

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
Herbert Phillips, Member

Pine Barrens Credit Clearinghouse Board of Advisors Meeting Summary for January 11, 2005 (FINAL - Approved 4/20/05) Commission Office, Great River, New York 8:00 A.M.

Present:

Board members: Mr. James Tripp (representing the Town of Brookhaven); Mr. Andrew Freleng (representing the County of Suffolk); Mr. Mitchell Pally (representing the State of New York); Mr. Herbert Phillips (representing the Town of Southampton); also in attendance were John Milazzo (General Counsel to the Commission); Mr. Born, Ms. Carter, Ms. Eigenberger, and Ms. Jakobsen from the Commission; and Mr. Murphree, Mr. Collins, Ms. Longo, Ms. Elkowitz, Mr. Esseks and Mr. Nicolazzi.

The meeting was chaired by Mr. Tripp and called to order at 8:25 a.m.

1. Administrative

Public Comment Period

There were no public comments.

County Treasurer's Report

Ms. Christina Cooke was unable to attend the meeting. She submitted the financial report for the month of November and December 2004. The ending balance as of December 31st was \$7,599,825.05. There were no disbursements or deposits during this period. Total interest (rate adjust every Tuesday) \$31,923.13 (detailed in Report).

Ratification of meeting summary of September 28 & November 17, 2004

A motion was by Andy Freleng to approve the meeting summaries from September 28th and November 17th. Mitchell Pally seconded the motion. The motion was approved unanimously.

2. Pine Barrens Letter of interpretation

Edwin and Patricia Tuccio; SCTM # 900-248-1-110.4 (Southampton)

Summary: Subsequent to the Board's request at the November meeting, Ken Born presented an updated survey, provided by the applicant, which delineated the amount of improved property on the subject site. After a brief discussion, Mr. Born reminded the Board of the allocation options staff presented at the November meeting, as well as the lack of clear policy guidance under the Commission's Comprehensive Land Use Plan for decreasing credit allocations for commercial and industrial properties.

Mr. Freleng supported an option linked to the amount of lot coverage allowable under the Southampton Town Code, while Herb Phillips advocated for a nexus between permissible vegetative clearing. Led by Mr. Tripp, the Board compared estimations of Pine Barrens Credit allocations under each option. Other current and past Commission staff members including Mr. Milazzo, Ms. Carter, Ms. Jakobsen and Ms. Longo provided record with regard to past Core Preservation Area Hardship applications for the property.

Prior to issuing a decision on the application, the Board requested that the applicant provide another survey which describes the amount of vegetative clearing on the property. Additionally, the Board requested that staff provide a definition of "lot coverage" from the Town Code, as well as double check the amount of land devoted to lot coverage on the site.

WJF Realty and Reed Rubin; SCTM #900-216-1-25; 900-217-1-1; 900-217-2-16; 900-248-1-2 (Southampton)

Summary: Mr. Born briefed the Board on the pending Letter of Interpretation applications submitted by WJF Realty/Rubin. He explained that the matter was brought to their attention due to the magnitude of the properties involved, and the potentiality of generating a large amount of Pine Barrens Credits in the Town of Southampton. Ms. Elkowitz, the applicant's representative was present to clarify questions of the Board and staff.

A motion was made by Andy Freleng and seconded by Herbert Phillips to issue four Letter of Interpretations in the amount of 1.01, 8.06, 21.8, 272.44 PBCs respectively, 303.31 credits cumulatively for the four pending Letters of Interpretation applications. The motion was unanimously approved.

Frank Grausso, Jr.; SCTM #900-276-3-1 & -2 (Southampton)

Summary: Mr. Born informed the Clearinghouse on the pending Letter of Interpretation applications submitted by Mr. Grausso. He summarized the land use history of the subject site as provided by the applicant, including past agricultural, horticultural and mining uses. Questions arose from the Board concerning the past mining permits and reclamation plans issued for the property. Mr. Milazzo and Ms. Longo helped clarify the State's Department of Environmental Conservation (DEC) permitting process.

Since the property is both in the Core Preservation Area and Compatible Growth Area, the Board requested that a survey be provided from the applicant which clearly describes the amount of the site within each area. Additionally, direction was provided to staff to obtain all applicable information relating to mining permits issued for both parcels.

Joseph Gazza; SCTM #900-235-1-58 (Southampton)

Summary: Mr. Born and Ms. Longo stated to the Board the unique conditions surrounding the above referenced application. Mr. Gazza acquired a 1/3 interest in the subject property from various heirs of the Gracie Estate, at the same time as other vested interests neglected to pay taxes on their share of the land. While Suffolk County has yet to acquire the 2/3 of the property due to the default situation, Ms. Longo informed the Clearinghouse of the County's current position on the matter.

Questions surrounding the ability to issue a Letter of Interpretation on a property only partially owned were raised. Mr. Milazzo and Mr. Tripp advised the Board that this could be done, but credits could unlikely be issued subsequent to a Credit Certificate Application without a clear title.

A motion was made by Mitchell Pally and seconded by Andy Freleng to issue a Letter of Interpretations in the amount of 3.51 credits, pending a site visit by staff. Corresponding with the issuance of a LOI, a cover letter must be sent to the applicant which clearly describes the conditions that must be met in order for those credits to be issued. The motion was unanimously approved.

3. Pine Barrens Applications

William Kroll: SCTM # 200-269-1-3, Title Question

Mr. Milazzo presented the above referenced issue to the Board, stating that Mr. Kroll has a potentially unresolved title claim, of which he is offering title insurance to help mitigate the issue. The title problem is preventing the applicant from placing a conservation easement on his property. The question was raised to the Board as to whether title insurance would resolve the issue in the interim.

A motion was made by Herb Phillips and seconded by Mitchell Pally to require Mr. Kroll to resolve the title claim prior to proceeding with his Credit Certificate Application. Title insurance will not suffice in this situation. The motion was unanimously approved.

4. Pine Barren Easements - none

5. Program Implementation Initiatives

Jeff Murphree and Kyle Collins from the Town of Southampton Planning Division made a presentation to the Board relating to the Town's capacity to receive PBCs. They distributed a table entitled, "Pine Barrens Credits Receiving Capacity Analysis." The table outlined the potential number of PBCs that can be generated in each school district within the Town, as well as the potential absorption capacity within each school district. They stated that, as the table supports, the Town does have the ability to absorb all credits potentially generated from designated sending areas in the Town.

The meeting was adjourned at approximately 11:00 a.m. The next Pine Barrens Credit Clearinghouse Board of Advisors will be on Tuesday, March 1, 2005 at 9:00 a.m., in Great River.

A motion was made by Andy Freleng and second by Herbert Phillips to adjourn the meeting. The motion was unanimously approved.

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 April 20, 2005 (FINAL – Approved 3/14/06) Commission Office, Great River, New York 9:00 A.M.

Present:

Board members: Mr. James Tripp (representing the Town of Brookhaven); Mr. Andrew Freleng (representing the County of Suffolk); Mr. Mitchell Pally (representing the State of New York); Mr. Rick Hanley (representing the Town of Riverhead); also in attendance were John Milazzo (General Counsel to the Commission); Christina Cooke (Suffolk County Treasurer); Mr. Born, Ms. Carter and Mr. Corwin (all from the Commission); and Mr. DeGregorio, Mr. Meyer, Mr. Kalamar, Mr. Anderson, Mr. Kaiser and Mr. Nicolazzi.

The meeting was chaired by Mr. Tripp and called to order at 9:00 a.m.

1. Administrative

Public Comment Period

There were no public comments.

County Treasurer's Report

Ms. Christina Cooke distributed the Pine Barrens Credit Program financial report for the month of January, February and March 2005. The ending balance as of March 31st was \$7,654,821.96. There were no disbursements or deposits during this period. Total interest (rate adjust every Tuesday) \$54,996.21 (detailed in Report).

Ratification of meeting summary of January 11, 2005

A motion was by Andy Freleng to approve the meeting summary from January 11th. Mitchell Pally seconded the motion. The motion was approved unanimously.

Board Membership

Chairman Jim Tripp informed the Board of Herb Phillips' (Southampton) departure from the Clearinghouse. He confirmed that Robert Anrig would be his replacement.

2. Pine Barrens Letter of interpretation

Frank Grausso Jr.; SCTM# 900-276-3-1 & -2 (Southampton)

Summary: Mr. Ken Born briefed the Board on the pending Letter of Interpretation applications submitted by Frank Grausso, Jr., first discussed at the January meeting. Mr. Born presented two GIS maps for use by the Board, illustrating the Core and CGA boundaries within the project site, in addition to providing an aerial perspective of the area which indicates most of the Core portion having been used for an active sand and gravel mine. He also distributed an "Allocation Options" worksheet, based on the provisions of the Comprehensive Land Use Plan, to help guide the Board members in their discussion.

Mr. John Milazzo helped clarify the State's Department of Environmental Conservation (DEC) permitting process for sand mining operations. Questions were raised from Mr. Andy Freleng and Mr. Mitchell Pally on the specifics of the applicant's restoration plan

and the permitted life of the mining permit, respectively. The Board agreed that, with regard to the subject property, mining, and specifically mining to the depth of the groundwater table, is not consistent with the intent of the Pine Barrens Credit Program.

Chairman Tripp expressed support for issuing credits on the entire Core-portion of the property if the Clearinghouse could be ensured that all mining operations would be halted as soon as feasible, and the restoration plan for the site would restore the site as closely as possible to its natural condition before it was disturbed. Mr. Freleng expressed the need for native species to be used in all restoration efforts.

A motion was made by Mitchell Pally and seconded by Andy Freleng to issue two Letter of Interpretations for 8.71 and 2.22 PBCs, respectively, for the Core Preservation Area portions of the subject parcels if, and only if, the applicant agrees to terminate all sand and gravel mining operations on the property as soon as feasible, and provides written evidence to that effect. Prior to the issuance of PBCs, the Clearinghouse reserves the right to review and issue comments on the site's reclamation plan to both the applicant and the NYSDEC.

If the applicant wishes to pursue PBCs while proceeding under the terms of the site's mining permit, the applicant must provide a survey which details the amount of Core property (in acres) for each parcel that is currently not mined, and will not be mined under the terms of the mining permit.

Boy Scouts of America; SCTM# 600-75-3-10.3 (Riverhead)

Summary: Mr. Milazzo summarized the past involvement by the Credit Clearinghouse with the subject property, which dates back to 1996. As recently as September 2003, Clearinghouse staff requested that a survey be provided of the parcel in question. Representatives from the Boy Scouts, including Mr. Joe Kalamar, Mr. Eric Anderson and Mr. Gerald Kaiser, were in attendance. They indicated that they had concerns over the financial hardship of obtaining the survey, and wanted to gauge alternatives from the Board. A new survey, they estimated, would cost \$75,000 to \$100,000. An updated survey, using the survey conducted in the 1970s, would cost approximately \$28,000.

The representatives reviewed the amount, and nature of the improvements on the property. They presented an 8.5 x 11" map, entitled "Schiff Scout Reservation – Camp Wauwepex," illustrating the developed campsites, dining halls, ranger residence, shower facilities, chapels, pavilion, fishing dock, aquatic center and other improvements centered ½ mile around Deep Pond.

Mr. Ray Corwin asked the Boy Scouts spokespersons to explain the nature of the fishing rights and/or access easement to Deep Pond currently held by the DEC. Their response indicated that the pond itself, and an area 10' encompassing the pond, is currently owned by that agency. The DEC acquired the fishing rights and easement as part of a deal made with the property owner to purchase the northern portion of the parcel.

Mr. Milazzo suggested that as an alternative to providing a new or updated survey, the property owners should provide a detailed listing of all improvements on the property. This listing would be used by staff to determine an estimation of wastewater flow that various on-site uses are generating. The Suffolk County Department of Health Services Article 6 conversion table would be used for those purposes. He also stated that the Board and property owner should also consider placing an easement on only the four corners of the property. The right to request a survey is still maintained by the Clearinghouse.

Mr. Freleng questioned the Town of Riverhead's ability to absorb Pine Barrens Credits, with Mr. Rick Hanley ensuring adequate receiving areas within the Town.

John DeGregorio; SCTM# 900-183-1-2.2 (Southampton)

Summary: Mr. Born distributed a 1999 aerial photograph of the subject property, along with an "Allocation Options" worksheet for Mr. John DeGregorio's Letter of Interpretation application. He briefed the Board on the parcel's regulatory history with the Central Pine Barrens Commission, which granted a Core hardship exemption in October 2001 for the removal of two of three existing residences, subdivision into four lots (one of which contains the remaining residence), two new residences on two of the new lots, and the retention of the other new lot as open space. Mr. Born used the Final Plat Map prepared by Young & Young Land Surveyors dated April 16, 2004 to identify the unique features of the property, including three building lots, Town and DEC-regulated freshwater wetlands, 7.774 acres of the parcel to be dedicated to the Town of Southampton (Parcel B) and 28.8345 acres designated as "Central Pine Barrens Core Preservation Open Space Area" (Parcel A and Parcel C).

Mr. DeGregorio expressed the desirability of the undeveloped portions of the property as a linkage to thousands of acres of public lands. Chairman Tripp stated that the issuance of PBCs does not preclude access. The applicant's representative, Mr. Frederick Meyer, clarified the progress in removing a number of dilapidated structures on the property. Both raised concern over the current monetary value of Pine Barrens Credits, with the Board making clear that the price is set on the open market. Mr. Pally suggested that additional value might be obtained by selling those portions of the property to be encumbered by a pine barrens conservation easement to the Town of Southampton.

Mr. Milazzo addressed the issue of the assignment of new tax map numbers by the Suffolk County Real Property Tax Service Agency. The Board directed staff to obtain new tax map numbers prior to issuing a Letter of Interpretation for the property.

A motion was made by Mitchell Pally and seconded by Andy Freleng to issue a Letter of Interpretation for a total of 7.96 PBCs on the portion of the property described as "Parcel A: Central Pine Barrens Core Preservation Open Space Area" and "Parcel C: Central Pine Barrens Core Preservation Open Space Area," subsequent to acquiring the new Suffolk County Tax Map numbers for the property. The motion was unanimously approved.

3. Pine Barrens Applications

William Kroll: SCTM # 200-269-1-3, Title Question

Mr. Milazzo presented the above referenced issue to the Board, which was carried over from the January meeting. He stated that Mr. Kroll provided a notarized document providing evidence of the applicant's chain of title, which satisfies previous requests made by staff.

A motion was made by Andy Freleng and seconded by Rick Hanley to issue 1.00 PBCs subsequent to obtaining title insurance in the amount of \$60,000. The motion was unanimously approved.

4. Pine Barren Easements

Mr. Born provided an update on the most active period in the history of the Pine Barrens Credit Program. Since January 2005, 362.64 acres have been protected in perpetuity by way of Pine Barrens Conservation Easements, including the following properties:

- AVR Realty; 80.68 ac/57.85 PBCs; SCTM# 200-504-1-7.2 (Brookhaven)
- WJF/Reed Rubin; 272.44 ac/100 PBCs; SCTM #900-248-1-2 (Southampton)
- Peconic River Sportsman's Club; 131.5 ac/17.25 PBCs SCTM# 200-298-1-1, 600-142-2-1.1, 600-143-1-8.1, -13.1 & -15 (Brookhaven/Riverhead)

- Tuccio, et al; 50 ac/50 PBCs; SCTM# 900-248-1-110.2 (Southampton)

5. Program Implementation Initiatives

Inter-Municipal Redemptions of PBCs

Mr. Freleng presented this issue in part due to correspondence dated February 1, 2005 from Frank Petrone, Supervisor of the Town of Huntington, objecting to the redemption of Pine Barrens Credits by the Suffolk County Department of Health Services in that town.

A motion was made by Andy Freleng and seconded by Rick Hanley to adopt the attached resolution which expresses that it is the policy of the Credit Clearinghouse to require evidence of Planning Board approval for all intermunicipal redemptions of PBCs outside the Central Pine Barrens area involving redeeming entities including, but not limited to, the Suffolk County Department of Health Services. A resolution will be forwarded to the Commission and Clearinghouse members on this matter.

Reverse Auction of PBCs (Brookhaven, Southampton, Riverhead)

In response to the approaching November 2005 repayment deadline involving \$5 million in Northville Funds received by the Clearinghouse from the State of New York, the Board initiated discussion on launching a "reverse auction" of PBCs in the Towns of Brookhaven, Southampton and Riverhead.

Chairman Tripp discussed his concern on determining a price resulting from the auction bids, given the market for credits are continually changing. Mr. Nicolazzi expressed trepidation that Clearinghouse involvement in the credit market could undermine the value of PBCs. He asserted that PBCs remain a good value since it is difficult to find a building lot in the region under \$200,000 currently. In response, Mr. Freleng stated that the Board has a right to involve itself in the market through the reverse auction.

The successes and failures of past Clearinghouse-sponsored auctions were discussed. Issues surrounding which land owners to target (small landholders vs. larger landholders), per town expenditure caps and whether to exclude non-original PBC holders were also contemplated.

A motion was made by Mitchell Pally and seconded by Andy Freleng to initiate a reverse auction for PBCs by directing staff to extend outreach efforts to all private property owners in the Core Preservation Area notifying them of the auction. All outreach will specify that \$1,000,000 will be used to acquire PBCs in each Pine Barrens town, and that the Credit Clearinghouse has discretion in setting the acquisition price.

Core Preservation Area Analysis

Mr. Born informed the Clearinghouse that he is currently working on evaluating how many PBCs could still be generated from private lands within the Core Preservation Area. He will report his results at a future Board meeting.

Comprehensive Land Use Plan Update

Mr. Born briefed the Board on the ongoing efforts to update to Commission's Comprehensive Land Use Plan, specifically with regard to the Pine Barrens Credit Program Chapter. He noted that past Clearinghouse policy interpretations would be reflected in a revised chapter, as well policies which clarify on-going matters such as issuing credits on improved commercial and industrial properties. Mr. Born will be

circulating administrative draft versions of the Pine Barrens Credit Program Chapter in upcoming weeks.

The meeting was adjourned at approximately 1130 a.m. The next Pine Barrens Credit Clearinghouse Board of Advisors will be on Monday, June 13, 2005 at 9:00 a.m., in Great River.

A motion was made by Jim Tripp and second by Andy Freleng to adjourn the meeting. The motion was unanimously approved.