

Pine Barrens Credit Clearinghouse

James T.B. Tripp, Esq., Chairman
Andrew P. Freleng, Vice Chairman
Richard W. Hanley, Member
Mitchell H. Pally, Esq., Member
Robert Anrig, Member

Pine Barrens Credit Clearinghouse Board of Advisors Meeting Summary (Final-Approved 5/31/13) For August 21, 2012 9:00 am Commission Office, Great River, New York

Present: Board members: Mr. James Tripp (representing the Town of Brookhaven); Mr. Andrew Freleng (representing the County of Suffolk), Mr. Robert Anrig (representing the Town of Southampton), Mr. Rick Hanley (representing the Town of Riverhead), Mr. Mitch Pally (representing New York State) also in attendance were Mr. John Pavacic, Ms. Judy Jakobsen, Mr. Jerry Tverdy, Ms. Carol Ostrowski, and Mr. John Milazzo (from the Commission).

Administrative

The meeting began approximately at 9:15 am with a quorum present.

Public Comment

No public comments were made.

Minutes

Mr. Anrig noted a change to the October 20, 2011 Clearinghouse minutes that Mr. Pally should be added as being present.

The motion was made by Mr. Anrig and seconded by Mr. Freleng to approve the minutes from the October 20, 2011 Clearinghouse Board Meeting as amended, which was passed by a 4:0 vote.

Financial Report and the Program Overview

The attached financial and program overview reports were distributed and reviewed by the members without discussion. The financial report ending balance as of July 31, 2012 was \$2,491,610.86, interest earned was \$2,919 and no disbursements were made.

Program Overview – Report and Statistics

Mr. Tverdy reported that since January 1, 2012 there are 15 new parcels and 6.29 acres protected by conservation easements. He noted that 2.76 Credits have been generated, 13.4 Credits have been redeemed and only 6.73 Pine Barren Credits were sold in comparison to approximately 30 Credits sold last year.

CLUP Amendments

Mr. Pavacic reported that in the spring of 2011 public hearings were held for the proposed Mandatory Credit Redemption Requirement, the Non-Residential Credit Allocation formula and other minor changes to CLUP, with just the minor changes approved by the Commission. He noted that the Commission held a series of work sessions where the Amendments to Chapters 5 and 6 were reviewed and the Commission members agreed to take action on the Amendments to Chapter 6. In July an action on the Chapter 6 Amendments was scheduled, however, the Town of Riverhead Commission member requested to delay any action being taken in order to give him an opportunity to discuss with the other Commission members the possibility for public lands to obtain Pine Barrens Credits. Mr. Pavacic noted the discussion pertaining to public lands and credits was placed on the agenda for the August 22nd CLUP worksession. If the Commission is able to resolve these issues at the work session, then an action on the Non Residential Credit Allocation formula may be scheduled for the September Commission meeting.

Rick Hanley arrived at 9:30 am.

Additional discussion points included:

- The Mandatory Credit Redemption Requirement has always been supported by Southampton Town, Brookhaven Town has supported the redemption rate of 15%, but with some reservation, including the idea that it needs to be combined with possible mandatory receiving areas as well.
- The Riverhead Town Supervisor opposes the proposed Mandatory Credit Redemption Requirement if it includes the EPCAL parcels as receiving areas.
- The County may want to have some areas exempted from the Mandatory Credit Redemption Requirement such as Gabreski Airport and Suffolk Community College and Brookhaven may want the Ronkonkoma Hub and the Port Jefferson Bright to Light project exempted.
- The Town of Riverhead hired VHB Consultants to perform a planning study of the potential impacts of the Mandatory Credit Redemption Requirement on the EPCAL area.
- The Brookhaven Town Board members are concerned with how the Mandatory Credit Redemption proposal may impact the public benefits component of the development projects.
- Speculation as to why Riverhead would want to allow public lands to obtain Credits and how this may be related to EPCAL. A portion of the EPCAL property lies within the Core Preservation Area.
- Riverhead Town has determined they have a sufficient amount of receiving sites, and that the EPCAL property should be excluded from CLUP and Article 57. The analysis prepared by VHB Consultants is not yet available for distribution.

Correspondence concerning request to purchase Credits from the Clearinghouse

Mr. Christopher Kent, from Farrell Fritz, explained that his law firm is representing an applicant who wants to make an addition to an existing shopping center on County Road 83, within a quarter mile of the L.I. Expressway. He noted that the Town's approval is dependent on Suffolk County Department of Health Services (SCDHS) requirements for additional

sewage flow, which translates into 7,000 gallons per day that needs to be accommodated. To satisfy this requirement the applicant would have to buy approximately 23 Pine Barrens Credits.

Mr. Kent explained that he attempted to purchase Credits from a Riverhead Credit Owner, however Brookhaven Town is requiring that Brookhaven generated Credits be used to satisfy waste water redemption requirements. He further explained that he contacted a Brookhaven Credit Owner on the Clearinghouse Credit Registry, however the price the owner wanted for the Credits was prohibitive to his client. Mr. Kent was directed by Brookhaven Town to contact the Credit Clearinghouse to try to purchase Pine Barrens Credits which originate from Brookhaven.

Additional points discussed included:

- The process to purchase Credits from the Clearinghouse and how many Credits are available.
- The possibility of supplementing the required twenty three Credits necessary for the project with Pine Barrens Credits from Riverhead Town.
- Attorney fees are cost prohibitive to a client when Credits are purchased from multiple Credit Owners.
- The Clearinghouse held reverse auctions in the past for a specific individual that needed to purchase Credits.
- After selling its Credits, the Clearinghouse could hold a reverse auction.
- Limiting Brookhaven Credit Redemptions to projects in Brookhaven Town and its effect on the price of Credits.
- The letter from the Town of Brookhaven to the Suffolk County Department of Health Services (SCDHS) that states the Town will accept Credits from Riverhead and Southampton to be redeemed for Brookhaven projects that require additional sewage flow.
- A possible role for the Clearinghouse as a mediator between Credit buyers and sellers to expedite the redemption process.
- Article 57 and the CLUP and what it says with regard to intermunicipal transfer of Credits.
- The major factors to consider when determining a price for Credits owned by the Clearinghouse are that the Pine Barrens Credit program was established to compensate Core area private property owners, to serve the developers who need Credits for their projects and to promote the Transfer of Development Rights (TDR) Program.

The motion was made by Mr. Freleng and seconded by Mr. Pally to go into executive session to discuss the terms for selling Credits held by the Clearinghouse. The motion was passed by a 5:0 vote.

The Board members entered into Executive Session at 10:15 am and returned to public session approximately 11:00 am.

The motion was made by Mr. Anrig and seconded by Mr. Hanley for the Clearinghouse to advertise that it is offering for sale to the highest bidder Credits owned by the

Clearinghouse, starting at a minimum price of \$95,000, the Credits will be sold in ten - 1 Credit blocks with one 1.19 Credit block, with a 30 day bid response period, the purchaser must have an application pending before a municipal entity, and the selected purchaser will be able to have the Clearinghouse hold the purchased Credits for six months upon payment of a refundable deposit of 10% of the total purchase price and a non-refundable payment of 2.5% of the total purchase price to the Clearinghouse, this option can be renewed for an additional 6 months at the Clearinghouse's discretion. The motion was passed by a 5:0 vote.

There was additional discussion on parcels with overlap issues and title problems and whether or not there should be a process or other allocation method considered to enable them to obtain Credits.

The next Clearinghouse Board meeting is scheduled for October 26 at 9:30 am.

The meeting ended at approximately 11:15 am.

Attachments:

1. Sign in sheet
2. Meeting minutes of August 26, 2011
3. Credit program financial report for August 2011
4. Letter to the Brookhaven Town Supervisor and Town Board, dated 10/25/11
5. Draft SEQRA Negative Declaration
6. SEQRA Assessment form, dated 3/9/11
7. Comprehensive Land Use Plan Amendments document, dated 10/19/11
8. Draft memorandum "Scenarios for Selling Pine Barrens Credits", dated 10/12/11