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BARRENS**

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**Commission Meeting Summary (FINAL) for June 24, 1998  
(Approved 10/26/98)  
Quogue Wildlife Refuge, Old Country Road, Quogue  
2:00 pm**

Commission members present: Mr. Proios (for Suffolk County), Mr. Girandola (for Brookhaven), Mr. Vilella and Ms. Filmanski (for Riverhead; Mr. Vilella voting), Mr. Shea and Mr. Murphree (for Southampton; Mr. Shea voting) and Mr. Cowen (for New York State).

Others present: General counsel was Ms. Roth. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Plunkett, Mr. Milazzo, and Ms. Jakobsen (from the Commission), Mr. Grecco (from the Suffolk County Department of Law and Vice Chair of the Pine Barrens Credit Clearinghouse), 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 at approximately 2:06 pm by Mr. Proios, with a five member quorum.

### **Administrative**

! Public comments

Summary: *There were no speakers at this time.*

! Suffolk County Water Authority 1998 salary increases: approval for reimbursement (memo faxed)

Summary: *Mr. Corwin discussed the attached memo previously distributed to Commissioners regarding salary increases for the Suffolk County Water Authority employees which staff the Commission. He noted that this includes a salary increase for the Executive Director position of 3.5%. **A motion was then made by Mr. Cowen and seconded by Mr. Vilella to approve this increase and to authorize reimbursement of the Suffolk County Water Authority for staff increases for those individuals working on Commission business. The motion was approved by a 5-0 vote.***

### **Plan implementation**

! Wildfire Task Force: plan status; informational meetings

*Summary:* Mr. Corwin explained that the Task Force is working on a final draft for forwarding to the Commission, and reported that there have been three public information sessions conducted by the Task Force: 6/1/98 at Suffolk Community College in Southampton, 6/8/98 at Suffolk Community College in Brentwood, and 6/15/98 at the Suffolk County Fire Academy in Yaphank. He also thanked Mr. Cowen and Mr. Spitz for their interest and attendance at the Yaphank session. The sessions were specially targeted towards the County-wide fire and emergency services community.

A brief discussion then ensued regarding the State Environmental Quality Review procedure that would have to be conducted by the Commission once the draft plan is received, and Ms. Roth explained some of the issues which may arise here. She noted that the draft fire plan would be reviewed in the context of the generic environmental impact statement that accompanied the overall Central Pine Barrens Plan in 1995.

! Law Enforcement Council: vehicle removals; ATV law

*Summary:* Ms. Plunkett distributed the attached copy of the proposed Suffolk County all terrain vehicle law, described the provisions in it, and summarized the likely sequence which it will undergo at the County Legislature.

Mr. Corwin then summarized the abandoned vehicle airlift program, noting that the 50<sup>th</sup> vehicle removal is expected to occur this Friday, 6/26/98. He noted that press coverage is being sought for this event, and reiterated a standing invitation to any interested parties to attend.

! Wildfire Task Force: correspondence

*Summary:* Mr. Corwin explained that the attached, annotated news clipping has been received from Mr. Jack Austen, a member of the Wildfire Task Force, and that Mr. Austen would like to address the Commission regarding it. The news clip addresses the recent state purchase of the Whitney property in the Adirondacks, and the expected state payment of local property taxes on the land.

Mr. Austen, who is a Commissioner of the Ridge Fire District, then spoke about the difficulty that the fire departments face in obtaining volunteers, the fire districts' finances, and the difficulty in maintaining equipment. He stated that there were 37 fires in the pine barrens last year, that 140 hours were spent in the woods, and that the fire service has to pay for gas and repairs. He stated that the few dollars that they have is being taken from them when land is purchased for preservation. He then mentioned the current Florida fires, and stated that Long Island firefighters are volunteers. He stated that his opinion is that government is not doing enough, and cited the recent purchase of the Lustgarten property.

Mr. Cowen noted that current state law regarding the threshold for state payments in lieu of taxes is based upon whether 2% or more of the assessed valuation of a taxing district is being removed from the tax rolls. Mr. Austen

stated that Ridge has more than that amount off the tax rolls.

- ! Protected Lands Council: update on SC Nature Preserve Handbook  
*Summary: Mr. Corwin distributed the attached copy of Suffolk County Legislative Introductory Resolution 1628-98 which would approve a master plan for equestrian activities on Suffolk County park and nature preserve lands. The proposal is currently pending before the County Legislature. Mr. Proios then discussed the provisions of the legislation. It was noted that the proposal would amend the County Nature Preserve Handbook to accommodate an equine activities master plan, which is not attached to the resolution. It was also noted that the County Parks Board of Trustees has opposed this proposal, and that the Protected Lands Council will be considering the issue at its 7/7/98 meeting.*

*Mr. Corwin suggested that the Commission consider a resolution opposing the legislation. Mr. Cowen then observed that the Commission should be clear that any opposition that it may take to the proposed County legislation should not be construed as general opposition to all future amendments to the County Nature Preserve Handbook. As an example, he cited a prior meeting that he had with the Suffolk County Attorney and the County Attorney's staff regarding the issue of hunting of County lands governed by the Handbook. Mr. Proios then commented that better criteria are needed for determining appropriate uses on those lands.*

*It was agreed that the staff would provide a suggested resolution of opposition to IR 1628-98 for consideration by the Commission at its next meeting.*

- ! Satellite remote sensing application (MEDEA Program): formal response from national steering committee; next steps  
*Summary: Mr. Corwin distributed the attached correspondence from the U.S. Geological Survey (USGS) and Representative Michael Forbes, along with materials distributed at a prior Commission meeting. The USGS letter conveys the formal acceptance by the U.S. Government's interagency MEDEA remote sensing program of the Commission's request to consider the Central Pine Barrens for long term environmental monitoring.*

*Mr. Corwin explained that the program, also known as the Global Fiducials Program, will enable scientists to utilize high-resolution satellite images collected over the coming years to study such topics as vegetation change, surface water properties and changes, atmospheric parameters, etc. With the acceptance of the Central Pine Barrens by the MEDEA Program's Civil Applications Committee, the next step will be for USGS and affiliated national scientists to work with local scientists to specify exactly what long term environmental monitoring will be performed, and then to work out the technical requirements for the satellite system to capture the necessary data.*

## **Pine Barrens Credit Program**

- ! Riverhead receiving area appraisal: status of work  
Summary: *Mr. Milazzo reported that Given Associates has completed the first batch of appraisals necessary for the re-evaluation of the Riverhead receiving areas. The information will now be forwarded to Dr. James Nicholas for an economic analysis.*
  
- ! Brookhaven small lot revised offer: status  
Summary: *Mr. Milazzo reported that the small lot credit purchase offer by the Clearinghouse has been mailed out to the Brookhaven core area landowners. It has a return date of 7/20/98. He then noted that the offer is on a "first come, first serve" basis, and that it is restricted to those lots which would receive one Pine Barrens Credit or less.*
  
- ! General program status  
Summary: *Mr. Milazzo noted that the next Clearinghouse Board meeting will be on 7/2/98 at 8:00 am at the Commission office in Great River. He also presented conservation easements and vouchers for new parcels and anticipated credit purchases, respectively, to Mr. Proios, who signed them.*
  
- ! Heatherwood Communities, LLC / Calverton (Brookhaven) / credit appeals: request for postponement to 7/15/98 (from 5/13/98)  
Summary: *Mr. Milazzo distributed the attached letter from Mr. David Sloane, an attorney representing Heatherwood Communities, which requests a postponement of the credit appeal discussion and decision date for these sites to 7/15/98. Mr. Cowen asked about the reason, and Mr. Milazzo reported that Mr. Sloane indicated that he wishes to provide financial information regarding the value of these properties.*

***A brief discussion of this topic ensued, followed by a motion by Mr. Shea, seconded by Mr. Villella, to accept the request for a delay in the discussion and decision until the 7/15/98 Commission meeting, with the statement that the Commission does not believe that the appraisal values of the properties is germane to the credit allocation. The motion was approved by a 5-0 vote.***
  
- ! Toussie / miscellaneous areas / new credit appeals: discussion (7/30/98 decision deadline)  
Summary: *Mr. Milazzo distributed the attached map, and summarized this credit allocation appeal for eight parcels in the old filed map entitled Flower City Park in the Middle Island area of Brookhaven Town. The parcels are all to the east of CR 21, none are on the improved road, and several are in the far eastern portion of the old filed map. This old filed map also contains the Woodstock parcel, which is also on today's agenda.*

*Mr. Philip Sanderman, an attorney representing the appellant, was present and discussed the individual parcels' allocations and the credits that are being sought. He also noted the purchase prices that the owner paid for each parcel. He then noted that his client is appealing because he wishes to get back his*

original costs, and cited the Expressway 60 Patent appeal as an applicable precedent, in his opinion. Mr. Sanderman stated that his client intends to use the credits within Brookhaven Town.

The discussion then touched upon the owner's anticipation of values when the parcels were bought, and related issues. Mr. Spitz then requested that the minutes show that the appraisal is not a basis for a credit appeal. Mr. Sanderman then requested that the minutes show that the appellant voluntarily did not submit appraisal testimony.

The discussion then turned to the question of why these lots are different, and Mr. Sanderman stated the lots are single and separate, and submitted chains of title regarding this. After a brief discussion in which Mr. Cowen stated that he did not see anything to distinguish these parcels from others to which the normal credit allocation formulae have been applied, **a motion was made by Mr. Cowen and seconded by Mr. Girandola to deny the appeal and to allow the original allocation of credits to stand. The motion was approved by a 5-0 vote.**

Mr. Grecco left at approximately this time.

- ! The Woodstock Company / Middle Island / credit appeal: discussion (from 5/13/98; 6/24/98 decision deadline)

Summary: Mr. Michael Wallkam of the Woodstock Company was present for this item. Mr. Milazzo distributed aerial photos and written materials for this, and noted that it was in the same old filed map as the previous discussion item, but was one parcel removed from the improved CR 21.

Mr. Wallkam stated that the parcel was purchased to build, that it was single and separate, and that it had received permission for the construction of the road and house. A brief discussion ensued regarding the residential exemption provision of the pine barrens law within the core area, and of the road that would be built to the parcel if it were developed. Mr. Cowen observed that it was substantially similar to a roadfront parcel, and that the lot between the subject parcel and the road is developed with a single family residence.

**A motion was then made by Mr. Cowen and seconded by Mr. Girandola to grant the appeal and offer one full credit for the parcel, based upon the previous approvals to put in a road to the parcel, and also based upon the close proximity of the parcel to an improved public road. The motion was approved by a 5-0 vote.**

- ! Pope / Ridge / new credit appeal: schedule discussion (8/10/98 decision deadline)

Summary: Mr. Milazzo distributed the attached appeal letter from Mr. Dominic Nicolazzi, representing the appellants, the Letter of Interpretation, and associated materials. The original allocation for the parcel is 1.91 credits, and the appeal seeks 2.00 credits, an increase of 0.09 credit. The appeal letter mentions that the owners have been assessed for 2.5 acres, rather than a

smaller amount shown on the survey, and that an improved road extends to within 50 feet of the subject property.

**After a brief discussion, a motion was made by Mr. Shea and seconded by Mr. Vilella to grant the appeal and to increase the allocation to 2.00 credits, with the comment that the yield factor used in the allocation process is not as relevant in this instance since this only involves a two lot subdivision. The motion was approved by a 5-0 vote.**

- ! Fichter / Ridge / new credit appeal: schedule discussion (8/10/98 decision deadline)  
Summary: Mr. Milazzo summarized this credit appeal for three lots along Crystal Brook Road in the area of Ridge, Brookhaven Town, which lies to the west of William Floyd Parkway and south of NYS Route 25. The appeal deadline was 4/29/98, based upon the Letter of Interpretation issue date of 3/30/98, but the appeals were dated 6/6/98. A discussion ensued regarding whether these appeals should be accepted, what the lag time was in the prior late appeals that were accepted by the Commission, and the location of the improved streets and paper streets in the area. It was agreed that the staff will determine the prior lag times for late appeals which were accepted, and this will be on the 7/15/98 Commission agenda.

### **Core Preservation Area**

- ! Michaelangelo's Restaurant / Manorville (Brookhaven): boundary change request (materials to be distributed)  
Summary: Mr. Sanderman represents the owner of the subject property, which is located on the east side of CR 111, south of the Long Island Expressway, in Manorville in Brookhaven Town. He explained that the site contains a restaurant and that new clearing at the site, as well as an extension to the building, were started without Town or Commission approvals. He stated that the owner would like to have the project be determined to be nondevelopment, or receive a core boundary change.

A discussion ensued regarding the nondevelopment provisions of the pine barrens law, the possibility that the work already undertaken is a violation of the pine barrens law, and the possibility of the owner filing an application for a core hardship exemption permit. It was agreed that the owner would file a core hardship application, and the issue of a violation would be looked into by the Commission and its counsel.

### **Pine Barrens Credit Program**

- ! Varanelli / Manorville / credit appeal: discussion; decision (from 5/13/98; 6/24/98 decision deadline)  
Summary: Mr. Varanelli was present and submitted the attached letter from The Nature Conservancy indicating that they are basing their purchase offering upon

a figure of 2.75 acres for his property. It was noted that this acreage would result in an increase in the original allocation of 0.09 credit, for a total of 0.44 credit. Mr. Varanelli spoke about the differences between the allocation and redemption of credits. He also stated that he is seeking three credits.

In the ensuing discussion, it was noted that the parcel is approximately 2,500 feet from the nearest improved road, and does not have any improved road frontage. **A motion was then made by Mr. Girandola and seconded by Mr. Cowen to deny the credit appeal, but to amend the total credit allocation to 0.44 credit, based upon the adjusted acreage figure. The motion was approved by a 5-0 vote.**

### **Compatible Growth Area (CGA)**

- ! Brookhaven Town Center / Yaphank: amended site plan; recent correspondence  
*Summary:* Ms. Plunkett reported that a State Environmental Quality Review Act coordination notice has been received from Brookhaven Town for a change in this major commercial shopping center development at the northwest corner of William Floyd Parkway and the Long Island Expressway in Yaphank. The original project, which was determined to be exempt from the pine barrens act in Chapter 9 of the 1995 Central Pine Barrens Plan, provided that construction would occur in two phases, with specified activities in each phase.

The revised plan alters the distribution of the activities within the two phases by increasing the extent of construction within Phase 1. The Town's coordination is for a Draft Environmental Impact Statement Supplement which the project sponsor has produced. A discussion ensued regarding whether the exemption language still applies, and counsel was asked to examine this issue for the next Commission meeting.

- ! Walter / Miller Place / land division; clearing restriction inquiry  
*Summary:* Ms. Plunkett distributed and discussed materials for this inquiry regarding a 27,500 square foot lot that the owner wishes to split into three lots. The Brookhaven Town Zoning Board of Appeals imposed a 53% clearing restriction, but the applicant would like to clear 90%. The inquiry is whether a CGA hardship application is needed. It was agreed that a hearing will be held after such an application is received.

### **Administrative**

- ! Public comments  
*Summary:* The first speaker was Mr. Walter Olsen, representing Civil Property Rights Associates. Mr. Olsen referred to earlier remarks by Mr. Austen regarding the local fire departments. Mr. Olsen stated that legislation should have been in place earlier regarding the issue of taxes, preserved lands, and the fire districts. He stated that people are upset that no action is being taken. Mr.

Cowen remarked that altering the threshold at which the state provides payments in lieu of taxes requires state legislation. Mr. Olsen stated that the cost of fire suppression is staggering.

Mr. Olsen also commented that the equestrian groups are not getting what they were told they would be with respect to recreational uses of parklands. Mr. Cowen remarked that the issue with respect to the legislation discussed earlier today applies to County lands, not State lands. He noted that restrictions have to be in place so that conflicts among user groups are avoided.

At this point, further public comment was delayed to later in order to permit the scheduled public hearing to proceed.

### **Core Preservation Area**

- ! Triolo / Ridge / land division: hardship hearing  
Summary: A separate stenographic transcript exists for this.

### **Administrative**

- ! Public comments  
Summary: The next speaker was Ms. Gloria Hendrix, also representing Civil Property Rights Associates. She stated that she wants to know what it will cost to see the Pine Barrens Credit Program through to the end, and what the time frame is. Mr. Milazzo then explained the Pine Barrens Credit Program, and the choices available to owners among the credit program, hardship applications for development, etc. Ms. Hendrix then asked if the credits are marketable, and she was advised that a lengthier conversation with Mr. Milazzo regarding the details of the credit transactions and how they are sold was advisable.

The next speaker was Mr. Henry Dittmer, also representing Civil Property Rights Associates. He stated that he felt that the Commission was acting harshly in the matter of the Michaelangelo's application discussed earlier today.

### **Closed Session**

Summary: **A motion was made by Mr. Cowen and seconded by Mr. Girandola to enter into closed session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote.**

### **Attachments (in order of discussion):**

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Memo re SCWA salary increases (6/17/98; 1 page)



4. Proposed Suffolk County all terrain vehicle law (6/9/98; 5 pages)
5. Annotated news clip re purchase of Whitney land in Adirondacks (6/3/98; 1 page)
6. Suffolk County Legis. Intro Res 1628-98 and attached materials (6/2/98; 7 pages)
7. Letters regarding MEDEA remote sensing program (5/1/98, 6/2/98; 2 pages total)
8. Letter from Mr. Sloane re postponement of Heatherwood action (6/23/98; 1 page)
9. Map showing Toussie and Woodstock parcel locations (undated; 1 page)
10. Pope parcel appeal letter and related material (miscellaneous dates; 7 pages)
11. Letter to Mr. Varanelli from The Nature Conservancy (12/31/97; 2 pages)