

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 15, 2010 9:00 AM (Final-Approved 5/3/10) 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. Julie Hargrave, Mr. Jerry Tverdyy (all from the Commission), Mr. John Milazzo (Staff Counsel to the Commission), Mr. Richard Amper (Long Island Pine Barrens Society), Mr. Martin Trent (Suffolk County Department of Health Services) also in attendance, Mr. Albert Brayson and Mr. Dominick Nicolazzi

Administrative

The meeting began with a quorum present at 9:00 am

Ratification of meeting summary of 3/20/2009

Mr. Freleng made the motion to approve the minutes; Mr. Pally seconded and the minutes were officially approved.

Public Comment

Mr. Tripp referred to the four Resolutions made during the October 9, 2009 meeting and it was confirmed that the Commission has been notified of the Resolutions. Mr. Tripp made the suggestion to send a follow up letter to the Town Supervisors which reaffirms the March 20, 2009 Resolution of the Clearinghouse recommending the Commission require the Towns to redeem Credits for all CGA projects in need of additional density or sewage flow intensity.

A letter dated November 16, 2009 (attached) was sent to the Board of Review at the Suffolk County Department of Health Services (SCDHS) regarding the 2nd Resolution of October 9th that requests clarification about Health Department policies concerning its granting of land sterilization instead of Pine Barren Credit redemptions for sewage flow intensity requirements. A response letter was received on November 30, 2009 from Ms. Pat Floria, P.E. (attached). Ms. Floria's letter provides a detailed description of the Health Department's policy regarding the redemptions of credits including under what circumstances they require redemptions and in which cases sterilization of other land is granted instead of Credit redemptions.

Mr. Tripp referred to the 4th Resolution of the October 9th meeting requesting the Commission to consult with the Clearinghouse on changes in zone and increases in density for the purpose of recommending appropriate Credit redemptions and a final response has not been received. Mr. Tripp suggested that a letter be drafted and sent to the Towns and the Commission to reiterate the Credit Clearinghouse position in regards to the October 9th Resolutions.

County Treasurer's Report

The Pine Barrens Credit Program's financial reports were distributed for the months of September – December 2009. The ending balance as of December 31st was \$3,364,107.27 and interest earned was \$5,616.34.

Mr. Tripp stated that if the Towns adopt a policy on changes in zone Credit redemptions the Clearinghouse should discuss prospects for holding a reverse auction which would utilize Credit Clearinghouse funds.

Correspondence

Mr. Trent spoke on behalf of the SCDHS for the purpose of clarifying the content of Ms. Floria's letter dated November 30, 2009. There have been no changes in policies regarding Credit redemption requirements since 1995 and the Board of Review typically prefers the redemption of Credits, but developers can choose the option to sterilize land elsewhere to satisfy sanitary flow requirements. Huntington Town has it's own Transfer Development Rights (TDR) program where developers can not use Pine Barrens Credits and frequently sterilize land to meet sanitary flow requirements. Mr. Trent made the point that land available for sterilization is limited in which case Credit redemption is the only viable option for developers.

The question was raised as to what becomes of the lots that are sterilized. Mr. Trent stated that in certain cases they have been transferred to public land holdings or to The Nature Conservancy. In other instances sterilized lots have been merged with adjacent larger lots open for development. The Board of Review requires a letter from the Towns verifying when a lot has been sterilized to meet sanitary flow requirements. A discussion ensued regarding possible variables to the formula used by the Health Department in determining Credit requirements and the statement was made that when sewage treatment plants are provided for the project no Credit redemptions have been required. The point was made that the Clearinghouse should ask the SCDHS to change the waiver policy of Credit redemptions when Sewage Treatment Plants (STP) exist and require additional Credit redemptions.

The SCDHS is in the process of updating the Water Resources Management Plan, which includes a study of nitrogen levels in ground water. The Health Department records data on nitrate loads and the point was made that a policy regarding nitrate levels should be developed using the New Jersey Pinelands approach as a model. A discussion ensued regarding nitrogen levels affecting the ecosystem and the drinking water standards and Mr. Tripp suggested at some point the Clearinghouse draft a letter to the SCDHS about stricter standards for nitrate levels.

Program Overview

Ms. Jakobsen stated that Mr. Corwin distributed the 2009 Pine Barrens Credit Clearinghouse Year End Report (attached) additional program materials were provided, including the Program Overview containing data on Easement protected Lands and Pine Barrens Credits As of September 1, 2009 (attached). Ms. Jakobsen discussed the section of the report pertaining to acreage enrolled in the Program as of January 1, 2010. There are 737 parcels enrolled, meaning that conservation easements have been placed upon the properties and Pine Barren Credits have been awarded to original owners. Parcels enrolled are equal to 1,843 acres of land and from the larger Pine Barrens preservation perspective, these easement protected lands

comprise approximately 3.35% of the statutorily defined 55,000 acre Core Preservation Area. The point was made that these percentages don't reflect the percentage of Core Preservation Area that was previously protected by public lands and the significance of the data is to reflect lands that have been protected through the Pine Barrens Credit Program since 1995. A discussion ensued regarding the expected percentages of land that would be protected through the Pine Barrens Credit Program as compared to the amount protected through the Land Acquisition Program.

Ms. Jakobsen reported on other data included in the Pine Barrens Clearinghouse Year End Report that reflects numbers pertaining to Credits issued (906), Credits redeemed (344) and Credits in circulation (561) and stated that the average "per Credit" sales price was \$79,243 in 2009. The point was made that the faltering economy has adversely affected Credit sales and that the County has funds available for the land Acquisition and a discussion ensued.

Tuccio Mini Storage Credit Appeal

Mr. Milazzo provided the history of the 52 acre Tuccio Mini Storage site near the Gabreski Airport in Westhampton. Mr. Tuccio owned 400 acres and requested that the Mini Storage sites 52 acres be considered separately from the original 400 in terms of credit allocation. He had received two hardship approvals and no Credit allocation. Mr. Tuccio appealed the Credit allocation and the request for Credits was denied at the Commission, he then sued the Commission and the denial was reversed and the Second Department referred back to the Commission for a final Credit allocation amount.

The Clearinghouse initial stance was that structures would need to be removed from the site prior to additional Credits allocation, the point was made that this was not taken into account by the court. A discussion ensued regarding the unusual nature of this situation compared with other Core property hardships, Credit allocations and precedence will be set through a decision on this matter.

Mr. Pally made the motion that the Commission seeks Clearinghouse Advise before making a final decision in regards to the Tuccio Credit allocation; the motion was seconded by Mr. Tripp and approved unanimously.

Ms. Jakobsen introduced Mr. Brayson a land owner that redeemed Credits with the Health Department for a project that was not constructed and stated that he is requesting the Clearinghouse return the redeemed Credits.

Mr. Anrig stated for the record that Mr. Brayson is his client and would have to abstain from this discussion.

In the past there have been instances where the amount of Credits required to meet sanitary flow requirements have been changed or reduced and the owner received back the balance of Credits. In this instance Mr. Brayson stated that his reason for not building the original structure was due to the fact that he decided to sell the land rather than build.

Mr. Pally made the motion to return the redeemed Credits to Mr. Brayson; the motion was seconded by Mr. Hanley and approved unanimously.

Conservation Easements

Ms. Jakobsen referred to the 2009 Pine Barrens Clearinghouse Year End Report and reiterated the text that refers to the Conservation Easement monitoring performed by The Commission's Compliance and Enforcement Coordinator (CAE). The CAE Coordinator working with our Land Use Division, has completed on site inspections and baseline documentation reports for 683 of the 737 parcels enrolled in the Program, or approximately 92.7% of the parcels. To date, no easement violations have been found, yet numerous field conditions either unrelated to the easement provisions or affecting nearby parcels or road right of ways have been documented and addressed through the CAE Division's Incident Reporting (IR) System.

Program Related Projects

Mr. Tripp stated that Zone changes, Undersized Lot Splits and Credit Use is an issue that will be addressed at the next Commission meeting and suggested discussing additional steps the Clearinghouse could take in advising the Towns and the Commission. Brookhaven Town has given an unofficial response suggesting 10% Credit Redemption for Planned Development Districts (PDDs) and there has been no response from the Town of Southampton regarding this issue. The issue before the Clearinghouse is to discuss how to present to the Towns the case for requiring Credit Redemptions for changes in zone and how not requiring them impacts the Pine Barrens Credit Program.

Mr. Corwin suggested that the data provided in the Town of Brookhaven Residential Change of Zone Analysis for years 2005-2009 handout (attached) could provide a more quantitative case for Town Credit Redemptions and a discussion ensued regarding the table. The point was made that the Towns may be more inclined to go higher than a 10% redemption requirement for changes in zone if they were provided with statistical data that would validate a greater requirement value. Additionally, it was stated that the Clearinghouse should provide the Commission with a clearly defined Credit redemption formula to present to the Towns reinforcing the policies set forth in the Plan. Two factors the Clearinghouse should consider in drafting a policy are the reluctance by the Towns to require Credit redemptions if the economic burden to the developer is too great and if the Credit redemption percentage is set too low receiving area capacity becomes compromised. A discussion ensued regarding reasonable Town redemption requirements that mitigate both factors and it was agreed that a resolution would be drafted to include a 25% minimum Credit redemption with no waiver.

Mr. Pally made the motion, which was seconded by Mr. Freleng and a stand alone Resolution recommending Mandatory Redemption of Pine Barrens Credits for Increases in Development Potential on Project Sites (attached) was approved unanimously.

Members of the Clearinghouse will attend the next Commission meeting and the Resolution will be provided. The Resolution will be sent to the Town Supervisors accompanied by a letter.

Private Core Area Property Owners Mailing

Mr. Tripp referred to the handout Proposed Text of Direct Mail Letter Inviting Sale of Development Rights PBCs (attached). The purpose of the letter is to inform Core property owners of the Pine Barrens TDR program and inquire as to whether they would be interested in receiving a Letter of Interpretation. The final version of the letter has not been drafted.

The next meeting is scheduled for Thursday February 11, 2010 at 9:00 a.m.

The meeting was adjourned.

Attachments

1. Easement Protected Lands and Pine Barrens Credits as of September 1, 2009 table
2. Table for Credit Clearinghouse Meeting 10/9/2009 showing Program Activity since and Credits Still Owned by Original Parcel Owners as of September 2009 table.
3. Town of Brookhaven Residential Change of Zone Analysis For Years 1995-2009
4. 2008 Town of Brookhaven Zoning Board of Appeals Lot Split Analysis Based on Cases Approved For Area Variances
5. 2008 Town of Brookhaven ZBA Approved Cases for Area Variances (Does Not Meet Minimum Lot Area Required by Zoning)
6. Clearinghouse Letter to Ms. Floria at SCDHS dated November 16, 2009
7. Letter dated November 20, 2009 from SCDHS responding to Clearinghouse Letter
8. Proposed Text of Direct Mail Letter Inviting Sale of Development Rights (Pine Barrens Credits)
9. Resolution Recommending Mandatory Redemption of Pine Barrens Credits for Increases in Development Potential on Project Sites dated January 15, 2010

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 May 3, 2010 2:30 PM 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, Ms. Julie Hargrave, Mr. Jerry Tverdyy (all from the Commission), Mr. John Milazzo (Staff Counsel to the Commission), Mr. Richard Amper (Long Island Pine Barrens Society), Mr. Stephen Jones (AC Chairman), Mr. Walter Hilbert, Ms. Patricia Floria (both from Suffolk County Department of Health Services) also in attendance, Mr. William Spitz, Mr. Bram Weber, Mr. Michael Cox, Charles Voorhis.

Administrative

The meeting began with a quorum present at 2:35 pm

Ratification of meeting summary of 1/15/10

Mr. Freleng made the motion to approve the minutes; Mr. Pally seconded and the minutes were unanimously approved.

County Treasurer's Report

The Pine Barrens Credit Program's financial reports were distributed for the months of January-March 2010. The ending balance as of March 31st was \$3,368,256.51 and interest earned was \$4,149.24.

Overview and discussion of Clearinghouse's resolution: Recommending Mandatory Redemption of Pine Barrens Credits

Mr. Tripp provided an overview of the Clearinghouse's resolution that recommends the Commission implement a policy and add standards to the Pine Barrens Comprehensive Land Use Plan which would require the mandatory redemptions of Pine Barrens Credits for any projects that result in an increase in intensity or density. The proposed resolution includes a formula for the Towns to follow in order to determine the amount of Credits that would be required for projects and provided that credits in an amount equal to no less than twenty five percent (25%) of the difference between the projects "density load" in excess of the project site's "population density equivalent," divided by 300" be redeemed. The reasoning behind the proposal is to increase Credit redemption opportunities to foster both the regional planning goals for the larger Pine Barrens area and to enhance the vitality of the Pine Barrens Credit Program. The point was made that the recommendation should be modified with specific language that include the resolution only applies to non "as of right" redemptions.

Mr. Hilbert explained under what circumstances the Health Department requires Credits to satisfy sewage flow intensity and he stated that once a project reaches double density thresholds a sewage treatment plant is required. When sewage treatment is necessary the project moves forward on the town level and additional points discussed include:

- The Towns and the Health Department need to coordinate criteria for project approvals to avoid duplication of Credit redemptions.
- The main concern for the Health Department regarding project approvals is to insure ground water protection.
- Mandating Credit redemptions for Town projects exceeding density would require the Commission to coordinate between the Towns and the Health Department the total amount of Credits required for the project.

Discussion of Long Island Builders Institute letter dated March 11, 2010

The Clearinghouse met with Long Island Builders Institute (LIBI) in February to discuss the affect mandating Credit redemptions would have on developers. After the February meeting LIBI responded with a letter stating that they have objections to the proposed recommendation and provided a list of alternative solutions to a Mandatory Redemption Requirement. The letter was reviewed and the following points were discussed.

- A reverse auction could be held when the Commission adopts a Mandatory Credit Redemption Resolution.
- Credit requirements should be pro-rated for age restricted housing and is currently health department policy.
- When no underlying exemption exists on ZBA determinations Credits may be used to achieve conformity with the health department.
- Removal of the Brookhaven Town four-acre restriction.
- Create an incentive for affordable housing by not requiring Pine Barren Credits when building on developed lots.
- What are the implications of encouraging builders to redevelop parcels in the CGA without retiring Pine Barrens Credits?
- LIBI's letter stated that affordable housing becomes cost prohibitive for builders when a mandatory Credit redemption is added to the cost of Sewage Treatment Plants (STP)
- Affordable housing and other public benefits may justify development, but the legislation provided in the Act should be followed and the provisions of the Plan enforced.

Mr. Freleng made the motion to draft a formal response letter to LIBI consistent with today's discussions. The motion was seconded by Mr. Anrig and approved unanimously.

Additional points related to the discussion include:

- Southampton has several proposed projects with the potential of requiring large numbers of Credit redemptions.
- The proposed mandate specifies a 25% minimum redemption requirement. If that rate were lowered how would it affect the Commission's decision.
- A mandatory redemption requirement may be perceived as a method of accelerating the rate of Credit redemptions rather than maintaining the integrity and purpose of the Pine Barrens Credit program as described in the Plan.

Development projects proposing the redemption of PBCs or Sanitary Credits

Ms. Hargrave described the Hampton Club project that is located on 76.44 acres that is requesting a CGA Hardship permit. The applicant is requesting a change of zone from A-1 Zoning District to B Residence to accommodate an increase of 16 units above the “as of right” allowed and an increased sewage flow from 19,500 gallons per day (gpd) to 36,000 gpd. The developer intends to retire 11 Pine Barrens Credits and 44 sanitary credits. The sanitary credits originate from land located outside of the Central Pine Barrens and the parcels may have previously been stripped of their credit potential, which was discussed during a previous Commission hearing. The Hampton Club developer has obtained a prior Commission hardship to over clear for the as of right subdivision in January 2004.

Ms. Hargrave stated the details of this project relate to the previous discussion since it is a project that could be subject to a mandatory Credit redemption. The project has the potential of retiring more than 13 Pine Barrens Credits if 25% of the original Credit yield is the mandatory requirement for changes in zone.

Mr. Pally stated that his law firm previously represented the Hampton Club, but does not represent them in the current zoning, therefore he was able to comment on this project.

A discussion about this project relates to the issues of the proposed mandatory requirement and points made include:

- The Hampton Club project proposes to use sanitary credits from outside the Pine Barrens for increases in sewage flow and what are the implications for the Pine Barrens Credit program?
- The primary Clearinghouse concern is to recommend to the Commission a minimum Credit redemption requirement for all projects when hardships are granted.
- The Clearinghouse should express its concerns to the Commission regarding the use of sanitary credits originating from outside of the Pine Barrens.
- Discussion occurred on the need for Towns to show that the 1:1 sending to receiving area ratios need to be met before allowing non- Pine Barrens Credits to be used in the CGA.

Mr. Pally stated that his law firm represents the American Physical Society; therefore he is unable to comment on this project.

A motion was made by Mr. Tripp that was seconded by Mr. Freleng that when applying the 25% provision of the mandatory credit redemption provision, the Commission should not take into account credits from outside the CGA to substitute for the 25% requirement. And any action the Towns take that affect receiving areas must demonstrate the 1:1 and 2.5:1 receiving to sending area ratios are met. The motion was unanimously passed.

Ms. Hargrave described the American Physical Society project that is a five acre site located along William Floyd Parkway. Existing conditions include 31,062 sf commercial building space, 130 parking spaces, driveway and associated infrastructure. The proposal is 15,748 sf expansion (51% increase) to the existing building, increased sewage flow to 2,748.5 gpd, modifications to the sanitary system, parking lot and driveway. The developer is requesting approval to transfer sanitary credits or 3.29 Pine Barrens Credits from Core property to this project that is also in the Core and the following points were discussed.

- In 1994 the Commission granted a hardship for an expansion.
- Establishing precedence that projects seeking hardship approval may do so by offering Pine Barrens Credit redemptions.
- If the Commission grants a waiver for this project would it be allowing a situation that would not otherwise be allowed under SCDHS Article 6.
- Re-establishing Clearinghouse policies when making recommendations to the Commission for Hardship permits and the use of Pine Barrens Credits.

Mr. Freleng made the motion that it is implied policy in the Central Pine Barrens Plan that Pine Barrens Credits are not to be used in the Core and are intended to serve as a tool to move development outside of the Core. The motion was seconded by Mr. Tripp and approved by a 4:0 vote in favor and 1 vote in abstention by Mr. Pally.

The next meeting is scheduled for Friday June 11, 2010 at 9:00 a.m. The meeting subsequently ended.

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 October 18, 2010 2:30 PM (Final approved 12/8/2010) 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), also in attendance were, Mr. John Pavacic, Ms. Judy Jakobsen, Mr. Jerry Tverdy, Mr. John Milazzo (all from the Commission), Also in attendance was Mr. Bill Spitz (NYSDEC) and Ms. Janet Longo (SC Real Property Acquisition and Management)

Administrative

The meeting began at 9:10am.

County Treasurer's Report

The Pine Barrens Credit Program's financial reports were distributed for the months of July - September 2010. The ending balance as of September 30 was \$3,376,709.04 and interest earned was \$4,252.00

Program Overview: Overall Program Report and Statistics

Ms. Jakobsen reviewed the handout that contained a summary table entitled "Easement Protected Lands and Pine Barrens Credits As of October 15, 2010" and noted the increases in parcels and acreage from January 1, 2009. She mentioned that there were only 7.25 additional credits acquired and 23.88 credits redeemed between the three Towns.

Mandatory Redemption of Pine Barrens Credits and Comprehensive Plan Amendments/status and discussion

Mr. Pavacic distributed a handout that includes two pages from Chapter 5 of the Plan Amendments, pertaining to new Sections, that if amended would make credit redemptions mandatory for all development projects that exceed density. Mr. Pavacic mentioned that he and Supervisor Lesko met to discuss how the credit redemption amendment would affect the Carmans River Watershed protection program. He stated that Brookhaven Town and Riverhead Town support the new credit redemption policy at a level of fifteen percent.

Issues discussed at the meeting include, the building communities concern about the availability of credits, the Clearinghouse buying back credits to make them more readily obtainable and prospects for conducting a reverse auction. A discussion ensued regarding changes in the value of credits and the perceptions the development community has regarding the Credit program as it operates now.

Mr. Tripp spoke about reaching out to buy credits from landowners currently holding credits through a reverse auction. It was also discussed that a separate mailing to private landowners not currently involved with the Credit Program would be sent to encourage them to participate

in the Program and obtain a Letter of Interpretation (LOI). A discussion ensued regarding the numbers of credits currently circulating and available to purchase as opposed to the number of credits not yet generated.

Ms. Longo explained her reason for attending this meeting is to inform the Clearinghouse board of a situation she has encountered with a property owner who has obtained his credit allocation and is inquiring if he can donate his land to the County and was unsure of what he could do with the credits he owns. Mr. Tripp responded that this is the kind of landowner that should be informed about the reverse auction and a discussion ensued about a time frame in which to conduct the mailing, the auction, and those land owners that will be included.

Mr. Milazzo explained that there is a difference between the reverse auction that was held several years ago and the one that the Clearinghouse is considering at this time. He stated this auction involves a simpler mailing that involves just the buying of credits rather than informing the landowner about the entire program. He further explained a methodology that could be used to structure the price of credits and a discussion ensued regarding fluctuations in the value of credits over the history of the program. There was continued discussion about details of the reverse auction for BrookhavenTown credit holders.

Meeting adjourned

Attachments:

1. Sign in sheet
2. Meeting minutes of May 3, 2010
3. Credit program financial report for July, August and September 2010
4. Handout: Pine Barrens Credits as of October 15, 2010
5. Plan amendment handout provided by John Pavacic

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 December 8, 2010 2:30 PM (Final - Approved 2/9/11) Commission Office, Great River, New York

Present: Board members: Mr. Jim Tripp (representing the Town of Brookhaven); 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. Rick Hanley (representing the Town of Riverhead) also in attendance were, Mr. John Pavacic, Ms. Judy Jakobsen, Mr. Jerry Tverdyy, Mr John Milazzo (all from the Commission).

Administrative

The meeting began approximately at 9:10 am.

Public Comment

None

Minutes

The motion was made by Mr. Freleng and seconded by Mr. Pally to approve the minutes from the October 18, 2010 Clearinghouse Board Meeting, that was unanimously passed.

County Treasurer's Report

The Pine Barrens Credit Program's financial report was distributed for the months of October and November, 2010. The ending balance as of November 30 was \$3,379,531.26 and interest earned was \$2822.22

Program Overview: Overall Program Report and Statistics

Mr. Tverdyy provided a handout that contained a summary table entitled "Easement Protected Lands and Pine Barrens Credits As of December 1, 2010" and noted the increases in parcels and acreage from January 1, 2009. It was noted that 40% of the credits generated have been redeemed. The credits sold indicated on the summary table are essentially the credits that have been conveyed and include repeat conveyances or resale of the same credit(s) that have not been redeemed.

Mandatory Redemption of Pine Barrens Credits and Comprehensive Plan Amendments/status and discussion

Mr. Pavacic provided a status report on the Commission's Plan Amendments. He discussed the technical work sessions held with technical and planning staff during which the review of Chapters 4 and 6 was completed at the November 8th work session and half of Chapter 5 was completed at the December 2nd work session. A handout was provided on what was covered at these work sessions.

He mentioned that items or changes that the group could not reach consensus on were put on a “parking lot” list to be addressed at a future work session likely to occur in January 2011. The current Plan amendments represent a subset of all of the proposed amendments and are primarily ministerial or codification of current Commission practice, therefore requiring a limited SEQRA analysis and a shorter process than the other proposed Plan Amendments. Town of Brookhaven has indicated support for the mandatory redemption of credits, however not at the 25% level. Southampton and Riverhead have expressed opposition to the mandatory redemption of credits at the work sessions. Southampton does not feel it is appropriate to require the three towns to report annually on the credit ratios. They also expressed the desire for one central database to obviate the need for this reporting and tracking of credits and ratios by the Town.

It was discussed whether Southampton was currently meeting the ratios and the fact that the Town is approving PDDs without requiring credits to be redeemed. It was mentioned that Southampton is proposing additional receiving areas in certain school districts in the Plan Amendments. Mr. Anrig mentioned a PDD project in Speonk that is proposing 50 units on 5 acres and the developer will make a donation to community work force housing. It was noted that Mr. McCormick at the Plan work session expressed Riverhead’s opposition to the mandatory credit requirement. It was discussed that Riverhead receiving areas are mainly commercial and that Riverhead has separate receiving areas for PBCs and agricultural rights. The Walgreens site in Riverhead which received a hardship waiver from the Commission was identified as a receiving site that did not use credits.

Further discussion ensued on how the mandatory redemption provision might move forward and that it could be either 15 % across all three Towns or just for Brookhaven. Mr. Tripp specified the need to talk to the Supervisors of Southampton and Riverhead to further identify what their concerns are with this proposal.

Town of Brookhaven Changes to the MF Zoning Code and relationship to the Carmans River Watershed Management Protection Plan

Mr. Tripp provided an overview of the Carmans River watershed protection work and mechanisms under consideration to protect this area that are linked to changes to the Town of Brookhaven’s Multifamily (MF) zoning code. Protection measures potentially include expanding the core, and the Town possibly implementing its own TDR program or using the Commission’s Credit Program. The changes to the MF code would include requirements to use credits for increases in density allowed under the MF code and would be a Town-wide overlay. There was concern expressed on how to deal with potentially competing TDR programs. A discussion ensued on the number of credits that will come from the Overton Preserve, the proposed hamlet and transition areas that are part of the Coram, Middle Island, Ridge Corridor Study and the credits that may be sent from these transition areas. It was noted that these new sending and receiving areas have been set aside for now from the group of Plan Amendments moving forward since they require further analysis. It was discussed how some of the Town’s options to preserve the Carmans River watershed could significantly affect the supply and demand of credits. It was questioned whether the Clearinghouse or the Commission could challenge a town’s approval of a project that did not use credits. It was decided that a letter should be sent to the Town Supervisors of Southampton and Riverhead to indicate the Clearinghouse Board’s concern that the Towns are not requiring credit redemptions for project approvals and to also request to meet with them to discuss further their concerns with the

mandatory redemption proposal. It was also discussed whether the Town of Southampton was meeting the 1:1 sending to receiving ratios.

The Town of Brookhaven is including their MF code a proposal to allow the payment of cash in lieu of purchasing credits because of the concern expressed by developers that there may be an issue with the availability of credits. It was discussed that this would allow the Clearinghouse to advance credits they don't currently own to the developer and then take the cash to purchase credits later when they were available. The concern with this option is the Clearinghouse may have to pay more money for credits they later purchase than what was paid to them by the developer. Mr. Milazzo stated the Commission does not have this authority under the Pine Barrens Act. Another option to make credits available to the developer would be for the developer to advance the cash to the Clearinghouse to perform a reverse auction to purchase credits. The Clearinghouse has \$3.3 million in its bank which would purchase around 10 credits. Mr. Nicolazzi mentioned that developers could advance the Clearinghouse credits at a certain price and act as a broker.

It was mentioned that a provision should be included in the Plan that the Clearinghouse can perform a reverse auction. The Town 's language for the payment in lieu of credits states the Clearinghouse would have to say credits are not available which would put the viability of the Credit Program at question.

Authorization of Reverse Auction

The motion was made by Mr. Pally and seconded by Mr. Freleng to authorize a reverse auction to be held in the Town of Brookhaven using up to \$1.1 million from the Credit Clearinghouse bank to purchase credits from existing credit certificate holders in order to create a bank of credits that are readily available for purchase by developers, by using general parameters used last time to conduct the auction. The motion was unanimously passed.

A discussion ensued on the process to perform the reverse auction and how to select the credits to purchase.

Letter to Core Owners

The motion was made by Mr. Pally and seconded by Mr. Freleng to authorize a letter be sent (subject to Counsel's review) to privately held core parcel owners to solicit their participation in the Credit Program and apply for an LOI. The motion was unanimously passed.

It was discussed that the reverse auction letter would likely go out the first week of January and that the Clearinghouse would meet in mid-February to discuss the response.

Conservation Easement Monitoring

The easement monitoring for Warner Duck Farm has been completed. This involved the documentation of buildings and conditions of the property. It was found to be in general compliance.

Other Business

It was decided that the next meeting will be held on February 9th at 9:00 am. A further discussion on the proposed MF code occurred related to its possible inclusion of a Town created TDR program and what the Commission would need to adopt. The hearing for the MF code has been postponed until January and Supervisor Lesko wants to have a Carmans River Plan in place by January 20th. The language for the MF code has not been finalized. Early February is likely when the Commission work session will be held for the Plan amendments. The chapters are available to download from the Commission's website.

The motion was made by Mr. Pally and seconded by Mr. Freleng to adjourn the meeting. The motion unanimously passed.

Attachments:

1. Sign in sheet
2. Meeting minutes of October 18, 2010
3. Credit program financial report for October and November 2010
4. Handout: Pine Barrens Credits as of October 15, 2010
5. Plan amendment work session notes provided by John Pavacic