

In accordance with notice to members of the Rhode Island Coastal Resources Management Council a meeting was held on Tuesday, April 22, 2003 at 7:00 PM at the Department of Administration – Conference Rooms B & C – One Capitol Hill, Providence, RI.

MEMBERS

Mike Tikoian, Chair
Paul Lemont, Vice Chair
Tom Ricci
Ray Coia
Neill Gray
Senator Dan DaPonte
Rep. Eileen Naughton
Joe Shekarchi
Pam Pogue
Jan Reitsma
Jerry Sahagian
Turner Scott
Rep. Jan Malik

STAFF PRESENT

Grover Fugate, CRMC Executive Director

Ken Anderson, CRMC Senior Engineer

Brian Goldman, Legal Council

1. Chair Tikoian called the meeting to order at 7:00 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 Senator DaPonte moved approval of the April 9, 2003 minutes. The motion was carried on a unanimous voice vote.

2. **STAFF REPORTS**

Chair Tikoian informed council members that the bay is being dredged 24 hours a day 7 days a week. Chair Tikoian requested that staff give council members updates on the progress of the dredging at the semi-monthly meetings.

3. **SUBCOMMITTEE REPORTS**

Vice Chair Lemont stated that the Policy and Planning Subcommittee had met on April 15, 2003 and recommended the following changes: Salt Pond Region SAM Plan revise Paragraph C - Sections 921.A.2 and 921.B.2– Land Use Policy; the Narrow River Pond SAM Plan revise Paragraph C – Sections 921.A.2 and 921.B.2 – Land Use Policy; and Management Procedures Section 5.12 – Permit Extensions. Vice Chair Lemont requested that the proposed changes be received by the council. Chair Tikoian stated

that the proposed changes would be advertised and put out to notice and placed on the council's agenda.

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

5. **APPLICATION REQUESTING SPECIAL EXCEPTION BEFORE THE FULL COUNCIL:**

'2002-12-063 – CITY OF NEWPORT/DEPT. OF PARKS AND RECREATION, AND TOURISM – Add (3) 6'x16' floats (288 s.f. total) to existing dinghy dock facility (1064 s.f. total) (approved per file 98-4-83). The application requires a special exception to Table 1 of RICRMP – expand a recreational boating facility in "Type 2" waters. Located at Plat 42, Lot 7; the King Park Stone Pier, Wellington Avenue, Newport, RI.

Susan Cooper, Director of the City of Newport Dept. of Parks and Recreation and Tim Mills, the Newport Harbor Master were present on behalf of the applicant. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson stated that this was an application to add additional floats to an existing dinghy dock off Wellington Avenue in Newport. Mr. Anderson stated that they would be adding 288 s.f. of floats to the facility. Mr. Anderson said this is in Type 2 waters and requires a special exception. Mr. Anderson said there is no staff objection. Chair Tikoian opened the public hearing on the special exception. Mr. Scott stated that this was a well-used facility and the best protected spot in Newport to load and off load. Mr. Scott felt that the extra slips were needed. There was no further public comment. Chair Tikoian closed the public hearing. Mr. Scott, seconded by Mr. Gray moved approval of the special exception. Chair Tikoian called for a roll call vote on the special exception:

On approval of the special exception:

Rep. Malik	Yes	Mr. Gray	Yes
Ms. Pogue	Yes	Mr. Coia	Yes
Mr. Shekarchi	Yes	Sen. DaPonte	Yes
Rep. Naughton	Yes	Mr. Sahagian	Yes
Mr. Scott	Yes	Mr. Ricci	Yes
Vice Chair Lemont	Yes	Chair Tikoian	Yes
Mr. Reitsma	Yes		

13 Affirmative 0 Negative 0 Absentation

The motion carried.

Mr. Scott, seconded by Mr. Gray moved approval of the application with all staff stipulations and the special exception. The motion was carried on a unanimous voice vote.

6. **APPLICATIONS REQUESTING ADMINISTRATIVE APPROVAL BEFORE THE FULL COUNCIL FOR DECISION:**

'2002-12-048 PEDRO & LINDA JOHNSON – Construct and maintain a residential boating facility to consist of: a 4' x 92' +/- fixed timber pier with seven-(7) batter braced tie-off pilings. The Terminus of the dock (pilings) will extend to 60-feet beyond mean low water (MLW). Also "as built" authorization for removal of an existing dock. Located at Plat NB, Lot 18; Willet Road, Narragansett, RI.

Pedro Johnson, the applicant was present. John Boehnert, the applicants' attorney and Keith Neilson, the applicants' engineer were also present. Scott Chapin, an abutter, was also present. Mr. Anderson gave council members a brief summary on the application. Mr. Anderson said the application was for a residential dock in Narragansett. Mr. Anderson said it would be a 4' x 92' timber pier and a 10' length variance was requested to extend the pier 60' beyond MLW. Mr. Anderson stated that there were questions raised on the site conditions and the dock being attached to rock. Mr. Anderson stated that the application was heard before the dock subcommittee and they recommended that the application be heard by the full council. Mr. Anderson explained that the coastal program requires appropriate geological site conditions and this site has a lot of exposed ledge, which the pilings would be drilled into. Mr. Anderson said there was lack of engineering information to support the dock application foundation. Mr. Sahagian stated that staff engineer, Mike Deveau had concerns with additional pins in this area and this was why the application was sent to the full council to hear from the applicant's engineer to make sure the dock was secured. Mr. Sahagian said he was very comfortable with the application but wanted to hear from the applicant's engineer regarding the design of the dock. Mr. Boehnert qualified Mr. Neilson as an expert in engineering and submitted a copy of his resume to the council as an exhibit. Ms. Pogue, seconded by Mr. Sahagian moved to accept Mr. Neilson as an expert in engineering. The motion was carried on a unanimous voice vote. Mr. Neilson stated that he had prepared the application and was familiar with the property. Mr. Neilson said he also observed the geological conditions on site. Mr. Neilson explained that there were two (2) methods to secure the dock to the ledge: 1) pins in ledge -- they would drill holes and place pins in them to secure pilings. The pins would hold the pilings in a vertical condition and be secured with clamps to secure the pins; and 2) drill holes in ledge to accommodate the pilings and insert the pilings into the ledge but this causes buildup and the wood would swell and could cause resistance to hold the pilings. Mr. Neilson explained the pin method and felt this was a better method. Mr. Neilson felt this was adequate to support the dock and felt there was appropriate structure support for the dock. Mr. Neilson said the dock could withstand environmental conditions during a storm. Mr. Scott asked if the drill hole and the socket were the same method. Mr. Neilson explained that the socket is a steel anchor and the drill hole method would drill pilings into the ledge. Mr. Anderson requested that the applicant submit a support design plan for this dock. Mr. Anderson said there was concern that there would be remnants of steel pieces in the water or on the beach if the dock was destroyed. Chair Tikoian requested that the applicant submit additional calculations on the dock for staff. Mr. Boehnert agreed to submit the additional calculations. Mr. Gray asked what the elevation was at the high water mark on underside of the dock. Mr. Neilson stated that the dock elevation at the mean high water mark at the top of the dock was 5.5' elevation and there is about a 2' spread between them. Mr. Gray was concerned with having open lateral access between low and high tide water and suggested it be marked by putting stairs on the dock to cross over. Mr. Neilson felt this area was not accessible for public access because of the site conditions and the rocks. Mr. Gray had a problem with not having public access for the abutters and others. Mr. Gray felt this would put a barrier there for lateral access along the shore. Mr. Gray was concerned with there being no public access. Chair Tikoian stated that this issue was discussed at the last policy and planning subcommittee and there is no standard rule that a structure had to be lifted for public access if the site is not acceptable for public access. Mr. Gray wanted the policy and planning subcommittee to re-look at this. Chair Tikoian suggested that staff look at public access during their site visits. Ms. Pogue stated that this was a fixed pier and wanted to know what sort of effect a storm surge would have

on this fixed pier. Mr. Neilson felt that storm surge would not exert a lot of force on one of these docks. Mr. Neilson said the water was deep in this area and the waves would go under the dock not over the dock. Mr. Neilson felt there would be no monumental effect. Chair Tikoian stated that the council could approve the application subject to staff review of the calculations on forces during maximum storm conditions on the dock. Mr. Anderson wanted the calculations on the maximum load on the dock connections and calculations supporting the connections. Chair Tikoian asked why this was not brought up before. Mr. Anderson said he was on vacation and did not see Mike Deveau's report until after it was done. Mr. Reitsma had a question on eelgrass in the area and whether the survey done on the eelgrass was reliable or not. Mr. Reitsma asked how significant this issue was. Mr. Fugate stated that there was a letter dated 9/16/02 regarding when the survey was done. Mr. Fugate said the survey was done in January and the maximum eelgrass growth periods were in June and July. Mr. Anderson said this was unresolved and there were no concerns raised by Mr. Reis at the meeting today just a question on the time of year the survey was done. Mr. Boenherth stated that Mr. Reis noted in his report that the eelgrass was one mile away from the site and the survey done in January was not reliable. Mr. Boenherth suggested that they redo the survey during the summer time. Mr. Sahagian asked if the application could be approved subject to staff review of the calculations. Chair Tikoian stated yes. Mr. Sahagian, seconded by Mr. Coia moved approval of the application with all staff stipulations and subject to staff review of structure design calculations supplementary to the application and satisfactory to staff. The motion carried. Mr. Scott was opposed. Scott Chaplin, an abutter stated that he was in favor of the application and submitted a letter of his testimony to the council.

7. PUBLIC HEARING ON CHANGES TO THE RHODE ISLAND COASTAL RESOURCES MANGEMENT PROGRAM:

- **Section 300.9 Dredging and Dredged Materials Disposal**
Revision to:
 - **B. Polices – Sections 2, 3, 4 and 6;**
 - **C. Prerequisites – Sections 2, 4, 7 and 8;**
 - **E. Additional Category B Requirements – Sections 3 and 6;**
 - **F. Standards – Section 4 – For Upland Disposal**

Chair Tikoian opened the public hearing on the proposed regulations changes to Section 300.9 Dredging and Dredged Materials Disposal. Mr. Fugate explained that there were statutory changes made last year to the DEM and CRMC dredging regulations. Mr. Fugate stated that these changes would bring the regulations up to statutory requirements and bring them current with DEM regulations. Mr. Fugate said this was also an attempt to ease the burden to make upland disposal an easier option for marinas to use versus in water dredge disposal sites. Mr. Fugate explained that Section B-4 allows Category A review for dredge materials that meet DEM and Army Corps regulations to dispose upland if they meet the regulations and are under 10,000 c.y. of dredged materials. Mr. Fugate said appropriate zoning approval would be needed for upland disposal. Mr. Fugate said if the dredge materials were being disposed of at a federal disposal site it would follow the Category A application process and if it is a state approved disposal site it would follow the Category B application process.

Public Comment:

Michele Congdon, City of Warwick resident, had a few suggestions for changes to the proposed regulations. Ms. Congdon wanted to add the word "upland disposal" after the word "re-use in Section B.2 and felt the word "practical" in B.2. was too vague and needed to be redefined. Chair Tikoian explained that the language "beneficial re-use" includes upland disposal and was already in the statute. Mr. Fugate explained that these regulations follow the federal regulations, which are the lead regulations for dredging, and they determine what is practical and what is not practical. Ms. Congdon wanted to add the words "on-site uses" after the words "but are not limited to" in Section B.3. Ms. Congdon wanted to add "local ordinances" to Section B.4 because an applicant also has to obtain City Council approval for upland disposal and wanted to delete the word "zoning". The Council did not feel this change was necessary and felt applicable local zoning ordinances was sufficient. Mr. Reitsma felt that this should be left along. Ms. Congdon wanted to have Category B application review between upland disposal and ocean disposal sites. Ms. Congdon wanted to keep EPA approval language in Section C.4 and wanted this section to refer to EPA approval. Mr. Goldman stated that they could add the reference to Section 404 of the Clean Water Act Statute to this but that the Army Corps has to have EPA approval before they can move forward on an application so EPA does have a role. Ms. Congdon recommended changes to Section E.3 to delete the words "install siltation curtains" and keep "to control the transport of materials placed in suspension by dredging and felt the word "proper" was too vague and wanted to change it to "as necessary". Mr. Reitsma felt this was an appropriate change and the sentence had to be fixed if the deletion is done. Ms. Congdon felt the word "significant" in Section 3.6 was not defined and needed to be defined. Mr. Fugate explained that this was already existing language in the statute. Mr. Reitsma said the word "significant" is routinely used and felt it was okay to leave. Ms. Congdon felt the council needed to clarify this section and add the word siltation. Mr. Reitsma felt this would make it worse and raise concerns. Mr. Reitsma felt they should keep the language broad and recommended that this not be changed. Mike Keyworth felt it was high time for these changes and that they needed to occur. Mr. Keyworth was in favor of the proposed program changes. John Paul, a resident of Warwick, was concerned with Section B.4. regarding state and federal disposal sites and felt this section needed to be defined better. Donald Kenrodi stated that he was in favor of the regulation changes as proposed. Mr. Kenrodi felt that this was nit picking for no reason and felt the objectors needed to look at the federal regulations and statutes as they are part of these regulations. Ken Cubic, president of the Marine Trade Association, felt these changes helped streamline the application process and was in favor of the proposed regulation changes. Joe Solomon, Warwick City Council President stated that they were just concerned with the environmental impact. There was no further public comment. Chair Tikoian closed the public hearing. Mr. Reitsma stated that it was his observation that the proposed changes were consistent with DEM's regulations on the same subject. Mr. Reitsma did not agree with all the objector's changes but did agree with the recommendation for changes to Section E.3. Mr. Reitsma, seconded by Mr. Scott moved approval of the proposed regulation changes to Section 300.9 Dredging and Dredged Materials Disposal and to amend Section E.3 to delete the words "install siltation curtains" and add "as necessary" and also keep the words "to control the transport of materials placed in suspension by dredging" Chair Tikoian concurred with Director Reitsma's recommendation. The motion was carried on a unanimous voice vote.

03/01/03 11:01:53 AM

8. **Enforcement Report -- March 2003**

There were none held.

9. **Category "A" List**

There were none held.

There being no further business before the council the meeting, Vice Chair Lemont, seconded by Mr. Scott moved that the council go into Executive Session pursuant to R.I.G.L. 42-46-5.1 to discuss personnel issues. The council adjourned at 8:26 p.m.

Respectfully submitted,