

Central Pine Barrens Joint Planning and Policy Commission

Robert J. Gaffney, *Chair*
Felix J. Grucci, Jr., *Vice Chair*
Vincent Cannuscio, *Member*
Ray E. Cowen, *Member*
James R. Stark, *Member*

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Commission Meeting Summary (FINAL) for October 23, 1996 (Approved by Commission on 12/18/96) (Includes joint meeting with Advisory Committee) Riverhead Town Hall / 2:00 pm

Commission members present: Mr. Gaffney and Mr. Proios (for Suffolk County at the times indicated; Mr. Gaffney voting when present), Mr. Girandola and Ms. Wiplush (for Brookhaven; Mr. Girandola voting), Mr. Stark and Ms. Filmanski (for Riverhead at the times indicated; Mr. Stark voting when present), Mr. Cannuscio and Mr. Freleng (for Southampton at the times indicated; Mr. Cannuscio voting when present), and Mr. Cowen (for New York State).

Advisory Committee members present (for the joint meeting):

- ! Mr. LoGrande (for the Suffolk County Water Authority and Advisory Committee Chair),
- ! Mr. Amper (for the Long Island Pine Barrens Society and Advisory Committee Vice Chair),
- ! Mr. Balin (for the Association for A Better Long Island),
- ! Dr. Naidu (for the Brookhaven National Laboratory),
- ! Ms. McCaffrey (for the Eastern Suffolk Board of Realtors),
- ! Mr. Tripp (for the Environmental Defense Fund and Chair of the PBC Clearinghouse Board),
- ! Mr. Turner (for the Legislative Water Commission Assembly Office),
- ! Ms. Emrick (for the Long Island Association),
- ! Mr. Wieboldt (for the Long Island Builders Institute),
- ! Dr. Koppelman (for the Long Island Regional Planning Board),
- ! Mr. Morris (for the Open Space Council),
- ! Mr. Colao (the Southampton Town Civic Representative),
- ! Mr. Shaber (for the Suffolk Alliance of Sportsmen; Mr. Shaber voting); and
- ! Ms. Drake and Mr. McCallister (from the Group for the South Fork) were present as non-voting representatives.

Others present (for entire meeting or as noted): General counsel was Ms. Roth. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Plunkett, Mr. Milazzo, Mr. Hopkins, and Ms. Greene (from the Commission; Ms. Greene present for the joint meeting), Mr. Tripp (Chair of the Pine Barrens Credit (PBC) Clearinghouse Board; also listed above), Mr. Grecco (from the Suffolk County Law Department and Vice Chair of the PBC Clearinghouse Board), and Mr. Spitz (from the NYS Department of Environmental Conservation). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order by Mr. Proios at approximately 2:21 pm, with a five member quorum consisting of Mr. Proios, Mr. Cowen, Mr. Girandola, Ms. Filmanski, and Mr. Freleng.

Administrative

- ! Public comments
Summary: There were no speakers at this time.
- ! Draft summary for 9/11 meeting (faxed; 10/2 in progress): review and approval

Summary: A motion was made by Mr. Cowen and seconded by Mr. Freleng to approve the summary of the 9/11/96 Commission meeting as drafted. The motion was approved by the Commission by a 5-0 vote.

Pine Barrens Credit Program

- ! Summary of current applications and PBC Clearinghouse Board activities
- ! Landow / misc areas - three parcels: credit appeals decisions (11/5 decision date)
Summary: Mr. Milazzo explained that there has not been a Clearinghouse meeting since the last Commission meeting, and that the next Clearinghouse meeting is 10/29/96 at 5:00 pm at the Commission office in Great River.

Mr. Corwin then discussed the Red Creek (Southampton Town) parcel owned by Mr. Landow, which is one of three parcels on which Mr. Landow has appealed his credit allocations, discussed at the Commission's 10/2/96 meeting. The Red Creek parcel, tax map number 900-172-1-50, is located north of NYS Route 24, and near the eastern edge of Hubbard County Park. Mr. Corwin stated that he and other staff members have examined the core boundary description in this area, and believe that this parcel is not within the core. That was generally accepted, and a discussion ensued regarding the voiding of the Letter of Interpretation for this parcel, or reducing the allocation to 0 credits. Mr. Milazzo then went through the other Landow parcels whose allocations are being appealed (900-235-1-88 and 900-333-2-31). The ability of Mr. Landow to access the Westhampton parcel (900-333-2-31) arose, and it was agreed to hold this till later today to permit Mr. Milazzo to contact Mr. Landow.

Plan implementation

- ! Summary of 10/4 Pine Barrens Research Forum
Summary: Mr. Corwin summarized the day's speakers, topics, attendance, and the possibility of holding a second conference next fall. He noted that proceedings will be produced by the Long Island Groundwater Research Institute staff, and that would include abstracts, authors, contact information, and the opening remarks by Dr. Samios and Mr. Gaffney.

He noted that one of the poster presenters was Mr. Kyle Beucke, a student at Ward Melville High School in Setauket, and that Mr. Beucke has been invited to attend a Commission meeting, probably 1/8/97, to discuss his research work and receive his Certificate of Appreciation. Mr. Corwin noted that this is in keeping with the Commission policy of encouraging elementary and high school students to pursue pine barrens-related research and academic work.

- ! Communication among the Law Enforcement Council, Protected Lands Council, and the Wildfire Task Force (not on the original agenda)
Summary: Mr. Proios raised the topic of interaction among the Law Enforcement Council, the Protected Lands Council, and the Wildfire Task Force, and specifically noted that radio communications, field access points, and alternative siting of recreational activities were issues of common concern. He suggested that a joint meeting might be useful, and that was agreed. A date in early 1997 was suggested.

Mr. Stark and Mr. Richard Hanley arrived, and a five member Commission quorum remained.

- ! Riverhead Town Code Amendments: discussion (distributed at 10/2 meeting)
Summary: Ms. Roth summarized two principal issues with a prior draft of the

amendments implementing the Plan, which she has discussed with the Riverhead Town Attorney. They are: (1) the absence in the amendments of the "Receiving Area B" shown in the June 1995 Plan, and (2) the provision regarding real property owned by the Riverhead Community Development Agency. Ms. Roth stated that the latter is in conflict with the Plan. Specifically, the latter issue applies to approximately 400 acres which is part of the core area and also within the fence line around the Northrop-Grumman site in Calverton. These 400 acres are part of the approximately 2900 acres within the fence line to be turned over to the Town by the U.S. Government.

Mr. Hanley explained that the Town believes that this parcel's situation is unique, and that having credits available to the 400 acres will raise the value of the overall tract. A discussion followed regarding the code amendments, the Plan provision regarding credit allocation, the nondevelopment status of the site redevelopment, and the usefulness of credits in a formal appraisal. It was agreed that Mr. Hanley would speak with the Town's consultants regarding the appraisal work being performed.

Plan Implementation and Compatible Growth Area

- ! Quogue Village Code Amendments: status
- ! Edward Kaplan / Quogue Village: new site plan; set hearing
Summary: Ms. Plunkett explained that until the Quogue Village Board votes on the code amendments, development within its Compatible Growth Area remains subject to the Interim Goals and Standards. Consequently, she recommended that the Commission schedule a hearing on the Kaplan industrial site plan application for a parcel on the south side of Old Country Road, west of County Route 104, in Quogue Village. It is likely, however, that the Village Trustees will vote prior to the Commission's hearing date, in which case the hearing can be cancelled.

A motion was then made by Mr. Cowen and seconded by Mr. Freleng to hold a hearing on the Kaplan industrial site plan / Quogue Village Compatible Growth Area application on 11/13/96 at 5:00 pm at the Brookhaven Town Hall in Medford. The motion was approved by the Commission by a 5-0 vote.

Core Preservation Area

- ! DiPalma / Manorville: clearing analysis (not on the original agenda)
Summary: Mr. Cowen summarized the recent clearing report received by the Commission and investigated by the State Forest Rangers. The parcel involved contains Mr. DiPalma's residence, and is located on the east side of the Suffolk County Pine Trail Nature Preserve, northeast of the intersection of the L.I. Expressway and County Route 111 in Manorville, Brookhaven Town. Mr. Cowen reported that no violations of ECL Article 57 were found by Capt. Conklin. Capt. Conklin found that the clearing did not involve trees, and estimated in his report that the area was approximately one quarter of an acre.

Mr. Corwin explained that a standard procedure for the Commission staff to follow when clearing reports are received is desirable. He requested that the Towns' Commission representatives designate those persons in the Town governments who should be notified of those reports in order to investigate. That was agreed, but a formal memo from Mr. Corwin was requested, and that will be sent.

Pine Barrens Credit Program

- ! Landow / misc areas - three parcels: credit appeals decisions (11/5 decision date)
Summary: Mr. Milazzo has spoken with Mr. Landow by telephone since earlier in the meeting. Mr. Landow reported that he had a handshake agreement with Mr. Nemeth, the owner of the property immediately north of his Westhampton parcel, for future road access. The agreement was not in writing, and no further action was apparently taken following the original informal handshake agreement.

A motion was then made by Mr. Cowen and seconded by Ms. Filmanski (1) to deny, without prejudice, the credit allocation appeals of Mr. Landow for the tax map parcels numbered 900-235-1-88 and 900-333-2-31, unless further written evidence can be provided showing a substantive basis for an increase in the credit allocations, and (2) to find that the Red Creek / Southampton Town parcel owned by Mr. Landow and numbered as 900-172-1-50 is not within the Core Preservation Area as defined by ECL Article 57 and that the credit allocation for that parcel is hereby adjusted to 0 Pine Barrens Credits, and to further note that this parcel is within the Compatible Growth Area of Southampton Town, and is therefore eligible for development permitted in that area pursuant to the Town Code. The motion was approved by the Commission by a 5-0 vote.

Core Preservation Area

- ! Bronfeld subdivision / Flanders (core and CGA): review procedures, standards
Summary: Ms. Plunkett summarized this project involving approximately 133.6 acres on the west side of Pleasure Drive, south of State Route 24, in Flanders, Southampton Town, and for which a core preservation area hardship hearing is scheduled for 5:00 pm today. She explained the prior application history of this project, including the sketch plan approval for a clustered development, with lot sizes ranging from 20,000 through 50,000 square feet, which the project has received from the Town. The site is zoned CR-60, contains wetlands and archaeological resources, and is divided by the core preservation area boundary. A brief discussion ensued regarding the status of this project under the pine barrens law.

Mr. Turner, representing the Long Island Pine Barrens Society, spoke about the natural resource values on the site, and encouraged its acquisition. Mr. Olsen, representing Civil Property Rights Associates, described past activities there, including its use as a training track for horse racing, the removal of fill, and the presence of a dump site near the ponds.

A brief discussion ensued regarding the Town's review of this project to date, and that which should now occur. The change in the Southampton Town review process for major subdivision applications was discussed, as was the fact that the 1989 Environmental Assessment Form prepared for this project was completed pursuant to the State Environmental Quality Review Act (SEQRA) provisions then in effect; they have since changed. It was agreed that a new Environmental Assessment Form is required for this project in order for the Commission to undertake SEQRA processing, and that it is neither grandfathered nor nondevelopment under the pine barrens law.

- ! South Rocky Point Acres / Rocky Point: referral from SC Dept. of Health Services
Summary: Ms. Plunkett stated that a referral from the Suffolk County Department of Health Services has been received regarding the subdivision of 14.88 acres into nine lots on property located south of the old State Route 25A in Rocky Point, in Brookhaven Town. The property has subsequently been split by the new State Route 25A (which is south of the old route).

The question from the Health Department is whether this map will require an approval from the Commission. Ms. Plunkett explained that it is not yet clear if the parcel is partially or totally within the core preservation area and, if so, whether the map is grandfathered due to a prior preliminary approval by the Town. It was stated that additional information must be sought from the applicant's consultants in order to determine what map is the subject of the previous Town approval.

A question also arose as to the core preservation area boundary in this vicinity and the Commission requested that counsel review the boundary description and make a determination for the next meeting.

! Hampton Tennis and Fitness / Quogue: status

Summary: Ms. Roth summarized the recent history of the activities at this site on the west side of County Route 104 in the unincorporated area of Quogue, and the Commission's actions in addressing a violation of Environmental Conservation Law Article 57 on the site. She noted that the business located there has changed owners since the Commission's agreement with the prior owner regarding the settlement of that violation. The agreement included a monetary fine and the granting of a trail easement through a portion of the property. She reported that she has not had a recent contact with the owner's attorney regarding the acceptance of the agreement with the Commission by the new owner's bank. No further action was taken at this time.

Executive session

Summary: **A motion was made by Mr. Cowen and seconded by Mr. Freleng to enter into executive session for the purpose of discussing certain legal issues. The motion was approved by the Commission by a 5-0 vote.** The Commission entered into executive session at approximately 4:33 pm. **A motion was later made by Mr. Cowen and seconded by Mr. Freleng to exit executive session and return to open session. The motion was approved by the Commission by a 5-0 vote, and the Commission returned to open session at approximately 5:27 pm.**

Public hearings at 5:00 pm

- ! Richard Weeks / Middle Island: Credit allocation appeal (material faxed)
 - ! Bronfeld subdivision / Flanders: core hardship permit hearing
- Summary: A separate stenographic transcript exists for these items.

The meeting was temporarily adjourned from approximately 6:10 pm to 6:30 pm. Mr. Hanley left at this time, and Mr. Gaffney and Mr. Cannuscio arrived. A five member Commission quorum was present consisting of Mr. Gaffney, Mr. Cannuscio, Mr. Stark, Mr. Cowen, and Mr. Girandola.

Mr. LoGrande (Chair of the Advisory Committee), Mr. Amper (Vice Chair), and the other Advisory Committee members listed above arrived now or were already present. A quorum consisting of thirteen voting members of the Advisory Committee was present (see list above).

Joint meeting with Advisory Committee following conclusion of hearing

- ! Minutes of 9/25/96 Advisory Committee meeting: review and approval
- Summary: **A motion was made by Mr. Amper and seconded by Mr. Shaber to approve the minutes of the 9/25/96 Advisory Committee meeting as written. The motion was approved by the Advisory Committee by a 13-0 vote.**

- ! Nassau County Council of Boy Scouts / Wading River: discussion
Summary: Mr. LoGrande reported that he had forwarded a letter to the Commission, on behalf of the Suffolk County Water Authority, stating that the Boy Scouts' hardship application should not be approved due to groundwater impacts, and encouraging the acquisition of the property. Mr. Tripp reported that a letter - not a Letter of Interpretation - was sent by the Clearinghouse Board to the Boy Scouts informing them that the property would receive approximately 137 PBCs, and that the Clearinghouse's current purchase price for PBCs in Riverhead Town is \$10,000 per PBC.

Mr. Amper commented that all options should be considered for this property. Mr. Wieboldt emphasized that he would like to see development rights become an actively used commodity, and that allowing a golf course in the core area is not a good precedent. He also commented that each home built puts several people to work. Mr. Tripp observed that a combination of acquisition and allocation of PBCs might be applicable to this property.

A motion was then made by Mr. Tripp and seconded by Mr. Amper to recommend to the Commission that the Nassau County Boy Scouts core hardship application be denied. The motion was approved by the Advisory Committee by a 13-0 vote.

Mr. Stark noted that the applicant in this project has invested time and money in the project to date, and Mr. Amper stated that appropriate acquisition is essential for such lands.

- ! PBC Program Clearinghouse: promotional activities
Summary: Mr. Tripp noted that the next Board meeting is 10/29/96, that one credit has sold for \$12,500, that requests for purchase ("Dutch Auctions") for credits are being encouraged, that the Commission now has responsibility for appeals, and summarized the appeal decision by the Clearinghouse for Mr. Gazza for his Eastport parcels.

Mr. Wieboldt commented on the recent development decisions in Brookhaven in which additional density or buildout was offered if applicants purchased and redeemed credits. He also described the Montgomery County, Maryland rights transfer program, and suggested that PBCs be listed on multiple listing services, as they are elsewhere.

- ! Land acquisition program: status
Summary: Mr. Gaffney reported that the County has approximately \$4 million in purchase agreements either signed or ready to be signed, including one agreement that was concluded today. This total includes approximately 560 acres, and an additional approximately 100 acres are under negotiation. He noted that some of the properties for which prior offers were rejected are being reexamined. Mr. Gaffney explained that approximately \$6 million will have been committed or spent by December 1996, and that some landowners do not wish to close on their contracts until 1997. He said that the County will look for \$32 million to spend on pine barrens land acquisition, even if the referendum for that amount should fail at the polls. Additionally, the County's new Preservation Partnership will provide \$15 million over three years for land protection, not restricted to pine barrens land.

Mr. Cowen stated that the State completed a closing yesterday on the Tuccio dwarf pine barrens property in Westhampton, north of the Suffolk County Airport, an area of approximately 276 acres. He noted that this brings the total to date for the State's land acquisition in the pine barrens to 1750 acres, at a total cost of approximately \$16.25 million. He also noted that another 460 acres are presently under contract for purchase by the State, of which approximately 150 acres are in the dwarf pine barrens area within Southampton Town. Mr. Amper asked whether the new Clean Air / Clean Water bond

act would provide funds for pine barrens purchases, and there was general agreement that it would. Mr. Tripp asked about the smallest purchase to date, and Mr. Cowen explained that it was an approximately 4.7 acre tract on the Peconic River at Edwards Avenue, where Riverhead and Brookhaven Towns meet. The site is now used as a canoe launch and river access site. He cited several other parcel sizes being negotiated for, or purchased, which ranged from 11 through 24 acres. Mr. Gaffney stated that parcels as small as 4.6 acres are being purchased by the County.

Mr. Amper asked about the Towns' land funds, and Mr. Cannuscio explained the \$5 million Southampton bond act, and Mr. Stark discussed the \$2 million Riverhead bond, which he noted was already passed by the Riverhead Town Board. Mr. Stark noted that the Riverhead funds are for open space, aquifer protection (which could include core area land), and farmland protection. He also noted that, within the Town, approximately 3500 acres are in development rights protection programs, and between 12,000 and 14,000 acres are within agricultural districts requiring an eight year nondevelopment commitment. Mr. Gaffney then noted that the County also has a commitment to protection of several areas outside the Central Pine Barrens, and that would be addressed as well. Mr. Dittmer, representing Civil Property Rights Associates, then commented that small parcels should be acquired.

! Proposed State bond act: discussion

Summary: Mr. Amper commented that it would be helpful if the Commission could endorse the State's Clean Air / Clean Water bond act on the November ballot. Mr. Cowen noted that, as a State employee, he would be barred from supporting the bond act in such a manner. Mr. Gaffney stated that he has, and would continue to, support the bond act. Mr. LoGrande noted that Dr. Koppelman has recently written a letter to the editor of Newsday regarding the bond act, and he also noted the possible outcomes of the votes on the one State and two County referenda on the ballot. Dr. Koppelman stated that he will be meeting with Newsday to elicit their strong support for the bond proposal, and he warned that there are several groups throughout the State which are strongly campaigning against the initiative.

! Suffolk County Pine Barrens Review Commission (SC PBRC): discussion

Summary: Mr. Wieboldt began the discussion by stating that there is now an opportunity to remove an extra layer of development review from the Central Pine Barrens area and that this could be accomplished through the abolition of the SC PBRC. Mr. Gaffney stated that this would require an amendment to the Suffolk County Charter. He further stated that the SC PBRC has jurisdiction over areas other than simply the Central Pine Barrens, and that the details of such abolition are being considered.

A motion was then made by Mr. Wieboldt and seconded by Mr. Balin to eliminate dual jurisdiction in the Central Pine Barrens area. During the discussion, Dr. Koppelman made a motion to table the original motion which was seconded by Ms. Emrick. The motion to table failed by a 2 (ayes) to 5 (nays) vote. The original motion was then approved by an 8-1-1 vote with the opposing vote cast by Dr. Koppelman and the abstention cast by Ms. Emrick.

! Pine Barrens Research Forum: comments (not on the original agenda)

Summary: Dr. Naidu thanked Mr. Gaffney for providing both opening remarks and Certificates of Appreciation at the 10/4/96 Pine Barrens Research Forum held at the Brookhaven National Laboratory.

Adjournment of meeting

Summary: The joint meeting ended at approximately 7:15 pm without a formal

resolution by the Commission. A motion was made by Mr. Colao and seconded by Mr. Amper to adjourn the Advisory Committee meeting. The motion was approved by the Advisory Committee by a 13-0 vote.

Attachments (in order of discussion):

1. Attendance list (2 pages)
2. Speaker list (1 page)