

**Pine Barrens Commission Meeting Summary (FINAL)  
for Wednesday May 18, 2011 (Approved 6/15/2011)**

**Riverhead Town Hall  
200 Howell Avenue  
Riverhead, NY  
2:00 pm**



**Commission members present:** *Mr. Scully (for New York State), Ms. Sarah Lansdale (for Suffolk County), Mr. Lesko, Ms. Prusinowski and Mr. Turner (for Brookhaven), Mr. Walter and Mr. McCormick (for Riverhead), Ms. Throne-Holst and Mr. Murphree (for Southampton)*

**Others present:** *Staff counsel was Mr. Milazzo. Commission and other agency staff members included Mr. Pavacic, Ms. Jakobsen, Ms. Hargrave, Ms. Sholl-Ostrowski, Mr. Hynes, Ms. Griffiths, Ms. Carter and Mr. Tverdy (from the Commission). Additional attendees are shown on the attached sign-in sheet.*

Peter A. Scully  
*Chair*

*The meeting was called to order at approximately 2:00 pm by Mr. Scully, with a five member quorum present. The Pledge of Allegiance was recited.*

Mark Lesko  
*Member*

**Public Comment and Administrative**

Steve A. Levy  
*Member*

**Summary:** *Mr. Scully welcomed Ms. Sarah Lansdale as the newly appointed Commission designated representative on behalf of Mr. Levy for Suffolk County.*

Anna E. Throne-Holst  
*Member*

*Mr. Amper congratulated Ms. Lansdale on her appointment as a Commission representative and he provided a brief update on the progress Brookhaven Town has made in implementing the Carmans River Plan. He stated that the Brookhaven Planning Department is providing the necessary information for the State Environmental Quality Review (SEQRA) process to be completed in a timely manner and the Town Board has been provided with information it needed to complete the Multi Family (MF) zoning code change related to the Carmans River Plan. He further stated, it would be prudent for the Commission to pass a resolution that would encourage the New York State Legislature to expeditiously enact legislation that would expand the Core Preservation Area boundaries to include the changes associated with the Carmans River Plan.*

Sean M. Walter  
*Member*

*Mr. Lesko stated that the Carmans River Study Group has been working with the State to draft legislation for the purpose of adding an Amendment to NYS ECL Article 57 pertaining to the expansion of the Core Preservation Area as outlined in the Carmans River Plan. Mr. Lesko then on behalf of the Carmans River Study Group asked the Commission to pass a sense resolution to approve supporting the new legislation to expand the Core for the Carmans River Watershed Protection Plan.*

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***Ms. Throne-Holst arrived at the meeting at 2:10 pm***

***The motion was made by Mr. Lesko and seconded by Ms. Throne-Holst that the Commission endorses the proposed legislation to amend NYS Environmental Conservation Law Article 57 in order to expand the Core Preservation Boundary area as proposed by the Carmans River Watershed Protection Plan. The motion was approved by a 5-0 vote.***

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*Additional points discussed included, the effect the Core expansion would have on parcels in Yaphank and on County owned land and the expansion of the Credit market.*

## **Minutes for 4/20/11**

**Summary:** *The motion was made by Mr. Scully and seconded by Mr. Walter to approve the 4/20/11 minutes. The motion was approved by a 4-0-1 vote with the County abstaining.*

## **Commission Draft Budget**

**Summary:** *Mr. Pavacic distributed and provided an overview of a revised version of the Draft 2011-2012 Budget(attached) that replaced the version sent to the Commission members in the e-packet(attached). He mentioned that the State has informed the Commission that it will receive the full amount of funds from the NYS Environmental Protection Fund (NYS EPF)it was appropriated for the fiscal year 2011-2012 and the previous unspent balance of \$900,000 for a total of \$2 million dollars. He explained that at a subsequent Commission meeting he will provide the Commission with a written proposal demonstrating how those additionally unspent EPF funds in the amount of \$900,000 could be used to meet Science and Stewardship goals.*

*Mr. Pavacic explained that the \$1.1 million the Commission receives from the EPF is for the Commission's general operational expenses. He asked the Commission to approve the draft operating budget for \$1.1 million and also asked the Commission to authorize the Commission Chair to sign the renewable insurance policy that the Commission is required to maintain according to the provisions of ECL Article 57.*

*Mr. Scully explained that Suffolk County Water Authority (SCWA) extends credit to the Commission to cover its operational costs that are reimbursed by the State from the \$1.1 million appropriated EPF funds. The Commission staff submits reimbursement vouchers to the State during the year to obtain the reimbursement of funds that is owed SCWA. Additional points discussed included, other possible uses for the unspent EPF funds owed to the Commission, cash reserves are not possible under state law, the State Finance Law and State government determines how the funds can be used, and EPF funds can't be used for land acquisition. Mr. Scully mentioned that stakeholders outside of the Commission have influenced the passing of previous legislation that has afforded incremental increases in EPF available to the Central Pine Barrens Commission.*

**The motion was made by Mr. Lesko and seconded by Ms. Throne-Holst to authorize the Commission Chair to sign the application to renew the Commission's annual insurance policy. The motion was approved by a 5-0 vote.**

## **Education and Outreach**

**Summary:** *Ms. Griffiths distributed and discussed the attached Education and Outreach report for April-May. Items she discussed in the report included, the status of school outreach visits, and the status of partnerships with Brookhaven National Lab (BNL) and the Wertheim Wildlife Refuge. Ms. Griffiths also discussed the status of summer programs with Brookhaven National Laboratory (BNL) Open Space Stewardship Program (OSSP), Quogue Wildlife Refuge, Sweebriar Nature Center and Western Suffolk BOCES.*

*Ms Griffiths provided an update on the progress being made by the Pine Barrens Discovery Day Subcommittee in planning for the event. She noted that the following Items have been accomplished, the ordering and distribution of posters and postcards advertising the event, the days itinerary and start times for each exhibit, securing a key note speaker, Dr. David Krause, Palaeontologist from Stony Brook University, the set up of an event website, and advertising the event on local radio stations including WRCN and WSHU.*

## **Science and Stewardship**

**Summary:** *Ms. Carter discussed the attached Science and Stewardship division report and she provided an update on the following activities: the 16<sup>th</sup> Annual Pine Barrens Research Forum with this year's theme being "The Pine Barrens: an Urban Forest" that is scheduled for October 6<sup>th</sup> and 7th, the Forest Health*

Aerial Survey mission with the Civil Air Patrol and the NYS DEC Forest Health Unit on June 20<sup>th</sup> out of MacArthur Airport, the Grassland Stewardship Project at NYSDEC Rocky Point Management Area, the Long Island Native Grass Initiative (LINGI), and the Forest Restoration project where Pine Barrens volunteers transplanted 1000-1200 pitch pine seedlings along the edge of an ecologically significant grassland in Rocky Point. Volunteers for the transplanting at Rocky Point included participants from the Boy Scouts of America, Central Pine Barrens Commission Protected Lands Council (PLC) and staff, Concerned Long Island Mountain Bicyclists, Long Island Greenbelt Trail Conference, NYSDEC, Quality Parks, NY State Office of Parks, Recreation and Historic Preservation, National Park Service, Suffolk County Department of Environment and Energy, and Suffolk County Water Authority (SCWA).

Ms. Carter mentioned that as part of the Carmans River Watershed Protection Plan the Protected Lands Council recommended the establishment of a north/south regional trail corridor between Rocky Point and the Great South Bay. Several agencies met and visited parts of the AVR 1-2-3 parcel acquired by the State, County, and Town, the Weeks Pond area, and an LIE underpass to evaluate the possibilities for the construction of trails for biking, equestrian and hiking uses. There are plans to dedicate the Dwarf Pines Trail to the late Edwin "Buzz" Schwenk.

Ms. Carter stated that the ATV damage and mitigation project in Flanders and Hampton Bays continues with the planning and monitoring of barricades that have been placed in an effort to stop illegal ATV use and destruction. She explained that the Science and Stewardship Division continues to host the Long Island Invasive Species Management area meetings and the topic of the last meeting included ways to detect invasive species before over growth occurs, and she mentioned that the division also provides support to Land Use Planning, Compliance and the GIS Department.

Mr. Turner asked Ms. Hargrave about the current status of the restoration at the LIPA substation. Ms. Hargrave explained that the substation restoration was complete, but the off site restoration had not been started.

#### **Law Enforcement Council**

**Summary:** Mr. Hynes reported that at the April meeting of the Law Enforcement Council (LEC) a resolution was passed to approve the purchase of 2 Motorola radios and 1 charger to be used for the ATV Task Force details and funding for the radios would be provided from the Environmental Benefit Fund (EBF). The radios would be owned by the Commission for use by the LEC. Currently, the Commission owns 15 radios used by 26 Law Enforcement Agencies and Mr. Hynes further stated that the radio frequency of the radios to be purchased is 800 megahertz which is the same frequency radio used by the Suffolk County Police Department.

**The motion was made by Mr. Scully and seconded by Mr. Lesko to approve the purchase 2 Motorola radios and one charger using funds from the EBF. The motion was approved by a 5-0 vote.**

#### **Proposed Amendments to Chapter 5 and 6 - Mandatory Credit Redemptions Requirement and Non-Residential Credit Allocation Formula: Status**

**Summary:** Mr. Scully provided an update on the status of the Plan Amendments. He stated the comment period left open after the March 16<sup>th</sup> hearing was closed on April 15<sup>th</sup>. He mentioned that staff has met with the Southampton Town Board to discuss concerns regarding the proposed Amendments and will be meeting with Riverhead and Brookhaven Towns as well.

Mr. Pavacic confirmed the status of the proposed Amendments as explained by Mr. Scully and added that staff will be meeting with the Riverhead Town Board on May 19<sup>th</sup> to provide an overview of the proposed Amendments and to address any concerns they may have. He mentioned that a date will be scheduled to meet with the Brookhaven Town Board prior to the June Commission meeting to provide an overview of the proposed Amendments and to address any of their concerns.

Mr. Pavacic stated that after meeting with Brookhaven Town, staff will finalize a responsiveness summary for all comments received on the Plan Amendments that will include those received during the public hearing, the comment period and from subsequent meetings held with the Towns. A discussion ensued regarding how additional comments and concerns will be managed. Mr. Scully mentioned that the Chapter 6 Amendments pertain to changes the Commission has either previously approved by resolution or are current practice that just requires codification in the CLUP.

### **Compliance and Enforcement**

**Summary:** Mr. Hynes stated that the Pine Barrens Commission staff and the Wildfire Task Force, in cooperation with the New York State Army National Guard and the local Fire Departments will be conducting a helicopter training mission on May 19<sup>th</sup> at Sarnoff Preserve in Southampton. If the mission is cancelled it will be rescheduled for Monday May 23<sup>rd</sup>. Mr. Hynes distributed and discussed the Incident Action Plan that he prepared for the event.

Mr. Hynes stated that the LEC ATV Task Force has conducted two details to apprehend ATVs and dirt bikes and has been investigating dumping complaints with the DEC in the Manorville / Yaphank area where there is increased illegal activity. The LEC and PLC have been working together to create barriers at vulnerable locations where illegal ATV and dirt bike activity has been reported. Mr. Hynes mentioned that the LEC has confiscated 988 ATVs, and have issued 2376 summonses in the last 5 years.

Mr. Hynes referred to the Compliance and Enforcement report (attached) for the period 8/21/07-5/18/11 that was distributed prior to today's meeting and discussed its contents. His report included a summary of current land use project incidents up through 5/18/11 and those still open from 2010 and a list of dumping incidents by date. He also reported on conservation easement monitoring and development project compliance site visits, and overall incident statistics from 1/1/07-5/18/11.

Mr. Lesko stated that Brookhaven Town has conducted an investigation of the clearing incident that occurred at Bartlett Pond Park and found that the clearing was a well intentioned act to eliminate invasive species, vines and weeds with no malicious intent. The Town Planning staff met with Parks Department staff and devised a site restoration plan that includes the following elements, new shrubs and plantings, and an assessment of the survival potential of the remaining trees, which would all be under the oversight of a landscape architect, with the restoration activities to be initiated in the Fall. All materials would be provided by the Town. He further requested that there be no oversight or monitoring by the Commission.

Mr. Amper stated his concerns regarding the actions of the Longwood Alliance for condoning and encouraging the clearing at Bartlett Park when they knew that it was a violation of the Pine Barrens Act and he requested that the Commission take action to ensure that this type of incident would not happen again in either of the three Towns.

### **Hearing:**

#### **Gazza Credit Appeal/ Westhampton Beach (900-311-1-27.1)**

**Summary:** A separate stenographic transcript exists for this hearing. Commission staff presented exhibits for the record. The applicant described the hardship and addressed the hardship criteria. The hearing was closed.

### **Planning and Land Use**

**Summary:** Ms. Hargrave referred to the distributed land use division update as she discussed the status of pending hardship and DRS applications including, the Artist Lake Plaza project, the Brush Development CGA project, the Hamptons Club at Eastport CGA project, the Meadows at Yaphank DRS project and the

Silver Corporate Park project. She stated that the Brush Development, Hamptons Club and Silver Corporate Park applications, which are all in the Town of Brookhaven, are incomplete and that the applicants have been notified. Ms. Hargrave further stated that the applicant for the Artist Lake project has requested an extension of the decision deadline to the June 15<sup>th</sup> Commission meeting and the Meadows at Yaphank is a DRS and a hearing will be scheduled. Referrals are continually being received from the Towns and staff is being notified of restoration activities for tracking purposes at Longwood Public Library and LIPA Riverhead Substation.

### **Project Review**

Mr. Murphree left the meeting prior to the discussion of the following item.

#### **JCJC Holding Company Inc. Core Preservation Area Extraordinary Hardship application/ Use Variance Hampton Bays (900-204-1-8)**

**Summary:** Ms. Hargrave stated that on May 3<sup>rd</sup> the Commission receive additional information from the applicant concerning a detailed examination of the permitted and special exception uses for the 3 acre parcel. She stated that the applicant is attempting to make the use a legal use while they continue to occupy the property. Mr. McCully, representative to the applicant for JCJC Holding Company stated the applicant has filed the zoning board of appeals application and appeared before the Commission regarding the hardship application and the SEQRA process that is pending. He further stated if the hardship is granted the applicant would refer back to the Town for the Zoning change.

Mr. Murphree returned to the meeting at this point.

#### **Artist Lake Plaza DRS/Middle Island (200-379-1-3.1,5.1, 12)**

**Summary:** Ms. Hargrave stated she received a letter (attached) from Mr. Charles Voorhis, the applicant's representative, that requested a decision deadline extension for this project to be extended to the June 15<sup>th</sup> Commission meeting.

**The motion was made by Ms. Prusinowski and seconded by Ms. Lansdale to approve the request for the decision deadline to be extended to the June 15<sup>th</sup> Commission meeting. The motion was approved by a 5-0 vote.**

#### **Meadows at Yaphank DRS/Yaphank (200-552-1-1.3, 200-584-2-1.3)**

**Summary:** The motion was made by Ms. Prusinowski and seconded by Ms. Throne-Holst to schedule a public hearing on this application for the 6/15/11 meeting at 3:00 pm. The motion was approved by a 5-0 vote.

**The motion was made by Mr. Scully and seconded by Mr. Walter to move into an Advisory Session with no further business to be conducted after the session. The motion was approved by a 5-0 vote.**

The meeting ended at approximately 4:30 pm.

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

1. Attendance sheet (5/18/11; 2 pages)
2. Central Pine Barrens Joint Policy and Planning Draft Budge (2011 - 2012; 2 pages)
3. Education and Outreach Report (April -May 2011)
4. Science and Stewardship Division Update (May 18, 2011)
5. April 2011 Central Pine Barrens Commission Forest Restoration Project Report
6. Compliance and Enforcement Report (8/21/07- 5/18/11)
7. Land Use Division Update (March - May 2011)
8. Letter from Nelson, Pope & Voorhis requesting the extension of the decision deadline for Artist Lake DRS to June 15, 2011, dated May 17, 2011.