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**Commission Meeting Summary (FINAL)
for Wednesday, May 8, 2002 (Approved 5/22/02)
Commission Office; 3525 Sunrise Highway, 2nd Floor
Great River, NY; 2:00 pm**

Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski and Ms. Compitello (for Brookhaven; Ms. Prusinowski voting), Mr. MacLellan (for Riverhead), Mr. Murphree (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Rizzo and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), and Capt. Conklin (from the NYS Forest Rangers, Vice Chair of the Wildfire Task Force, and member of the Law Enforcement Council). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:03 pm by Mr. Proios, with a five member quorum.

Public Comment

Summary: The first speaker was Mr. Joseph Gazza, representing himself. He submitted the attached correspondence regarding two parcels of land that he owns at the southwest corner of Sunrise Highway and County Road 31 in Westhampton, Southampton Town (Suffolk County Tax Map numbers 900-247-1-2 and 4.1). He explained that he has received an expression of interest from Verizon Wireless about the possibility of constructing a communications tower or monopole on this site, and Mr. Gazza is asking the Commission for an opinion on the acceptability of this.

He then introduced Mr. Robert Monteleone, an attorney representing Verizon, who explained that the project would likely be 100 feet high; would require a 25 foot deep foundation in an area with a water table approximately 90 feet below grade; and would involve a shelter for equipment at the base of the tower.

Mr. Proios raised the question of whether any government agencies would colocate on the tower, and Mr. Monteleone said that question has not arisen, but that other carriers could colocate on the structure. Mr. Murphree noted that this project has not been seen by the Town yet. Mr. Richard Amper of the LI Pine Barrens Society asked whether towers such as this belong in the core area of the pine barrens. Mr. Proios stated that an update is needed on the three Towns' planning efforts for communications towers.

The second speaker was Ms. Lorraine Dittko, representing the Open Space Council (OSC). She read the attached statement opposing the Eastport Senior Living project, in place of Ms. Marilyn England, President of the OSC, who was not present today. The OSC is urging the Commission to not approve the project, and raises several planning

objections in their statement.

Mr. Proios then asked the Commission staff to request from the three towns a list of projects for which Pine Barrens Credits are being required. A brief discussion then occurred regarding the impact that zone changes of this type could have upon the pine barrens area, and whether they are compatible with the pine barrens statute's goals.

Administrative

! Recent court decision (*not on the original agenda*)

Summary: Mr. Rigano reported that the Commission and several other defendants received a favorable decision yesterday in a lawsuit filed in Albany State Supreme Court by a group of landowners. The decision dismisses the case. Mr. Rigano provided copies of the decision.

Core Preservation Area

! Firemen's Park (LI Shooting Range; Fireman's Museum) / Ridge (Brookhaven): status (*from 4/10*)

Summary: Mr. Robert Chartuk, the Commissioner of Parks and Recreation for Brookhaven Town, was present and read the attached statement regarding that portion of the Town owned Fireman's Park that is used for the Brookhaven Town Volunteer Fire Fighters Museum and for fire training and practice. He described the origin of the property, its military history, the current uses including the museum, ball fields, and practice areas, the charter (see attached materials) for the museum, the need for expansion of the museum, the willingness of the Town to remove dumped materials from the park and to undertake reforestation where necessary, the attached sketch plan of the museum buildings (both existing and planned), and an aerial photo of the site.

Ms. Compitello observed that the current work at the museum might be viewed as an expansion of an existing recreational use, and the conditions under which the federal government provided the property to the State, which provided it to the Town. She stated that an argument could be made that the museum work could be deemed nondevelopment under the pine barrens law.

A discussion ensued regarding the bathroom facilities, camping areas, and the holding tanks for septic waste that are planned for the area near the museum; the dates on which the various buildings were first discussed in the Town or on which construction started; the holdings of the museum, including the displays of fire fighting apparatus; the attached documents regarding the museum which were supplied by one of the museum volunteers attending the meeting; the exact name of the private museum group (Brookhaven Town Volunteer Fire Fighters Museum) and its charter; the plans to place and dedicate a monument and reflecting pool in the vicinity of the museum in an already cleared area as a tribute to the victims of the 9/11/01 terrorist attack; the need to have the Commission review that specific action quickly due to the intended dedication of the monument site this Memorial Day, and the specifics of that project.

After a brief discussion, a motion was made by Mr. MacLellan and seconded by Mr. Murphree to determine that this memorial project is not within the jurisdiction of the Commission, without prejudice to the Commission's future review of the other activities and projects at Fireman's Park, pursuant to NY ECL Article 57-0107(13)(i). The motion was approved by a 5-0 vote.

The discussion then turned towards the Long Island Shooting Range portion of Firemen's Park. Ms. Compitello outlined several elements of the draft settlement upon which the Town and the franchise operator have been negotiating. Some of those components include: a \$25,000 cash donation to the Town's Joseph Macchia Environmental Trust Fund; the revegetation of approximately 11 to 15 acres of land; the planting of vegetation starting in the Fall of 2002, with the planting to be completed by the Fall of 2003; the extension of the existing lead recovery system; the requirement that the operator comply with Suffolk County Health Department and NYS DEC requirements regarding lead contamination; a performance bond; the creation of a Citizens Advisory Committee; and the hiring of an outside expert on noise abatement. A discussion then occurred regarding the clearing that occurred on the State parkland to the south for a new archery course in the woods, and Ms. Compitello stated that was a separate issue and was being addressed independently. She noted that the portion of the Town land that was cleared in the construction of that archery course was not a part of the proposed settlement that she was outlining today for the main part of the shooting range.

Mr. Amper then stated that months have gone by, that the Town is asserting nonjurisdiction of the Commission over Town lands; that there have been lawsuits already decided regarding clearing in the Core area; that permits are needed; that buildings have not been taken down, and that someone should hold the Town accountable. Mr. Walter Olsen of the Civil Property Rights Associates stated that the public was sold the idea that the pine barrens area was for the public to use and that opportunities would be created for sportsmen. He stated that it appears to him that the Pine Barrens Society is looking to exclude those people, and that Mr. Amper is saying one thing when the sportsmen are present in a meeting, and another when they are not. He stated that Brookhaven Town needs to do what is necessary to run this facility in an orderly fashion.

Compatible Growth Area (CGA)

- ! Spring Meadow / Wading River (Brookhaven) / residential subdivision / Assertion of Jurisdiction: public hearing (*jurisdiction asserted 3/20; decision deadline is 7/18*)
Summary: *The attached letter from Mr. David Sloane, an attorney representing this project's sponsor, was distributed prior to the hearing. A separate stenographic transcript exists for the actual hearing.*

Plan Implementation

- ! Wildfire Task Force: New York Wildfire and Incident Management Academy, current fire situation: update (*not on the original agenda*)
Summary: *Capt. Conklin reported that 200 copies of the survey of course interest were mailed and 60 have been returned. At present, there are plans to offer 21 courses this fall at the 2002 Academy, and that the full course brochure will be produced next.*

Capt. Conklin also reported that the Helicopter Firefighting Awareness Training Day at Gabreski Airport, scheduled for 5/11/02, has been canceled due to an insufficient preregistration. He also noted that field conditions are very dry.

The US Forest Service is looking at numerous areas in the eastern part of the country for possible staging areas for fixed wing firefighting aircraft. He noted that US Forest Service personnel are looking specifically at the Islip, Westhampton (Gabreski), and Calverton airports for this purpose. This is not a definite promise that such aircraft will actually be

stationed at any of these sites, but rather a survey to determine suitability. A brief discussion ensued regarding the relative strengths of these airports for such a purpose.

Mr. Proios then commented that the standards and procedures to be utilized in the operation of the 2002 Academy are to be written by the Suffolk County Water Authority legal staff, and that they will work with the Academy Executive Board to do this.

Capt. Conklin left at this point.

Compatible Growth Area (CGA)

- ! Brookhaven National Laboratory / Upton (Brookhaven) / environmental remediation work: presentation and discussion (from 4/10 meeting; Lab representative to attend)
Summary: Mr. Michael McCann, an attorney for the Lab, was present today along with Mr. Robert House of the environmental remediation staff. They discussed the CERCLA (Federal Superfund) groundwater remediation work that the Lab is undertaking on the southern portion of its land, and in several privately held CGA parcels to the south of the Lab. One of those parcels' owners has asked for an assurance that the clearing for roads and well sites that the Lab would undertake on his property would not be counted against any future development proposal that he might wish to put forward.

Mr. Howe showed a large map of the groundwater contamination plumes that the Lab is attempting to pump and treat; noted that their depth can be as much as 200 feet below grade; that the remediation process would treat approximately 100 to 300 gallons per minute; that the private parcel in question is approximately 660 acres; that the Lab intends to revegetate the cleared areas when they are finished; and discussed the time periods in years over which the pump and treat, and the monitoring, wells are likely to operate. A discussion followed regarding the map details, the existing and future wells, the amount of land area that the lab would clear; and the relation of those cleared areas to future clearing calculations in a development project review.

A motion was then by Mr. Cowen and seconded by Mr. Proios to determine that land cleared for purposes of conducting environmental remediation pursuant to NY ECL Article 57-0107(13)(c), immediately after revegetation, shall be considered "natural vegetation", and shall not be considered "cleared" or "previously cleared" land in determining conformance with the vegetation clearance limits in Section 5.3.3.6.1 of the Central Pine Barrens Comprehensive Land Use Plan. The motion was approved by a 5-0 vote. It was agreed that Mr. Rigano will send a letter to Mr. McCann regarding this matter.

Plan Implementation

- ! Protected Lands Council: Co-Chair designation
Summary: **A motion was made by Mr. Cowen and seconded by Mr. Murphree to appoint Mr. Charles Hamilton of the NYS DEC as a Co-Chair of the Protected Lands Council. The motion was approved by a 5-0 vote.**

Compatible Growth Area (CGA)

- ! Toussie - Kleis / Ridge (Brookhaven) / residential subdivision: status (from 4/10 meeting; not

on the original agenda)

Summary: Mr. Rigano discussed the attached letter from Brookhaven Town to Mr. Matthew Kleis regarding the parcels in question, Suffolk County Tax Map numbers 200-291-3-13.2 and 13.3. Mr. Rigano noted that the Commission has received enough materials to schedule a CGA hardship hearing at the next Commission meeting. **A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to schedule a public hearing on this matter for 3:00 pm at the 5/22/02 Commission meeting. The motion was approved by a 5-0 vote.**

Core Preservation Area

- ! Firemen's Park (LI Shooting Range; Fireman's Museum) / Ridge (Brookhaven): status (from 4/10)

Summary: Mr. Cowen asked whether the previously discussed settlement that Brookhaven Town is negotiating with the franchisee contains an admission clause, and Ms. Compitello stated that it does not. A discussion then followed regarding what areas should be revegetated; the discussions at the last Commission meeting; whether the buildings that were built without a permit should be removed; what constitutes a violation of this portion of the ECL; the need for recreation and the references to recreation in the Central Pine Barrens Plan; and the restoration of the actual violation site or an equivalent area.

- ! North Fork Bank / Manorville (Brookhaven) / site plan: determination of jurisdiction; counsel's opinion (materials distributed 3/20)

Summary: Mr. Randolph distributed the attached letter from Ms. Teresa Elkowitz, a consultant for the North Fork Bank, explaining the nature of the work to be performed in the renovation of the former Grace's Restaurant in Manorville, on the east side of County Road 111, south of the LI Expressway. The Commission members agreed that the work as described does not constitute development under the pine barrens law.

- ! Gazza / Westhampton (Southampton) / four projects combined:

Home residence office site plan / hardship (hearing held 9/5/01)

Core boundary change request (hearing held 4/25/01)

Agricultural clearing site plans / 7 hardships (hearings held 9/5/01)

Agricultural building site plan / hardship (hearing held 9/13/00):

Draft EIS production (pos dec 12/19/01; DEIS scope finalized 4/10)

Summary: Ms. Jakobsen noted that Mr. Gazza has made a verbal request to the Commission to obtain estimates of the cost of producing a Draft EIS for this set of projects, and that there is no time schedule at present. It was agreed that Mr. Gazza's request should be in writing.

The following project is partly within the CGA:

- ! Islander East Pipeline / Brookhaven: Draft EIS comments status; results of 5/7 FERC public meeting (Commission is an intervenor; not an application to Commission; **comments due 5/19**)

Summary: Ms. Jakobsen reported that she attended the public meeting held last night (5/7/02) by the Federal Energy Regulatory Commission (FERC) on this project at Longwood High School, and that approximately 30 to 40 people, including FERC and Islander East staff, attended. She noted that approximately six individuals spoke. The comment deadline on the Draft EIS is 5/20/02, and that she is drafting the Commission comments now. It was noted that the recently proposed directional drilling alternative to uplands clearing is not discussed in the Draft EIS.

Compatible Growth Area (CGA)

- ! IGHL / East Moriches (Brookhaven): correspondence (*not an application to Commission; material to be distributed*)
Summary: The attached correspondence from a local citizen recommending a master planning effort was distributed. The letter focuses specifically upon the proposal by the Independent Group Home Living (IGHL) organization to construct a residential facility in the East Moriches area.

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction by Commission: correspondence (*jurisdiction asserted 5/16/01; decision deadline is 6/1; no application received; material to be distributed*)
Summary: The lack of an application for this assertion of jurisdiction project was discussed, as was the Town's recent approval of the necessary zone change for this project, contingent upon the Commission's approval or determination of nonjurisdiction. The question also arose as to what clearing standards to apply in this change of zone situation, since the standards depend upon the zoning category.

- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: Draft EIS comments (*hearing held 10/17/01; decision deadline is 5/22*)
Summary: Ms. Jakobsen reported that the Commission's comments upon the Draft Environmental Impact Statement for this project have been submitted to Brookhaven Town. A brief discussion ensued regarding the relationship of the State Environmental Quality Review Act (NY ECL Article 8) and the pine barrens law (NY ECL Article 57), especially with respect to the deadlines for project review imposed by each statute.

Closed Advisory Session

Summary: **A motion was made by Mr. Murphree and seconded by Mr. Cowen to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 5:55 pm to 6:24 pm.**

Adjournment

Summary: The meeting was adjourned immediately following the closed session without a formal adjournment resolution.

Attachments (in order of discussion):

1. Sign in sheet (5/8/02; 4 pages)
2. Speaker sheet (5/8/02; 1 page)
3. Letter from J. Gazza re possible Verizon communications tower (5/7/02; 4 pages)
4. Letter from the Open Space Council re Eastport Senior Living (4/27/02; 4 pages)
5. Footprint of buildings for Firemen's Museum (4/8/02; 1 page)
6. Statement by Brookhaven Parks Commissioner Chartuk (undated; 2 pages)
7. Brookhaven Town Volunteer Fire Fighters Museum Provisional Charter (11/20/92; 3 pages)
8. Brookhaven Town Vol. Fire Fighters Museum Franchise Agreement (11/30/94; 12 pages)
9. Brookhaven Town Volunteer Fire Fighters Museum site plan (undated; 8 pages)
10. Aerial photo of Brookhaven Town Firemens Park shooting range (undated; 1 page)
11. Letter from D. Sloane re Spring Meadow (5/3/02; 2 pages)

12. Draft resolution language re BNL remediation clearing (5/8/02; 1 page)
13. Letter from M. Shutka re Kleis residence (5/7/02; 1 page)
14. Letter from T. Elkowitz re North Fork Bank (4/16/02; 2 pages)
15. Letter from J. Clark re IGHL / East Moriches project (5/7/02; 1 page)