

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 January 9, 2009 (Final - Approved 3/20/09) 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), Mr. Richard Hanley (representing Riverhead Town), also in attendance were Ms. Judy Jakobsen, Mr. Ray Corwin, Ann Carter (all from the Commission), John Milazzo (Staff Counsel to the Commission), and Kim Shaw (Suffolk County Department of Health Services);

Administrative

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

Ratification of meeting summary of 11/14/2008

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.

Correspondence

Ms. Jakobsen stated that Margo Miles from the Town of Huntington sent an email stating that they have a new transfer density program. She will be in further contact with Ms. Miles to find out more about that program.

County Treasurer's Report

The Pine Barrens Credit Program's financial reports were distributed for the months of November 2008 through December 2008. The ending balance as of December 31, 2008 was \$3,457,102.88 and interest earned was \$9,532.75.

Program Overview

Ms. Jakobsen referred to the handout that summarizes Clearinghouse activities and statistics from the beginning of the program through 2009 with specific references to activities of interest in 2008 in terms of parcels now protected by easements, conveyances and redemptions. A discussion ensued regarding the affect on the volume of numbers when a credit is sold more than once.

Ms. Jakobsen stated that the Nassau County Boy Scout sale sold 1.64 pine barrens credits for \$75,000.00 per credit and she discussed the drop in price per credit since 2008. She

spoke about the Easement Monitoring program conducted by Larry Hynes and that 97% of the parcels with easements have been monitored and found to have no violations.

Recent and Pending Applications

Ms. Jakobsen stated there have been fewer applications in 2008 for letters of interpretations compared to previous years. Since the last meeting six credit certificates have been issued against easements. One of those was issued in Brookhaven town, one in Riverhead, and four on parcels in Southampton. She continued providing information about the details of each easement and data relating to conveyances since the November meeting.

Conservation Easements

Ms. Jakobsen stated that the Boy Scout Property Conservation Easement was signed on December 18, 2008, which resulted in 99.78 credits. It consisted of 403 acres and a press release will soon go out since it is the largest single parcel to receive credits since the program's inception.

Projects

Ms. Jakobsen spoke about the credit redemption analysis of Suffolk County Health Services redemption information that indicates 180 additional residential units have been generated through credit redemptions since the beginning of the credit program. The 180 units represent 86 single family, 54 PRC, 25 condominiums, 10 multi family and 5 apartment units. Ms. Jakobsen stated most credit redemptions have been related to health department requirements for increases in sewage flow and a discussion ensued.

Mr. Corwin stated that Brookhaven Town has provided zoning data, which has been useful for the core area parcel analysis. Ms. Carter provided a handout on the core parcel analysis she performed using County data that identified the remaining number of core area parcels eligible for credits and their acreage. She discussed the methods she used to determine the estimates reflected in the analysis and a discussion ensued regarding credits yet to be absorbed in receiving areas.

A discussion ensued regarding the ability of the program to maintain a one to one as of right credit ratio. It was determined that the analysis was effective in its purpose to determine the number of outstanding credits in relation to the parcels in the core.

Mr. Corwin stated that he and staff members Julie Hargrave and Judy Jakobsen met with Brookhaven Town staff to review and discuss the Town's current and proposed sending and receiving areas and conformance with the Commission's Plan. A discussion ensued regarding Brookhaven Town's receiving capacity and the Plan guidelines. Mr. Milazzo advised closing the session to discuss the topic further. Mr. Corwin stated that the other two towns have not provided receiving area computations, and stated they may be made available in the future.

Comprehensive Land Use Plan Update – Chapter 6

Mr. Corwin stated that he previously provided copies of Chapters 3, 4, 5 and 6 of the Plan amendments, which are unofficial drafts. There are changes in the proposed Plan amendments that reflect Brookhaven Town's hamlet centers and transition zones.

Mitch Pally stated for the record that his firm represents one of the prospective sellers of the Overton Preserve. Mr. Corwin continued by providing the numbers regarding the additional pine barren credits generated by the Overton Preserve. A discussion ensued regarding other ways additional density is allowed by the three Towns in lieu of credit redemptions.

Mr. Tripp made the statement that receiving area capacity needs to be established before the Commission could enforce a policy to require credit redemptions. A discussion ensued regarding the increased capacity of receiving areas and the one to one as of right ratio. A further discussion ensued regarding the possibility of the numbers being affected by transition areas in Brookhaven Town now being recognized as sending areas.

Mr. Corwin stated the Commission plans to offer an annual workshop on ECL 57, the Commission's Plan and Pine Barrens Credit Program to town environmental staff, planning boards, and zoning boards.

Mr. Corwin further discussed Plan Amendments related to credit use. He stated the Plan Amendments include a provision that addresses when Pine Barren Credits are not redeemed on Planned Development Districts, they will automatically become Developments of Regional Significance, which must be reviewed by the Commission. This approach will set the tone of the policy, which will allow the Commission to interpret the town PDD codes. This approach may influence the towns to interpret their own codes requiring credit redemptions for PDDs. A discussion ensued regarding this approach and the Commission's review of Tall Grass PDD.

Discussion of Possible Program Outreach Initiatives and Future Focus

Mr. Tripp discussed the prior reverse auction and out reach by mail to Core land owners. It was mentioned that a generic letter could be sent informing owners that they may be eligible for credits after applying for a Letter of Interpretation. Mr. Corwin stated that Dick Amper, Executive Director of the Pine Barrens Society, made an offer to assist with a direct market mailing and a discussion ensued.

The next meeting is scheduled for Friday March 6th at 9:00 a.m.

The meeting went into executive session at 10:15 a.m., and it was stated no further business would be conducted after the executive session.

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Robert Anrig, Member

Pine Barrens Credit Clearinghouse Board of Advisors Meeting Summary for March 20, 2009 (Final – Approved 10/9/09) 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), Mr. Richard Hanley (representing Riverhead Town), also in attendance were Ms. Judy Jakobsen, Mr. Ray Corwin, Ms. Ann Carter, Ms. Julie Hargrave (all from the Commission), Mr. John Milazzo (Staff Counsel to the Commission)

Administrative

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

Ratification of meeting summary of 1/9/2009

Mr. Pally made the motion to approve the minutes; Mr. Freleng 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 January – February 2009. The ending balance as of February 28th was \$3,349,992.26 and interest earned was \$2,889.38.

Program Overview

Ms. Jakobsen referred to the summary table handout and discussed additions to the table since the last meeting. There have been a total of seven credits redeemed since the January meeting and she reviewed additional Conservation Easement acreage and new credits generated. She continued to list the towns in which these additions occurred. Ms. Jakobsen referred to the last page of the handout that reflects the data on town redemptions versus health department redemptions stating that town redemption rates have been much lower in comparison to health department rates over the history of the credit program. Mr. Corwin stated that health department credit redemptions usually require smaller amounts of credits, and occur more often due to prescribed ministerial factors. Town redemption rates occur less often, due in part to the fact that density requirements can be offset by other factors such a public benefit provided. The statement was made that lower rates of town redemptions are due to factors relating to the ZBA approvals and PDDs that do not include credit use and a discussion ensued.

Projects

Ann Carter provided a handout on the Core Preservation Area Analysis that refines the original estimates. Added to the report is data reflecting additional credits that could be generated when old file maps are factored into the analysis. Ms. Carter discussed the methodology used to update the analysis and stated that recent aerial photos were reviewed to identify road front parcels that potentially increase the number of new credits that could be generated she explained other adjustments to the original analysis. Jim Tripp praised the analysis and thanked Ms. Carter for her efforts.

Conservation Easements

No additional parcels have been monitored since the last Clearinghouse meeting. Mr. Hynes and Ms. Hargrave are continuing baseline monitoring.

Comprehensive Land Use Plan Update – Chapter 6

Jim Tripp stated that previous discussions included policy recommendations to the Commission requiring the towns to redeem credits for all projects where additional density is requested. He stated to date official policy has not been affected and the recommendation should be made urging the Commission to do so before the June Commission meeting.

Mr. Anrig stated for the record that the Sandy Hill project is a conflict of interest for him on this issue.

Mr. Tripp and Mr. Pally attended the February Commission meeting and spoke on the subject of the Plan Amendments including a requirement for the towns to retire Pine Barren Credits. At the Commission meeting, the chairman, Mr. Scully suggested the subject be brought up and discussed at the next Advisory Committee meeting.

Mr. Tripp referred to his memo provided in a handout that discussed the current disposition of the towns regarding development projects that require additional density. Presently the towns utilize the credit program on a discretionary basis and a discussion ensued regarding possible methods of ensuring the towns adhere to the policies set forth in Chapter 6 of the Plan regarding the redemption of credits. He stated one approach would be to require the towns to retire credits equivalent to no less than fifty percent of the sanitary flow table values used by SCDHS for any particular use. If the project were to go before the Commission for review and a hardship was established the minimum allotment would be no less than twenty five percent of the flow table values.

It was discussed that a sewage treatment plant on the site would not eliminate the credit redemption requirement under any circumstance and a discussion ensued regarding interpretation of the fifty percent value and the variables, which exist due to residential or commercial use. There was a further discussion regarding the flow charts used by SCDHS. The same formula would apply regardless of which town the project is in or the type of use.

It was further discussed that the new policy requirement for towns to redeem credits on all projects will be based on current zoning dating back to January 1, 2009. All projects that fail to meet the fifty percent credit redemption requirement will be subject to review by the Commission. Mr. Corwin stated that the Commission would review all projects affected by a change in zone and a discussion ensued regarding amending the Commission's development standards to include the updated credit redemption requirement. The town would report to the Commission periodically that the one to one sending to receiving area ratio is being maintained when projects take place outside the CGA. A discussion ensued regarding special interest groups that are opposed to development of any kind and the Commission's mission to support the transfer of development rights within the Pine Barrens.

It was decided that a resolution should be drafted to require towns to redeem credits for all CGA projects in need of additional density or sewage flow intensity.

Andy Freleng made the motion to adopt the attached resolution; the motion was seconded by Mitch Pally and approved unanimously.

The next meeting is scheduled for April 20, 2009 at 9:00 a.m.

Pine Barrens Credit Clearinghouse

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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 October 9, 2009, 9:00 AM (Final – Approved 1/15/10) Commission Office, Great River, New York

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), Mr. Richard Hanley (representing Riverhead Town), also in attendance were Ms. Judy Jakobsen, Mr. Ray Corwin, Ms. Ann Carter, Ms. Julie Hargrave (all from the Commission), Mr. John Milazzo (Staff Counsel to the Commission), Mr. Stephen Jones (CEO, Suffolk County Water Authority), Mr. Richard Amper (Long Island Pine Barrens Society).

Administrative

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

Ratification of meeting summary of 3/20/2009

Mr. Pally made the motion to approve the minutes; Mr. Freleng 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 July – August 2009. The ending balance as of August 31st was \$3,358,490.83 and interest earned was \$2,850.60.

Program Overview

Ms. Jakobsen provided an overview of the Credit Program's activity since the last meeting in terms of Credits generated, redeemed and conveyed and new easements (handout provided). Information was also provided on the number of Credits still owned by the original parcel owners as of September 2009. There were several points discussed related to these numbers, sending and receiving areas, and Credit use.

1. Southampton is currently performing an analysis of its Credit redemptions, and the current status of sending and receiving areas.
2. Brookhaven Town needs to perform a sending and receiving area analysis.
3. How can the Commission influence the Towns to require the redemption of Credits for zone changes with respect to PDDs?
4. Whether it is possible to impose a time frame on the Towns to meet the Credit Clearinghouse goal to absorb outstanding credits.

5. If the minimum requirement does not absorb Credits at a reasonable rate, parameters should be set up by the Commission to assist the Towns in requiring the redemption of Pine Barrens Credits.
6. The Towns' concern for public benefit versus the absorption of Credits.

A discussion ensued regarding a nursing home project that intends to add 100 more beds resulting in increased sewage flow intensity and the following points were made.

1. Developers use alternative methods other than the use of Pine Barrens Credits to meet Town density requirements.
2. The Credit Clearinghouse needs to continue to evaluate its goals.
3. The Commission needs to finalize the Plan Amendments to make guidelines for Credit use more definitive and projects need to be reviewed by the Commission on an individual basis.
4. Sending areas abound in Brookhaven but the Town is reluctant to utilize the Credit Program where changes in zone require additional density.

Mr. Pally made a motion to reaffirm the March 20, 2009 Resolution of the Clearinghouse that recommended the Commission require the Towns to redeem Credits for all CGA projects in need of additional density or sewage flow intensity. The motion was seconded by Mr. Hanley and approved unanimously.

Mr. Pally made a motion to have staff draft a letter for review by the Clearinghouse to the Suffolk County Department of Health Services (SCDHS) Board of Review to clarify their policy regarding when Pine Barren Credit redemptions are required versus when sterilization of other lands is required. The motion was seconded by Mr. Hanley and approved unanimously.

Conservation Easements

Ms. Jakobsen stated that 95% of the Core Area parcels protected by conservation easements under the Credit Program have been monitored. Most of the parcels in the three Towns are in compliance with their easement conditions. During the monitoring process, Mr. Hynes has discovered field situations not related to the easement parcels he was inspecting. Baseline documentation of the buildings at the Peconic River Sportsman's Club was obtained enabling Mr. Hynes to complete the initial monitoring of these parcels.

Core Preservation Area

Ms. Carter displayed a draft map which she prepared depicting conservation easement protected lands. There are a total of 725 parcels and 1,780 acres that are protected as a result of conservation easements. Discussions ensued regarding the level of protection the easements provide for public lands or parks.

Town Projects in Receiving Areas

Ms. Hargrave provided an overview of the Sandy Hills project that will result in 100 units over the customary yield allowed by the Town's zoning code. The Town is requiring the redemption of 3 Pine Barrens Credits for this project based on its Findings statement.

Mr. Anrig requested that it be noted in the minutes that the Sandy Hills project presents a conflict of interest for him since his employer, the Bank of Smithtown, holds a mortgage on the property and therefore he did not comment on this project.

The Sandy Hills project is not moving forward at this time due to litigation not involving the Commission. Commission staff has provided comments on this project. A discussion ensued regarding a possible policy whereby the Commission should ask the Towns to involve the Clearinghouse in the decision making process on the amounts of Credits to retire for all projects where a change in zone exists and increased density requires Credit redemption.

Mr. Pally made a motion that the Towns should advise the Commission of any applications before the Town that involve a change in zone; the motion was seconded by Mr. Freleng and approved unanimously.

Mr. Pally made a motion to request that the Commission consult with the Credit Clearinghouse Board on changes in zone and increases in density for the purpose of recommending appropriate Credit redemption; the motion was seconded by Mr. Freleng and approved unanimously.

Before proceeding with the discussion on the Hamptons Club project, Mr. Pally stated for the record that his law firm represented the original Hamptons Club application, but they do not represent the current Hamptons Club project that is before the Town, therefore no conflict of interest exists.

Ms. Hargrave provided an overview of the original Hamptons Club project in Manorville that received a hardship permit from the Commission in 2006. The applicant is now revising the project to a change in zone that would allow for quarter acre lots and 119 units. This would result in 55 more units than the original proposal. The town made the decision that the project would require 55 sanitary credits and 19 additional Pine Barrens Credits. A new hardship application is being submitted to the Commission for review. The following key issues were discussed.

1. The sizes of the units do not meet equivalency requirements.
2. The Town and developer negotiated Credit requirements without considering input from the Commission.
3. The Suffolk County Water Authority's concern with the sanitary waste disposal method proposed for this project.
4. The intention of the developer to sterilize land elsewhere to meet Article 6 requirements for intensity and that 19 Pine Barrens Credits will be redeemed with the Town for the additional units.

Mr. Tripp reiterated the Clearinghouse's position that the Commission should ask the Towns to consider Clearinghouse recommendations on the number of Credits to redeem for all projects where a change in zone warrants Credit redemptions.

Advisory Committee Review of the Credit Clearinghouse and Its Recommendation to the Commission

Mr. Jones stated for the record that the AC supports the Clearinghouse position that redemption of Credits should be mandatory for all projects that propose a change in zone. He continued
10/9/09 Credit Clearinghouse Meeting Minutes(Final) – approved 1/15/10

with an overview of the recommendations contained in the AC's Resolution with respect to the Credit Clearinghouse, dated September 9, 2009(attached), whereby the following points were made:

1. The Towns' resources are limited for supporting stewardship goals of the Pine Barrens.
2. The Clearinghouse funds of \$3.3 million need to be utilized to support the credit program.
3. The Suffolk County Water Authority is interested in finding additional resources to further Pine Barrens stewardship goals with emphasis on protection of the watershed.
4. The future of the watershed is dependent on outside resources.
5. The State alone cannot support future needs of the Pine Barrens Commission.
6. The Water Authority is interested in starting its own Watershed Protection and Planning program, which would cover beyond the boundaries of the Pine Barrens.

He discussed the AC's recommendations that suggested the Clearinghouse and Commission develop policy guidelines with respect to the remaining Credits in the Core and the use of remaining Program funds. The following points were made during an ensuing discussion:

1. The Clearinghouse supports the AC's recommendation on contacting Core property owners that haven't yet enrolled in the program and the Pine Barrens Society has offered its services in this outreach.
2. Title issues to date have not conflicted seriously with core owner's obtaining credits.
3. Reverse auctions should not be held until all Core owners have been contacted and until mandatory redemptions are clearly established. The Clearinghouse Board needs to discuss further the AC's recommendation for a "dedicated reserve" for the Clearinghouse use as the "buyer of last resort".

It was decided that the purpose of the AC's recommendation related to the Clearinghouse working with land trusts to study the use of Credits in bargain sales and donations was unclear and that further discussion on this recommendation would take place at a future date.

The next meeting is scheduled for Monday December 7, 2009 at 9:00 a.m.

Mr. Freleng made a motion to adjourn the meeting; the motion was seconded by Mr. Pally and approved unanimously.

Attachments

1. Easement Protected Lands and Pine Barrens Credits as of September 1, 2009 table
2. Table for Credit Clearinghouse Meeting 3/20/2009 showing program activity since and Credits Still Owned by Original Parcel Owners as of September 2009 table.
3. Resolution of the Pine Barrens Advisory Committee Regarding the Pine Barrens Credit Program and the Credit Clearinghouse Board of Advisors Dated September 9, 2009

