



**Pine Barrens Commission Meeting Summary
for Wednesday, November 21, 2012 (Final Approved-12/19/12)
Riverhead Town Hall
200 Howell Avenue
Riverhead, NY**

2:00 p.m.

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

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

The meeting was called to order at approximately 2:00 p.m. by Mr. Scully with four members present which constitutes a quorum.

Peter A. Scully
Chair

Steven Bellone
Member

Edward P. Romaine
Member

Anna E. Throne-Holst
Member

Sean M. Walter
Member

Administrative and Public Comment

Public Comments

Summary: Mr. Amper stated that the Pine Barrens Society is currently suing the Commission over Westhampton Properties and went on to express the Society's concern that the Commission is making determinations that are beyond its jurisdiction. He provided several handouts (attached). He referred to the handout that provided a summary of ECL 57-0121 and suggested the Commission review this section that refers to Core Area and CGA hardship requirements. He referred to another handout that was prepared by the co-prime sponsor of the Pine Barrens Law, Steven Englebright which provided his summary of the legislative intent of the Act. Mr. Amper also mentioned that he sent a letter to the State Attorney General (attached) that asked him to have an advisory session with the Commission members on the intent of the Act and what applies to government in terms of hardships. He further stated that the exertion by Supervisor Walter at the last Commission meeting that government land is not subject to the Act is the most preposterous exertion he has ever heard and went on to discuss how this is not correct. He also distributed a chapter amendment to NYS ECL 57 (attached) which restricts government's ability to only obtain hardships of public health and safety. He discussed the towns' home rule and the role of Commission members as representing their individual agencies, but when serving on Commission they have the responsibility to protect the Pine Barrens resource.

Ms. Lansdale arrived at 2:15 pm.

Minutes for 10/17/12

Summary: A motion was made by Mr. Walter seconded by Ms. Lansdale to approve the 10/17/12 meeting summary. The motion was approved by a 5-0 vote.

Mr. Amper inquired whether the storage of cars at EPCAL that were damaged by hurricane Sandy will be discussed.

Commission Report for 2009 & 2010

Summary: Mr. Pavacic distributed the 2009-2010 Commission activity report that included a dedication to the prior Executive Director who passed away. He mentioned it would be posted on the Commission's website and distributed further after the Commission's review.

Science and Stewardship

Ecological Management Services RFP

Summary: Mr. Pavacic reported on the results of the Ecological Management Services RFP that had a response deadline of October 26th. He noted that several proposals were received and that they will be reviewed by a RFP review committee. A recommendation on the selection of the contractor for this work will be provided at the December Commission meeting and hopefully a contract can be executed in January. He noted that prescribed fire was a major component of this proposed work.

Ray Corwin Rocky Point to Yaphank Trail

Summary: Mr. Pavacic reported that a license agreement between the Commission and the Suffolk County Water Authority has been fully executed that will enable a trailhead and parking area to be established on part of the Authority's wellfield in Yaphank. Discussions with land managers followed by user groups will be held in order to develop plans for the trail that will then be provided to the Commission members for their review. Mr. Scully noted that discussions occurred at prior Commission meetings with Mr. Casey on developing action items to carry out establishing the trail.

Wildfire Response, Forest Management, Prescribed Fire & Response Action items

Summary: Mr. Pavacic provided a status report on the various actions items. He mentioned that Ms. Jakobsen provided a Firewise seminar to Town of Brookhaven staff last week that was well attended and that she also recently attended a NY Firewise Council Meeting. He noted that another Assessing Hazards in the Home Ignition course may be offered for town staff to attend since the one during the Academy was on the weekend and difficult for them to attend. Currently staff is compiling existing prescribed fire plans and Ms. Hargrave and Ms. Carter have prepared GIS maps that indicate the Pine Barrens boundaries, fire districts boundaries, and locations of public water supply. Due to the security sensitivity of existing public water supply location information, he asked that these maps not be widely distributed. Mr. Pavacic further noted that the GIS maps are a snapshot in time and since the underlying data that creates these maps is constantly being update they can become obsolete which means the maps require the field verification. It is intended to provide these maps to the fire districts.

Mr. Walter inquired as to whether any wells have been installed in the Manorville area. Mr. Pavacic responded that he would check into whether the County has installed any wells and report back.

New York Wildfire and Incident Management Academy Training October 26 through November 2, 2012

Summary: Mr. Scully noted the significant challenges the Academy faced this year with hurricane Sandy that occurred during the Academy's training period. Mr. Pavacic noted the heroic efforts of Bill Fonda, the Academy Coordinator and

Kathy Delligatti, Academy assistant during this time period. More than half of the courses were able to be delivered by condensing down the courses. The incoming storm was seen as a positive situation for the IMAT trainees as it resulted in an incident (hurricane) being handled within an incident (Academy training period). It was noted that four of the cancelled classes will be offered in mid winter and that refunds or an opportunity to attend the rescheduled classes will be offered to the students. Mr. Scully state that bridging structural and wildfire fighting training through the Academy was a very important effort.

Land Use Planning & Land Use

CLUP Amendments to Chapter 6 concerning Non-Residential Credit Allocation formula and Limitations on Credit Allocations

Summary: Mr. Scully noted that this was a minor amendment that was originally scheduled to be voted on at the July meeting. The vote was held off at that time due to Mr. McCormick's request to review documents to ensure the proposed amendment's content is consistent.

Mr. Collins provided comment on the conditions of overlap section (Section 6.3.3.8) and offered a change to the last sentence that discussed overlaps with a government agency. There was a discussion on the process for amendment approval and notification requirements and whether this minor change would be significant.

Mr. Milazzo provided the modification indicated below to the wording in Section 6.3.3.8 that did not change the substance of the amendment and therefore could be voted on today as amended.

6.3.3.8 No allocation of Credits shall be made to any parcel or portion thereof upon which an ownership overlap condition exists among more than one competing owners unless and until such ownership overlap condition is resolved by the applicant to the satisfaction of the Commission. In addition, applications for Credits on such parcels where the overlap condition includes as one of the competing owners any governmental agency or body, the Commission shall be communicated in writing by the Commission to the relevant governmental agency or body with a request by the Commission for guidance on resolving the overlap condition.

The motion was made by Mr. Collins and seconded by Mr. Walter to approve the attached Draft Resolution to Adopt Central Pine Barrens Comprehensive Land Use Plan (CLUP) Amendments to Chapter 6 Concerning the Non-Residential Credit Allocation and Limitations on Credit Allocation (as amended), dated 11/21/2012. The motion was approved by a 5:0 vote.

Project Review

Core Preservation Area

Kent Animal Shelter Core Hardship / Calverton (600-138-1-6.2 and 7.1).

Summary:

The motion was made by Mr. Scully and seconded by Mr. Walter to schedule the public hearing for the Kent Animal Shelter Core hardship application for December 19, 2012 at 3:00 pm. The motion was approved by a 5:0 vote.

Compatible Growth Area

Island Water Park CGA Hardship / Calverton.

Summary: Ms. Hargrave provided an overview of the request by Island Water Park for a 6 month extension to allow them more time to submit revised plans to the Town. The hardship approval they received from the Commission required them to submit revised plans and a revegetation plan within 60 days of that decision. In February they asked for a 9 month extension and now this October they have asked for an additional 6 months so they won't have to do as many revisions.

The motion was made by Mr. Walter and seconded by Mr. Collins to grant a 6 month extension for filing the plans. The motion was approved by a 5:0 vote.

Mr. Scully introduced a discussion on the storage of vehicles at EPCAL that were damaged from hurricane Sandy which was brought up earlier in the meeting and has been the subject of media coverage and the Commission's jurisdiction to assert over such activity. Mr. Pavacic reported that Mr. Hynes has been out to the site, the vehicles are intact and are from storm damage areas, and they are being stored on paved areas in EPCAL under controlled conditions with guards. Mr. Pavacic noted a preliminary review of the statute and the CLUP was performed and that it was not clear whether this would be under the Commission's jurisdiction. The Commission has not received anything formal on this matter. Mr. Walter discussed this was a temporary situation for six months with two, three month extensions allowed, it involves license agreements, it was implemented in response to Executive Order 63 to remove storm damaged vehicles and that they are being stored on the paved runways with twenty-four hour security. Mr. Amper mentioned the storage of vehicles on grasslands at the EPCAL site and inquired whether this is an intensification of use and a concern for the Commission since it is occurring in an SGPA and the protected Pine Barrens.

Mr. Scully discussed this issue from the standpoint of DEC that although DEC doesn't regulate vehicle storage, its concern would be the potential environmental impacts that could occur from storing vehicles on pervious services and that DEC's direct jurisdiction is over habit protection for listed and threatened species and EPCAL is a documented protected habitat area.

Mr. Amper questioned what are the Commission concerns if any to which Mr. Walter responded that it is problematic there are vehicles being stored on a dirt area, it would not be his choice, the Town is storing on impervious areas, but others are not. Mr. Scully noted in response to Mr. Amper's question this is the first opportunity the Commission is considering this matter and it has not reached a determination.

Hearing 3:00 pm

Longwood Public Library CGA Hardship application / Middle Island (200-402-1-23.1, 24.9, 200-403-1-3,4,17,18)

Summary: A separate stenographic transcript exists for this hearing. During the hearing, the attached applicant's exhibits were distributed. The public hearing was closed and the public comment period was left open for two weeks.

The motion was made by Mr. Scully and seconded by Mr. Collins to extend the decision deadline for the Longwood Library CGA hardship application to January 16, 2013. The motion was approved by a 5:0 vote.

The motion to adjourn was made by Mr. Walter and seconded by Ms. Lansdale. The motion was approved by a 5:0 vote.

Attachments (in order of discussion):

1. November 21, 2012 Commission Meeting Sign in Sheet
2. New York State Environmental Conservation Law Section 57-0121. Copy from pb.state.ny.us website, downloaded on 11/21/2012. (9 pages provided by Mr. Amper)
3. The Supreme Court of the State of New York, County of Suffolk, In the Matter of the Application of the Long Island Pine Barrens Society, Inc., Richard Amper, as Executive Director and in his Individual capacity, Robert McGrath and Thomas Casey as members of the Board of Directors and in their individual capacities (Petitioners) against The Central Pine Barrens Joint Planning and Policy Commission, and Westhampton Property Associates, Inc. (Respondents), Affidavit by Steven Englebright. (4 pages, provided by Mr. Amper)
4. Letter to Attorney General Eric Schneiderman from Richard Amper, Long Island Pine Barrens Society, dated November 19, 2012. (2 pages, provided by Mr. Amper)
5. Draft Commission Meeting Summary for October 17, 2012.(6 pages)
6. Draft Resolution to Adopt Central Pine Barrens Comprehensive Land Use Plan (CLUP) Amendments to Chapter 6 Concerning the Non-Residential Credit Allocation and Limitations on Credit Allocation, dated 11/21/2012. (1 page)
7. Adopted Resolution Central Pine Barrens Comprehensive Land Use Plan (CLUP) Amendments to Chapter 6 Concerning the Non-Residential Credit Allocation and Limitations on Credit Allocation, dated 11/21/2012. (1 page)