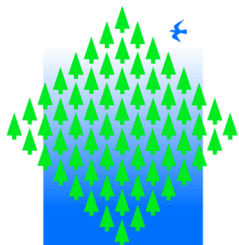


**Pine Barrens Commission Meeting Summary (FINAL)  
for Wednesday, January 21, 2009 (Approved 2/25/09)  
at the Brookhaven Town Hall,  
1 Independence Hill, Farmingville, NY, 2:00 pm**



**CENTRAL  
PINE  
BARRENS**  
JOINT  
PLANNING  
&  
POLICY  
COMMISSION

Peter A. Scully  
*Chair*

Lori Baldassare  
*Member*

Philip J. Cardinale  
*Member*

Linda A. Kabot  
*Member*

Steve A. Levy  
*Member*

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Commission members present: Mr. Scully (for New York State), Mr. Isles (for Suffolk County), Ms. Prusinowski and Mr. Turner (for Brookhaven), Mr. McCormick (for Riverhead), and Ms. Kabot and Mr. Shea (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, Ms. Hargrave, Ms. Griffiths and Mr. Hynes (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation (NYS DEC)), and Ms. Longo (from the Suffolk County Department of Environment and Energy). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:06 pm by Mr. Scully, with a four member quorum initially present consisting of the New York State Governor, Suffolk County Executive, Brookhaven Town Supervisor, and Riverhead Town Supervisor representatives. The Pledge of Allegiance was recited.

#### **Public Comment and Administrative**

##### Public comments

Summary: The first speaker was Ms. Johan McConnell, representing the South Yaphank Civic Association (SYCA). Ms. McConnell referred to a letter read by Ms. Gallagher at the December Commission meeting, and stated that she has checked the relevant facts. Ms. McConnell distributed and read the attached compilation of statements regarding lead contamination from May 2001 through January 2008. She displayed photographs from the trap and skeet range at Southaven County Park showing debris, test wells, remnants of clay shooting targets, shotgun shells, and the mingling of these items with the ground cover vegetation. She stated that any attempt to clean up the site would involve removal of vegetation unless painstaking hand removal was used.

The second speaker was Mr. John McConnell, representing the SYCA. He stated that in 2001 during a clean up at the range, he rode through the area to observe it. He stated that it makes no sense to have lead categorized as hazardous in one locale but not in others. He also described following one truck to the Town landfill, as well as his experience in attempting to determine whether the lead contaminated waste it was carrying could be dumped there.

The third speaker was Mr. Bill Raab, representing the Sportsmen Association for Firearms Education (SAFE). Mr. Raab stated that the high lead reading listed in one County report was due to an improperly installed sampling well that had a turbidity problem; that the County budget documents cited by a prior speaker are written incorrectly; that lead on an active shooting range is not categorized as hazardous as

*long as there is a management plan; that the range vendor has been busy with other issues and not always able to clean up the site; and that the conflicting statements reported by a prior speaker regarding the town landfill are not surprising.*

Ms. Kabot and Mr. Shea arrived during the following speaker's comments, and a five member quorum was present for the remainder of the meeting.

*The fourth speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He spoke about the proposed resolution presented to the Commission by Riverhead's representative at the December meeting regarding the pending EPCAL litigation appeal. Mr. Amper described his recent contact with the Riverhead Supervisor; stated that he will need to meet with the Town to see if some of the issues could be resolved; that the issues of concern here are not about the EPCAL site as much as they are about the Pine Barrens Act; that the proposed motion jeopardizes the Act; that the court decision on this matter went beyond the instant issue; and that the decision might mean that all development is economic development, and thus that all development is "nondevelopment". He stated that he never imagined that the Commission would countenance compromising the Act; that the Legislature should pass an amendment to the Act; that it is improper to have one Commission member sue the larger Commission and then seek to have the Commission not defend the case; and that home rule was altered when the Legislature passed the pine barrens act.*

*Mr. McCormick responded to Mr. Amper's remarks, and stated that he has great respect for Mr. Amper's past work and contributions, but he disagrees with what Mr. Amper said today. Mr. McCormick stated that Riverhead Town is dedicated to upholding the pine barrens standards in the Compatible Growth Area, and spoke about the content and application of Section 9.2 of the Pine Barrens Plan. Mr. Amper stated that he is concerned as to whether other Commission members believe that the Plan can override the Act; that other Commission members may try to obtain exceptions for sites within their towns; that the Commission cannot just get three votes and supercede state law; and that a legislative amendment may be needed.*

*The fifth speaker was Mr. Alan Cohen, representing SAFE. He stated that a "small fortune" was spent for one clean up at the trap and skeet range, and that the material there now is inert.*

Minutes for 12/17/08: review, approval

Summary: *The following change was made to the draft 12/17/08 meeting summary: under Public Comments, the second paragraph's fifth sentence should read, in part: "The second item was the unanimous passage of the attached resolution ...". **A motion was then made by Ms. Prusinowski and seconded by Ms. Kabot to approve as final the amended summary of the 12/17/08 meeting. The motion was approved by a 5-0 vote.***

2009 Commission meeting schedule: review, adoption

Summary: *Mr. Corwin described the attached draft meeting schedule for the period February 2009 through January 2010. **A motion was then made by Ms. Prusinowski and seconded by Mr. McCormick to approve the meeting schedule. The motion was approved by a 5-0 vote.***

Extension of Commission - DEC contract ending 3/31/08: approval (awaiting copy from NYS DEC)

Summary: *Mr. Corwin explained that the five year contract between the Commission and*

the NYS DEC which expired on 3/31/08 needs to be extended by three months to 6/30/08 in order to allow using the remaining 2007-08 state fiscal year funds for the first part of the 2008-09 state fiscal year (see attached material). **A motion was made by Mr. Isles and seconded by Ms. Prusinowski (1) to approve and authorize the three month contract extension and (2) to authorize the Commission Chair to execute the extension on behalf of the Commission. The motion was approved by a 5-0 vote.**

Committee Needs and Structures Assessment: report from first (12/17/08) meeting of Advisory Committee (Mr. Turner, representing Commission at AC for this matter; from Commission meeting of 5/21/08)

Summary: Mr. Turner reported that the Pine Barrens Advisory Committee met on 12/17/08 (which he also attended) and commenced its review of the Commission's committees and structures. He also noted that this is a follow up study to the 2005 staffing and administrative study by the Commission; that the Advisory Committee will be commencing its detailed review of the individual committees and councils at its next meeting on 2/11/09; and that the first committee to be examined will be the Protected Lands Council (PLC), at the request of Mr. John Pavacic, Chair of the PLC.

## Stewardship & Education

Environmental Education: January update (Ms. Griffiths)

Summary: Ms. Griffiths distributed and described the attached monthly update. Specifically, she noted that over 9,000 youths and adults were reached during 2008 through various speaking, school and community events, and that the January school programs involved the Sayville, Coram, Ridge and Longwood schools.

She also brought two matters to the Commission's attention for consideration and approval: renewal of the Barrens to Bay Summer Program with the Long Island Maritime Museum in West Sayville, and the offer of a second year of funding from the Brookhaven Science Associates (the contractor operating the Brookhaven National Laboratory) for the Park Twinning Program (including travel expenses) with the MSRM Regional Park in Pisa, Italy (for which the Commission has previously signed a Memorandum of Understanding in 2004). She described both programs' prior years.

**A motion was made by Mr. Turner and seconded by Ms. Kabot to conceptually approve the second year of the Barrens to Bay Summer Educational program, subject to Commission counsel approval of a written agreement for the partnership with the Maritime Museum. The motion was approved by a 5-0 vote.**

**A motion was made by Mr. Turner and seconded by Mr. McCormick to accept the offer of funding for the Twinning Program from the Brookhaven Science Associates. The motion was approved by a 5-0 vote.**

2008 Pine Barrens Research Forum: Proceedings (Ms. Carter)

Summary: Ms. Carter distributed and briefly described the attached copy of the final proceedings for the 13<sup>th</sup> annual Forum, held in October 2008. Mr. Scully complimented the quality of the Proceedings and thanked the staff.

## Land Use

### Compatible Growth Area (CGA)

The Condominiums at Sandy Hills Change of Zone / Middle Island (200-378-2-33.3): status; possible assertion of jurisdiction (*Ms. Hargrave; not an application*)  
Summary: *Ms. Hargrave addressed this proposed 135 residential unit project on a 39 acre site in Middle Island, noting specifically that Brookhaven Town has received an environmental impact statement (EIS) that has not yet been submitted to the Commission. This project is not currently an application before the Commission.*

*A brief discussion ensued regarding the comments previously submitted by the Commission on this project at the Draft EIS stage; the proposed use of Pine Barrens Credits and their quantity here; the question of whether the project meets the Pine Barrens Plan standards, including clearing; the redevelopment strategy for this region and the existing Middle Country Road Land Use Plan; the recommendation of the Suffolk County Planning Commission for the redemption of Credits here; the possibility of clarifying in the Pine Barrens Plan amendments the quantity of Credits that should be redeemed in situations such as this; the changes to the project since its first filing; and the fact that the project requires construction of a sewage treatment plant.*

*It was agreed that the latest materials on this project would be forwarded to the Commission for further examination, including an initial opinion as to its compliance with the Pine Barrens Plan.*

### **Core Preservation Area**

Gloria Holgerson Three Lot Subdivision / Calverton (200-270-3-10.103): completeness determination and scheduling of hearing (*Ms. Hargrave; decision deadline is 5/20/09*)  
Summary: *Ms. Hargrave reported that this new Core hardship application is for the division of a 6 acre site on Pinehurst Boulevard north of Nugent Drive in Calverton, zoned A5 Residence, into three lots, one of which would contain an existing residence. The decision deadline is 5/20/09. **A motion was made by Ms. Prusinowski and seconded by Ms. Kabot to adopt the attached resolution to (1) determine that the application is complete, (2) commence the SEQRA review for this application, and (3) schedule a public hearing on this application for 3:00 pm at the Commission's 2/25/09 meeting. The motion was approved by a 5-0 vote.***

Jurevitz Property Residence and Accessory Structures / Ridge (200-326-3-1): completeness determination and scheduling of hearing (*Ms. Hargrave; decision deadline is 5/19/09*)  
Summary: *Ms. Hargrave reported that this new Core hardship application is for the construction of a residence and accessory structures (a horse barn and paddock) on a 3.7 acre site south of Patrick Lane (in the vicinity of the northeast corner of NYS Route 25 and William Floyd Parkway) in Ridge zoned A2 Residence. The decision deadline is 5/19/09. **A motion was made by Ms. Prusinowski and seconded by Mr. McCormick to adopt the attached resolution to (1) determine that the application is complete, (2) commence the SEQRA review for this application, and (3) schedule a public hearing on this application for 3:00 pm at the Commission's 2/25/09 meeting. The motion was approved by a 5-0 vote.***

### **Pine Barrens Credit Program**

Report from 1/9/09 Clearinghouse Board meeting (*Ms. Jakobsen*)  
Summary: *Ms. Jakobsen reported on several items discussed at the 1/9/09 Clearinghouse Board meeting. Huntington Town has recently requested information on the Credit Program because their staff is looking at the design of a proposed density transfer program within the Town. The Clearinghouse Board reviewed the end of year*

*totals for the Pine Barrens Credit Program that day. Some of the statistics presented are cited in the Commission's Annual Report of Activities for 2008 (see attached excerpt). The Clearinghouse funds managed by the Suffolk County Treasurer had a balance of approximately \$3.3 million at the end of the year. Through the end of 2008, approximately 1,753 acres have been protected since the start of the Program, and the average parcel size has risen to 2.61 acres.*

*One of the significant 2008 accomplishments was the protection of the 403 acre Nassau County Boy Scouts parcel known as the Schiff Reservation or Camp Wauwepex, in Wading River, for which the Scouts received 99 credits. Ms. Jakobsen reported today that the Scouts have just sold 1.64 of those Credits in 2009. Other items discussed at the Clearinghouse meeting include the parcel based analysis of remaining unprotected Core lands in the three towns, and the potential number of Credits that could be generated from them; the Pine Barrens Plan amendments that involve the Credit Program; the Long Island Pine Barrens Society's offer to assist with any future Credit Program mailings to property owners; and Brookhaven Town's Middle Country Road Land Use Plan for Coram, Middle Island and Ridge.*

### **Planning & Land Use**

Carmans River Watershed planning initiative: initial discussion (Mr. Turner)

*Summary: Mr. Scully summarized some of the challenges facing the Carmans River area, including land protection and all terrain vehicle damage. He described the recent discussions of the informal Carmans River Partnership co chaired by Mr. James Tripp and Mr. Thomas Williams. He asked that the Science and Stewardship staff evaluate a possible replication of the ATV Damage Mitigation Project in the northern Carmans River areas. Mr. Turner then described some of the work completed and planned by Brookhaven Town officials and staff, including allocating funds for a Carmans River protection plan and establishing a steering committee for that effort.*

*Mr. Corwin described some of the Pine Barrens Plan and Pine Barrens statutory provisions that might be applicable to a Carmans River planning effort from the Commission's perspective. These include designation of Critical Resource Areas in the CGA, within which the Commission would have direct review authority over land use projects; and CGA voluntary sending areas which would allow owners to apply for Pine Barrens Credits. He also noted that there are many forms which a Carmans River plan or study could take, including a land preservation plan, a zoning and land use plan, a carrying capacity plan, and other forms.*

*Mr. Corwin also conveyed an offer from the Suffolk County Water Authority (SCWA) CEO Steve Jones to have the SCWA geographic information system staff provide a watershed based map of the Carmans River drainage system, and distributed the attached sample of a similar delineation drafted by the SCWA staff for the Nissequogue and Connetquot River valleys.*

*A discussion ensued regarding the overall Carmans River effort's focus, the possible relationships between the Town and the Commission involvement and goals, and the steps necessary to assure that any plan or study produces a feasible and effective set of recommendations and work products. Mr. Turner agreed to convene a meeting of the appropriate Town, Commission and other pertinent parties to begin that scoping effort.*

Plan amendment update: preliminary parcel & acreage results (Ms. Carter)

*Summary: Mr. Corwin explained that Ms. Ann Carter of the Commission staff and Ms.*

*Donna Waide of the SC Real Estate Division have been working closely together on identifying and analyzing all real property parcels within the Core Preservation Area, across all three pine barrens towns. The invaluable contribution of Ms. Waide's time from the SC Real Estate Division was noted appreciatively by the Commission.*

*Together, they have produced a data set that allows, among other queries, a quantitative estimate of all remaining privately held and unprotected acreage by town, and an estimate of the maximum remaining Pine Barrens Credits that could still be generated from the Core area. Mr. Corwin explained that estimates such as these are essential for the Pine Barrens Plan amendments to proceed. This is due to the fact that several of the proposed amendments involve new voluntary Credit sending areas within the CGA, and the current Plan requires that certain minimum ratios of Credit receiving capacity divided by Credit sending potential be maintained. The Clearinghouse Board has seen the initial results of this analysis, and its members will provide feedback to Ms. Carter which will be incorporated and addressed into a final report. That report will be used to advance the Plan amendments, including any necessary changes to abide by those ratios.*

*Ms. Carter distributed and described the attached overview charts. These show, among other results, that approximately 1,327 parcels remain in the Core area across the three towns which could potentially receive Pine Barrens Credits, and the approximate maximum total Credits that could still be generated from them is 647. She also reviewed the breakdown of these parcels by acreage size categories of less than one acre; 1 to 10 acres; 11 to 50 acres; and over 50 acres.*

*A discussion ensued regarding the need to look at all three towns' Credit situations, including the total receiving absorption capacity in each town (a process already underway by the Brookhaven Town staff). Ms. Kabot praised the value of the parcel and Credit analysis presented today, and discussed the Residential Receiving Area Districts for Southampton, as well as the logistics of updating the Southampton Credit absorption capacity estimates. She also touched upon some of the specific projects reviewed in Southampton in which Pine Barrens Credits were required.*

Compliance and Enforcement: January update (Mr. Hynes)

*Summary: Mr. Hynes distributed and discussed the attached Compliance and Enforcement summary through 12/31/08 showing the development project compliance, conservation easement monitoring, and incident reports. He noted that he has met with the Brookhaven Town staff regarding the activities at the Hampton Club development project site in Eastport, the accumulation of sand at the site, removal of debris, regrading, and the slowdown of construction at the site due to the current economic situation.*

*Mr. Hynes noted that there are currently 31 open incident reports of various types, some of which involve coordination with the towns or the NYS DEC. A brief discussion ensued regarding the Ridge Greens subdivision south of NYS Route 25, its design parameters, and its status under the pine barrens law.*

#### **Closed Advisory Session**

***Summary: A motion was made by Ms. Kabot and seconded by Mr. Scully (1) to enter into a closed advisory session for the purpose of receiving legal advice from counsel on the pending EPCAL litigation appeal, and (2) to exclude litigants from the closed advisory session. A discussion ensued on the motion, with Mr. McCormick questioning whether he could be legally excluded from the closed session, and Ms. Kabot stating that there is a conflict that should exclude him. Mr.***

**McCormick objected to the motion. The motion was approved by a 4-1 vote, with the dissenting vote cast by Mr. McCormick.** However, the Commission did not enter into the closed session at this time. Instead, there was a break from approximately 4:15 pm to 4:23 pm.

**Upon return, a motion was made by Mr. McCormick and seconded by Ms. Kabot for discussion purposes to request the NYS Attorney General to provide a written opinion regarding the legal acceptability of Ms. Kabot's motion. During the discussion, Ms. Kabot agreed that there should be a written opinion but stated that does not preclude the Commission from meeting in closed session today. The motion was then approved by a 5-0 vote.**

A brief discussion then followed regarding the possibility of delaying the originally approved closed session without the litigants to a future time. Instead, **a motion was then made by Ms. Kabot and seconded by Mr. McCormick to enter into a closed advisory session for purposes of receiving legal advice from counsel. The motion was approved by a 5-0 vote,** and the Commission entered into closed session from approximately 4:32 pm to 4:45 pm.

#### **Adjournment**

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

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

1. Attendance sheets (1/21/09; 2 pages)
2. Project location map for today's meeting (1/21/09; 1 page)
3. Statements concerning lead contamination from Ms. McConnell (1/21/09; 3 pages)
4. Commission meeting schedule (1/21/09; 1 page)
5. Commission - NYS DEC contract extension materials (undated; 7 pages)
6. Education and Outreach January Update (Jan. 2009; 1 page)
7. Proceedings of 2008 Pine Barrens Research Forum (10/2/08; 52 pages)
8. Resolution on Holgerson Core hardship application (1/21/08; 1 page)
9. Resolution on Jurevitz Core hardship application (1/21/08; 1 page)
10. Pine Barrens Credit excerpt from 2008 Commission Annual Report (Jan. 2009; 8 pages)
11. Nissequogue and Connetquot River Valleys map from SCWA (undated; 1 page)
12. Analysis of Core Preservation Area Tax Parcels (1/21/09; 2 pages)
13. Compliance and Enforcement Summary through 12/31/08 (12/31/08; 1 page)