

Pine Barrens Credit Clearinghouse

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

Pine Barrens Credit Clearinghouse Board of Advisors Meeting Summary for June 27, 2008 (Final-Approved 11/14/08) Commission Office, Great River, New York 9:00 A.M.

Present: Board members: Mr. Jim Tripp (representing Brookhaven Town); Mr. Andrew Freleng (representing the County of Suffolk); Mr. Mitch Pally (representing the State of New York), Mr. Richard Hanley (representing Riverhead Town), also in attendance were Ms. Judy Jakobsen, Mr. Ray Corwin, Ms. Julie Hargrave and Lawrence Hynes (all from the Commission).

Administrative

The meeting began with a quorum present at 9:10 am

Ratification of meeting summary of 8/29/07 and 9/6/07

With a quorum present Mr. Pally made the motion to approve minutes, Mr. Freleng seconded and the minutes were officially approved.

Public Comment

There were no public comments.

Correspondence

A letter from Chris Kent to the County Clerk was included in the handout and reviewed. Ray Corwin explained the origin of the letter and its significance. Due to the fact that newly hired employees at the County level are reviewing and recording Conservation Easements it was necessary to send a letter to the County Clerk's office requesting that they be recorded at no charge.

County Treasurer's Report

The Pine Barrens Credit Program's financial reports were distributed for the months of September 2007 through December 2007 and January 2008 through May 2008. The ending balance in December 2007 was \$3,274,513.71 and the ending balance May 2008 was \$3,311,005.58.

Program Overview

Judy Jakobsen referred to the handouts, which depict statistical data for LOIs, credit certificates issued and pending credit applications and conservation easements in all three towns. She reviewed the data on each handout, which reflects the credit program activity for 2007 and 2008 as well as pending applications. She stated that most of the activity has been with the Town of Southampton in terms of credit transfers and redemptions. The

retiring of credits is mostly for the purpose of increased sewage flow on projects in the Towns of Brookhaven and Southampton.

Mitch Pally asked if the data analysis pertaining to Commercial uses verses Residential uses has been completed. Ray Corwin stated that there has been some work completed on collecting that data and an intern would be hired to complete the work.

The purpose of the distributed material was to inform the Board of the recent program activity. Mitch Pally specifically inquired as to whether redemption use has slowed compared to past years. Ray Corwin replied that he could get that information to the members during this meeting.

Recent and Pending Applications

Included in the handout were three credit appeals reports. Ms. Jakobsen reviewed all three reports and described why the landowners were appealing their original credit allocation. In the case of Steven Papell there was no credit allocation due to the fact that his lot size was too small and did not meet the Commission's requirement to be 2 times the minimum acreage required by zoning and the existing structure on the property prohibited the issuance of 1 credit. The Commission did not see any relevance in the Papell appeal to warrant any change in decision to allocate credits. Ms. Jakobsen explained the history behind the Papell credit appeal and a discussion ensued.

Ray Corwin handed out a year-end summary from January 1, 2008 tracking changes in Easement Protected Lands and Pine Barrens Credits to answer a previous question from Mr. Pally in relation to Credit Redemptions. He spoke about credits redeemed since January 1st with 80% of them being retired in the Town of Southampton and the rest are in the Town of Brookhaven. A discussion ensued regarding the decrease in credit redemption rates in recent years, and the strategies builders use to avoid retiring credits for their projects. The point was made that there have been no redemptions in the Town of Brookhaven recently where they were expected. There is no need to retire credits due to the slowing of the economy and the effect on the building industry. Mitch Pally made the observation that the credit program is not working due to the towns, civic associations and government has been interfering with the goals of the credit program. A discussion ensued concerning this issue.

John Milazzo mentioned that there are no PDDs currently pending and that the Commission denied a hardship for the most recent PDD "Tall Grass", therefore retiring credits for that project would not happen. Another project was mentioned "Riverside" in Southampton that will probably meet the criteria to retire credits as a PDD. Jim Tripp made the statement that the Board should require all PDDs to retire Pine Barrens Credits. Ray Corwin suggested the Board make a statement of principal in the Plan Revision that "No PDD will be approved unless As of Right credits are required". Andy Freleng made the statement that the towns also review the public benefit associated with PDDs and that is a component of the decision to approve the project regardless of As of Right redemptions. The Credit Program is in competition with other TDR programs that are not cost prohibitive. A discussion ensued concerning these issues.

Mr. Tripp made the statement that a letter should be written by the Board to the Commission and the town reminding them of the Clearinghouse policy requiring all PDDs to require the use of the As of Right redemptions. Andy Freleng spoke about the “Workforce Housing Act” that is expected to be passed by the Governor allowing a 10% density bonus as an incentive to create affordable housing. A discussion ensued concerning the different programs and affects on the Pine Barrens Credit Program.

Mitch Pally spoke about Suffolk County reducing the value of credits by allowing waivers to Article 6. Ray Corwin stated that the Plan Amendments should include a statement by the Board to require large-scale projects of mixed uses to always retire credits. As of Right credits redemptions should be required when a receiving area becomes a PDD or DRS.

A motion was made by Mr. Hanley to draft a letter to Suffolk County Planning Commission voicing the boards concern over the lack of discussion for the retirement of Pine Barrens Credits for the Riverside PDD project. The letter will elaborate on a policy to keep the redemptions comparable in As of Right Receiving areas to the original formula. The motion was seconded by Mr. Pally, and all were in favor.

John Milazzo stated that all recent credit appeals including Papell, Ringhoff and Tuccio have been denied by the Commission.

Conservation Easement Monitoring Program Status Report

Ray Corwin introduced Larry Hynes as the Compliance and Enforcement Officer who was hired in the beginning of this year. Mr. Corwin explained Mr. Hynes’ job duties and one of his primary projects is to provide baseline documentation of the 1345 acre’s that are under Conservation Easements. Mr. Hynes reviewed the Compliance and Enforcement Report and spoke about how he and Julie Hargrave approach monitoring projects for compliance with the Commission’s allowances.

Mr. Hynes and Julie Hargrave designed a form for monitoring the parcels, which have Conservation Easements. In Southampton there was a total of 48 sections to be reviewed and he has completed 17 with 31 left to complete by the end of August. He works with Ms. Jakobsen and Julie Hargrave checking aerials to analyze any changes to the parcels under Conservation Easements. He spoke about some of the obstacles involved in checking parcels including not having access to them or being able to find their parameters in the field as they are marked on the survey. He mentioned that most often disturbances are related to ATV use and dumping. A discussion ensued regarding landowners giving permission for ATV use on land protected by Conservation Easements. Larry reported that a large component of his work is about keeping the lines of communication open between the different agencies in the Pine Barrens such as the DEC, and State Parks Departments.

He mentioned that each parcel section has an individual corresponding report; a site inspection data form and photographs are kept in the folder with all reports.

Mr. Hynes updated the incident reporting system and created a new form for documentation of each incident. Last year there were 28 incidents reported in the Pine Barrens and to this date a total of 36 have been reported since January 2008. Many of the reported incidents involve illegal clearing activities. Mr. Milazzo added that these violations result in fines against the parcel owners and some of the incidents are resolved with the owners having to re-vegetate the cleared land. A discussion ensued regarding particular clearing incidents including the North Street Case described by Mr. Hynes. Mr. Hynes tries to follow through to make sure each incident is resolved. A discussion ensued regarding the Conservation Easement language regarding Environmental Conservation Law Article 57. Mr. Tripp made the statement that the Conservation Easement language should reflect the Commissions stance that violations regarding clearing limits will be held to strict compliance and enforcement standards and violations will result in heavy penalties.

Judy Jakobsen described the site inventory process of the Boy Scout Camp Wauwepax, which is on going. Several site visits have been made and each building and parking in existence field inventoried and compared to site survey.

John Milazzo described the rationale surrounding the reserved rights section of the Conservation Easements and that landowners were allowed to do certain activities on the land subject to the easement without permission, review or approval. The list of actions was broadly interpreted. He stated that owners must now seek Commission approval regarding any changes to the reserved rights section. The vast majority of easement protected land become public land which has been given or sold to the County and the County uses our title search but it has to be insured that the County follows the guidelines set forth in the reserved rights section of the easements.

Projects

Ray stated that Ann Carter is reviewing 30,000 – 40,000 records including duplicates and overlaps to find out what the exact list of parcels is in terms of current owners and parcels with easements and which ones are under public ownership. The process has been long and tedious and the outcome is necessary to determine the accurate ratio of sending areas to receiving areas in the Core and CGA. Mr. Corwin needs the information in order to complete his GEIS on the proposed Plan amendments. Ms. Carter should complete the review in September.

The result should also provide the exact number of credits available to be obtained by core parcel owners.

The next Clearinghouse Board meeting is September 19th at 9:00 a.m. and Mr. Corwin will be sending out an email report prior to that meeting regarding the status of the parcel analysis.

Ms. Jakobsen and Carol Sholl have made several visits to the Health Department to collect data regarding credit redemptions and how they were used to intensify sanitary usage or

increase square footage. An intern will be joining the staff for the summer to complete the data collection.

Plan Update

Ray Corwin had two handouts in regards to the Plan update. The material included amendments to Chapter 6, which highlight Clearinghouse decisions and resolutions. The Town of Brookhaven is proposing new CGA sending areas, as well as receiving areas in the form of Hamlet Centers within the Middle County Road Corridor. Attached to the handout is a map, which illustrates the location of the hamlet centers. All changes that have been made to the TDR program over the years both administrative changes as well as policy changes are included in the original amendments. Julie Hargrave and Mr. Corwin will be analyzing the environmental impact of the new sending and receiving areas when the current data collection is complete. The Commission will review the draft Plan amendments once all of the data currently being collected is analyzed.

Ray explained according to the Plan requirements there should be a 1 to 1 ratio between receiving capacity and sending potential, but the Plan recommends a 2.5 to 1 ratio between receiving capacity and sending potential. A discussion ensued regarding decisions the Town of Brookhaven needs to make regarding credit allocations formulas for new CGA sending areas. For the record Mitch Pally stated his firm represents landowners in the Overton Preserve.

The meeting was adjourned.

The next meeting will be Friday September 19th at 9:00 am at the Commission office.

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Pine Barrens Credit Clearinghouse Board of Advisors Meeting Summary for November 14, 2008 (Final-Approved 1/9/09) Commission Office, Great River, New York 9:00 A.M.

Present: Board members: Mr. Jim Tripp (representing Brookhaven Town); Mr. Andrew Freleng (representing the County of Suffolk); Mr. Mitch Pally (representing the State of New York), Mr. Robert Anrig (representing the Town of Southampton) also in attendance were Ms. Judy Jakobsen, Mr. Ray Corwin, (all from the Commission) and John Milazzo (Staff Counsel to the Commission)

Administrative

The meeting began with a quorum present at 9:05 am

Ratification of meeting summary of 7/31/08

With a quorum present Mr. Freleng made the motion to approve the minutes, Mr. Pally seconded and the minutes were officially approved.

Public Comment

There were no public comments.

County Treasurer's Report

The Pine Barrens Credit Program's financial reports were distributed for the months of June 2008 through October 2008. The ending balance as of October 31, 2008 was \$3,337,570.13 and interest earned was \$26,564.55.

Program Overview

Ms. Jakobsen reviewed the tables in the handout, which illustrate credit program values and averages for redemptions, conveyances and all other transactions. She reviewed the tables illustrating credit program transactions since January 2008 to the present, including new parcels with conservation easements, conveyances of PBCs with their dollar values, redemptions, new certificates and recent LOIs. A discussion ensued regarding the data.

Recent and Pending Applications

The preliminary work leading up to the creation of the Boy Scout property easement is completed and the next step is to craft the easement and issue the allotted 99.78 credits.

Mr. Milazzo spoke about the parcels owned by the L.I. Country Club, which consist of approximately 200 acres. The property contains parcels located in the Towns of Southampton and Brookhaven. Credits have already been issued for the parcels in Brookhaven. A letter of interpretation has been issued for the parcels in Southampton and

they are ready to move forward with the credit application phase. Mr. Pally referred back to the chart, which depicts how many credits are outstanding and available for redemption.

Mr. Milazzo spoke about the status of the two current lawsuits; the first is the Ringhoff family, 150-acre parcel. An appeal for an additional half to one credit per acre has been presented to the Commission due to the assertion that improved and paved roads exist near the parcels. The Commission denied the appeal. Ringhoff sued the Commission and the Attorney General is handling the case. A discussion ensued regarding prior appeals that were approved by the Commission.

The Clearinghouse LOI for 0 credits on the Tuccio parcels resulted in an appeal that was denied and the case dismissed, the Attorney General's office is handling the case. A discussion ensued regarding the decisions.

Ms. Jakobsen explained the last page of the packet, which is a letter from Walter Dawydiak of the SCDHS. Stephen Emmerman redeemed a credit certificate for a project that later was revised at the town level for a two-lot residential/commercial subdivision. The Town's revision of the project would require fewer credits than the amount redeemed. Mr. Dawydiak's letter was a request to the Clearinghouse to return .095 credits to Mr. Emmerman. Ms. Jakobsen advised the health department that she would need more information from the Town with regard to the project. A discussion ensued regarding the details of the transaction and its affect on future redemptions.

Mr. Anrig made a motion to award .10 credits to Mr. Emmerman, which was seconded by Mr. Freleng and approved unanimously.

Conservation Easements

Mr. Corwin discussed the CE monitoring program and Compliance and Enforcement Report, which will be provided at the next Commission meeting. He reported ninety seven percent of the easement-protected parcels have been inspected. Mr. Hynes, the Commission's Compliance and Enforcement Coordinator, will be inspecting each parcel prior to the issuance of conservation easements.

Mr. Hynes has completed inspecting the Boy Scout parcels and is moving on to inspect the parcels associated with the Peconic River Sportsmans Club.

Ms. Jakobsen stated that the Schiff Boy Scout property survey has been reviewed and was found to be comprehensive and well detailed. John Milazzo will be crafting the CE for the property. The owners have a prospective buyer for some of the credits that will be generated from the property. She went on to discuss that the Long Island Country Club owners are requesting that the Commission accept an aerial in lieu of a survey for the Southampton parcels like they had provided for their Brookhaven parcels. Staff wrote a letter to the owners advising them the Clearinghouse requires surveys for all properties coming under an easement.

Mr. Milazzo stated a survey allows for concise monitoring of the CE protected parcels. A discussion ensued regarding the Clearinghouse policy to require surveys.

Mr. Pally made the motion to require a survey for the L.I. County Club and to add the wording “as is the case with all other standard easements”; the motion was seconded by Mr. Freleng and approved unanimously.

A discussion ensued regarding easement modifications to reflect prohibitions on the use of fertilizers, pesticides, herbicides and other environmentally harmful chemicals. The concern is that language changes should not affect existing legal statutes, such as ongoing agricultural uses.

Mr. Pally made the motion that the easement be modified to suggest alternatives to the use of chemicals without placing restrictions on their use, the motion was seconded by Mr. Freleng and approved unanimously.

Mr. Milazzo asked the members to make a revised motion to award 0.09 credits to Mr. Emmerman.

Mr. Pally made the motion to return 0.09 credits to Mr. Emmerman, the motion was seconded by Mr. Freleng and approved unanimously.

Projects

Mr. Corwin reviewed the data analysis performed by Ann Carter, which listed parcels by zoning and gave a qualitative analysis of credit yields available in sending areas. A discussion ensued regarding the purpose of the analysis in establishing the ratio of sending to receiving areas. Mr. Tripp spoke more on the subject of adopting the policy that credits be required for all PDDs.

Jim Tripp advised the board to send a letter to the Commission raising the issues presented by the parcel analysis, which suggests the need for the towns to maintain a 1 to 1 ratio of sending to receiving areas.

Ms. Jakobsen spoke about the pine barren credit redemption analysis. She reviewed the credit redemption table provided in the handout. The part time intern, Jerry Yaroslav collected and analyzed data provided by the SCDHS regarding credit redemptions since the beginning of the program. The analysis provided overall percentages of industrial, commercial and residential redemptions.

The next meeting is scheduled for Friday January 9th at 9:00 a.m.

The meeting was adjourned at 10:35 a.m.