

In accordance with notice to members of the Rhode Island Coastal Resources Management Council a meeting was held on Tuesday, March 25, 2003 at 6:00 PM at the RIEDC/QD Port and Commerce Park; Conference Rooms A & B – 30 Enterprise Drive, North Kingstown, RI.

MEMBERS

Mike Tikoian, Chair
Paul Lemont, Vice Chair
Tom Ricci
Ray Coia
Neill Gray
Senator Dan DaPonte
Rep. Eileen Naughton
Senator Susan Sosnowski
Dave Abedon

STAFF PRESENT

Grover Fugate, CRMC Executive Director

Dave Reis, CRMC Environmental Scientist

Brian Goldman, Legal Council

1. Chair Tikoian called the meeting to order at 7:01 PM.

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

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

Mr. Coia, seconded by Mr. Ricci moved approval of the March 11, 2003 minutes. The motion was carried on a unanimous voice vote.

2. **STAFF REPORTS**

Mr. Fugate announced that there is a new CD out on "Rhode Island Habitat Restoration" which was funded by a NOAH grant in the amount of \$273,000. The grant money was used to set up the CRMC webpage and portal. Mr. Fugate stated that the CD is out nationally as and is being used as an example of Rhode Island being the leader in habitat restoration.

Mr. Fugate also stated that the application for the Town of Jamestown had been continued as there was a problem with the advertising.

3. **SUBCOMMITTEE REPORTS**

Chair Tikoian stated that Mr. Turner had completed the hearings on the Newport subcommittee and that they were awaiting the written decision from legal counsel, which is being worked on.

Chair Tikoian gave council members an update on pending subcommittees. Chair Tikoian stated that the Hogg Island Subcommittee would be meeting on April 3rd and he would be appointing members to a subcommittee regarding the Narrow River water type change and the Sakonnet Point Marina applications.

4. **CONTINUANCES:**

'2003-03-004 NARRAGANSETT ELECTRIC CO. – Abandon a portion of the existing (replaced) 23 KV submarine electric cable in place on the bottom of the east passage of Narragansett Bay. Due to potential entanglement with existing Cox submarine cable, it is requested to abandon approx. 800 to 1,000 linear feet section of the 6,400 LF total length of the cable, located in 100-165 feet water depth. The ends of the abandoned section will be cut and sealed on a barge, and returned to bay bottom. Located on the Bay bottom in 100 50 165 feet of water of East Passage of Narragansett Bay; Jamestown Cable Crossing, Newport and Jamestown, RI.

The applicant was not present. Chair Tikoian stated that the applicant requested a continuance because their expert witnesses were not available. Chair Tikoian continued the application to the next meeting, April 8th.

'2002-03-058 RICHARD AND JOAN JOHNSTON – Construct a three (3) bedroom, single family, dwelling with attached garage and driveway. The proposed dwelling is serviced by a DEM-ISDS approved septic system and Town water supply (see attached plans). The proposed dwelling is located within 25-feet of the most inland coastal feature. Located at Plat 89, Lot 192; Clinton Drive, North Kingstown, RI.

The applicants were not present. Chair Tikoian stated that he had received a call from the applicant's attorney today requesting a continuance on the application because the applicants were extremely ill and unable to attend the meeting. Chair Tikoian continued the application.

5. **APPLICATION REQUESTING FRESHWATER WETLAND IN THE VICINITY OF THE COAST/ADMINISTRATIVE APPROVAL BEFORE THE FULL COUNCIL FOR DECISION:**

'2003-02-028 ROBERT RICHARDSON – Construct a single family, three bedroom residence and ISDS. Located at Block 53, Card 8; Poplar Drive, Tiverton, RI.

Robert Richardson, the applicant was present. Mr. Reis gave council members a brief summary on the application. Mr. Reis stated that the application was for an as built construction of a dwelling, ISDS and well. Mr. Reis said the dwelling is in a different location than the assent approved. Mr. Reis explained that the dwelling is within 6 feet of a wetland and the wetland had been altered. Mr. Reis stated that the construction was in non-conformance of the assent. Mr. Reis stated that the under CRMC program this project does not meet the criteria for alteration of a wetland. Mr. Reis said the staff biologist deferred to the council for their decision and the staff biologist was not in support of the application. Chair Tikoian asked when the applicant purchased the lot if he had been aware of CRMC. Mr. Richardson stated that when he purchased the property he was told that all permits had been obtained from DEM for the ISDS and wetlands permits. Mr. Richardson stated that he had gone to the Tiverton Zoning Board to get a variance for the new location of the house. Chair Tikoian asked if he highlighted the location of where the house would be. Mr. Richard said he was told it had to be built on top of the hill because of the drainage. Chair Tikoian felt the applicant purchased the lot with good intentions. Chair Tikoian asked what requirements had to be met and what staff's recommendations were. Mr. Reis stated that some fill had been

removed and some had been added from the wetland area and would have to be fixed. Chair Tikoian asked what the size of the lot was. Mr. Richard replied 36,800 square feet. Vice Chair Lemont asked what happens to house if you remove the fill and the wetland is 6 feet away from the house. Mr. Reis said he would not want to have a 6' depression near his house. Vice Chair Lemont stated that the only way to solve this would be to move the house but due to the fact that the house is built it would be more of a problem to move it. Vice Chair Lemont, seconded by Mr. Coia moved approval of the as built application with all staff stipulations. Chair Tikoian asked about the other permits from DEM. Mr. Richardson stated that he had to go to DEM to get a modification of the septic system and they reviewed the plans and he was told he had to go before CRMC because of the location of the house. Vice Chair Lemont stated that this was a subject for the policy and planning subcommittee to discuss how they can prevent this from happening in the future. The motion was carried on a unanimous voice vote.

6. APPLICATION REQUESTING AN EXTENSION OF ASSENT BEFORE THE FULL COUNCIL FOR DECISION:

'1990-08-029 MELLVILLE MARINA INDUSTRIES – Extension of existing permit.
Location of project is Weaver Cove, Plat 43/50; Lots 4, 5/6, 7; Portsmouth, RI.

Kristen Sherman, attorney for the applicant was present. Blake Henderson, the applicant's engineer was also present. Mr. Fugate gave council members a brief summary on the application. Mr. Fugate stated that this marina had been approved some time ago and had received extensions of the assent. Mr. Fugate stated that the marina had a 1500 slip capacity and there is in-water construction of a wave fence, which is a large part of this project. Mr. Fugate stated that a sinking fund had to be put in place in case the fence had to be removed. Mr. Fugate said there were issues with the wave fence. Mr. Fugate said the sinking fund was suppose to be in place within a certain timeframe which has not been met. Mr. Fugate stated that it looked like the assent was not in place and valid. Mr. Fugate said design issues had been raised regarding the wave fence. Ms. Sherman explained that the assent had been issued on 10/3/95 for the marina and wave fence and it was an 8-year assent. Ms. Sherman said they had received previous extensions of the assent from 1998. Ms. Sherman stated that the assent expires on April 2003 and they were requesting another 8-year extension of the assent. Ms. Sherman stated that due to economic uncertainly and the redesign and modification of the project they would need an extension. Ms. Sherman stated that they would be removing the wave fence from the application and modify the assent to add wave floats which are better for the environment and this would waive the stipulation for the sinking fund requirement. Ms. Sherman said they need to reevaluate the project and they would have to meet the Town of Portsmouth's new zoning regulations. Chair Tikoian explained that under the extension rules the executive director can grant a one-year extension and the council could grant a maximum of three one-year extensions. Ms. Sherman felt this rule applied to assents issued after this went into effect. Ms. Sherman felt assents issued prior to the enactment of this rule did not apply. Chair Tikoian stated that this assent expires in 2004 and falls under the new requirement. Chair Tikoian stated that the council could extend the assent from 2004 to 2005. Ms. Sherman disagreed. Mr. Goldman said he met with the applicant's attorney and the executive director and they determined that the assent was still valid and felt that the applicant would have to come back for one- year extensions on the assent. Mr. Goldman said the regulations came into effect on November 7, 2002. Chair Tikoian felt this would be a 17-year assent if the council granted another 8-year extension. Vice Chair Lemont asked what harm there would be to the applicant if they have to come back to the council to do the three one-year extensions. Mr. Goldman said it was

possible for the applicant to come in for a modification of the assent and if a modification to the assent was filed they can do an extension of the assent for 8 years. Chair Tikoian asked if there was any effect on the water quality certification from DEM regarding the extensions of the assent. Ms. Sherman replied yes, they would need extensions on the water quality certification from DEM and an extension from the Army Corps. Chair Tikoian asked when the water quality certification expires. Ms. Sherman replied on 9/14/03. Chair Tikoian asked what the DEM extension policy was regarding water quality certifications. Mr. Henderson stated that he met with DEM and they can apply for extension of the water quality certification by letter. Chair Tikoian stated that the rule is the rule and the council had no problem with granting one-year extensions but had a problem with granting an 8-year extension of an assent. Vice Chair Lemont wanted to know what harm to the applicant if they have to come back yearly to the council to get an extension. Mr. Coia felt the assent extension was after the enactment of the rule. Mr. Coia said the assent was issued prior to the enactment and felt this would be an open-ended process and agreed with the applicant's attorney. Mr. Esposito stated that the harm to the applicant would be to obtain financing for the project. Mr. Esposito said this was a complete redesign of the project. Mr. Esposito said if the CRMC assent runs out during the applicant trying to get local approval from the town they may not be able to get financing if they do not have a valid CRMC assent. Mr. Esposito felt the council could use some discretion on the interpretation of this yearly extension rule and allows the applicant some latitude. Mr. Fugate asked if they were going back to get local approval for the in-water design. Mr. Esposito replied no. Chair Tikoian stated that it was the intent of the policy and planning subcommittee to make sure extension of assents did not go on indefinitely and the assent gets stale. Rep. Naughton asked if they would be modifying the assent. Mr. Esposito replied yes. Mr. Goldman said if the council finds some ambiguity in the regulation the council could issue a greater assent extension than three one-year extensions and have the policy and planning subcommittee re-look at this. Vice Chair Lemont stated that he was a member of the policy and planning subcommittee when this rule was discussed and felt there was some ambiguity in the language. Vice Chair Lemont, seconded by Mr. Ricci moved to extend the assent for five years. Mr. Abedon asked what happens in five years if the application is modified and the rules change or another extension is needed. Mr. Goldman stated that under the modification of a plan the executive director has some authority regarding the modification of the plan and the extensions. Mr. Reis wanted staff to be aware of what is happening with this application regarding the new plan and what happens at the local level regarding the modification of the plan before the new plan comes back before the council. Mr. Esposito agreed to give CRMC input on the modification of the plan. The motion was carried on a unanimous voice vote.

7. APPLICATIONS WHICH HAVE BEEN OUT TO NOTICE FOR 30 DAYS AND ARE BEFORE THE FULL COUNCIL FOR FINAL DECISION:

'2002-10-048 THOMAS AND LINDA GRABLICK – Construct and maintain a residential boating facility consisting of 4' x 68' fixed timber pier, ramp, and 18' x 8' float. Located at Plat 414, Lot 3; 214 Riverside Drive, East Providence, RI.

Thomas Grablick, the applicant was present. Mr. Reis gave council members a brief summary on the application. Mr. Reis stated that the application was to construct a residential boating facility, a 4'x 68' timber pier, ramp and 18' x 8' float. Mr. Reis stated that a variance was requested to the 25' property setback standards. Mr. Reis stated that no objection to the variance had been received. Mr. Reis said the applicant is requesting a 13' variance. Mr. Reis said the applicant proposed to put the dock 12' from the property line instead of 25'. Mr. Grablick stated that he had nothing to add to the application. Mr. Grablick said his dock would be 30' from the nearest dock and that his

neighbors were okay with this. Mr. Grablick stated that he had raised the lift up as requested by staff. Mr. Grablick wanted CRMC approval for the application. Mr. Neill asked if the council had received any letters of objections from the neighbors. Mr. Reis stated that no letters of objection had been received. Sen. DaPonte, seconded by Mr. Coia moved approval of the application with all staff stipulations and the variance. The motion was carried on a unanimous voice vote.

'2002-11-043 MARINA REALTY – Perform 5,000 cubic yards of dredging with disposal in the CAD for the Providence River and Harbor Federal Dredge Project. Located at Plat 635, Lot 173; 17 Arnolds Neck Drive

John Dickerson, the applicant was present. Mr. Reis gave council members a brief summary on the application. Mr. Dickerson stated that the application was to dredge 5,000 cubic yards of dredge material. Mr. Dickerson stated that the dredge material would be disposed of at the CAD cell in Providence. Mr. Reis stated that staff recommended approval of the application with a number of stipulations. Rep. Naughton, seconded by Mr. Gray moved approval of the application with all staff stipulations. The motion was carried on a unanimous voice vote.

8. **ENFORCEMENT REPORT – February, 2003**

There were none held.

9. **Category "A" List**

There were none held.

10. **Announcements**

Mr. Abedon acknowledged the three students from URI that were present.

There being no further business before the council the meeting was adjourned at 7:55 p.m.

Respectfully submitted,