

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS¹
COASTAL RESOURCES MANAGEMENT COUNCIL

* * * * *
IN RE: WORKSHOP
SALT POND SAMP/
NARROW RIVER SAMP CHANGES
* * * * *

Wednesday, June 14, 2006
4:00 p.m.
Charlestown Town Hall
Council Chambers
540 South County Trail
Charlestown, Rhode Island

PRESENT
Bruce Dawson

Grover Fugate, Executive Director
Jeffrey Willis, Deputy Director
James Boyd
Laura Ricketson

IRONS & ASSOCIATES
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1 I N D E X
2 SPEAKERS
3 Kate Waterman, 13
4 Wendy Waller, 14

5 Linda Arnold-Fabre, 14
6 Pete Arnold, 18
7 William R. Landry, 24
8 Peter Ogle, 25
9 Lori Urso, 26
10 Harriet Allen, 28
11 Ruth Platnar, 40
12 Cliff Vanover, 54
13 Robert Schiedler, 55
14 Art Ganz, 64
15 Sheila Brush, 69
16 Anna Prager, 73
17 Gus Walker, 74

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19
20
21
22
23
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1 Wednesday, June 14, 2006

2 (Commencing at 7:00 P.M.)

3 MR. FUGATE: We are here for a
4 regulation that is pending before the Council at
5 this moment. This workshop is to solicit public
6 input on that regulation change which will become
7 part of the hearing record. There will be a
8 transcript produced from today's workshop, which

9 will go to all of the Council members for their
10 reading and become part of the hearing record itself
11 on the regulation change.

12 At today's workshop I have to ask that you
13 confine your comments to the regulation change only.
14 Please, no pending applications or applications that
15 might be before the local level. We cannot hear any
16 of that evidence today or any comments regarding
17 those applications. The Council does not have any
18 pending applications before it at this time which
19 this change would effect, but if there are any
20 before the locals or whatever, I, again, would ask
21 that you not mention those during today's testimony
22 or comment.

23 If you do start to stray in that area, I'm
24 going to have to ask that you stop, because by law

1 we cannot accept that comment, so that's why I'm⁴
2 being very specific about this. There is a sign-up
3 sheet being passed around, so we'll take you in
4 order. I would ask that you use the mics that are
5 available because this is going into a tape system
6 which will then be turned over to the stenographer
7 to produce the written transcript.

8 Anybody that wishes a copy of the transcript
9 may come to the Council office, and you can either
10 purchase those directly from the stenographer or you
11 can take out a copy of the transcript for 24 hours
12 and produce your own copy, if you wish.

13 Once the testimony is complete, what the
14 Chairman has asked me to do is to review all of the
15 testimony in the record today and come up with a
16 revised staff recommendation to give to the Council,
17 and based on that and the testimony that the Council
18 receives, they will make a decision on this proposed
19 reg change, whether it should go forward or not.
20 So, that is essentially the process.

21 Does anybody have any questions on that?

22 UNIDENTIFIED SPEAKER: Can you state
23 your name?

24 MR. FUGATE: Yes. Sure. I'm sorry.

5

1 My name is Grover Fugate. I'm the Executive
2 Director. I have Jeff Willis, who is the Deputy
3 Director at the agency, to my right. To my left I
4 have Bruce Dawson, who is a new member of the
5 Council. And, Laura Ricketson and Jim Boyd. Laura
6 Ricketson is a public education person, and Jim Boyd
7 is a policy analyst, whose specific duty is to work
8 on Special Area Management Plans. Yes.

9 UNIDENTIFIED SPEAKER: I have a
10 question. Are you guys appointed? Are you guys
11 elected? How do you get to be on this board you
12 guys are on?

13 MR. FUGATE: The members you see
14 before us, except for Mr. Dawson, are staff, in
15 other words, myself, Mr. Willis and the two members.

16 UNIDENTIFIED SPEAKER: Hi red?

17 MR. FUGATE: We are hired staff.
18 Mr. Dawson and the other Council members are, at
19 this point, given the fact that the legislative
20 members have all resigned and taken themselves off
21 the Council, the only appointments to the Council
22 are by the speaker and the Governor. Mr. Dawson,
23 for example, is a Governor's appointment that
24 required Senate confirmation. He is just recently

1 appointed. The other members of the Council are ⁶
2 either the Speaker's appointments or the Governor's
3 appointments. The Governor's appointments, there
4 are four that are either elected or appointed
5 officials, two from communities under 25,000, two
6 from communities over 25. There are three members
7 from the general public that are appointed with
8 advice and consent of the Senate. Thank you. Yes.

9 UNIDENTIFIED SPEAKER: My
10 understanding is that what we will be discussing
11 tonight is a process; is that correct?

12 MR. FUGATE: And the regulation
13 change. If you think there are problems with the
14 regulation change or there are positive aspects of
15 it, that could be discussed.

16 UNIDENTIFIED SPEAKER: Will we be
17 discussing the staff process, present process,
18 Speaker process, correct?

19 MR. FUGATE: In terms of the
20 processing of applications?

21 UNIDENTIFIED SPEAKER: Yes.

22 MR. FUGATE: Yes, you can.

23 UNIDENTIFIED SPEAKER: Now, we're
24 prohibited from talking about this one particular

1 application, even though it's well known, it has⁷
2 been discussed that this particular proposed change
3 would effect only that one application?

4 MR. FUGATE: Right. We are not here
5 to hear any evidence on any application.

6 UNIDENTIFIED SPEAKER: Will we be
7 able to talk about the appropriateness of any change
8 in the process, or for one application, not the
9 application itself, but just the procedural issues?

10 MR. FUGATE: I think, as long as it
11 does not touch upon a particular application, if you
12 have an issue with the Council changing the
13 application, the process for what you feel may be
14 one application, then, yes, it can state that.

15 UNIDENTIFIED SPEAKER: Okay. Thank
16 you.

17 MR. FUGATE: Are the ground rules
18 clear? Okay. Yes. Okay. Is just about everybody
19 signed up? Well, while that's going around, I know
20 that Representative McHugh is here, and while it's
21 still going around, I'll let Representative McHugh
22 make a few remarks.

23 MR. McHUGH: Yes. Thank you,
24 Director. I appreciate your hearing me first,

1 because I came up from Providence while we're in⁸
2 session and we have committee meetings.

3 I would like to thank the members of the
4 Council here and staff.

5 I rise here this afternoon to say that I'm
6 opposed to the proposed revisions to the Salt Pond
7 and Narrow River Special Area Management Plan, the
8 rules and regulations that you wish to lax the
9 density standards.

10 I represent District 36 which actually pretty
11 much mirrors the Salt Pond SAM Plan, so it's very
12 important to me that we take a real hard look at
13 whether or not these density standards should or
14 should not be laxed. Like I said, I oppose the fact
15 that you wish to now relax those standards.

16 The point I want to make from a public policy
17 point of view, this rule change is very, very
18 problematic. To change rules and procedures for
19 just one project, which has clearly been
20 demonstrated by the evidence applies to one project,
21 has lots a problems from a legislative point of
22 view. Generally speaking, you don't want to
23 legislate for just one particular project. That's
24 not what the rules and regulations are for.

1 The second point I would like to make is that⁹
Page 7

2 these rules changes are retrospect rather than
3 prospective. Most of the court challenges that I've
4 seen deal with going back to try to make something
5 apply to something that happened in the past while
6 from this point on. So there's two very important
7 problematic points of view of this regulation change
8 that I have a problem with.

9 One of the things that I want to talk about,
10 and I know a lot of people will talk about the
11 environment, I want to focus on the affordable
12 housing law because this is what prompted you and
13 the Coastal Resources Management Council to think
14 that you needed to change the rules.

15 I sat on the House Corporation Committee for a
16 year-and-a-half while we listened to countless hours
17 of testimony about affordable housing, and I can
18 tell you that the minimal housing law does not, doe
19 snot require a rule change. It only applies to
20 local zoning ordinances. The law specifically
21 addresses local laws and separate State and Federal
22 laws still apply. If you read the law, it says,
23 quote, "All required State and Federal permits must
24 be obtained prior to the final approval or issuance

1 of a building permit." 10

2 There is really no need to have a conflict
3 between what the affordable housing is trying to do
4 and what the environments are. You're charged as
5 the Coastal Resources Management to protect the

6 environment. There needs not be any type of a
7 conflict. I think that's important to distinguish.

8 The environmental concerns specifically were
9 addressed in the new law. The local review board
10 must, quote, "That there will be no significant
11 negative environmental impact from the proposed
12 development," close quotes.

13 Further on in the law, "In reviewing the
14 comprehensive commitment request, the local review
15 board may deny the request for any of the following
16 reasons." It goes on to say at Subsection 8,
17 "Concerns for the environment and the health and
18 safety of the current residents have not been
19 adequately addressed."

20 Lastly, I would like to point out that the
21 some members of the Coastal Resource Council seem to
22 be of the opinion that the legislature wanted
23 Coastal Resource Management to relax its density
24 requirements for projects that were deemed

1 substantially complete and fall under the old rules
2 prior to December of 2004.

3 I can tell you, again, I attended all those
4 meetings, it was never discussed, it was never
5 brought up, it was never assumed at all that we
6 expected of any state agency to change their rules
7 and regulations in conformance with the new
8 affordable housing laws. They stand by themselves,
9 and the state agency, as far as we're concerned, as

10 legislators are concerned, that it was never the
11 intent of the legislators by the state agency to
12 change their rules and regulations to try to conform
13 to the affordable housing law.

14 I, in fact, in conclusion, I have talked to a
15 number of my colleagues up at the State House and
16 legislators, in terms of we always feel that
17 legislation is much stronger than rules and
18 regulations promulgated by an agency, and we feel
19 very strongly, the people I've talked to, that this
20 rule should not be changed.

21 Thank you for your time.

22 MR. FUGATE: Thank you,
23 Representative.

24 MR. MCHUGH: Any questions?

1 (NO RESPONSE)

12

2 MR. FUGATE: Do we have a list?
3 Maybe if you can give me the first page. If you can
4 give me the first page, okay. I realize that some
5 people may have signed up to be on the mailing list
6 but not want to speak. So if you don't, you can
7 just acknowledge that. Yes.

8 UNIDENTIFIED SPEAKER: Do we raise
9 our hand to speak now?

10 MR. FUGATE: Well, that's what this
11 sign-up sheet was for.

12 UNIDENTIFIED SPEAKER: We have a
13 sheet that was supposed to go up on this side, which

14 is not the applicant.

15 MR. FUGATE: I will tell you what,
16 why don't we start another one over here.

17 UNIDENTIFIED SPEAKER: Can we have a
18 general statement in the record?

19 MR. FUGATE: Why don't we start with
20 Kate Waterman.

21 MS. WATERMAN: Okay. My name is
22 Kate Waterman. I have witnessed the Planning Board
23 try to determine whether or not something were
24 to have -- a project would have, within the SAM

1 Plan, would have an environmental impact on the ¹³
2 pond. It was virtually impossible for them to
3 determine through hydrologists, geo information,
4 they could not tell whether this project, whether
5 the water would actually get any effluent, or any
6 effluent from this project would actually reach the
7 pond, and because they had to determine within a
8 certain area, they simply did not have the
9 scientific information they needed to make this
10 determination. It has always been my impression
11 that we rely on CRMC, your scientific staff, to let
12 us know at what point density impacts our salt
13 ponds. So, I am -- because I know, what three,
14 anything within the SAM plan area is one house per
15 three acres?

16 MR. FUGATE: Of critical concern,
17 yes.

18 MS. WATERMAN: When you make a
19 density determination that triples this, it is hard
20 for me to believe that it does not eventually impact
21 the pond. In Charlestown, salt ponds are really our
22 responsibility. We have Kuoni Pond, Nini gret Pond,
23 and they lie pretty much within our -- and Green
24 Hill Pond. We're trying to restore Green Hill Pond

1 with an enormous amount of money spent on 14
2 retrograding septic systems. We had very little
3 impact on it, and the degradation of Nini gret Pond
4 has begun in the eastern end of it.

5 I think it is very, very important for us to
6 have all of the scientific information we can lay
7 our hands on to protect these ponds, and with your
8 help we're really looking forward to you giving us
9 very specific direction in that regard.

10 So, that is my plea to you, is we need you for
11 this information.

12 MR. FUGATE: Thank you. Okay. I
13 have Wendy Waller from Save the Bay.

14 MS. WALLER: Thank you. I'm Wendy
15 Waller from Save the Bay. We routinely submit
16 formal written comments as well where we emphasize
17 our position that the more protective standards that
18 are currently in the SAMPs should be the baseline
19 for any proposed projects, and after thoroughly
20 reviewing both the SAM plan and affordable housing
21 law, we were unable to find any compelling

22 requirements necessitating an action, and,
23 therefore, we respectfully request this not be
24 granted.

1 MR. FUGATE: Okay. Linda Arnold.¹⁵

2 MS. ARNOLD: I have submitted a
3 formal letter to Mr. Fugate on March 20th, so I'm
4 going to summarize what I've written to you.

5 As chair of the Charlestown Conservation
6 Commission and a biologist with a master's degree in
7 Natural Resources Science, I disagree with the
8 proposed regulation change to the Rhode Island Salt
9 Pond Region Special Area Management Plan and the
10 Narrow River Special Area Management Plan posted on
11 February 15th. It appears that this change is being
12 proposed to allow for one particular developer who
13 is proposing a development in Charlestown to skirt
14 the rules of the Rhode Island CRMC adopted in 2004
15 that limits the density of housing.

16 Many current and former commissioners of
17 various Charlestown commissions, including Planning,
18 Zoning, Conservation, as well as Town councilors,
19 have expressed concerns during public hearings about
20 the negative consequences of high density housing in
21 our SAMP area.

22 As noted in Charlestown's Comprehensive Plan,
23 the broadest area of excessively drained soils found
24 in Charlestown is the recessional marine located

16

1 north of Route 1N, and that's the area we are
2 talking about with this development. This area
3 includes the area of the proposed development. The
4 comprehensive plan --

5 MR. FUGATE: Please, no reference to
6 ait.

7 MS. ARNOLD: Okay. The
8 Comprehensive plan further notes, groundwater, as
9 well as surface water flows from this region appears
10 to flow towards the coastal pond. High density
11 development in this area potentially effects that.
12 The comprehensive plan was based on several years of
13 studies conducted by Federal and State agencies,
14 such as URI School of Oceanography, EPA, NOAA and
15 NRCS.

16 These same studies formed the scientific basis
17 of the Rhode Island CRMC Salt Pond Region Special
18 Area Management Plan, which currently protects the
19 salt ponds using minimum density restrictions of
20 warm dwellings for two to three acres. Those rules
21 were intended to protect coastal waterways that are
22 already overloaded with pollution from the effects
23 of overly-dense residential development. The SAM
24 Plan acknowledges that even though the flow of

17

1 density restrictions are not enough to protect the

2 ponds, it is logical to wonder why CRMC is now
3 offering to amend their regulations and increase
4 housing density and habitat that has clearly been
5 identified as gradual.

6 The current Rhode Island CRMC regulations were
7 developed with the support of local towns, the local
8 scientific community, as well as State and Federal
9 environmental agencies that I just mentioned.

10 The Conservation Commission is concerned that
11 the Rhode Island CRMC no longer recognizes the
12 environmental impacts of high density housing on the
13 salt ponds, some of Rhode Island's most precious and
14 economically important resources.

15 In addition, I am concerned that if the newly
16 proposed regulations are approved, Rhode Island CRMC
17 will make additional changes to the Rhode Island
18 CRMC Coastal regulations based on developers' needs
19 and not based on scientific findings.

20 Charlestown, like other coastal communities in
21 Rhode Island, relies on the Rhode Island CRMC to
22 implement regulations based on sound scientific
23 findings, so court cases do not occur. The State
24 Housing Appeals Board has a list of all

1 comprehensive permits that they deem substantially ¹⁸
2 complete before the one-year moratorium imposed by
3 the legislation.

4 The Ninigret handbook is the only development
5 on this list. I ask that CRMC take the time to

6 review potential development and the proposed site
7 location, the plethora of data related to high
8 residential density impacts on the Rhode Island
9 salt ponds prior to making any regulation changes
10 to the SAMP. Thank you.

11 MR. FUGATE: Thank you. Is it Sandy
12 Arnold?

13 MS. ARNOLD: No.

14 MR. FUGATE: Mr. Arnold, would you
15 like to make a comment?

16 MR. ARNOLD: Good day. I'm Pete
17 Arnold. I am a local resident. I've been on the
18 pond for all the years of my life, and I've looked
19 to CRMC as an organization that's dedicated to
20 taking care of that pond and taking care of the
21 breachway and taking care of any coastal feature.
22 All of us, most of us know how difficult it is to
23 get an application approved for any small project
24 that's within the bounds of the CRMC, and I'm just

19
1 appalled that you would take one of the rules that
2 you have promulgated as wiles in the coastal plane
3 and turn it around retroactively to suit your needs.
4 I think it's wrong. I think it's terrible. And, I
5 thank you for the time.

6 MR. FUGATE: Robert Rohm.

7 MR. ROHM: I didn't intend to speak.
8 I submitted a letter. I thought that was a sign-up
9 sheet for attendance. So, I'll stand on my letter.

10 MR. FUGATE: That's fine. That's
11 fine. Lawrence LeBlanc, do you wish to speak?
12 MR. LeBLANC: No.
13 MR. FUGATE: Okay. William Landry.
14 MR. LANDRY: Good afternoon,
15 Mr. Fugate. I happen to be the attorney for the
16 project that nobody can talk about, and I am going
17 to do my best not to talk about it, but, obviously,
18 we're interested in the regulation change and would
19 receive a benefit from that regulation change, but I
20 would like to really be quite sincere, that I think
21 would lend a little more perspective to this process
22 because I think there are a lot of misassumptions
23 out there. One of them has to do with the
24 underlying policy considerations for the regulation

1 change in the first place. It's been suggested that²⁰
2 this is somehow a retroactive change to benefit one
3 project and to go backwards to benefit the project.
4 I think the record will show just the opposite.

5 The CRMC began to look at this policy issue
6 back in 2003, before any particular project got
7 significantly underway. There was a symposium at
8 URI to discuss this issue of density in the SAMP
9 areas and how to reconcile pretty hard and fast
10 density requirements with the statewide need for
11 affordable housing and what was going on with
12 affordable housing in the State, which was looking
13 at local zoning and other density requirements and

14 saying, do we really need that density constraint or
15 is there another way to measure impacts that might
16 permit affordable housing to occur in more areas.
17 And, that was a very spirited discussion. People
18 from NOAA were there. I think their comments at the
19 end of the conference were that they were happy that
20 the Council was going to be careful and deliberative
21 in trying to reconcile these various policy
22 interests. At the time no change was made in the
23 regulations to constrain these types of projects.
24 If they proceeded in the condominium form of

1 ownership, there was no change at that time, and ²¹
2 over the next two-and-a-half years, a number of
3 projects went forward at tremendous expense over
4 dozens and dozens of hearings and were certified at
5 the State level as being substantially complete, not
6 that the CRMC was somehow required to jump as soon
7 as the State did that, but as a policy matter it was
8 relevant that there was this trend that was
9 occurring before the regulation was changed that
10 doesn't just go away, and that has some legal
11 implications that the CRMC attorney has acknowledged
12 on the record were very credible. So, I think what
13 the Council was doing in this regulation change,
14 which went through a very regular process, was to
15 recognize that there has to be a balance here, that
16 there are certain legal issues involved with
17 changing rules after a situation has been

18 identified, somebody moves in reliance on no change
19 and on existing law and then you change it. So,
20 that was an important consideration, and there was
21 also a desire to try to reconcile zoning policy or
22 CRMC zoning policy with statewide housing policy in
23 other areas. The Charlestown housing plan, for
24 example, called for higher density housing in more

1 restricted areas than the one that the unnamed ²²
2 project is in, and those housing plans of all the
3 South County communities had to be reviewed by CRMC
4 and other state agencies and there had to be some
5 way of trying to reconcile that state consideration
6 with the CRMC cost. There's more to this than just
7 one project.

8 The second point I wanted to make is that the
9 last thing, the last thing we want to do is to avoid
10 a review of the environmental impacts of any
11 project. In fact, I would suggest that it's the
12 people opposing this rule change that want to avert
13 any real examination of environmental impact.
14 There's nothing in this rule change that says that a
15 project doesn't require a CRMC assent. All it says
16 is that the rule change just would say, you've got
17 to have three acres, no matter what, no matter where
18 you are, and I would suggest to you that the current
19 situation without this rule change or without
20 something like it, that creates some opportunity to
21 look at actual impacts is flawed in many respects.

22 You have a situation, for example, very relevant
23 here, where a school was approved on the same site,
24 with much greater impacts clearcut in the site.

1 That's fine because it's not a subdivision. ²³ There
2 could be an apartment building or a nursing home in
3 the SAM Plan area, that would be fine, but not a
4 four-unit affordable housing project. So there's an
5 arbitrariness, not intentional, but there that I
6 think needs to be examined.

7 Another example is that this policy covers
8 self-sustaining lands, like the unnamed project, but
9 also much more sensitive areas, much closer to the
10 coastal ponds, areas developed beyond carrying
11 capacity. In those areas there's no three-acre
12 density requirement, and there are projects now
13 about to hit CRMC that don't have that density
14 requirement that are right at the Salt Pond.

15 Now, for those projects not to be reviewed by
16 that standard, and for one miles away from the ponds
17 to have an arbitrary limit seems unreasonable.
18 There needs to be some more picking. Both of those
19 situations should be evaluated based on those
20 impacts without hard and fast rules. It shouldn't
21 be easier to have a different kind of project in a
22 more sensitive area than it is to have a benign
23 project in a less sensitive area, and we are ready,
24 willing and able to demonstrate the impacts of any

24

1 project that goes forward under this regulation,
2 nitrogen loading, and compare it very favorably to
3 what has been approved already on the same sites,
4 so --

5 UNIDENTIFIED SPEAKER: Are we
6 talking about specific here?

7 MR. FUGATE: No. We're not talking
8 about that.

9 MR. LANDRY: My point is that we
10 want a regulation that tests the impacts of projects
11 and makes sure that they don't effect the Salt Pond,
12 and nothing in this regulation would preclude that
13 type of examination.

14 My last point is that, there was nothing
15 untoward, improper, behind-the-scenes, nothing
16 untoward about how this particular regulation change
17 was proposed, considered by the Policy & Planning
18 Committee, presented to the CRMC full Council, heard
19 by the CRMC full Council, adopted by the CRMC full
20 Council. It was all done above board, all on the
21 record, all for compelling policy reasons, and it's
22 an unwarranted criticism of staff and the Council to
23 suggest that this was somehow something that nobody
24 was aware of.

25

1 I sat at the Council hearing right behind the
2 Conservation Law folks as this regulation was being

3 enacted. It wasn't until weeks later when people
4 apparently associated with a particular project
5 decided they had a problem with it. But for all of
6 the good reasons why this regulation change was
7 debated for over several years, agreed upon by
8 Policy & Planning, recommended to the full Council
9 and adopted by the full Council, those policy
10 reasons don't change because some people may be
11 screaming louder than others and there may be more
12 people favoring one particular outcome than another.

13 Those are the only points I had to say. Thank
14 you.

15 MR. FUGATE: Thank you. I have,
16 excuse me if I mispronounce your names, but anyway,
17 Thomas DePatie, is that, is he here? Thomas
18 DePatie.

19 MR. DEPATIE: I didn't come prepared
20 on any specific subject. I, frankly, thought that
21 was an attendance list.

22 MR. FUGATE: Okay. Peter Ogle.

23 MR. OGLE: Peter Ogle. I live in
24 Charlestown. I guess I would have to say that I'm

1 opposed to any change in the allowable zoning, the ²⁶
2 lot size in the SAM Plan area, until it clearly
3 defines a means of controlling the nitrogen from any
4 sort of development like that. I've seen other
5 projects start down that -- go down that path, and
6 there isn't a means of guaranteeing an

11 similar position that the Coastal Resources
12 Management Council would take on this issue.

13 There is the one proposal in our watershed
14 that I won't refer to, only to say that any marginal
15 site, and that's how we view the site that's in our
16 watershed, should certainly be protected and
17 reviewed under the more restrictive rules that were
18 put in place in December of '04.

19 I don't have an argument that the rule change
20 is unnecessary. I think a law maker from the State
21 House, Matt McHugh, just said that very clearly,
22 that the rule change from the General Assembly's
23 point and from the Statewide Planning is not
24 necessary to be in conformance. And I think he

1 represented, and legally, that the General Assembly²⁸
2 did not intend to jeopardize the Coastal ponds in
3 addressing affordable housing nor to weaken the role
4 of this Council, Coastal Resources Management
5 Council.

6 We would ask you to represent on the side of
7 the costal environment and not on the side of
8 assisting development in the area, particularly in
9 highly sensitive areas, and if it were such that the
10 State were asking the Council to lighten its
11 regulations, we would hope that you would fight such
12 a request and not go along with it.

13 Again, it is not our intent to establish
14 roadblocks either, but to stand up for the integrity

15 of State policy intended to protect sensitive areas,
16 and as such the Wood Pawcatuck Watershed Association
17 urges the Council to reject any motion to change
18 this rule. Thank you.

19 MR. FUGATE: Thank you. I have an
20 L. Anderson next.

21 MR. ANDERSON: I thought it was a
22 sign up list.

23 MR. FUGATE: Okay. Harriet Allen.

24 MS. ALLEN: I think, since we're

1 talking about process here, that it would behoove us
2 to look at how CRMC has handled similar applications
3 in the past and compare it to the process in the
4 past to what you want to change in the future.

5 There are two misconceptions I think out there
6 about the low and moderate housing income laws,
7 housing law, and that is, one, that the law is new
8 and that there has never -- you had never had
9 affordable housing applications under your
10 jurisdiction before. Both are untrue. The law was
11 started in 1991. They had a very minor change a
12 couple of years ago that simply led him for profits
13 rather than just the nonprofits. Other than that,
14 it's the same law, the same regulations and the same
15 process has been on the books for over 10 years.

16 There have been already two applications under
17 your jurisdiction. I won't talk about any pending
18 applications, but there are historical public record

19 applications that are now finalized and finished and
20 have already been ruled upon by CRMC. They are very
21 similar applications. They were applied under the
22 affordable housing legislation. Both of them were
23 ruled upon by CRMC. They were nonprofit
24 organizations. And, I believe the process was

1 perfectly appropriate, and CRMC did a fine job in ³⁰
2 reviewing those applications, which are now public
3 record.

4 The first application that the Council, CRMC,
5 has already ruled upon was the Robin Woods
6 development proposal. That is your File 95-37.
7 That was in 1996. Women's Development Corporation,
8 which was a minority, and still is, a minority owned
9 nonprofit organization which has a great deal of
10 experience in developing affordable housing, made
11 application to CRMC and they wanted to provide some
12 affordable housing in the Town of Narragansett.
13 They went through the process, and I'm going to give
14 an extract from your own files to you, and I would
15 like to make sure that all your present Council
16 members have that to review, how they have handled
17 this in the past. They went through a lengthy
18 process with CRMC, and CRMC, despite the fact that
19 there was public good and affordable housing, denied
20 that application on environmental reasons, and in
21 their final determination, full Council decision,
22 one of the reasons was that it didn't meet the

23 density requirements. So I think CRMC acted
24 appropriately there. I commend them for their

1 decision there, and they certainly would want to³¹
2 handle any future applications, whether they would
3 be minority-owned or for profits or nonprofits in
4 the same manner. I will submit that to you.

5 The second application, which has a longer
6 history, and I have a summary of documents available
7 in your own files and in the files of the Town of
8 Charlestown, was the affordable housing applications
9 from the Narragansett Indian Tribe's Nonprofit
10 Housing Authority. That, again, was handled very
11 appropriately by CRMC. It is very appropriate
12 because it is exactly next to a development that I
13 can't talk about, but I could if I stood in the
14 development I couldn't talk about and put the other
15 leg over the line, which we were told. That
16 application had a long history, it has already been
17 ruled upon by CRMC, and in that particular
18 nonpending finalized public record development
19 application, the Narragansett Indian Tribe did ask
20 for a density bonus and that was denied. CRMC said,
21 please comply with our regulations, you absolutely
22 must comply with our regulations, and the tribe did
23 what was appropriate and they complied with CRMC's
24 regulations. Then, I think I commend CRMC for

1 approving that application. The Town of Charlestown
2 also approved that application. So that was the
3 appropriate thing to do.

4 There were some problems in finalizing that
5 housing development, but it had nothing to do with
6 the CRMC process or the Town of Charlestown's review
7 of that affordable housing application in our Town.

8 CRMC, in the application for affordable
9 housing done by the Narragansett -- proposed by the
10 Narragansett Indian Tribe was, however, very
11 rigorous in their assent when they granted
12 permission to go ahead, and I give to you for
13 evidence, and I hope that all of the Council
14 members, and particularly the new Council members of
15 CRMC, review the approval for the affordable housing
16 in Charlestown granted to the Narragansett Indian
17 Tribe and the assent. I am assuming that your
18 assents are usually as rigorous as this one is
19 written. It is very tightly written. We give as a
20 matter of process 30 days for the applicant to --
21 for the assent modification and the land evidence
22 records. You required that particular applicant,
23 there were all sorts of requirements on the sewage
24 disposal system, the earth work and ISDS

1 regulations, so it was a rigorous assent, and I
2 think the Council did a very good job and they were

3 very fair to both applicants, they were both
4 minority applicants, and one got the assent and one
5 didn't, and they were very impartial in the way that
6 they reviewed those applications, and they simply
7 applied their environmental standards to them, and I
8 hope that would happen in the future.

9 So, there have been a history of applications
10 for affordable housing within the CRMC SAM Plan.
11 One was from a minority-owned company that had a lot
12 of experience, but it was denied because it didn't
13 meet the environmental criteria. The other was from
14 another, I guess minority nonprofit organization.
15 It was approved. It didn't meet the environmental
16 requirements. So, CRMC in those instances proved
17 they can be very impartial and do the right thing.

18 I know that you either will have or have
19 already received correspondence from the
20 Conservation Law Foundation, and I'll leave my copy
21 here in case you haven't got it, I'm sure someone
22 will perhaps talk about it later, but I do agree
23 with what they said, Attorney Giles said, the main
24 argument that we heard from CRMC for exempting what

1 they perceive from this one housing project for ³⁴
2 density rules is the exception is needed to bring
3 CRMC in line with Rhode Island State Housing laws.
4 They say that this is bad policy, and I agree with
5 them, and from a legal prospective, or a procedural
6 prospective, I know your lawyer is not here, but I

7 would like them to think about this and maybe talk
8 to the Council about it, if, indeed, the argument to
9 make this change is to bring CRMC in line with the
10 State Housing laws, I would ask that you ask your
11 attorney to review the decision of Judge Torres in
12 NIT vs. Narragansett Electric. I believe that is a
13 decision, Judge Torres' decision has recently been
14 upheld on appeal, and I'll read to you, and this is
15 I believe from your files, or from the Town of
16 Charlestown's files, just a quick summary of that
17 rather than going through the whole decision from
18 John Kalloy, who is the lawyer for the tribe.
19 "Enclosed is a decision of Judge Torres." And this
20 has to do with low and moderate housing income
21 proposal within CRMC's jurisdiction. I have not
22 fully analyzed the ruling, but in general terms he
23 found that, "Because the site constitutes Indian
24 country as a dependent community, that State and

1 local regulatory laws do not apply. However, he did
2 rule..." this is from the tribe's attorney, so I
3 think it's on target, "...he did rule that the
4 project was subject to Coastal Resources Management
5 Commission regulations because they apply and
6 administer Federal standards law under the Coastal
7 Zone Management Act."

8 What does that mean? It means that if any
9 application coming before you in the future,
10 including one I can't talk about, even if it were to

11 constitute a sovereign nation, CRMC rules would
12 apply. And, in fact, any argument that Ms. Giles
13 referred to, Attorney Giles, refers to that CRMC has
14 to be brought in light with State Housing Laws, I
15 would think would be awfully irrelevant, and my
16 knowledge of Federal Law always trumps a state law,
17 and CRMC, at least according to this interpretation,
18 and perhaps also according to a Federal judge by the
19 name of Judge Torres, whose ruling has just been
20 upheld, Federal Law always trumps State Law. So I
21 would ask you to take that into consideration, or
22 ask your lawyer to review that, and I will leave
23 that Conservation Law Foundation correspondence and
24 the correspondence from Mr. Malloy on the Torres

1 decision, and I'm sure your lawyer has the Torres³⁶
2 decision.

3 I think if you do as a matter of public policy
4 exempt future applications, which may be this one
5 application, Rhode Island residents would be asked
6 why. I do think that it's a bad policy decision to
7 change rules as a result of lobbying efforts.
8 Without talking about any particular application, I
9 would like to bring at least to this audience's
10 attention the very general document which was used
11 in March of 2003 as a lobbying effort to change the
12 law. This document, "The Geography of Housing
13 Opportunity in Rhode Island," quote, "The current
14 assessment of the extraordinary depth of the

15 affordable housing crisis in Rhode Island has proved
16 causes and solutions and beneath the balance of the
17 necessary role of the private sector in affordable
18 housing, the preservation of other important local
19 planning and land use prerogatives."

20 This, I believe, was presented to the State
21 legislators, because it was all up there, and to
22 other state agencies as an official state sanctions
23 document. It looks like any other state sanctions
24 document, and it's easy to see how legislators and

1 other decision makers could have gotten confused³⁷
2 about that. But, the author, if people read what
3 the lawyer who is here, who happens to represent an
4 application we can't talk about, who is also the
5 head lobbyist for Rhode Island Builders Association,
6 and in the back of that is pictures of one
7 particular application which we can't talk about.
8 So, clearly, some lobbying efforts have been used
9 to, substantial lobbying efforts and expensive
10 lobbying efforts to change the law, and it appears
11 to me that it was done for a few projects, and I
12 think as a matter of public policy you don't want to
13 have a perception that CRMC changes the rules for
14 lobbying money because of lobbying efforts. I think
15 that's a bad policy decision. I would ask you not
16 to do that.

17 As far as the process goes, in terms of
18 determining how and when CRMC is involved in

19 affordable housing proposals within the CRMC plan, I
20 as a Charlestown taxpayer, and certainly as a Rhode
21 Island taxpayer, I am very frustrated with the
22 changing position that CRMC has given the public on
23 how this process works. A general letter was
24 written to, not about any applications, was written

1 and distributed to every single town in Rhode Island
2 from Coastal Resources Management Council. That was
3 on March 10th, 2003. It was written by a fellow
4 by the name of Grover Fugate, the Executive
5 Director. "Your Town administrator. It has come to
6 the attention of CRMC that land development projects
7 located in various communities and subject to your
8 jurisdiction and municipal approvals prior to
9 receiving their review," and then the law is stated.
10 "CRMC requires developers of land development
11 projects submit an application, even if they're a
12 land development project, have a municipal master
13 plan approval. Should you have any such
14 applications, whether they be affordable housing or
15 not..." and at that time it was all of affordable
16 housing ones. Mr. Fugate, "...please advise the
17 applicant of a review process." So that was
18 submitted from CRMC to every Town in Rhode Island.
19 And I would like the Council, the new Council, to
20 get a copy of that so they can review the process
21 that has been talked about by the CRMC and your
22 communication to every Town, all 39 towns in the

23 State of Rhode Island about that in 2003.

24 We're talking about a particular application.

39

1 I will, though, say that as a Charlestown resident
2 and taxpayer, it was very frustrating, and as a
3 councilor at that time, for me to realize that the
4 Town of Charlestown wanted CRMC to clarify further
5 again in writing if any applicant coming before
6 them, that happened to be before them in the Town,
7 if in those situations the applicant had to go
8 before CRMC. In order to get an answer from CRMC,
9 the Town of Charlestown and the taxpayers of
10 Charlestown had to hire their attorney and pay good
11 money not to sue CRMC, but to file a declaratory
12 judgment petition on April 23rd, 2003 addressed to
13 Mr. Tikoi an, Chairman of the Coastal Resources
14 Management Council, asking them, at great expense to
15 Charlestown taxpayers, "Please tell us if any
16 applicant before us does or does not have to come
17 before you."

18 Three years ago, after all that money was
19 spent by the taxpayers we got no answer, and I'm a
20 little upset about that as a taxpayer, especially
21 after Mr. Fugate basically said, if anybody comes
22 before you, please send them over to CRMC, we can
23 hire a lawyer, basically, almost, you know, through
24 CRMC, and saying, could you help us out and just put

1 it in writing in the form of a declaratory judgment,⁴⁰
2 and we got no response, and I don't think that's
3 right.

4 Everyone who has an application within CRMC's
5 jurisdiction under the Low & Moderate Housing Act
6 has come to you before, under the law, for a
7 determination, and I think you should continue --
8 you should ask the Council to review the record of
9 how they handled this in the past and continue to
10 handle it appropriately based on environmental
11 concerns only, whether they would be a lack of
12 minority on process, whether they be the
13 Narragansett Indian Tribe, whether they would be a
14 for profit. No matter who the applicant is, I would
15 ask CRMC to review what they've done in the past and
16 to be consistent with it in the future. I think
17 that is the best policy decision and it's the best
18 environmental decision, it's what the people now,
19 and the people of Charlestown with the approval of
20 Rhode Island want to hear, and I hope the CRMC makes
21 decisions, two decisions; one, that they're going to
22 do their job, they don't have to wait for a Town to
23 sit on it or ask for a declaratory judgment to do
24 their job; and, two, when they do their job, they

1 are going to treat each and every applicant the⁴¹
2 same, in the same process, which has worked very
3 well in the past. Thank you.

4 MR. FUGATE: Thank you. Next I have
5 a Ruth Platnar. Is Ruth here?

6 MS. PLATNAR: I wrote you a letter
7 which was part of the public record. Does that go
8 along with this transcript?

9 MR. FUGATE: Yes.

10 MS. PLATNAR: So that will all be
11 read. So I don't need to repeat that.

12 I also had a letter to the editor that I would
13 hope the Council would get.

14 One thing I would like to share with you are
15 your own words. This is a letter from Jeff Willis
16 to Mr. Tikoiian and also to Grover Fugate, with a
17 date of June 30, 2003. This was about the proposed
18 rule changes that you were discussing in the Summer
19 of 2003.

20 By way of promulgating a Special Area
21 Management Plan, the Council has found that the Salt
22 Pond Watershed Region, the geographic area is of
23 particular concern. These areas are a concern
24 because of their coastal-related value and

42
1 characteristics, and because they face pressures
2 which require detailed extension beyond the general
3 planning on the regulatory process which is part of
4 the management program.

5 The ecology of the salt pond is at a critical
6 state. Water quality continues to be degraded due
7 to existing residential sources of nitrogen and

8 bacteria. Although research conducted at the
9 University of Rhode Island suggests that correlation
10 between housing density and eutrophication of the
11 salt pond, there is no clear nitrogen loading
12 threshold which CRMC can apply to each individual
13 activity and development. Accordingly, CRMC
14 addresses nitrogen loading through conservative land
15 use regulations, such as density control and
16 nitrogen-reducing technology.

17 In addition to the impacts of nitrogen, other
18 nonpoint sources of pollutions or sediments of
19 erosion and road runoff, the totalling byproducts
20 which result in road runoff are of concern. As the
21 impervious characters increase in Salt Pond
22 watershed these pollutants have a greater potential
23 to reach coastal waters. So, I think it was clear
24 that your staff was not supporting the rule changes

1 that were proposed in the Summer of 2003. I know ⁴³
2 you have it in your records somewhere, but just to
3 make it part of this as well.

4 I attended that July 2003 meeting, of which
5 was the coastal housing work group meeting. The
6 minutes of that meeting are on line at the Coastal
7 Institute's website. I don't think I wrote down URI
8 for that, but I'll give you a copy of it, and if you
9 went to the Coastal Institute, you could find that.

10 There was no consent at that meeting to change
11 the regulations in a way that increased density. In

12 fact, the Coastal Housing Meeting attendee
13 suggestions for action were that CRMC should
14 immediately revised the Narrow River and Salt Pond
15 Special Area Management Plan, the SAMP, regulations,
16 closing the loophole that had been there for
17 nonsubdivisions, to ensure that the applicable
18 density standards are required for multi-unit
19 projects of six or more units that may be updated on
20 the web or a parcel that has not undergone
21 subdivision. CRMC and other State regulatory
22 agencies should work with Statewide Planning to
23 standardize the definition of subdivision. CRMC
24 should continue to work with URI scientists to

1 further model groundwater flow and nitrogen loading⁴⁴
2 to the Salt Pond. As science further develops,
3 establish total maximum daily loading levels of
4 nitrogen for each watershed. Until appropriate
5 nitrogen, TMDL, total maximum daily loading, are
6 established, regardless of the project type, CRMC
7 should continue to rely on density, meaning units
8 per acre restrictions, within the SAMPs to maintain
9 groundwater pollution of nitrogen throughout the
10 watershed.

11 So, the outcome of that meeting was that that
12 density should not be increased, and, in fact, we
13 should close the loophole to make sure that there
14 are all types of development with housing density
15 standards, and I understand as well, although you

16 could get it over the line, okay. Just because, I
17 think what happened at that meeting, I don't want to
18 misrepresent to you, we had a very -- a little bit
19 of time to make public comments. We had about a
20 month. I forget exactly when that ended. I think
21 that ended on March 20th. You received a lot of
22 correspondence, I believe, and it was all in
23 opposition to the rule change. You received only
24 one letter in support of the rule change written by

1 the attorney -- gee, I can't say that. That would⁴⁵
2 receive vesting as a result of your rule change.
3 That letter was written well after the deadline, but
4 Mr. Landry so totally misrepresented Charlestown
5 Zoning Ordinance affordable housing plan and history
6 in general that I have to respond.

7 I do have a question. This is the letter that
8 I'm referring to. It's on Blish & Cavanagh
9 letterhead. It says, to CRMC members and staff,
10 from William R. Landry, dated April 4, 2006, and,
11 let's see, it deals with the proposed revisions to
12 the Salt Pond SAMP and Narrow River SAMP affordable
13 housing implications. You received that letter.
14 Did you read it? Did the members read it?

15 MR. FUGATE: The members have not
16 read any of the record yet because it has not been
17 presented to them.

18 MS. PLATNAR: This has been sent to
19 their home.

20 MR. FUGATE: It comes into the
21 office and it is held there to become part of the
22 record.

23 MS. PLATNAR: It is part of the
24 record?

1 MR. FUGATE: Yes. 46

2 MS. PLATNAR: It does deal with
3 specific application, how do you, like, avert your
4 eyes when you get to this part?

5 MR. FUGATE: The Council will be
6 told that they cannot consider any specific
7 application, and most of the Council members know
8 that.

9 MS. PLATNAR: Okay. But they did
10 receive a letter. It does deal with a specific, but
11 it also deals with some other things. I wrote a
12 response to that letter. I'll read you the parts
13 that don't deal specifically with the application,
14 but it will make sense anyway. So, you received
15 only one letter in opposition.

16 My name is Ruth Platnar. I am a member of the
17 Charlestown Planning Commission. I am not
18 representing the Planning Commission, but at the
19 April 11th meeting there were five members of the
20 Planning Commission there, and you received
21 correspondence from a lot of them.

22 In Charlestown that's an elected position. I
23 served in that position since 1997. In other

24 positions in the groups I've been involved in in

1 Charlestown since 1984. I worked on the Charlestown⁴⁷
2 Comprehensive Plan, our zoning ordinance, our
3 subdivision and land development regulations, and I
4 served on the Affordable Housing Task Force that
5 wrote Charlestown's Affordable Housing Plan.

6 In his letter Mr. Landry claims that the SAM
7 Plan rule change is needed to block Charlestown's
8 Affordable Housing Plan and mixed use district.
9 These are the 121 articles you referred to on Pages
10 1, 2, 3, 4 and 5 of his April 4th letter.

11 The mixed use district is part of our
12 affordable housing plan. To implement our
13 affordable housing plan, you have incorporated mixed
14 use into our zoning ordinance.

15 Mr. Landry correctly states that the mixed use
16 village contains about 200 acres and 121 lots. What
17 he fails to tell you is that these lots are all
18 zoned commercial, that most are already built, that
19 have some have been built for centuries and that the
20 zoning ordinance only allows residential in its
21 districts as an accessory use. These would be small
22 apartments above a business. He failed to mention
23 that the State only projects 30 affordable units in
24 this district, and essentially requires that

1 59 percent of the units are affordable. That would
2 be about 50 to 60 total units. We may get more than
3 that, but we may not. But, that would be a
4 reasonable estimate that they thought optimistically
5 you could only get 40. They only let us count 30
6 towards our affordable housing.

7 Most importantly, he failed to mention that
8 our ordinances put each project firmly under CRMC
9 jurisdiction. This is in the Charlestown business
10 district, the area where the General Stanton is and
11 the Washington Trust Bank. This district is totally
12 independent of the Low and Moderate Income Housing
13 Act. Development on these lots is reviewed as all
14 other commercial development within the plats have
15 been reviewed, in the same way a doctor's office or
16 a restaurant or a hotel would be reviewed. There is
17 no requirement for the residential, only with that
18 high percentage of affordable units.

19 Our ordinance is very different than a
20 comprehensive permit on the Low and Moderate Income
21 Housing Act. Mixed use is entirely within the
22 zoning ordinance and subject to CRMC in the same way
23 as any other commercial development in the SAMP.

24 Here are a few excerpts from our ordinance.

1 2-18-37.1, which is the mixed used zoning overlay
2 district. These regulations are also intended to be
3 consistent with the Rhode Island Coastal Resources

4 Management Council Special Area Management Plan.

5 And then below that there's an explanation of
6 density, that all required Federal, State and/or
7 local approvals permits must be obtained.

8 Even if these were contemplated under the
9 Affordable Housing Law, they would still be required
10 to apply to CRMC. The affordable housing section of
11 our zoning ordinance is written to comply with State
12 law and required that the applicants file
13 comprehensive permits, show proof of the application
14 for all normally required State and Federal permits
15 before their application will be deemed to be
16 complete and they cannot receive final approval
17 until they have obtained those permits.

18 Our regulations, including our affordable
19 housing section, require all applicants in the SAM
20 Plan to apply to CRMC.

21 Mr. Landry writes in his letter, that without
22 this rule change, affordable housing projects filed
23 under the State Low and Moderate Income Housing Act
24 will not be regulated by the CRMC or that the

50
1 December 2004 clarification will not apply then.
2 Nothing could be further from the truth because we
3 are already reviewing another comprehensive permit
4 filed under the low/mod law and it is clearly under
5 CRMC jurisdiction.

6 Before this new applicant -- well. Oh, yes.
7 That's another one. Okay. They had to show proof

8 of notice to the CRMC, and that proof came in the
9 form of a February 1, 2006 letter to Grover Fugate,
10 explaining that the project was in the SAM Plan and
11 then there's the CRMC jurisdiction.

12 Those of us who worked on Charlestown
13 Affordable Housing Plan always believed that the
14 December 2004 CRMC rule change closes the
15 opportunity for density increases for housing on
16 residential self-sustaining land and land of
17 critical concern. However, in the July 2003 meeting
18 on this topic at the Coastal Institute, in those
19 minutes we did hear the opinion from CRMC staff that
20 parcels in the designation, lands built beyond
21 carrying capacity might be appropriate for
22 affordable housing development. We have been
23 attempting to get CRMC staff to a workshop in
24 Charlestown to tell us what would be allowed in land

1 filled beyond carrying capacity and on commercial
2 land, which your attorney has advised your
3 scientific staff not to do.

4 Our ordinances have always complied with CRMC
5 regulations for density, and I want them to continue
6 to comply and be consistent with the supporting
7 science of those regulations.

8 All applications in the SAM Plan, whether a
9 low, mod, comp permit or a regular application, are
10 fully within CRMC jurisdiction. Nothing in our
11 zoning or under State law has changed that.

12 Mr. Landry's letter also mentions other topics
13 relating to Charlestown. He has the time line,
14 starting on page five of his letter, his history is
15 distorted and has lots of omissions. I would like
16 to offer an alternative time line, unfortunately, in
17 order to do that, I would have to mention a specific
18 application. So, I'll just tell you the dates here.

19 In August 2002, I could repeat that, but you
20 won't let me. March, 2003. A lot of dates I can't
21 say the specific. But, you did get the letter from
22 Grover Fugate saying that CRMC requires the
23 developers of land development projects to submit an
24 application to CRMC for review of applicable agency

1 regulations ahead of the municipal master plan ⁵²
2 approval. April 2003. I have a July, 2003. CRMC
3 proposes rule changes to close the land developments
4 that are not subject to. Mr. Landry proposes his
5 own rule change that will allow projects filed under
6 the low-mod law to use performance zoning rather
7 than density. Coastal has working meeting convened
8 at Coastal Institute and at the conclusion of its
9 meeting the CRMC should close the loophole. This
10 was done in the regulation change of December 2004.
11 The recommendations that working with the
12 regulations should be made to clarify them and make
13 sure densities were not exceeded. There was no
14 recommendation to provide an exemption for any
15 specific project.

16 Well, from August 2003 to December of 2004,
17 any applications that were before the Town were
18 urged to apply to CRMC for a preliminary
19 determination and it seemed they declined to do so.

20 September of 2004, voters rejected use of a
21 site for a school. Mr. Landry claims that as
22 something else, but the fact remains that the people
23 of the Town soundly rejected that use.

24 In a referendum, the Town is represented by

1 the majority of voters, not by advocates, and a lot⁵³
2 of people voted against it because they thought a
3 site in the SAMP was not appropriate.

4 December 2004 CRMC closes the SAMP loophole
5 dealing with condominiums, such as some specific
6 development.

7 From January 2005 until May 2005 any
8 applicants were urged to go to CRMC and didn't.

9 June 2005, again, any applications that might
10 have been before the Zoning Board were urged to go
11 to CRMC but didn't.

12 From July 2005 until February of 2006, eight
13 months, I watched the CRMC web page looking to see
14 if anything was posted on your application page.

15 Then we got an announcement from the
16 Conservation Law Foundation, which I read in the
17 newspaper, that they were challenging the reg
18 because you would need to exempt one development
19 from the density requirements from the SAM Plan.

20 Finally, we knew what Mr. Landry had been
21 waiting for.

22 Now advocates speaking on oral change to that
23 development to regulations that existed before
24 December 2004. Those advocates were well aware of

1 the requirements to apply to CRMC and failed to make
2 application. They still have not made application.

3 From July 2003 until the present Mr. Landry
4 has lobbied to change CRMC regulations. This is
5 easily apparent from the changes that are proposed
6 in July of 2003 and those to now. He has chosen to
7 change the regulations rather than make application
8 under existing regulations. He is not vested under
9 the regulations, and he has specifically refused to
10 apply under them. He needs to make changes to the
11 regulations in order to be vested under the old
12 regulations, and he never was vested, and anyone who
13 changes the regulations is only done to make vesting
14 when it wasn't vested.

15 I'm happy to answer any questions that you
16 might have about the Charlestown Comprehensive Plan
17 or Affordable Housing Plan and our zoning ordinance
18 and I don't think they are a threat to the Salt
19 Pond. I think Mr. Landry said that it was.

20 MR. FUGATE: Thank you. Next is
21 Cliff Vanover.

22 MR. VANOVER: Thank you. That's
23 Cliff Vanover, and I will be brief. Up until the

1 suggested to you that you rescind the change and go⁵⁵
2 through the process again, which led to this
3 hearing, what happened that led up to that rule
4 change was completely opaque to practically
5 everybody who was interested in this process, and
6 I'm very troubled by that. It's the kind of
7 actions, whatever took place, and now it's still not
8 clear what happened that led to that rule change.
9 It seems obvious that a lot of lobbying occurred in
10 private with CRMC. I don't understand how it could
11 have happened otherwise, that you would come up with
12 this rule change that people discovered after the
13 fact. It's very disturbing to me. It's the kind of
14 special interest efforts and lobbying and rule
15 changes that make people very cynical and distrust
16 government, and I think that's the last thing we
17 need these days. We need to -- we need an open
18 process so that this kind of activity, this kind of
19 change, which, as far as I can tell, it is worth
20 millions of dollars to an applicant that I can't
21 say, I can't mention or talk about.

22 And, let's be clear, if this applicant we
23 can't talk about is not able to get this change and
24 you did not change the regulations, he can still

1 make... Well, you know what I mean. But, I just
2 want you to do the right thing, which I think you
3 know what that is, and that is to follow the rules
4 that you have now, which are designed to protect the
5 environment.

6 So, thank you. And, I have one item to submit
7 to you.

8 MR. FUGATE: I have a Robert
9 Schiedler.

10 MR. SCHIEDLER: This is just what
11 you need. I know, I recognize that.

12 MR. FUGATE: Before you get started,
13 just state your name.

14 MR. SCHIEDLER: However, I'll keep
15 my speech shorter, okay. No objectors to that?
16 Okay.

17 MR. FUGATE: Could you just state
18 your name.

19 MR. SCHIEDLER: Yes, Robert
20 Schiedler, 68 Sanctuary Road in Charlestown.
21 Citizen. Actually, I was going to give this to the
22 Council members when we were in a hearing, which
23 wasn't held due to the lack of a quorum, and I
24 thought maybe I would just bring those along. You

1 can share that with them. And, it's really trying
2 to cover several points only. I have, in case you
3 want my original letter, which I'm sure you have it,
4 to you, which was submitted on time originally, with

5 a number of points as to why I believe your current
6 rule, which was revisited, and changed back to the
7 original should be retained. I think you probably
8 are getting all kinds of good reasons for doing
9 this, but I'll have here a copy of that letter.

10 One point I wanted to -- two points I wanted
11 to make.

12 In the reviewing the SAM Plan for the Salt
13 Pond, I was particularly impressed with the exercise
14 that CRMC went through after time as far as
15 participation, which for many qualified people to
16 give you the good advice as to what should be
17 included in those plans. I know you gentlemen
18 probably helped write the plan and are quite aware
19 of that process, to which led up to the '99 rather
20 important revision of the plan, which was demented I
21 think in 2004, and we'll get to that in a second.
22 But, what really impressed me was the contributors
23 that you received on formulating what I think is a
24 very excellent plan, which should be retained. I'm

1 not going to read all the plans. I'm going to give
2 you a couple of headlines here as to where these
3 people came from. Your partners, your participants,
4 for example, from the Rhode Island C Grant and URI
5 Coastal Resources, URI Department of Geology, URI
6 Division of Fish & Wildlife. You gentlemen here are
7 busy. Storm hazards, URI Department of Zoology,
8 Rhode Island Historical Preservation. And you had

9 some partners in community participation in that
10 exercise as well. For example, the Rhode Island C
11 Grant, Coastal Resources Center, Geology, Natural
12 Resources Science, Oceanography, and it goes on and
13 on down the list.

14 As far as the Federal Fish & Wildlife,
15 National Marine Fisheries, Federal Environmental
16 Protection Administration, four municipalities in
17 our salt ponds here, Charlestown being one,
18 Westerly, South Kingstown and Narragansett, all
19 participated, and I happened to be a little bit
20 involved in that angle at the time because the Town
21 Planner that I was working with at the time,
22 actually several by the time you started and
23 finished the process, was very much involved, and
24 you gave quite a nice accolade to the contribution

1 that the Town's planner gave. So going on to the
2 Indian tribe, Salt Pond Coalition in March, welcome
3 to the extension, and I'm going to stop there, but
4 that's not the whole list. I am sure the Council
5 members, your Council members would like to read
6 that, and that's the reason I brought this to sort
7 of bring it up to speed, as to the past and why that
8 plan is so good, because of the extensive
9 participation by so many qualified people. The plan
10 really was meant to do two things, major things.
11 One, was to designate the areas within the coastal
12 pond areas that should be considered as sensitive

13 environmentally, and it has special rules and
14 regulations governing it, and the second one was to
15 determine the appropriate density for all of the
16 residential developments that would be in the future
17 allowed in those areas. I think you really captured
18 what was good, and you did it in a collaborative way
19 that should be recognized and not have any changes
20 to what was methodic at that time without similar
21 types of participation.

22 I've had the opportunity, having seen a number
23 of names in there I recognized, to inquire as to
24 what some of your partners felt about the change

1 being considered, and I've yet to find anyone who⁶⁰
2 thinks it's a good idea. I did not survey them all,
3 all the people, but I would welcome you to do that,
4 if you so choose to do so and feel it was necessary
5 to do it. I'm not sure that it is necessary, but I
6 think the objectives of that study were met, and I
7 think it would be unfortunate to change the result
8 at that particular time.

9 I give you a number of other little points
10 here as to why I believe the continuity of rules in
11 this area would be the wise, the right way to go.

12 The final and second point is, to think about
13 changing the rule seems, to run just counter what
14 everyone else is doing who is interested in the
15 environment in those areas. I know there's three
16 major areas of interest. You're going to have here

17 another little submission to use, which is the
18 Department of Environmental Management's Water
19 Quality restoration project known as the twelve
20 matching daily load, which I think we are all are
21 aware of our concerns, Green Hill Pond and Ninigret,
22 and the fact that it needs help, and it's been
23 getting help, it's going to get more help, and it's
24 going to need a lot more, and to think that we would

1 in any way make a change in your rule that would⁶¹
2 counter that, I need not say is unbelievable, but I
3 just did.

4 The other thing I think Salt Pond Coalition
5 has just -- which is a fantastic citizen who you're
6 familiar with. I have a little brochure right here
7 that says, "20 years of citizen participation in
8 trying to improve the pond's environment," I think
9 it's useful, rewarding and trying to grow even into
10 better situations in upcoming years, and it will go
11 counter to that, where it will make a great deal of
12 sense. And, personally, I was involved a little bit
13 with introducing an ordinance in Charlestown
14 Wastewater Management Program, which has grown and
15 grown into a very effective program. I think you're
16 familiar with that, as to where the Town is
17 expecting and improving, upgrading wastewater,
18 individual wastewater systems throughout the entire
19 Town, and the main thrust or purpose of that was in
20 the efforts of the Salt Pond. So, those are just

21 three of the reasons why I think to change the rules
22 that were countered to the good that these programs
23 and others are doing for the environment would not
24 make a great deal of sense, and I would hope that

1 that doesn't occur. I think you probably have heard ⁶²
2 or read sufficiently, for all good reason beyond
3 that, as to why the vast majority of citizens of
4 this community are on my side, on your side, and I
5 think you have to be congratulated for the good job
6 you've been doing and not just giving up. Thank
7 you.

8 MR. FUGATE: Thank you. James
9 O'Brien.

10 MR. O'BRIEN: I'll pass.

11 MR. FUGATE: Okay. Is it Edward
12 Callenda, is that it?

13 MR. CALLEDA: Callenda. I'll
14 defer.

15 MR. FUGATE: Okay. Is it Lou or
16 Len?

17 MR. JOHNSON: I sent a letter and
18 faxed and a letter to you folks in March and my
19 opinion hadn't changed.

20 MR. FUGATE: Okay. Is there a
21 Shane? No. Thirty-five Surfside Avenue. Yes? No?
22 Okay. Art Ganz.

23 MR. GANZ: You'll have to excuse my
24 cough. My name is Art Ganz. I'm the President of

1 the Salt Pond Coalition, which is the State
2 designated watershed council for the coastal pond's
3 region.

4 Before my retirement, I was a marine biologist
5 for the Department of Environmental Management for
6 32 years, an adjunct professor at the University of
7 Rhode Island College of Environment and Life
8 Sciences.

9 At the time of retirement I was the
10 supervising marine biologist.

11 I've testified before the Coastal Resources
12 Management Council many times.

13 I would also like to add that I was a
14 significant contributor to the preparation and
15 development of the Coastal Resources SAM Plan for
16 the Salt Pond areas. And, actually, I had
17 participated in the creation of all of the SAM Plans
18 that you now have.

19 Many of the sitting Council members were
20 probably not present when we conducted a lot of the
21 work in the SAM Plan, and I would certainly urge all
22 of them to really take a look at this, read it and
23 really understand what this project was and how it
24 works, its contents, how it works, what the findings

1 were, recommendations and the regulations that have
2 been in place for a while now.

3 The Salt Pond SAM Plan was the first major
4 multi agency cooperative effort to plan and regulate
5 the development of our coastal salt ponds, many,
6 many folks that were involved in this project, and
7 the emphasis was to protect both the groundwater and
8 the estuarine resources of South County.
9 Significant work was done to reduce both the
10 bacterial and nutrient contaminations of the pond,
11 and it was based on good science. It was science at
12 the time, and that science has been upgraded and
13 developed as we all know at this point.

14 One of the many components of the Special Area
15 Management Plan was the classification of land use
16 areas. Through research it was determined that the
17 areas classified as self-sustaining to support no
18 more than one residential unit per 80,000 square
19 feet, and the areas classified as lands of critical
20 concern could support no more than one residential
21 unit per 120,000 square feet. Charlestown zoning
22 reflects this, and I emphasize the term that is
23 used, which is your term, as residential units, not
24 necessarily condominium ownership, subdivision or

65

1 whatnot. Residential unit.

2 I don't think anybody can dispute the critical
3 need that we have here in Rhode Island for
4 affordable housing, but it should not be the

5 responsibility of the Coastal Resources to do this
6 with reducing the density specified in the SAM Plan.
7 It just does not -- you know, we can have affordable
8 housing without the compromise of our environment.
9 This is very important.

10 I would like to add a few things. I will
11 mention, of course, our written statement is
12 submitted and part of the record, so I will
13 summarize some of these other important facts.

14 First of all, the population of the Town of
15 Charlestown is increasing at a rate greater than
16 20 percent for the period from 1990 until the
17 present. That's huge. After 2004, 35 percent of
18 the land area in the Salt Pond SAM Plan region is
19 occupied by residential housing. Because the 1999
20 Salt Pond region SAM Plan stipulates the regulations
21 to reduce its extent of development and pollution in
22 these watersheds. However, environmental water
23 quality data that we have, of course, we have a
24 20-year, into our 21st year history, of Salt Pond

1 monitors, called The Pond Watchers that have kept⁶⁶
2 track of nutrient bacteria information, was the
3 basis for this. It shows that the accumulative
4 impact of the non-point sources of bacteria and
5 nitrogen continued to result in the closed shellfish
6 beds and eutrophic conditions of the pond. I don't
7 think anybody can dispute that either.

8 Water quality concerns. Nitrogen is a major

9 factor that impairs the water quality in Rhode
10 Island coastal salt ponds.

11 Human activities, such as septic systems and
12 lawn fertilizers, contribute most of the nitrogen to
13 the groundwater, which eventually infiltrates into
14 the pond.

15 For example, Ni nigret Pond, 60 percent of the
16 nitrogen is coming from septic systems and
17 14 percent from fertilized lawns.

18 In Ni nigret Pond, impaired water quality is
19 indicated by, that we have exceeded our shellfish
20 standards in the eastern part of the pond in the
21 Greenville pond for 13 over the last 18 years. And
22 our monitoring for dissolved oxygen in the pond is
23 also showing, particularly in the later part of the
24 summer, in the warm weather, oxygen levels which are

1 hypoxic, under four milligrams per liter. We have ⁶⁷
2 oxygen problems as well.

3 Some numbers to back this up. Dissolved
4 nitrogen concentrations in Ni nigret Pond. There is
5 an increase of 310 micrograms per liter in 2001, and
6 its current level is measured in 2005 is over
7 800 micrograms per liter.

8 Massachusetts estuary product, which has done
9 a significant amount of work on nitrogen loading and
10 nutrient material, indicates that they have found
11 that 400 micrograms per liter of dissolved oxygen
12 represents the threshold between suitable and

13 impaired waters.

14 The summer algal blooms and subsequent
15 stressed oxygen levels indicate that Ninigret Pond
16 is evolving from a relatively healthy environment to
17 a eutrophic state. Most pond dissolved oxygen
18 concentrations are at least 10 times the value of
19 the sea water that comes through the breachway.

20 Studies at the URI Marine Ecosystem Research
21 Lab, we call it the MERL Lab, has showed that small
22 increases in dissolved oxygen in the sea water has
23 caused an adverse effect on eelgrass help. Between
24 1960 and 1992 we lost about 30 percent of our

1 eelgrass, and I would guess, I am pretty sure now ⁶⁸
2 that we've lost about 80 percent of our eelgrass
3 population in Ninigret Pond.

4 We also have submitted for you in the record a
5 correlation that has been done showing the
6 Charlestown Housing increase versus the nitrate
7 concentration in the pond, and it's got almost a
8 limited increase with the amount of development
9 along the shores.

10 What's predicted. Most of the dissolved
11 nitrogen inputs into Ninigret Pond comes from the
12 groundwater. Under our existing scenario right now,
13 one resident in two acres means that about
14 70 percent of the nitrate in Ninigret Pond will come
15 from the groundwater and 65 percent of the
16 groundwater dissolved nitrogen comes from the septic

17 systems.

18 If the Council were to change their rules,
19 there would be 2.5 residences per acre that would
20 increase to 80 percent of the nitrate coming from
21 the groundwater and 80 percent of the groundwater
22 dissolved nitrogen would come from the septic
23 systems eventually reaching the pond.

24 Now, with regard to the nitrate

1 concentrations, what is considered the background⁶⁹
2 level is .2 milligrams per liter.

3 With the model that is produced by the
4 University of Rhode Island off of Extension Service,
5 the current zoning's loading rate would be 2.2
6 milligrams per liter.

7 Now, if the density change were to take place,
8 which would make it essentially five times that, we
9 would expect to have 10.8 milligrams per liter of
10 nitrogen going into the pond from that. Again, that
11 is not my information. That is information that
12 comes from the managed model from Cooperative
13 Extension.

14 To summarize, our Salt Pond SAMP is intended
15 to regulate the residential growth to improve the
16 water quality. Over the past decades there have
17 been some improvements, but we still have
18 deteriorated conditions in Green Hill Pond and
19 deteriorating conditions in Nini gret Pond. From
20 these observations and the material that we are

21 submitting, we would recommend that the Coastal
22 Resources Management Council keep the density
23 requirements as it now exists in the SAM Plan.
24 Thank you.

70

1 MR. FUGATE: Thank you. Is there an
2 Alice Kaptinski? No. Okay. Betty.

3 MS. McCLUNG: No.

4 MR. FUGATE: Susan? Okay. Sheila
5 Brush.

6 MS. BRUSH: Thank you very much. My
7 name is Sheila Brush. I'm the Director of Programs
8 for Growth Smart Rhode Island, and I'm here today to
9 speak on behalf of my organization.

10 Growth Smart Rhode Island urges the CRMC not
11 to make changes to the Salt Plan SAMP and the Narrow
12 River SAMP that would enable any substantially
13 complete low-mod housing comprehensive permit
14 application filed at the local zoning board before
15 December 14th, 2004 to avoid the CRMC density
16 standards for self-sustaining lands and lands of
17 critical concern.

18 Growth Smart Rhode Island has been a strong
19 advocate for increased production for affordable
20 housing, particularly in those parts of the state
21 that have not yet reached the goal of having
22 10 percent of their housing stocked in the low and
23 moderate income category. However, we have always
24 emphasized that increased production should not come

1 at the expense of the environment. I repeat, not at ⁷¹
2 the expense of the environment.

3 On the contrary, we believe that the compact
4 development required to accommodate affordable
5 housing must be carefully located, and that good and
6 serious consideration must be given to environmental
7 impacts.

8 We would note that the same principle is
9 contained in the Rhode Island Strategic Zoning Plan
10 that was recently adopted by the State Planning
11 Council. That plan states, and I'll quote,
12 "Increased density is not appropriate in all area.
13 Rather, growth should be concentrated and restricted
14 to the areas best suited to accommodate it in terms
15 of site conditions and available facilities. The
16 key consideration is for communities to identify,
17 through the comprehensive planning process,
18 appropriate areas where increased densities can be
19 supported by site parameters and existing and
20 planned public services. In doing so, they should
21 ensure that the effects of increased density, such
22 as increased runoff and pollutant loading, can be
23 effectively managed without creating serious impact
24 which would exceed applicable laws or standards.

1 This requires both careful planning and close ⁷²
Page 62

2 coordination, involving local government, their
3 citizens, potential private sector partners and
4 state agencies. The Coastal Resources Management
5 Council is one of the key state agencies responsible
6 for ensuring that potential environmental impacts
7 are carefully studied. It was established, and I
8 quote, to preserve, protect, develop, and, where
9 possible, restore the coastal resources of the state
10 for this and succeeding generations through
11 comprehensive and coordinated long-range planning
12 and management designed to produce the maximum
13 benefit for society in such coastal resources.

14 We fully believe that Growth Smart and the
15 CRMC adopted density standards for sensitive coastal
16 areas and areas of critical concern, it is intended
17 that those standards should apply to all parts of
18 residential development, in other words, to both
19 subdivisions and land development projects, and that
20 the omission of a reference to land development
21 projects created an inadvertent loophole. The rule
22 change made on December 14th, 2004 carried out the
23 original intent of the law.

24 Over the past two-and-a-half years, Growth

73
1 Smart has promoted careful planning for affordable
2 housing. With 29 municipal housing plans completed,
3 Rhode Island is well positioned as a state to site
4 affordable housing units in areas that can
5 accommodate such development. We don't need to

6 develop affordable housing in fragile environmental
7 areas in order to achieve our affordable housing
8 goals. That would be an abdication of our
9 responsibility to be good stewards of our natural
10 resources and to do the hard thinking and methodical
11 planning that can enable us to simultaneously
12 achieve our affordable housing and resource
13 conservation goals. Making the changes under
14 discussion in the Salt Pond and Narrow River SAMP
15 plans would eliminate the CRMC's ability in at least
16 one instance to exercise its mandated
17 responsibilities to protect our fragile coastal
18 areas. We urge the CRMC not to pass these changes.
19 Thank you.

20 MR. FUGATE: Thank you. Anna
21 Prager.

22 MS. PRAGER: I'm going to be very
23 brief because of what I was going to say has been
24 said, but I just have a couple of points that I

1 wanted quickly to raise.

74

2 For those who don't know me, I am Anna Prager
3 and I am a professional land use planner, have been
4 so in the State of Rhode Island for the last 35
5 years. I'm also a member of the State Planning
6 Council. And, Sheila, thank you for reading that
7 section from our recently adopted affordable housing
8 plan. But, in addition, I want to say that in that
9 very same plan, in its development guideline, in the

10 appendix, specifically says under the heading of
11 "Where not to develop affordable housing," it
12 states, "Not to develop affordable housing in
13 sensitive environmental areas." So, any argument
14 that has been made that this amendment is needed to
15 conform with any state laws, that just doesn't make
16 any sense to me, because the state laws, as I know
17 them, there has been plans by the State Planning
18 Council, the act does not require for a state that
19 affordable housing and environmental protection are
20 mutually exclusive concepts. They were all in
21 accord.

22 The second brief point that I want to make is
23 that any proposal which was in the approval process
24 prior to your December '04 amendment may have had

1 some vested rights, and, therefore, should proceed ⁷⁵
2 under those amending regulations to protect those
3 vested rights. I have never considered in my 35
4 years of experience of planning, either there has
5 vested rights, it either concurs with the existing
6 laws or it doesn't. So I urge you to continue to
7 work the good work you've been doing and protect
8 these fragile coastal areas and not act under this
9 proposed amendment. Thank you.

10 MR. FUGATE: Robert Frost. No.

11 MR. FROST: Yes, I didn't.

12 MR. FUGATE: Okay. That's the end
13 of my list, unless there's anybody else that would

14 I like to speak. Yes.

15 MR. WALKER: I missed the list.

16 MR. FUGATE: Okay.

17 MR. WALKER: Hello. I am Gus

18 Walker. I am Chairman of the Wastewater Management
19 Commission. I am speaking for myself.

20 When you increase density, housing density,
21 the only logical thing to do to counteract that is
22 to increase the capacity of septic systems to remove
23 excess nitrogen and other contaminants. I would
24 argue that the IA systems, Innovative Advanced

1 systems, that are available on the market do not⁷⁶
2 remove nearly enough nitrogen to compensate for
3 those factors. An average of 15 commercially
4 available IA systems gives an average of nitrogen
5 and the effluent, 22 milligrams per liter. An
6 unnamed, unmentionable project predicted that their
7 system would reduce it to 2.68 milligrams per liter.
8 That's less than one-tenth of the actual amount.
9 The average of all of the systems that I've looked
10 at is 22 milligrams per liter. The State limit on
11 nitrogen was 19 milligrams per liter.

12 With all of these arguments, I suggest that
13 it's foolish to proceed like this. The technology
14 is not available to compensate for the increased
15 density. Thank you.

16 MR. FUGATE: Thank you. Okay. Is
17 there anybody else that would like to make public

18 comment? Okay.

19 On behalf of the Coastal Resources Management
20 Council, I would like to thank everybody that made
21 comment tonight and thank all of you for coming
22 tonight. It's obvious it's a very important issue
23 to, particularly to Charlestown on this regulation
24 change.

1 As I indicated, we will compile all of this ⁷⁷
2 material. The Deputy Director and I have a pleasant
3 job of reviewing all the material and then making a
4 recommendation to the Council based on our analysis,
5 and then whatever the Council will do at that point
6 it will do, but it will be advertised. You will
7 have an opportunity to attend that hearing, if you
8 wish, and make further comment, I'm sure. But,
9 that's the process that it's supposed to take. Yes.

10 UNIDENTIFIED SPEAKER: Before you
11 were handing out a sheet for people to be put on to
12 get on the mailing list?

13 MR. FUGATE: Yes.

14 UNIDENTIFIED SPEAKER: And then it
15 became clear that they will be speaking, so people
16 stopped signing it.

17 MR. FUGATE: Okay. If anybody that
18 wants to put their name on a mailing list for any
19 hearings on this particular issue, we will continue
20 to take names. Yes.

21 UNIDENTIFIED SPEAKER: Before I
Page 67

22 thought that you said there would be a transcript
23 written of the tape recording of this meeting?

24 MR. FUGATE: Yes.

1 UNIDENTIFIED SPEAKER: But the 78
2 Council will never get that transcript?

3 MR. FUGATE: Yes, they will.

4 UNIDENTIFIED SPEAKER: They will get
5 the entire transcript?

6 MR. FUGATE: They will get the
7 entire transcript.

8 UNIDENTIFIED SPEAKER: Does that
9 transcript become a public record after they receive
10 it, is that how that works, or where might that be
11 available?

12 MR. FUGATE: Once the transcript is
13 received by the agency, it's usually reviewed by the
14 agency for a period of three days before it becomes
15 public record. Then it will be available to any
16 party. As I indicated, you can either purchase the
17 transcript directly from the vendor, or we do have
18 copies available in house that somebody can sign out
19 for a 24-hour period.

20 UNIDENTIFIED SPEAKER: Would that be
21 of the CRMC offices right here?

22 MR. FUGATE: Yes, that's at the
23 Stedman Center.

24 UNIDENTIFIED SPEAKER: We'll call

1 and see when that's available.

2 MR. FUGATE: Right.

3 UNIDENTIFIED SPEAKER: Can I have a
4 final question?

5 MR. FUGATE: Sure.

6 UNIDENTIFIED SPEAKER: I believe I
7 read in the newspaper that there was a possibility
8 that the Council and yourself and your staff, after
9 consideration of all of the comments that you
10 received, would make a determination that this
11 matter would be draft, no longer considered, never
12 again to appear on a future agenda. It would seem
13 to me it's not mandatory that that be placed back on
14 a future agenda, and I am just wondering if that
15 observation is accurate and what's the odds of that
16 happening, so we don't all have to go to Providence?

17 MR. FUGATE: For the process to be
18 complete, we have to go through, and, as I said,
19 we've been asked by the Chairman to review the
20 material and formulate any staff recommendation
21 based upon all the input that we have now. We will
22 present that at a full Council meeting, advertise,
23 at that point the Council can either deny the
24 regulation change, approve the regulation change or

1 remand it back to Policy & Planning for further

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review and study.

UNIDENTIFIED SPEAKER: You're saying that there will be considered, one way or the other, there's no chance of it just going away?

MR. FUGATE: No. The full Council has to take that action.

UNIDENTIFIED SPEAKER: Who makes that determination?

MR. FUGATE: The full Council will.

UNIDENTIFIED SPEAKER: The full Council. They set the full agenda?

MR. FUGATE: The Council will --

UNIDENTIFIED SPEAKER: The Chairman makes that decision?

MR. FUGATE: No. The full Council will make the decision as to what the fate of the regulation is.

UNIDENTIFIED SPEAKER: And whether it's on the agenda.

MR. FUGATE: Whether it's on the agenda or not usually is a scheduling issue between myself and the Chairman.

UNIDENTIFIED SPEAKER: Okay. If you

81

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decide to go in the right direction, would you advise us? By the way, thank you, gentlemen.

UNIDENTIFIED SPEAKER: Can we have a timeline, when staff goes over this? I mean, is there a certain period of time, a week, two weeks,

6 10 days, anything before the Council that the
7 Council will go over it, is there anything in the
8 rules that you feel that we choose, initial language
9 or something else?

10 MR. FUGATE: There's nothing in the
11 law that sets any timeframe. The Deputy Director
12 and myself will probably take several weeks at least
13 to go through the material and review it and try to
14 formulate as the recommendation. We will draft that
15 as a written recommendation to the Council, which
16 will become a staff report then, that would be
17 available to anybody, and once that is scheduled
18 before the Council hearing, certainly anybody that
19 wants to get the package, the agenda package or the
20 regulation package, it is available for public
21 review, the agenda package would be available for
22 public review, the staff reports are available for
23 public review. So, none of this is -- it's full and
24 open public disclosure on all of this, so.

1 UNIDENTIFIED SPEAKER: The question
2 is, once you finish, who determines when it goes to
3 the full Council?

4 MR. FUGATE: Typically, it's
5 usually, as I said, a scheduling matter. The
6 Council, in the summer period of June, July and
7 August, usually has one meeting a month. Depending
8 on the issues that are coming before the Council and
9 what they need to get absolutely done and whatnot

10 usually determines it. But, where this is, we would
11 probably, at a minimum, put a notice out on this.
12 We would have to schedule according to each certain
13 by probably 20 days in advance, and put out a notice
14 to everybody to that effect, that it would be heard
15 at the next meeting, so that there would be an
16 opportunity for anybody to be aware of that meeting
17 and comment.

18 UNIDENTIFIED SPEAKER: So, are you
19 saying the earliest would be September?

20 MR. FUGATE: I think that would be
21 an appropriate timeframe.

22 UNIDENTIFIED SPEAKER: How could we
23 get the staff report?

24 MR. FUGATE: Once the staff report

1 gets done and is finalized and is signed off by me,⁸³
2 it becomes a public document.

3 UNIDENTIFIED SPEAKER: How do we
4 know that?

5 MR. FUGATE: Pardon me?

6 UNIDENTIFIED SPEAKER: I mean, do I
7 call you every day, or?

8 MR. FUGATE: It will probably take
9 the Deputy Director and I several weeks to go
10 through the material. I don't know if you have seen
11 the file, but it is a fairly big file.

12 UNIDENTIFIED SPEAKER: I'm going to
13 call you on July 15th and say are you finished yet.

14 MR. FUGATE: And the written work
15 would be available, I would imagine, within a week
16 after that.

17 UNIDENTIFIED SPEAKER: Do you have a
18 website that you can put it on?

19 MR. FUGATE: Yes, we do have a
20 website. I will check with the Chairman to see.

21 UNIDENTIFIED SPEAKER: That will be
22 easier for us --

23 MR. FUGATE: I agree.

24 UNIDENTIFIED SPEAKER: -- if you can

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1 put it on the website.

2 MR. FUGATE: Yes.

3 UNIDENTIFIED SPEAKER: When this
4 comes before the full Council, is there a
5 possibility that it will be held in Charlestown?

6 MR. FUGATE: I will make a request
7 to the Chairman, but usually the full Council meets
8 in the Providence area. There are usually other
9 matters they are considering that night, and we do
10 have a standard meeting place that's available to us
11 that we utilize on a regular basis, so.

12 UNIDENTIFIED SPEAKER: That is not
13 at the Stedman Center?

14 MR. FUGATE: No, it's not in the
15 Stedman Center. It's in the Narragansett Bay
16 Commission headquarters at Fields Point in
17 Providence.

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