STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL

IN RE: SEMIMONTHLY MEETING

Date: January 13, 2010
Time: 6:00 p.m.
Place: Administration Building
       One Capitol Hill
       Conference Room C
       Providence, RI

MEMBERS PRESENT
Michael Tikoian, Chairman
Paul E. Lemont, Esquire, Vice Chairman
Raymond Coia
David Abedon
Michael Sullivan
Donald T. Gomez
Bruce Dawson
Robert Driscoll

Brian Goldman, Esquire, Legal Counsel
STAFF PRESENT
Grover Fugate, Executive Director
David Beutel, Aquaculture Coordinator
Jeffrey Willis, CRMC Deputy Director
Danni Goulet, CRMC Dredge Coordinator

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(COMMENCED AT 6:00 P.M.)

CHAIRMAN TIKOIAN: Can we bring the Coastal Resources Management Council of January 13, 2010 to order.

During the course of the hearing this evening an applicant may represent themselves or may be represented by legal counsel. In the event that the applicant is not present, the legal counsel must have the authority to bind the applicant.

An attorney's comments during the course of a presentation will not be considered evidence or testimony before the Council and attorneys should recognize that this is a quasi judicial body and should act accordingly. All parties giving testimony or statements this evening will be sworn. Some applications on tonight's agenda may have recommendations of approval by the Council staff and there may not be anyone here objecting to these applications. Prior to tonight's meeting, all of the Council members have had an opportunity to review those files, review the staff reports and comments, all of which are part of the record. On those applications the Council may after public comment move for approval and, in fact, approve
those applications without the necessity of taking any testimony. Approval of an application does not mean you can start work tomorrow. You must wait until you receive your Assent, an orange Assent card.

The Assent is your permit from the Council stating that you have the right to undertake the activity in accordance with all of the conditions placed on that Assent. The orange Assent card must be placed in a conspicuous location on the site of the activity during all times of construction.

At this time we'll entertain a motion to approve the minutes of the prior meeting.

MR. COIA: So moved.

MR. SULLIVAN: Second.

CHAIRMAN TIKOIAN: Motion made and seconded. Any discussion? Comments?

(NO RESPONSE)

CHAIRMAN TIKOIAN: All in favor signify by saying aye?

(VOICE VOTE TAKEN)

(UNANIMOUS)

CHAIRMAN TIKOIAN: Opposed?

(NO RESPONSE)
CHAIRMAN TIKOIAN: So carried.

Subcommittee reports?

(NO RESPONSE)

CHAIRMAN TIKOIAN: No subcommittee reports. Staff reports?

MR. FUGATE: Yes, Mr. Chairman, there are a series of staff reports tonight and they're noted on the agenda.

CHAIRMAN TIKOIAN: Mr. Fugate, are you handling all of these in that order, or do you have somebody?

MR. FUGATE: Actually, Mr. Goldman is presenting, with myself, on the Weaver's Cove project. Biosecurity Board is Mr. Beutel -- I'm sorry, Mr. Willis. The aquaculture lease transfer -- Jeff's got the rest of them. Jeff will be handling all the others.

CHAIRMAN TIKOIAN: My pen went around with the sign-in sheet. Grover, are you ready?

MR. FUGATE: Sure. Do you want me to start with the briefing?

MR. GOLDMAN: I'll start then, Grover. I guess the Council had asked for just a
summary of the Weaver's Cove litigation. If this
was consummated, this would have been -- I think we
got the decision in October from the First Circuit
on the Weaver's Cove/LNG consistency litigation. I
think what you've got in front of you is, and I will
set the legal table for you and then you can ask, if
you have questions of staff as to how they handled
it. They were basically, from the CRMC side there
was essentially one significant issue, and that had
to do with whether or not, when the application and
consistency review were treated as one came into the
agency that it contained all the necessary data and
information such to make it a complete application
and then trigger the six-month consistency review
period. By way of background, the Federal CZMA and
the CFR's that accompany it require that when
someone files a -- when somebody comes in for a
consistency review, that once all the necessary data
and information is complete that the agency has, and
in this case it's actually Grover's the CRMC --
Grover's the consistency authority in this case,
they normally don't come to the Council, but that
the agency has six months in which to either
determine that the proposal is consistent with the
CRMC's regulations or to object on grounds that it is not consistent. In the case of Weaver's Cove, what happened, if you see what Danni Goulet passed out, when the application came in, the staff took the position that the application was not complete and that it lacked necessary data and information, and under the CFR you're supposed to notify the applicant that within 30 days, if the application is not complete, and that the consistency review will not be undertaken. In this case there were three issues that the staff took the position made the application incomplete. The first one was that it lacked stamped engineering, perhaps by a stamped registered Rhode Island engineer; second, that a prerequisite to the dredging permit was a water quality cert from DEM; and, third, that under 300.9, when you were going to dispose of dredge material at an upland site, you had to provide approval from that upland site, so, essentially, so we know where it's going to go. What Weaver's Cove did, in the first instance staff told them they did not have engineered plans, and they remedied that within a week or so. I think Danni -- they came with the engineered plans, staff took the position that that...
triggered, again, the 30-day period, and then Grover made a determination that it lacked a water quality cert, and, also, that the disposal for the dredge material did not satisfy the criteria of Section 300.9, and that what Weaver's Cove said in their application, and I am going to paraphrase, was that we are going to dispose of the dredge material at an upland site in Massachusetts, and, therefore, you have no jurisdiction to review that, and, therefore, we don't have to, because we're representing to you that we're going to put the dredge material in a site outside of Rhode Island, then you cannot require us to tell you or provide you approval from an upland facility as to where we're going to dispose that because it's outside of the State. And, I think Grover took the position that that was not a proper interpretation of the regulations, that, as he interpreted the regulations, that you had to provide a site no matter where it was going to be deposited, that if you were going to deposit it in Maine, Massachusetts, Virginia or Connecticut, you had to tell us where it was going to go so that we did not run into the so-called "barge to nowhere" scenario, where, as you may recall, there was a
trash barge that came from New York and it left New
York City and it was supposed to go to Virginia to
have the trash disposed of there and Virginia said
no and this barge was floating around for a while
trying to find out where to dispose of the trash and
it ended up going back to New York. So, that was
the position that the staff took and Grover took on
the application, and there was a little bit of a
back and forth, as you can see in the time line that
Danni has done for you. Ultimately, that was just a
position I think that Grover took, was that the
information incomplete, it was necessary data
information, therefore, the six-month clock didn't
trigger.

Before I get to litigation, do you want to get
into that, Grover?

MR. FUGATE: Yes. When the
application came in, you'll notice from the
chronology here, and you will see it quite clearly,
they applied for both a Category B and a Fed Con.
Both of those applications, when you read the
Federal Consistency Manual, were both processed in
the same fashion. Because the Category B
application requirements, there is a prerequisite,
which means that we cannot even accept the
application until they have certain documents in
their hands. They did not have those documents in
their hands which were, they had to show us, because
we've had situations before, for instance, where
dredge material is going to Connecticut and other
places. We require those applicants to provide a
letter from the facility receiving that, that
they're capable of receiving it, and, yes, they have
approved it for their transfer to those areas. It's
been done in the past. It is not an unusual
requirement. When that came in and they were
lacking that, we couldn't even under our regulations
accept the application for processing, and that's
the stance we were in, and you can see from the
chronology, they played us out for almost two years,
saying they were going to get us the material, then
they said -- they were questioned whether they
needed it, back and forth to the point that after
two years they finally said, we're not going to give
you the material, and, by the way, Federal
consistency is presumed now. So, it was a situation
where there was a prerequisite in place, we could
not accept the application, and they, again, if you
look at the chronology, you will see that they
played that out for almost two years before they
finally took the position that Federal consistency
was presumed at that point, and that's how we ended
up in the appeal in the Courts.

MR. GOLDMAN: Just so you
understand, under the Federal statute, it
specifically says that if within the six-month
period of a complete application being submitted, if
the State does not either concur or object to the
consistency certification, then consistency is
presumed, the caveat being, though, that it had to
be a complete application with necessary data and
information, and there's a whole body of case law
out there of litigation on consistency review where
when people have not submitted the necessary data
and information, the clock doesn't start. So, we
sort of reached the stalemate where Grover and the
staff took the position that this was necessary data
and information, the applicant said it wasn't, the
time period went by, I guess there were discussions
they changed legal counsel and decided to take a,
therefore, aggressive position. They filed suit in
Federal District Court and alleged that the
six-month clock had run because the information was not necessary, the data was not necessary data and information, and then added a second claim which they had never raised before, which was that Category B review was preempted by the Natural Gas, and, therefore, we could not assert State authority over the -- State permitting authority over this project. The only authority we had was consistency review. I think the thought was, on the staff side and on Grover's side, that even if the, you know, the six-month clock had run, because they filed for a Category B application, there was no requirement that anything take place in that six-month period under the Category B application. When they brought the suit in Federal Court, they raised this new defense of, well, you can't require us, we're withdrawing our Category B application because we're taking the position now that Federal law preempts the State authority. So, it went through. We litigated it, obviously. The Attorney General was involved in the case as lead counsel. They got into a lot of State sovereignty arguments and the preemption argument and we focused on the necessary data and information argument. The District Court,
they construed our staff with DEM staff in terms of what constituted an approved upland facility, and I'll just read to you the Section 300.9. It says, "When disposal is proposed for approved upland facilities, the applicant shall provide a letter of acceptance from that facility unless the disposal is approved from the Central Landfill." We took the position that approved upland facility meant anywhere. We need to know where this dredge material is going to go. You can't just say I'm going to put it somewhere outside of Rhode Island, and we just, you know, and we would be required to accept that. That was the position that Grover interpreted in the regulation and that we took in the litigation. The District Court took our statute and the DEM statute as it relates to dredging and said that, essentially, DEM defined approved upland facility as an approved upland facility in Rhode Island, and, therefore, that definition of approved upland facility should be applied to CRMC, and, therefore, because the material was meant to be placed out of State, that we could not require them to get an approval from an out-of-State facility, therefore, our interpretation of our regulation is
erroneous as a matter of law, therefore, it was not necessary data and information to process the application, therefore, the six months commenced back in August when they had filed it, and that the six months had expired, and that the presumption of consistency was, therefore, conclusive. That went up to the First Circuit on all the same issues that we raised below and the First Circuit agreed with the District Court. So, that's just sort of a where we were.

Grover, do you want to add anything to that?

MR. FUGATE: I think if it is pretty well evident that when the application came in they applied for both, and the way the Fed Con works is that when you apply for both, the process is a simultaneous track. Not knowing that we didn't have the Category B authority until after the courts ruled against us, we were under the assumption that prerequisites applied, which means we couldn't accept the application for processing, period, until they were in place. So, the Court, obviously, disagreed that we should even have prerequisites in those areas.

MR. GOLDMAN: If I can, one more
thing, Mr. Chairman. The interesting thing with the argument, which I think frustrated myself and the Attorney General's office, was Weaver's Cove argued that the dredging in Rhode Island was not part of well, first they said -- they had two arguments, which I always termed as the "you can't have your cake and eat it, too" argument. They would say that even though the proposal for Weaver's Cove had changed, the dredging in Rhode Island had changed, and, therefore, the dredging in Rhode Island had not changed, even though the rest of the proposal had changed, but because the dredging was integral to the proposed project, it was all part of the one LNG project, and, therefore, the Federal law preempted State authority because the dredging was part of the overall project. We then argued, well, okay, if the dredging is part of the overall project and you've now changed the overall project, then we should get to review the overall project again because you've now changed the application, and then they came back with the argument and said, well, no, the dredging is separate and apart from the actual project, it's located in Rhode Island, it's really not integral to the project, and, therefore, nothing in the dredging
has changed, and I guess I never quite understood, and I still don't, how the Court could reconcile that. If it is part of the overall project, then when the project changed we should get a consistency review over it. If it's not integral to the project, then it should come in under Category E and Federal preemption shouldn't apply. So, that's a question that's out there that, it's sort of an aberration in the case, but it is the First Circuit and that's what they decided, so.

   MR. FUGATE: There was another element and twist that they ignored, too, when the decision went through.

   As Brian indicated, when they first came in for the application what they intended to do with the dredge materials was essentially build a 107-foot glass wall out of the dredge material around the site. By the time -- and that's what they actually applied to us for. By the time it started to get through the process, they said, oh, no, we're changing this to an in-water disposal off of Rhode Island. We said, that's a significant change, and they said it wasn't a significant change, and, by the way, consistency is still
presumed. So, even though they made that change in their disposal site, they still were arguing that we had no right to review the change and the issue, too.

MR. GOLDMAN: Under the Federal regulations, when there's a substantial change in the application, that triggers a new consistency review. They got around that, obviously, in the First Circuit. So, what it means now is that, for the dredge part of the project, which is all we were ever looking at, that our consistency is presumed, but there's still, Grover, another hurdle of permits that we have to go through. I think DEM could be the hero in this thing.

MR. FUGATE: I think there's, at this point, 17 different litigation pieces that are out there relative to this project, so.

CHAIRMAN TIKOIAN: Questions.

VICE CHAIRMAN LEMONT: I have a question.

CHAIRMAN TIKOIAN: Mr. Lemont.

VICE CHAIRMAN LEMONT: I had requested this discussion held because in reading the article, it appeared in The Journal, and I'm
glad to see we have a report here this morning, it
struck me that one could have the impression that
CRMC was asleep at the wheel, that things were in
progress now to forge ahead for the LNG tank, even
though the publicity over the last few years has
been mainly adverse to that project, and I wanted to
make sure, make sure it was understood that CRMC was
not asleep at the wheel, that this was a very
difficult issue involving a lot of legal theory that
still is out there to be resolved. So, I hope
everybody understands that. Mr. Chairman, you and I
have talked about it, that, you know, it is easy to
conclude that we weren't doing our job, and I think
it's clear to state that not only were we doing our
job, but it's a very complex job that has a lot more
twists and turns before it's ever resolved.

MR. FUGATE: This case was also
actually written up in "The Energy Law Review," in
that it's unique in that it was the first case where
you had a non-Federal entity coming in and using
Federal preemption as an argument for its ability to
be able to go through. So, you have a private
party, essentially, saying that they were an arm of
the Federal Government, being able to push this
application through, only on a Federal consistency
basis and not a Category B, and so, as such, it was
the first case to actually test that, where a
private entity could act and get Federal preemption,
and so it was written up in "The Law Energy Journal"
because of that issue.

    MR. GOLDMAN: Mr. Chairman, we
worked very closely with the Massachusetts Attorney
General on this case in coordinating the defense,
and because it had a lot of overlap with some of the
defenses that they were utilizing as well, and, you
know, they participated in moot courts with us, and
we were not alone in thinking our interpretation of
the regulation was correct, and I think that it's
given to move Mass off into a different direction,
but they were very actively involved in this
litigation as well.

    MR. FUGATE: There is, in fact, a
very similar piece of legislation that's now going
on in the State of Washington relative to a wave
energy project that FERET granted a license to,
making it subject to the Federal Consistency Act,
like they did in this case, and that act is working
its way up to the Supreme Court now, because they're
taking the position that Federal consistency, you can't make it a condition, you have to go through the process. As part of the Federal permitting you just can't make it conditional on a Federal permit, so.

CHAIRMAN TIKOIAN: Any other questions?

(NO RESPONSE)

CHAIRMAN TIKOIAN: Well, thank you. Gentlemen, thank you. Mr. Beutel, Biosecurity Board.

MR. BEUTEL: Mr. Chairman, I will handle that. The Biosecurity Board, there is a memo in front of the Council seeking the Council's approval of the members that were designated to be on the Biosecurity Board. The Biosecurity Board is part of the aquaculture staff 20-10, and the names and their affiliations are laid out in front of you just seeking Council concurrence of that membership.

MR. SULLIVAN: Move concurrence.

MR. DAWSON: Second.

CHAIRMAN TIKOIAN: Motion made and second. Any discussion?

(NO RESPONSE)
CHAIRMAN TIKOIAN: All in favor signify by saying aye?

(VOICE VOTE TAKEN)

(UNANIMOUS)

CHAIRMAN TIKOIAN: Opposed?

(NO RESPONSE)

CHAIRMAN TIKOIAN: So carried.

MR. SULLIVAN: Just quickly, Mr. McGiverny is on one of the advisory council panels to the Marine Fisheries Council but is not a full member of. He may be representing it, but he is not a member of the Council, but has been a long member of the board. It should stay that way.

CHAIRMAN TIKOIAN: Any other discussion?

(NO RESPONSE)

CHAIRMAN TIKOIAN: Motion made and seconded. Any discussion?

(NO RESPONSE)

CHAIRMAN TIKOIAN: Hearing none, all in favor signify by saying aye?

(VOICE VOTE TAKEN)

(UNANIMOUS)

CHAIRMAN TIKOIAN: Opposed?
(NO RESPONSE)

CHAIRMAN TIKOIAN: So carried.

Thank you, Mr. Beutel.

MR. WILLIS: Just to inform the Council that, as per Section 300.11, we had an aquaculture lease transfer for Assent 2002-03-044 from Chris Warfel to Chris Littlefield, all stipulations, all requirements of the assent will remain intact for that transfer. It's just to report out to the Council, to let the Council know that that occurred.

And, imminent peril, as per Section 180 of the program, this is on the Council's agenda to let you know that at the request -- actually, it's at the request of Narragansett Electric, there is a typo, it should be City of Pawtucket, for Assent Number 2009-12-015, the request was for an emergency permit because of an explus of sheen materials leaking out of the coastal feature into the Seekonk River. It appeared to have been petroleum hydrocarbons of some sort that needed to be mitigated very quickly. So, based on a determination that there was a threat to public health and safety, as well as causing an adverse environmental impact, a decision was made to
invoke Section 180 and issue an imminent peril assent.

CHAIRMAN TIKOIAN: Any questions on that?

(NO RESPONSE)

First application, Sun Farm Oysters, 2009-206-087. Are they present?


CHAIRMAN TIKOIAN: Anyone here present that wishes to speak for or opposed to that application?

(NO RESPONSE)

CHAIRMAN TIKOIAN: Hearing none. Who is going to handle one?

MR. FUGATE: Dave.

CHAIRMAN TIKOIAN: Let me see for the second 2009-09-0034, Margin Street Marine. Are they present?

MR. DENONCOURT: Yes.

CHAIRMAN TIKOIAN: Who's going to be the spokesman for that application?

MR. DENONCOURT: Brian Denoncourt.

I am one of the co-owners.

CHAIRMAN TIKOIAN: Anyone here wish
to speak for or opposed to that?

(NO RESPONSE)

CHAIRMAN TIKOIAN: Okay. Dave.

MR. BEUTEL: The Sun Farm application is a modest expansion of an existing three-acre lease in Trims Pond on Block Island, and I know the agenda says it's 0.56 acres, but I corrected that in the report and it's actually half of that, as it is a triangle of 150 feet per side, adjacent to the existing three-acre lease.

We had numerous meetings with the Town of New Shoreham, the Block Island Shellfish Commission, the Rhode Island Marine Fisheries Council and Shellfish Advisory Panel. None of those groups had an objection.

Rhode Island DEM Fish & Wildlife have an objection, in that they were assuming that the five percent carrying capacity would be exceeded. That's one of the new regulations we had talked about in previous months. The stance that we've taken is that the whole Great Pond, Great Salt Pond system is one and that it doesn't begin to approach the five percent carrying capacity.

CHAIRMAN TIKOIAN: Do you know where
you're at, Dave, if you were to measure up to the
five percent, do you know where you stand?

MR. BEUTEL: It's about 1.6. The
other objection that DEM had, and which really was a
suggestion, was that future acquaculture leases in
Block Island go only in waters that are not
seasonally closed, so waters that are open all year
long. The current leased areas, all of the current
leased areas in Block Island, except for one, are in
seasonally closed areas. The three acres in Trims
Pond and the expansion are in seasonally closed
waters.

The Town of New Shoreham has directed all
aquaculture to be in both Trims Pond and Harbor
Pond, so that suggestion by DEM was not an open
option at this time.

So, given the lack of objections from the
majority of the groups, staff recommends approval of
this application.

CHAIRMAN TIKOIAN: Does the
applicant wish to make any comments on this? You
don't have to. I am just asking if you want to.

MR. WARFEL: No, not at this time.

VICE CHAIRMAN LEMONT: Mr. Chairman,
based on upon the statements of staff and reading the report, I move that the application be approved.

MR. COIA: Second.

CHAIRMAN TIKOIAN: Motion made and seconded. Any discussion? Comments? Questions?

MR. SULLIVAN: Comment.

CHAIRMAN TIKOIAN: Director.

MR. SULLIVAN: Mr. Beutel characterized DEM as opposition. I think you would find that the staff expressed concern that this expansion would exceed, or potentially exceed the biological carrying capacity and offered a concern there. They also suggested that, if approved, that a targeted water quality monitoring program be developed and instituted prior to, as a conditional of, you know, that would reflect or have the ability to reflect some of the changes in their concerns. Based on my staff's assessment, I would be required to oppose the expansion unconditionally.

CHAIRMAN TIKOIAN: Any other comments or questions?

(NO RESPONSE)

CHAIRMAN TIKOIAN: Hearing none, all in favor signify by saying aye?
(VOICE VOTE TAKEN)

(UNANIMOUS)

CHAIRMAN TIKOIAN: Opposed?

(NO RESPONSE)

CHAIRMAN TIKOIAN: The motion carries. 2009-09-034.

MR. GOULET: Mr. Chairman, this is for a new 25-slip marina with approximately 3,000-square foot marina support building that will have offices, sanitary facilities, 30 parking spaces, as well as about 5,000 cubic yards of dredging that will support the new marina. This process -- this particular application, the applicant went through the PD process that we've instituted for new marinas. They took it very seriously. There are about three iterations that they went through. We worked with them, modified the dredging footprint to satisfy the biological concerns. We worked on, if we had concerns about drainage, had concerns about their wall, they were very amenable to all of the staff's concerns and suggestions, and, so, based on that and the fact that it complied with all but one requirement of 300.4, they're asking for a variance for pumpouts,
that all new marinas are required to have a pumpout. They do have letters from two adjacent facilities that they say they have a capacity to pump out the 25 vessels. It's also targeted for small, large vessels, most of them are unlikely to have marine heads on them anyway. So, the staff, both biological and engineering staff, has recommended approval.

MR. SULLIVAN: DEM issued the dredge permit in December and I would move approval.

CHAIRMAN TIKOIAN: Is there a second?

VICE CHAIRMAN LEMONT: Second.

CHAIRMAN TIKOIAN: Same offer to the applicant, did you want to make any comment? Again, you don't have to.

MR. DENONCOURT: I'm just here to answer questions.

CHAIRMAN TIKOIAN: Any discussion? Comments?

(NO RESPONSE)

CHAIRMAN TIKOIAN: Hearing none, all in favor signify by saying aye?

(VOICE VOTE TAKEN)
(UNANIMOUS)

CHAIRMAN TIKOIAN: Opposed?

(NO RESPONSE)

CHAIRMAN TIKOIAN: So carried. The Ocean Special Area Management Plan. Oh, so, with that, we will open up the public hearing. I guess there will be a presentation.

MR. FUGATE: Mr. Chairman, Michele Armsby, as part of the SAMP planning team with CRMC. Sea Grant is going to give a presentation. Just for the Council's information and so you realize that this process is a fairly extensive process to begin with, but I will describe it for the Council who aren't intimately familiar with it.

Essentially, the staff, which are writing these chapters, have had extensive contacts with all the stakeholders that have been identified that have an interest in these areas. There is a lot of face-to-face meetings that occur between the staff and stakeholders trying to garner information and to go through that process. As they do that, they are charged to write the chapter and again send it back out to these individuals to make sure the information that they have been given hasn't been
misquoted or misrepresented in any fashion. After that process has been complete, it then goes through each subcommittee, or each chapter comes back for a review by myself and Jen McCann, as the two principal people looking at this project, to okay to go to the Technical Advisory Committee. Once that is okay to go to the Technical Advisory Committee, there is a Technical Advisory Committee that is for each chapter, because the expertise differs, obviously, based on chapter to chapter, and these are technical experts in their area that will review the material that's in that chapter. That went through that process. After the Technical Advisory Committee has approved it, it comes back to the stakeholder group, who then also has a public comment period to review the chapter. In a broader context all of the stakeholders get to review that process. After it's been through the stakeholder process and approved by -- or -- we essentially try to reach consensus or make changes in those, then it goes to the Ocean SAMP subcommittee. Once the subcommittee reviews the chapter and approves it, it then goes out for a workshop and public comment. We did have a public workshop on this chapter. There
was one person that showed up only to see if there
were going to be any changes. He had absolutely no
comment, and so there was -- actually, you would
have had a transcript if there was any comment
rendered at that, but there was no comment rendered
at the public workshop. There were some comments
received during the public comment period, and after
Michele gets through with her presentation, we'll go
through those comments and show you how we have
addressed it and what her recommended changes are.
But, the point of this was to show you that there's
been a very extensive process that each chapter is
going through right now, front loading this so that
the public and other entities have a very good
chance to review all of this. There are a series of
points that they can input, and what we're now
anticipating is that if the Council approves this
chapter tonight, we will hold it at this point, not
go forward to the Secretary of State's office with
this until all of the chapters have gotten to this
stage where they've had a hearing and the full
Council approves it. Once all those chapters have
been through that, then the full Council will hold
another hearing on all those chapters and offer
people to, again, render comment on all the previous chapters that they've been through, because there was concern on being able to look at all the chapters and how they integrate. So, that's the process that we're going through now and that's the stage we're at.

Michele is, the work that she had done along with Tiffany with this is incredible. A lot of this is all new data that never existed before that they gathered and now put through the chapter. With that, I'll turn it over to Michele.

MS. ARMSBY: Hello. I'm Michele Armsby, and together with my colleague Tiffany Smythe we've been working on the Ocean SAMP, First Chapter.

We have handed out tonight a copy of the revised chapter with all of the changes made to it, along with a memo and all of the public comments received during the formal comment period, and, so, after the presentation those are the documents that we will be going through. Like I said, Tiffany Smythe and I have been working on this project. She was unable to be here tonight. But, we worked very hard on drafting this chapter. We've gotten a lot
of input from stakeholders from around the State. And, as Grover was saying, we created a lot of new data. One point I should make before getting into our findings is that there were a lot of topics that deal with recreation and tourism, but also deal with other topics that will be discussed in other chapters of the Ocean SAMP. So, throughout the chapter we really tried to make a distinction of what topics would be discussed, and other chapters, and referred appropriately to those chapters.

In drafting the draft chapter, we really tried to make it clear that this Ocean SAMP document was focused on the offshore environment and that it did not include any upland areas or Narragansett Bay, and so for this chapter the focus is really on water-based recreation and tourism activities, and we only talk about the upland and coastal areas as they relate to facilities that help to facilitate water-based uses of the area.

Three of our major findings were that, first, there are many popular and economically valuable recreation and tourism uses of the SAMP area and that many of these uses rely on key parts of the SAMP area that are used intensely. These areas and
uses can be -- should be considered when evaluating future projects, and so these three findings are really what we based the recommended policies and standards within the chapter from.

I'll just briefly go over the methodology we used in drafting the chapter.

First, we reviewed a number of key documents. Past SAMP documents that have been written in Rhode Island, as well as some offshore documents, like the Cape Wind environmental impact statement, the Mineral Management Service, Regulatory Program on Off-shore Wind, as well as the Massachusetts Ocean Plan.

After reviewing those documents we identified and contacted a number of key stakeholders within the State and worked with them on gaining new information about recreation and tourism in this State.

We initially contacted about 25 different organizations, and worked closely with about 15 or 16 different organizations. Those organizations included the Rhode Island Marine Trades Association, the Rhode Island State Yachting Committee, the US Coast Guard, DEM, and so on. We then performed a
detailed literature review in search for the best available data, and then for data that wasn't currently available we created it using stakeholder input, and we created new GIS day layers and a series of maps, which I will be showing you tonight.

So, getting into the findings that we found.

First, when you're talking about recreation and tourism in the SAMP area, you're really talking about recreational boating, and so if you are out in the SAMP area, you're on a boat, and if you're on a boat in the SAMP area recreating, you are doing a number of activities, fishing, engaging in sailboat racing, cruising or transiting between different destinations, offshore diving, or offshore wildlife viewing, like whale watching or bird watching. So, recreational fishing is a key use of the SAMP area, and it's, we decided that, rather than focusing on that in this chapter, that it should be dealt with in the fisheries chapter of the Ocean SAMP, primarily because recreational and commercial fishermen target many of the same species and it can be not easy to distinguish between recreational and commercial fisheries. So, we do reference recreational fishing in the chapter, but really just
to reference that it will be discussed in greater
detail in the fisheries chapter.

So, moving on to sailboat racing. We created
a series of maps. This first map is depicting buoy
racing. There were two types of sailboat racing
that occur in the SAMP area. There's distance
racing and buoy racing, and buoy racing is just like
it sounds, a series of buoys are placed, and the
sailors must navigate around them in the race area.
So, this map depicts the buoy racing areas within
the SAMP region. This is new data that we created
based on finding all of the buoy races that occur in
the SAMP area and then finding spacial information
on them from sailing instructions, and, also, the US
Coast Guard. So, as you can see, there are two main
areas where buoy racing events occur, outside of
Newport and around Block Island. So, a really
popular buoy racing event you might have heard of is
Block Island Race Week.

The second type of sailboat racing is distance
racing, and this occurs between distant points.
Sailboat distance racing can range from days in
length to many months. A popular distance sailboat
race is the Newport to Bermuda race or the Newport
to Block Island race, and so, this, again, was data that we created by creating a list of all the distance sailboat races in the SAMP area and then using sailing instructions and data from the US Coast Guard to create this map.

Cruising is another activity that recreational boaters engage in, and, again, cruising is meant to mean transiting between destinations. This isn't an organized activity like yacht racing, and, so, this map was created nearly to represent some of the common transiting or cruising areas within the SAMP area. This was created, again, from new data that we gained from stakeholder input.

Offshore diving on dive charter boats is another popular recreational activity that occurs. This map we created from input from dive charter boat captains. Most of these sites are shipwrecks that occur within the SAMP area, and then there is a potential dive site area that the dive charter boat captains plan on using in the future that may contain some rafts in that area.

MR. FUGATE: I should also point out that many of these would be dealt with in another chapter because not only are they recreational
features but many of these are also historic features, so they would all be recognized as historic shipwrecks for Section 106 purposes.

MS. ARMSBY: The last recreational boating activity is offshore wildlife viewing, like whale watching, bird watching, as we learned shark cave diving. So, this map was created again based on interviews with stakeholders and charter boat captains, and these are the different areas used for those activities.

In addition to recreational boating, the recreation and tourism chapter also deals with cruise ship tourism, primarily because cruise ships frequently pass through the SAMP area, and it's one of the main offshore tourism uses of the SAMP area. These cruise ship tourism activities rely on the scenic quality of the SAMP area. Currently, there are eleven different cruiseline companies that transit into Newport, and in 2009 there were over 50 scheduled visits. In 2008 those cruise ships brought in over 68,000 passengers, which generated millions of dollars of coastal economic activity.

So, as I mentioned, the focus of the chapter is really primarily on the offshore water-based
uses, but we do discuss shore-based recreation, primarily because activities, like swimming, surfing and beach going, as well as infrastructure, like marinas and boat ramps, really help to facilitate the use of the SAMP area, especially boat-based activities in relation to marinas and boat ramps. So, again, we created a series of maps to characterize these shore-based activities and facilities. This first one is a map of all the public access points, state beach, conservation areas, parks and open space. This data we did not create. We used pre-existing State data from the RIGIS database.

A second map we created was a map of all scenic areas. These are areas that DEM has designated as having a distinctive or noteworthy use gate. So, we mapped all of those scenic areas that were directly adjacent to the SAMP boundary.

And, lastly, we created a map showing all the marinas and boat ramps that were directly adjacent to the SAMP boundary. Again, we did this because these facilities are necessary for a lot of the boat-based activities that occurred.

We also included in the draft chapter a
detailed section of the value of marine recreation and coastal tourism within the SAMP area. We
describe in detail the economic value of the tourism and hospitality industry as a whole, as well as the economic impact of recreational boaters, sailing events and cruise ship passengers to the State and also to different coastal communities.

We also included a brief discussion of nonmarket values, such as the aesthetic value, or the educational and cultural value that these activities play to residents and also to visitors alike.

So, based on those findings, we recommended a number of policies and standards that recognize and address the value of marine recreation and tourism, the high intensity boat usage areas, the site specific features, like dive sites, within the SAMP area, navigational, safety and boating access concerns, as well as off-shore marine construction. So, the policies and standards kind of fall within those general categories.

As Grover mentioned, this draft chapter has gone through a series of reviews by many different groups. After we completed the chapter, it was
reviewed by a Technical Advisory Committee, and for
the recreation and tourism chapter these are the
organizations that comprise the Technical Advisory
Committee. We received their comments and
incorporated them, and then the chapter went on for
an informal public review by the Ocean SAMP
Stakeholders, and then following that the formal
public comment period, which just ended.

So, in addition to those technical advisors
who have expertise in recreation and tourism, the
chapter has also been distributed and reviewed by
these different Federal and State agencies.

So, that concludes my presentation. I'm happy
to go through the changes to the chapter or address
the comments specifically, whatever you would
prefer.

MR. FUGATE: There is one thing I
should just point out. Actually, several things.

First of all, as you noted, if you look at
that list there, the tribe has been included as part
of the review process. Under Section 106 of the
National Historic & Antiquities Act, the tribe has
to be part of the review process. This is a
critical mistake that was made in Massachusetts,
both in their Mass Ocean Plan and for Cape Wind. As you probably heard today, Secretary Salazar was in Massachusetts today trying to mediate a dispute between tribes in Massachusetts because they weren't involved in the process. We brought the tribe in from the very beginning. In addition, they will also be writing their oral history as part of the historic section, so they will actually be having formal input into this planning process.

There is another major significant change in this, is that the Mass Ocean Plan, if you look at their chapters relative to this topic, it's five paragraphs. This chapter is approximately 62 pages long. That will show you the difference between the two efforts. In addition, Mass only went out three miles offshore and they stayed 1,500 feet offshore. So, they took a very narrow area, and although they are claiming they're first in the nation, we did the entire three-mile area all the way up to the shoreline back in 1983. So, 26 years ago we were first with the first marine spacial plan. So, there are significant differences between these efforts, which the Feds are looking at this as being the model to follow.
In addition, because the stakeholders are helping us write the chapter, there is a heavy public involvement throughout the process. In Massachusetts, again, it is a difference because they went, had these listening sessions, went off, wrote the plan, and they came out at the end with public input and they've been trying to deal with that issue. They did not involve the Federal agencies, nor the Federal agencies have been with us right from the start before we even started the plan, helping us devise the research schedule and all the rest of it. So, there are significant differences that give this plan and this process a much better advantage than the Massachusetts process, which, again, if you look at, in what's going on at the National Ocean Policy Committee, is they're now watching Rhode Island and hoping to use this as the model to go forward on.

So, what we're doing in these chapters, just, again, for the edification of Council members that haven't been through us with the process, is that we have Federal consistency authority over three miles. Beyond that, we can request on a project-by-project basis, but we do not have blanket authority over
this area. By showing the interrelationships
between the uses in these waters, these offshore
waters, because this land goes out 30 miles, showing
the interrelationship between those Federal waters
and our coastal zone, which these chapters are now
documenting, it gives us the ability then to go into
NOAA and say, our geographical area we want
redefined now to that red boundary area, and we
capture 30 miles out for Federal consistency
purposes, so it gives us a much better position for
the State to be in to comment on all Federal
activities within those areas, not just the three
mile limit or on a case-by-case basis. Even if we
were to capture something on a case-by-case basis,
we had no data, no policies, nothing out there that
would even exert to be able to influence any Federal
decision in that area. Now we will have the
information, we will have the database, and it will
also become, not only part of the Federal
consistency process but it gets forwarded on to
FERET, because FERET will recognize this as a
planning tool and incorporate into their planning
process, it also become part of the MMS process, not
only for the request for interest, the EIS, but it's
also incorporated wherein their -- they have a marine cadaster program, but it's called a multiple purpose marine cadaster, which all the data gets imported in the Federal cadaster and recognized at that point.

So, there are a number advantages that we have by doing this and it puts us a leg up on many other programs.

So, with that, I'll let Michele go through the changes. During the public comment period, the only thing I'll say is that you'll notice the changes, most of them, if not, all of them are technical. They're very small changes. There were no substantive comments that were received other than these technical changes. There were some additions to data. As individuals now realize the importance of the SAMP, they were adding data to the information that we have been given, so most of it is an additional data that they were giving us in recognition to that, or small changes.

MS. ARMSBY: We received comments from four people during the formal public comment period, from the Town of New Shoreham, the Block Island Tourism Council, the Rhode Island Bays,
Rivers & Watershed Team, and the Rhode Island Party and Charter Boat Association. And, as Grover said, most of the changes that have been identified in this document are really additions, clarifications to statements and, for the most part, are really just minor changes.

CHAIRMAN TIKOIAN: Michele, can I ask you, was that before the subcommittee adopted it or after?

MS. ARMSBY: These are changes made after the subcommittee.

CHAIRMAN TIKOIAN: After the subcommittee. Okay.

MR. FUGATE: After the subcommittee approves it and the full Council approved it to go out to public notice, these were the changes we received during the public notice period, during the formal rule making process.

CHAIRMAN TIKOIAN: It went out for workshop, too, right?

MR. FUGATE: It did not go out for a workshop. As I said, only one person showed up, he said, there's no changes, I have no comment, so there was no comment during the workshop.
CHAIRMAN TIKOIAN: Okay. Well, then, how many are there, roughly?

MS. ARMSBY: There's maybe --

CHAIRMAN TIKOIAN: If there were incidental changes, unless the Council -- I know we've had a chance to look at them, if they are incidental changes, I don't think we need, if we reviewed them, but if there's something of significance that you think we should, because I know we've gone through -- three or four of us have already gone through this once, unless Council members have a question on the specific.

MR. FUGATE: I would just note, Mr. Chairman, that the changes appear in red in the text. They are following in word, this track changes format, but you'll see the changes that are in the Council's document and are appearing as red, so.

CHAIRMAN TIKOIAN: Okay. Does anything stick out in your mind that you think we should be talking about?

MS. ARMSBY: No. As Grover mentioned, everything that was really just further information, additional, just to kind of add more
data, more information. There weren't any substantial changes. There were no changes to the policies. It was merely just adding. Adding them.

MR. FUGATE: What the SAMP planning staff did is they -- the three maps that are changed, they show you both the before and after, so that you can see the changes that were made.

MR. GOMEZ: How are we tracking the changes? Will this be on the Sea Grant website that's being used?

MR. FUGATE: Yes.

MR. GOMEZ: Does it have a revision number? How do I know which revision?

MR. FUGATE: Well, right now, Don, if the full Council approves this chapter tonight it will be held, so it will be on the website as being approved by the Council, but not forwarded to the Secretary of State's Office.

MR. GOMEZ: I understand that. But, there's already something there, right, the recreational?

MR. FUGATE: There is. It went out to public notice, and then if the Council approves this tonight, they will then have the approved
chapter on the website.

MR. GOMEZ: Are they both going to be there?

MR. FUGATE: Yes.

MR. GOMEZ: And they will be --

MR. FUGATE: Yes.

MR. GOMEZ: The revision number or something will tell me.

MR. FUGATE: The planning staff have done great detail in tracking throughout the entire process, the comments that we received and how each one was responded to. So, there is a matrices that follows this.

MR. GOMEZ: You have a history?

MR. FUGATE: Yes. The matrices for this chapter is probably 30 or 40 pages, comments received all the way through the process, not just during the public, so we can track all the way back, if somebody said they made a comment back in the stakeholder process, we can track that comment and we know how we treated it.

MR. GOMEZ: Where does that reside?

MR. FUGATE: It's on the website.

MR. GOMEZ: It is on the website,
too.

MS. ARMSBY: In your packet for tonight is the matrix that has all of the comments received during the formal public comment period as well as the response by the Ocean SAMP team as to how the document was changed.

CHAIRMAN TIKOIAN: Do you have a copy of the plan that we adopted that have all the steps of approval?

MR. FUGATE: I don't have it here with me, Mr. Chairman, but we can e-mail it to all the Council members.

CHAIRMAN TIKOIAN: Just, as just a brief, we had the subcommittee had a hearing on adopting a procedure on how the chapters were going to be adopted over the period of time of the SAMP, and, as a result of that, and I know there was an article in the paper, it gave the public, I guess three or four bites at the apple on reviewing this chapter and, obviously, this is, I am going to say next to the last step because they have one more shot when we adopt this at the end, is that correct?

MS. ARMSBY: Yes.

MR. GOLDMAN: Mr. Chairman, that
chart, if you go to the SAMP website, one of the very first things is public comment. It says, "Public comment procedure." It's one of the very first windows you can open.

CHAIRMAN TIKOIAN: Thanks. We'll preserve this. But, can I pass this around so that the members can see it. But, you know, I want to thank you. Like, I know you had offered to do this from the last subcommittee, but I consider this a historic moment that, Michele, you're the one who presented the very first chapter of the Ocean SAMP in Rhode Island, Coastal Resources Management Council. I know how hard you and your colleagues worked on this. That was a great presentation that night. Thank you for coming tonight.

MS. ARMSBY: Thank you.

CHAIRMAN TIKOIAN: Any other public comment before we close the public comment?

MR. SULLIVAN: Question. Grover, in that I, to Don's point, is the adopted one going to be left in the track changes format, or are you going to accept that?

MR. FUGATE: That's up to the Council. If they want it left in that format, we
can do that.

MR. SULLIVAN: I think it helps some people at this point, and I think certainly they all ought to be, you know, put in the final format prior to submission, but I think people looking at it, trying to determine change, it would be good to see that staff had heard and responded to things.

MR. FUGATE: Fine, Director. We have no problem with that.

MR. SULLIVAN: Well, that's a suggestion. Then, Grover, if you would, because I don't see it, you commented on the Narragansett tribal input, and did you mean that with regard to recreation and tourism, or the historical, another artifact?

MR. FUGATE: They have been brought in as part of the Federal process. They are treated under the Federal process as a Sovereign nation, and so they review as if they are a Federal partner, and throughout the entire document, all the technical reviews, they have asked to be brought in on several of the chapters even before they're written to help with the research and structure the research that's being done, particularly the geological information.
One of the areas that we have to cover under Section 106 is the paleo reconstruction of the preglacial retreat, and where those populations might have been, reconstructing the landscape and then using the sensitivity model to analyze whether there is any areas that we have to potentially focus in and do more intensive archaeological surveys. The Narragansetts are helping us with that, in the interpretation of the paleo archaeological reconstruction of the environment. They are also helping us with structuring all the geophysical and geotechnical studies that are done, so that we might be able to capture any artifacts that might be there, and so they're advising us throughout the process. They're also part of the technical chapter reviews for all of the individual biota, for instance, they are asked to participate in that.

In the process, under Section 106, we had a meeting with the Army Corps and the Narragansetts have said that they will reach out to the Wampanaugs and also reach out to bring them into the Section 106 process, and the Army Corps would reach out to the Mashantucket Pequots, so that the entire tribal nations in these areas, they will have an
opportunity to be part of the process and comment as we go forward. As I indicated, the MMS process and the Mass Ocean Plan process shortcircuited those and they're having problems as a result of that. Section 106 is very much process oriented.

MR. SULLIVAN: Your comment was with regard to, that they'd offer to help staff or to result to getting a recording in print format of some of their very rich oral history to be a phenomenal achievement?

MR. FUGATE: It would be the first time that it appears in any document like this of this nature, which is another reason the Federal Ocean Policy Task Force is looking at this. It's the first time that the tribe has actually been asked to participate in any of this and be part of this, and the Federal Government in particular, OCRM and NOAA, have commended us on this and really reached out to help us with their process because this 106 consultation, as we're now seeing, is extremely important.

MR. SULLIVAN: I think there is -- I don't know for sure that they've been recognized, but there is an appeal, or was Archidiaconate, which
is an off-shoot of the Peugeots, I might affirm that one or not, but that would be a phenomenal achievement. Thank you, Mr. Chairman.

CHAIRMAN TIKOIAN: Ms. Marks.

MS. MARKS: Yes, this a public hearing.

CHAIRMAN TIKOIAN: Yes.

MS. MARKS: Right. So, I just wanted to comment. My name is Eugenia Marks. I am the Policy director at the Audubon Society of Rhode Island. I have been a part of the stakeholder process. I wanted to thank the Council and the staff for their working on making this a very open and public process, and I have already commented and suggestions have been responded to. I just wanted to make a clarification on the issue about land-based birds on Block Island, which draw tourists an extended tourism period on Block Island into the first part of October, that those land birds get there over water, over the airspace and the particular pattern is that these birds are flying off course, come over water, they fly at night, at dawn, they find themselves over water and look for the first landfall, which is Block Island,
they land on the south shore and travel through the
island to the north and then take off the north
point, going back over towards the mainland, to
continue their southerly migration, and so, I
understand, one, that this will be considered under
the ecology chapter, but just as it pertains to
tourism, the birds need to get there to draw the
tourists, and so I just wanted to make that comment.
And, again, thank you all very much for this process
in spacial planning.

CHAIRMAN TIKOIAN: Thank you,
Ms. Marks, and thank you for the compliment. Any
other questions? Names.

MR. COLT: Hi. My name is Ames
Colt. I'm the chair of the Bays, Rivers &
Watersheds Coordination Team, but I'm speaking here
simply as a citizen of Rhode Island, and I've been
following this process closely, have submitted
written comments. I am extremely supportive of this
whole effort. We are at the frontier of ocean
planning for good reasons; and, hence, it is our
responsibility collectively as a State and a
community of managers to do the best we can, and,
so, whatever I say is only to help the process
along. I have looked at the first two chapters that are out in public in detail. I like very much the comprehensive nature of the information that's been collected and put in one place. This is a great inventory of the resources and activities of this area. As Chapter 1 draft states, this is a first step in a dynamic ocean management planning endeavor. We will have continued work to do once the SAMP Plan is done. I think that's absolutely the right approach. The approach of the SAMP document overall, as it's taking shape, is very broad in scope and intent. We're not just talking about planning for certain activities. We are trying to develop and show the world how to do ocean management planning, marine spacial planning. Hence, there is a lot of efforts in the writing of these chapters to avoid getting into the specifics of wind farm development, which everybody knows is what we're very interested in in the near future. So, we still have a lot of challenges, and I'm talking to you now as a Council because I still think you're going to have to wrestle out a number of issues as to the scope and purpose of this plan and how it will continue to evolve over time.
For example, we do have a comprehensive cataloging of recreational boating, shoreside recreational facilities in this chapter, but we don't see a lot of discussion about the risks and potential impacts of the development and operation of large fixed structures on recreational activities. And, again, I understand why we don't want to necessarily get into something that would be addressed in the impact assessment, but we all know where we're going with this, at least in the short term, and I think we need to talk a little bit more about how much of the discussion of potential impacts should be in this plan, and, hence, recommended policies to deal with them.

For example, again, if we move forward with utility-scale wind farm development, we know there are going to be intensive marine construction operations ongoing that will be tied directly to Rhode Island-based shoreside facilities, but we haven't talked a lot here yet about how bay activities would be effected by those activities. You have to set a boundary. We didn't include the bay, there are good reasons for that, but that doesn't get you away from the boundary problem of
east passage, west passage activities potentially
being impacted by a lot of boat traffic being
generated by construction. I'm not saying what you
should do. I am saying we have got to think about
this more as the chapters develop.

Section 660, Recreational and Tourism Policies
and Standards. Very broad. Lots of encourages and
supports versus mandatory requirements. And, you
know, I can't say that you should go a lot further
than that, but this is where potentially some
additional guidance can be put that will structure
the impact assessments, the impact statement
developments that will follow.

I would suggest specifically in the standards,
number three, "Prior to project development, the
Council recommends that project developers perform
systematic observations of recreational boating
intensity." Absolutely. Call the maps of the race
courses and the cruising lines straight lines.
Powerboats may do that. Sailboats definitely don't,
okay. Am I saying change the maps, no, because you
are going to get into a lot of fuzziness. But I am
saying, the way sailors actually use this area makes
that need for systematic observations of boating
activity in these areas very important. So, I would suggest you say, "shall perform these systematic observations," okay. That kind of strengthening of various policies and standards in this chapter and forthcoming chapters, I would suggest is the purview of this Council and something you should put some time in considering, either through your subcommittee or in these large deliberations. Thank you.

MR. FUGATE: Mr. Chairman, if I can respond to both of these issues. First of all, there is an estate plan for State water. This plan is really not meant to deal with those issues, so we do already have mapped out, user set, water typeset, regulation set, forwarded to State waters. Federal waters, we do not have jurisdiction over, so we cannot say words like "shall" in Federal waters until we get that Federal consistent authority which we have to apply to the Federal Government to do. The other issue is, on the renewable energy side, we thought about whether we should incorporate all of the potential impacts in each individual chapter dealing with renewable energy. It was felt at the time, and I think we still stand by that, that it
was better to aggregate all those potential impacts in renewable energy chapters, specifically dealing with wind energy, and all those issues will be dealt with in that chapter relative to each of these specific areas. You can either scatter them about like a shotgun through the chapters where people might have difficulty trying to find those before we aggregate them in one chapter. It was chosen to aggregate them in one chapter, so people can go directly to that chapter, pull it out, so people would know what would be expected in the renewable energy.

CHAIRMAN TIKOIAN: Any comments?

Michele, do you have any last comments?

MS. ARMSBY: No.

CHAIRMAN TIKOIAN: Motions? Are there any other public comments?

(NO RESPONSE)

CHAIRMAN TIKOIAN: Close the public hearing and entertain a motion to approve this.

MR. COIA: Move to approve.

CHAIRMAN TIKOIAN: Motion made and --

MR. DAWSON: Second.
CHAIRMAN TIKOIAN: -- seconded to adopt the first chapter of the Rhode Island Ocean SAMP, Chapter 6, Recreation and Tourism. Any discussion?

MR. COIA: I just want to comment and say that was a very good presentation. Thank you.

CHAIRMAN TIKOIAN: I know a lot of work goes into this. It's been a very strong team effort, and I, also, would like to thank my fellow Council members for all of their support towards developing and adopting this plan and moving forward.

So, at this time we'll call a vote. All in favor signify by saying aye?

(VOICE VOTE TAKEN)

(UNANIMOUS)

CHAIRMAN TIKOIAN: Opposed?

(NO RESPONSE)

CHAIRMAN TIKOIAN: So carried.

Thank you very much. Two-minute recess until Mr. Lemont comes back.

(BRIEF PAUSE)

CHAIRMAN TIKOIAN: Can we bring the
Council meeting back to order.

First order of business, any questions on
either the Category A or Category B list?

(NO RESPONSE)

CHAIRMAN TIKOIAN: Hearing none, the
next order of business is executive session. Mr.
Goldman.

MR. GOLDMAN: You can move first.

VICE CHAIRMAN LEMONT: Mr. Chairman,
I move that under the appropriate laws of the State
of Rhode Island, and the Chapter and the cite is
42-46-5(a)1, that we move into executive session for
the discussion of personnel.

CHAIRMAN TIKOIAN: Is there a
second?

MR. COIA: Second it.

CHAIRMAN TIKOIAN: We need a vote.

Roll call vote, please.

MR. GOLDMAN: Director?
MR. SULLIVAN: Aye.
MR. GOLDMAN: Mr. Abedon?
MR. ABEDON: Yes.
MR. GOLDMAN: Mr. Dawson?
MR. DAWSON: Aye.
MR. GOLDMAN: Mr. Gomez?
MR. GOMEZ: Yes.
MR. GOLDMAN: Mr. Coia?
MR. COIA: Yes.
MR. GOLDMAN: Mr. Driscoll?
MR. DRISCOLL: Yes.
MR. GOLDMAN: Mr. Lemont?
VICE CHAIRMAN LEMONT: Yes.
MR. GOLDMAN: Mr. Chairman?
CHAIRMAN TIKOIAN: Yes.
MR. GOLDMAN: Mr. Chairman, before we go into executive session on the personnel issue, I want to state for the record that pursuant to the Open Meetings Act, the personnel to be discussed have been notified in writing of this intention and indicated to me that they do not desire the meeting be open to the public, so it is a closed meeting, so everybody has got to leave the room.

(HEARING ADJOURNED AT 7:25 P.M.)
CERTIFICATE

I, Rebecca J. Forte, a Notary Public in and for the State of Rhode Island, hereby certify that the foregoing pages are a true and accurate record of my stenographic notes that were reduced to print through computer-aided transcription.

In witness whereof, I hereunto set my hand this 22nd day of January, 2010.

[Signature]

REBECCA J. FORTE, NOTARY PUBLIC

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My Commission (MA) Expires on 2/18/11
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