open dialog between the agencies and he would like to discuss this with the director further. Chair Tikoian felt that they could work to smooth out the rough edges.

**8. APPLICATION WHICH HAVE HAD A PUBLIC HEARING AND ARE BEFORE THE FULL COUNCIL FOR DECISION:**

'01-07-82 HIGH STREET RIGHT-OF-WAY – Located on Tax Assessor's Plat 9, this road/potential right of way is abutted by Plat 9, Lots 380 and 574, and Plat 9, Lots 293, 295 and 296. The road/right of way is 50 feet wide and runs approximately 682 feet in an easterly direction from the corner of Walcott Avenue to the shore of Narragansett Bay; Town of Jamestown, RI.

Douglas DeSimone, attorney for the Town of Jamestown, was present on behalf of the applicant. Christopher Behan, attorney for the objectors was also present. Chair Tikoian made a brief statement on the application. Chair Tikoian stated that the subcommittee had recommended to establish High Street a public right-of-way. Chair Tikoian stated that the council would only hear new evidence that was not available at the subcommittee hearing. Mr. DeSimone stated that the deed laid out High Street as a right-of-way by stating it was "an open way to Narragansett Bay" by the original owner of the property. Mr. DeSimone wanted the council to adopt the subcommittee's recommended to make High Street a public right-of-way. Mr. Behan felt this did not

create a right-of-way in the deed. Mr. Behan felt this was not a public right-of-way. Mr. Reitsma said he had a business relationship with Don Gleary, a previous owner of the property, in the 1970's but it would not have an effect on his decision regarding this application. Mr. Reitsma asked if the specific intent in the deed to create a right-of-way was not laid out and could the council legally declare this a right-of-way. Mr. Scott stated that a right-of-way could be obtained other than by a declaration but also by acceptance. Mr. Goldman explained that there was a split opinion on this with the court. Mr. Goldman felt there were two (2) ways to determine a right-of-way: 1) recipient dedication, and 2) public use as a right-of-way by prescription. Mr. Goldman felt you could have a right-of-way designed by public user use. Ms. Pogue said one of the said the Town of Jamestown has maintained the right-of-way and the street. Mr. Scott disagreed and felt only a portion of High Street was maintained but not all the way to the water. Mr. Scott asked how much rights do the town have as to public access to the water. Mr. Scott felt the applicant did not show that the right-of-way went all the way to the water. Vice Chair Lemont said the property was described in the deed. Vice Chair Lemont said the subcommittee took considerable time to look at this and the only problem with the right-of way was when the rocks were laid to block the right-of-way. Mr. Shekarchi agreed with legal counsel. Mr. Reitsma said in his view he was not sure sufficient demonstration was conveyed in the deed to make this a right-of-way but if you focus on public use as a right-of-way, it was considered a right-of-way. Mr. Reitsma said there was evidence of public use and acceptance as a right-of-way. Chair Tikoian called for a roll call on the reading of the transcript:

On the reading of the transcript.

Mr. Gray	No	Mr. Sahagian	Yes
Ms. Pogue	Yes	Mr. Paolino	No
Ms. Reitsma	Yes	Mr. Shekarchi	Yes
Vice Chair Lemont	Yes	Sen. Sosnowski	No
Mr. Scott	Yes	Chair Tikoian	Yes

7 Affirmative      3 Negative      0 Absentation

Mr. Reitsma supported the subcommittee recommendation. Mr. Sahagian, seconded by Ms. Pogue moved approval of the subcommittee's recommendation. Chair Tikoian called for a roll call vote:

On the motion for approval.

Ms. Pogue	Yes	Mr. Sahagian	Yes
Ms. Reitsma	Yes	Mr. Shekarchi	No
Vice Chair Lemont	Yes	Chair Tikoian	Yes
Mr. Scott	Yes		

5 Affirmative      2 Negative      0 Absentation

The motion carried

9. APPLICATION WHICH HAVE BEEN SENT OUT TO NOTICE FOR 30 DAYS AND ARE BEFORE THE FULL COUNCIL FOR FINAL DECISION:

'02-11-28 BREWER SAKONNET MARINA – Perform maintenance dredging of 24,000 cy of material from within the marina basin and approved channel. Disposal of dredge

material shall be at Mt. Hope Marine Terminal. Located at Plat 2, Lots 110, 111, 112, 113, 115; Narragansett Boulevard, Portsmouth, RI.

Michael Keyworth, Brewer Sakonnet Marina, the applicant was present. Sean Coffey, attorney, Jay Burns, manager for the marina, Guy Gouthlette, John Paul Garcia, the applicant's engineer were also present. Kenneth Trembly, attorney for the objectors, the Sakonnet Sportsman Club, Robert Messenger, VP of the Sakonnet Sportsman Club and William Smith, the objector's engineer were also present. Christopher Hamblett, Save the Bay, was in favor of the application. Mr. Goulet gave the council an overview on the application. Mr. Goulet said the application was for maintenance dredging for the northern portion of the marina. Mr. Goulet said there would be 24,000 c.y. of dredging which would bring the water depth from -12 feet to -8 feet. Mr. Goulet stated that the dredge material would be disposed at the Mount Hope disposal facility approved by the council. Mr. Goldman stated that Rep. Gallison had raised a procedural issue regarding the local zoning permit. Mr. Goldman said that the zoning board had given their approval but that it was being appealed. Mr. Goldman stated there was concern regarding the local notice given regarding the Mt. Hope disposal site. Mr. Goldman said valid local approval was needed prior to the council making a decision and if the local approval was revoked the council's assent, if granted, would also be revoked. Mr. Coffey said the applicant could find an alternate disposal site if they needed to. Mr. Fugate stated that the applicant would be allowed to modify the application for an alternate disposal site. Mr. Scott stated that there is no staff objection to the application and if there was no objection from the applicant's legal counsel he wanted to hear from the objector's first. Mr. Coffey said the only objection was to one area, the area of entry to the channel and he wanted to address this. Mr. Keyworth stated that the marina predates the council back to 1965, it was dredged and created and they have done no dredging since then. Mr. Keyworth stated that this maintenance dredging application would get the original water depths back. Mr. Keyworth stated that the depths would be 11 feet, 9 feet, 10 feet, 11 feet, dredging to a total of 24,000 c.y. of dredged material. Mr. Keyworth explained this was last dredged in the 1960s and the sediments built up. Mr. Keyworth stated that there was a problem during low tide and moon tide, the vessels get stuck in the channel. Mr. Keyworth stated that this limited the size of the vessels that could use the marina. Mr. Keyworth said they have an agreement with Mt. Hope for the dredge materials. Mr. Keyworth said the project would take 50 days and they received an extension on the water quality certification from DEM to March in order to complete the dredging project this year. Mr. Keyworth stated that they met with the Sakonnet Sportsman Club regarding their erosion proposal. Mr. Keyworth explained that there is erosion on the top of the bank and they offered to plant vegetation along the bank to protect it and they would pay for it. Mr. Keyworth said they offered to pay for the pre-survey on erosion and post dredging survey to show that nothing has moved on the bank. Mr. Keyworth said they would replace the riprap along the channel. Mr. Keyworth said the objectors wanted the project maintained regularly and they agreed to monitor it twice a day. Chair Tikoian submitted photographs taken by Mr. Goulet as to what is there now and passed them out to council members and the attorneys to review. Mr. Keyworth stated there would be improvements to the dock area and they would remove the outer dock and pilings during dredging and replace it after dredging. Mr. Keyworth said they would dredge a portion of the dock on for the Sakonnet Sportsman Club property. Mr. Keyworth said they reviewed the water quality certification and stipulations from DEM received 1/15/03. Mr. Keyworth said they agreed to the stipulation and only disagreed that the Mt. Hope disposal site be only disposal site they wanted to have another pre-approved disposal site as an alternative because of the objections to the Mt. Hope disposal site. Mr. Reitsma asked if they agreed to the DEM stipulations to extend the dredge window to March 2003 with stipulations. Mr. Keyworth replied yes. Mr. Goulet said if the applicant chose another disposal site they would have

to get a modification from DEM and CRMC and that staff may need to modify their stipulations. Mr. Reitsma said if it was a pre-approved site that no further review by DEM would be needed. Christopher Hamblett, Save the Bay, stated that they were in favor of the application.

#### Objectors.

Mr. Trembly, stated that the objectors never objected to the marina in the past. Mr. Trembly said they were concerned with erosion of the bank and felt the applicant was moving the channel closer to their land not their own land. Mr. Trembly said they did not want them dredging against their property. Robert Messenger said they were concerned with the bend area of the channel where there is no riprap and the erosion problem. Mr. Messenger said their septic system is located near the bend. Mr. Messenger felt the expansion of the marina kept going towards their property. Mr. Reitsma asked where the septic system was. Mr. Goulet stated that it was 25 feet from the top of the bank to the leaching field. Mr. Coffey asked how long they have had an erosion problem in this area. Mr. Messenger replied 13 years since he has been a member. Mr. Coffey asked what he has done to mitigate the erosion problem. Mr. Messenger replied nothing. Mr. Scott, seconded by Ms. Pogue moved to accept William Smith as an expert in engineering. The motion was carried on a unanimous voice vote. Mr. Smith stated that he had looked at the erosion issue. Mr. Smith stated that the applicant would be dredging 2500 c.y. at the mouth of the channel. Mr. Smith said there was riprap along a portion of the channel to be dredged. Mr. Smith stated that the channel is 6 feet deep now and will be 12 feet deep after it is dredged and they were concerned with the erosion of the bank and the impact on the septic system and parking lot. Mr. Smith stated they were concerned with dredging the channel from 6 feet to 12 feet and the impact it would have on erosion of the bank. Mr. Coffey asked what other sources of erosion there were. Mr. Smith replied wave action at the tidal zone causes the bank to erode. Mr. Coffey stated that they proposed to monitor the impact on the dredging in the area. Mr. Smith asked what resources they had if there was erosion impact to their land. Mr. Smith said there was discussion about putting vegetation along the bank to prevent erosion but he was not sure that plantings would be enough to prevent erosion. Mr. Coffey asked when the septic system was installed. Mr. Smith was not sure. Mr. Shekarchi asked if they were recommending a riprap wall for mitigating the erosion. Mr. Smith replied yes, he would recommend a riprap wall. Mr. Shekarchi stated that if a riprap wall was installed that the objectors would have no objection to the application. Mr. Smith replied yes. Chair Tikoian asked if he felt that wave action would cause more erosion of the bank. Mr. Smith said yes. Mr. Smith felt the channel would move in closer to the abutters property and there would be less protection to the bank. Chair Tikoian asked if the club had done anything to prevent erosion or come to CRMC to see what they could do to prevent erosion of the bank. Mr. Smith stated he was not sure he has only been involved with the property for a couple of months. Mr. Messenger stated they have done nothing to prevent the erosion of the bank. Mr. Goulet stated that staff had been to the site and looked at the bank and erosion problem. Mr. Goulet said the applicant had modified the dredge project and the slope of the bank. Mr. Goulet stated that from 0- and beyond it will remain identical to what is there now. Mr. Goulet explained that the pictures showed erosion of the surface side of the bank not from wave action. Mr. Goulet said the bank will continue to erode and felt there was a non-structural shoreline protection solution for this. Mr. Goulet said the club needs to do something to protect the bank. Mr. Reitsma said they suggested that the channel would be moved closer to the clubs land and asked if this was the area of concern. Mr. Goulet replied no. Mr. Goulet said the toe of the channel will remain the same. Mr. Sahagian said it appeared if non-structural shoreline protection could be done for the objectors to protect their bank there would be no objection. Mr. Coffey said they offered to put in non-structural shoreline protection. Mr. Scott asked what the non-structural shoreline

protection solution was for this area. Mr. Goulet said he could see a non-structural vegetation program for the bank with a buffer between the parking area to slow down the runoff and they should reroute the runoff to another area. Mr. Coffey said they agreed to do this. Mr. Keyworth said they agreed to put in vegetation, monitor the project and pay \$12,000 towards the vegetation of the bank. Ms. Pogue stated that there were programs available for stormwater runoff and erosion of the bank which are available to the club and should be looked into. Mr. Sahagian said that according to staff the erosion could still continue even without the dredging. Mr. Keyworth said they were willing to help remedy the erosion problem. Mr. Coffey stated that the surface runoff is causing the erosion not the dredging. Mr. Coffey said they will put in non-structural shoreline protection to prevent erosion of the bank. Chair Tikoian asked about the siltation in this area. Mr. Goulet said bank will erode some or not at all and it was caused by the salting and sanding in the wintertime. Russell Johnson, an objector, said he was opposed to the application because of the dredge material being placed at the Mt. Hope site. Mr. Johnson said they received no notice on this dredge material site. Mr. Johnson was concerned with the odor and dust caused by the disposed dredged material. Mr. Johnson said he filed an appeal on the zoning approval regarding the dredge site. Mr. Johnson requested that the council hold off on the application until the zoning appeal is heard in April and a decision is made. Claudette Kissinger, Portsmouth Conservation Association, stated they were opposed to the application, the dredge material site and the impact it would have on water quality. Ms. Kissinger wanted to know what would happen to the other dredging material that will remain at the site. Ms. Kissinger felt the communication in this area was very poor. Chair Tikoian felt there needed to be more education and communication with the town and interested parties with CRMC, DEM and Save the Bay. Mr. Reitsma said the town decides the land use. Robert Irwin, an objector said he was appealing the zoning decision. Mr. Irwin felt there needed to be better communication regarding this project. Mr. Irwin was opposed to the project and was concerned with the dust problem to the community. Mr. Sahagian, seconded by Vice Chair Lemont moved approval of the application as submitted to the council with all staff stipulations. Mr. Scott wanted the offer by the applicant regarding non-structural shoreline protection not be withdrawn. Mr. Gray asked what would happen if there was severe damage to the bank. Mr. Fugate said they would have to file for an emergency application to restore the bank. The motion carried. Mr. Shekarchi was opposed.

**10. PUBLIC HEARING ON CHANGES TO THE RHODE ISLAND COASTAL RESOURCES MANAGEMENT PROGRAM/MANAGEMENT PROCEDURES:**

**Section 5. Notification and Review of Permit Applicants**

**5.7 Continuances:**

**Request made in Advance for Subcommittee Hearing**

**Request made on the Day of Subcommittee Hearings.**

**\*\*\* (no changes proposed)**

- Chair Tikoian continued the public hearing on program changes to the next council meeting to allow legal counsel to review the program changes.

**11. ENFORCEMENT REPORT – December 2002**

There were none held.

12. Category "A" List

There were none held.

There being no further business before the council, the meeting was adjourned at 9:08 p.m.

Respectfully submitted,