

**Pine Barrens Commission Meeting Summary (FINAL)  
for Wednesday, June 16, 2010 (Approved 7/21/10)  
at the Brookhaven Town Hall, 1 Independence Hill,  
Farmingville, NY, 2:00 pm**



Commission members present: Mr. Scully (for New York State), Ms. Gallagher (for Suffolk County), Mr. Lesko, Ms. Prusinowski and Mr. Turner (for Brookhaven), Mr. Walter and Mr. McCormick (for Riverhead), and Ms. Throne-Holst and Mr. Shea (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Commission and other agency staff members included Mr. Pavacic, Ms. Jakobsen, Ms. Mills, Ms. Hargrave, Ms. Griffiths and Mr. Hynes (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation - NYS DEC), Ms. Longo (from the Suffolk County Department of Environment and Energy), Mr. Freleng (from the Suffolk County Department of Planning) and Ms. Browning (from the Suffolk County Legislature). Additional attendees are shown on the attached sign-in sheet.

Peter A. Scully  
*Chair*

Mark Lesko  
*Member*

Steve A. Levy  
*Member*

Anna E. Throne-Holst  
*Member*

Sean M. Walter  
*Member*

The meeting was called to order at approximately 2:00 pm by Mr. Scully, with a four member quorum initially present consisting of the New York State, Suffolk County, Brookhaven Town and Riverhead Town representatives. The Pledge of Allegiance was recited.

#### **Public Comment and Administrative**

##### **Change in Order of Agenda**

*Mr. Scully recommended that the Commission change the order of the agenda until a representative from the Town of Southampton arrived. He suggested the meeting commence with a presentation by Ms. Griffiths on Discovery Day.*

#### **Stewardship & Education**

##### **Environmental Education: Discovery Day**

Summary: Ms. Griffiths thanked the sponsors of the Commission's 6/12 Pine Barrens Discovery Day as well as participating agencies and organizations and then proceeded to provide a PowerPoint overview. She noted that Discovery Day participation increased by 40% from 115 attendees in 2009 to 155 attendees in 2010, with 91 individuals having pre-registered. The 2010 program included 9 workshops, 3 guided nature walks, 12 exhibitors and a day-long Kids Discovery Center. Commission employees, Suffolk Community College personnel and volunteers, including 14 from Timberland, staffed the event. Mr. Scully thanked, on behalf of the Commission, the sponsors, volunteers and staff who supported and managed the event. (At approximately 2:05 pm, Ms. Throne-Holst, Mr. Shea and Mr. Lesko joined the meeting.)

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
www.pb.state.ny.us

## Public Comment and Administrative

Central Pine Barrens Joint Planning and Policy Commission Executive Director

*Mr. Scully note that at its last meeting in May, the Commission adopted a resolution recommending to the Suffolk County Water Authority (SCWA) Board that Mr. Pavacic be appointed as the new Executive Director of the Central Pine Barrens Joint Planning and Policy Commission, which action the SCWA took at its May 2010 board meeting. Mr. Scully observed that the Commission had adopted a resolution to formally appoint the prior Executive Director and recommended the Commission take the same action to appoint Mr. Pavacic as Executive Director. **A motion was made by Mr. Scully and seconded by Mr. Walter to appoint Mr. Pavacic as Executive Director. The motion was approved by a 5-0 vote.** Mr. Scully subsequently welcomed Mr. Pavacic to the Commission.*

## Closed Advisory Session

Summary: *Mr. Scully opined that the majority of meeting attendees were likely present in regard to Trap and Skeet and noted that at the prior Commission meeting Supervisor Lesko had asked that Trap and Skeet be placed on the agenda for discussion. Mr. Scully subsequently deferred to Mr. Lesko for a course of action. **A motion was then made by Mr. Lesko and seconded by Ms. Throne-Holst to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote,** and the Commission entered into closed session from approximately 2:20 pm to 3:10 pm. (Mr. Lesko and Ms. Throne-Holst returned to the meeting at approximately 3:16 pm.)*

## Land Use

### Core Preservation Area

Trap & Skeet Range at Southaven County Park / Yaphank (p/o 200-745-1-1):

Summary: *Mr. Lesko introduced, circulated to the Commission members and read into the record a resolution which determined, based on a Commission staff report, that the Trap and Skeet Range was closed to the public between 2001 and 2006, which determined that the reopening of the Range constituted development as defined in the Long Island Pine Barrens Protection Act of 1993 because it represented a "re-establishment of a use which has been abandoned for one year," and which directed the County of Suffolk to submit to the Commission a Core Preservation Area hardship application for its activities at the Southaven County Park Trap and Skeet Range. **A motion to approve this resolution was then made by Mr. Lesko and seconded by Mr. Walter.** Mr. Walter expressed his concern that members of the general public involved in the Trap and Skeet matter had no power to compel the Commission to render a decision, either through the courts or other means, and had to sit through 3 to 4 years of Commission meetings until the Commission made a decision today. **The motion was approved by a 3-0-1 vote, with Ms. Gallagher absent from the room and the abstaining vote cast by Mr. Scully.** (Mr. Lesko subsequently left the meeting at approximately 3:20 pm and Ms. Gallagher rejoined the meeting at approximately 3:22 pm.)*

## Public Comment and Administrative

Public comments

Summary: *The first speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He welcomed Mr. Pavacic as the new Executive Director of the*

Commission, praised his selection and offered his assistance to Mr. Pavacic in his new position.

The second speaker was Ms. Johan McConnell. She indicated she had participated in the Pine Barrens Discovery Day on June 12 and commended the Commission on sponsoring such a successful and wonderful event. She also praised the Commission staff, volunteers, presenters and hike leaders and noted that it was a well-attended event.

The third speaker (unidentified) asked for clarification as to what action the Commission had just undertaken in regard to the Trap and Skeet facility. Mr. Scully summarized what had transpired. The third speaker then asked who voted in favor and Mr. Walter replied that the 3 Town supervisors did so. The third speaker wanted to know who voted to keep it open. Mr. Walter responded it was not a vote to keep it open but to require the County to submit a hardship application. The third speaker asked if the range was going to close and Mr. Walter stated that the County had to submit a hardship application. The third speaker then asked if the range would stay open until such an application were submitted to which Mr. Walter indicated that could not be determined at this time. Mr. Scully reiterated that the resolution adopted by the Commission would be available on the Commission's web site the following day. The third speaker then wanted to know when the Commission would review the hardship application. Mr. Scully clarified the content of the resolution and indicated it was not certain when the Commission would review the application and render a decision as it did not know when the application would be submitted.

Minutes for 5/19: review, approval

**Summary: A motion was made by Mr. Walter and seconded by Ms. Gallagher to approve the 5/19/10 minutes. The motion was approved by a 5-0 vote.**

August Commission Meeting Date Change

**Summary: A motion was made by Mr. Walter and seconded by Ms. Gallagher to change the date of the August meeting from August 18 to August 11 with the location of Brookhaven Town Hall to remain the same. The motion was approved by a 5-0 vote.**

## **Stewardship & Education**

Environmental Education: Barrens to Bay Summer Program - Commission agreement with LI Maritime Museum

**Summary: Mr. Scully noted that this was the second year of the program and that the Commission needed to authorize an agreement on behalf of the Commission with the Long Island Maritime Museum for the program to commence in July. A motion to authorize Mr. Scully to sign the agreement on behalf of the Commission was made by Ms. Throne-Holst and seconded by Mr. Turner. The motion was approved by a 5-0 vote.**

## **Land Use**

### **Compatible Growth Area**

Hamptons Club at Eastport / Eastport (200-563-5-1.1-1.50; 200-594-1-5.1-5.23) (decision deadline is 6/16)

**Summary: Ms. Hargrave stated that the applicant had requested an extension of the decision deadline to the July 21 Commission meeting and that this request had been**

received. **A motion was made by Mr. Turner and seconded by Mr. Scully to accept and approve the applicant's agreement to an extension of the decision deadline for this application to the 7/21 meeting. The motion was approved by a 5-0 vote.** The applicant's attorney, Ms. Kathleen Deegan-Dickson of Forchelli, Curto, Deegan, Schwartz, Mineo, Cohn and Terrana, LLP, subsequently addressed the Commission and stated that she thought the applicant was going to have an opportunity to address the Commission this afternoon. Ms. Deegan-Dickson noted that the applicant had submitted additional information the previous week to the Commission. Mr. Scully asked Ms. Deegan-Dickson when the information had been submitted. Ms. Deegan-Dickson replied that it had been submitted on Friday whereupon Mr. Scully stated he didn't believe that had allowed sufficient time for the Commission and staff to review the materials. He asked Ms. Deegan-Dickson what information she had expected to provide today. She indicated that a great deal of effort had been put into the additional information and that she was present to clarify the information and address any questions the Commission had in regard to these materials. It was determined that the applicant will have an opportunity to do so at the July 21 meeting.

Willow Wood at Coram / Coram (200-523-1-1.2): schedule 7/21 hearing (decision deadline is currently 9/24)

Summary: **A motion was made by Mr. Scully and seconded by Ms. Throne-Holst to schedule a public hearing on this Compatible Growth Area Hardship application for the 7/21/10 meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

### **Core Preservation Area**

American Physical Society Expansion / Ridge (200-459-1-1.4): (Hearing held 4/21, decision deadline is 7/21; original Core permit issued 12/12/94)

Summary: Ms. Hargrave noted that the applicant had submitted a letter in response to the staff report and these materials had been submitted to the Commission members. She also noted that the decision deadline is 7/21. Mr. Shea asked for clarification of the extent of the clearing relief requested by the applicant for their modified plan. Ms. Hargrave stated her belief that the overall clearing had been reduced and indicated that the total area to remain natural was 31% or 1.55 acres. It was noted that there is no clearing standard for the Core in which the project site is located. Ms. Prusinowski subsequently asked what additional amount the applicant was proposing to clear beyond what had been approved in the last hardship application. It was agreed that due to time constraints, this information would be provided prior to the 7/21 meeting.

Jurevitz Property Residence, Barn and Paddock / Ridge (200-326-3-1): (decision deadline is 8/18)

Summary: Mr. Scully observed that the applicant had withdrawn his application which was confirmed by Mr. Hargrave. Mr. Scully then asked for clarification as to whether or not the Commission should adopt a resolution to accept the withdrawal. Mr. Milazzo noted that the Commission has used this practice in the past and recommended it be done now. **A motion was made and seconded to accept the withdrawal. The motion was approved by a 5-0 vote.**

### **Pine Barrens Credit Program**

Gazza Credit Appeal / Summit Blvd., Westhampton (900-331-3-21): Hearing held 5/19

Summary: This credit appeal was for a parcel on Summit Boulevard in Westhampton. Mr. Milazzo stated that a draft resolution had been circulated to the Commission to deny this appeal. The denial was based on the applicant failing to prove the involved parcel had any unique features, the parcel not being located on an improved road and that the

prior cases cited by the applicant were not applicable to the subject parcel. In light of the hearing transcript and the record, a denial was recommended. Mr. Walter asked for clarification as to whether or not this was the northerly lot located at the northerly end of the road. Mr. Milazzo confirmed this as correct. Mr. Milazzo also noted that staff had conferred with the Town and confirmed that Summit Boulevard was considered by the Town to be unimproved in the area of the applicant's parcel. **A motion was made by Ms. Throne-Holst and seconded by Ms. Prusinowski to adopt the resolution to deny the appeal. The motion was approved by a 5-0 vote.**

## Hearings

Tuccio Credit Appeal / Westhampton (900-248-1-110.4):

Summary: Mr. Milazzo apologized for not having a draft resolution ready for the Commission's consideration as certain matters prevented him from doing so. He said he had been in close contact with the applicant's attorney and that although Mr. Tuccio's attorney had recommended his client grant an extension of time Mr. Tuccio had not done so at this time. Mr. Milazzo noted that although the Commission has employed a practice of making a decision on an appeal within 60 days of receipt of an appeal there is no provision in Article 57 which requires such action. Accordingly, Mr. Milazzo noted that even though the Commission may not act today, there would be no default decision. Mr. Walter asked for clarification on this matter and Mr. Milazzo confirmed his belief that there would be no default decision.

Eagan Credit Appeal / Westhampton Beach (900-335-1-22 & 900-333-3-31)

Summary: Mr. Scully recommended a hearing be scheduled in regard to this credit appeal. **A motion was made by Mr. Walter and seconded by Ms. Throne-Holst to schedule a hearing on this credit appeal for the 7/21/10 meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

## Adjournment

Summary: **A motion was made by Ms. Prusinowski and seconded by Mr. Walter to adjourn. The motion was approved by a 5-0 vote, and the meeting ended at approximately 3:35 pm.**

## Attachments (in order of discussion):

1. Attendance sheet (6/16/10; 5 pages)
2. Project location map for today's meeting (6/16/10; 1 page)
3. Trap and Skeet resolution
4. 5/19/10 Minutes
5. Hamptons Club extension letter
6. Hamptons Club materials (miscellaneous dates)
7. Jurevitz withdrawal letter
8. Gazza credit appeal resolution
9. Willow Wood @ Coram CGA Hardship Application



**CENTRAL  
PINE  
BARRENS**  
JOINT  
PLANNING  
&  
POLICY  
COMMISSION

**Pine Barrens Commission Meeting Summary (FINAL)  
for Tuesday, July 6, 2010 (approved 8/11/10)  
at the Brookhaven Town Hall, 1 Independence Hill,  
Farmingville, NY, 2:00 pm**

Commission members present: Mr. Scully (for New York State), Mr. Isles (for Suffolk County), Ms. Prusinowski (for Brookhaven), Mr. McCormick (for Riverhead), and Mr. Shea (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Commission and other agency staff members included Mr. Pavacic, Ms. Jakobsen, Ms. Mills and Ms. Griffiths (from the Commission) and Ms. Mabel Smith, Risk Manager. Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 3:31 pm by Mr. Scully, with a four member quorum initially present consisting of the New York State, Suffolk County, Brookhaven Town and Southampton Town representatives. The Pledge of Allegiance was recited.

Peter A. Scully  
Chair

Mark Lesko  
Member

Steve A. Levy  
Member

Anna E. Throne-Holst  
Member

Sean M. Walter  
Member

**Public Comment and Administrative**

**Public Comment:**

Summary: Mr. John Palasek from the South Yaphank Civic Association asked for clarification in regard to the Commission's directive to Suffolk County at the 6/16/10 meeting to apply for a Core hardship waiver. Mr. Palasek noted that the Commission had not specified a time frame for County response and that in Chapter 4 of the Comprehensive Land Use plan there is a 60-day time frame. He asked if that were true. Mr. Milazzo indicated there was such a time frame. Mr. Palasek subsequently asked if that meant that a public hearing would be conducted in 60 days. Mr. Milazzo suggested Mr. Palasek refer to the specific, applicable sections of Chapter 4.

**Stewardship & Education**

**Environmental Education: Barrens to Bay**

Summary: Ms. Griffiths provided an overview of her role, pursuant to the Commission-Long Island Maritime Museum (LIMM) contract, in promoting the Central Pine Barrens and teaching children about them through educational activities at the Barrens To Bay Summer Camp. Mr. Pavacic and Mr. Milazzo provided a synopsis of LIMM's efforts to fulfill the contract's insurance requirements, including the fact that LIMM had been unable to obtain liability insurance limits in the amount of \$1,000,000 per occurrence/\$2,000,000 general aggregate and \$2,000,000 set forth in Contract Paragraph 6, subpart A, and Excess Liability coverage with a limit of \$4,000,000 set forth in Paragraph 6, subpart D. Mr. Pavacic noted that the 2010 Barrens to Bay program was scheduled to commence on July 12 and could not proceed unless this matter was resolved prior to that date. Mabel Smith, Suffolk County Water Authority's Risk Manager, provided an overview of the various insurance requirements and coverages and explained the potential risks involved. Ms. Smith has been in contact with Suffolk County's Risk Management unit which

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
www.pb.state.ny.us

provides much of the insurance coverage to L IMM under an existing County-L IMM contract, and the County Risk Management unit indicated that the County was now willing to provide the full Excess Liability coverage to L IMM. Mr. Milazzo stated, however, that written confirmation had not yet been received from the County Risk Management unit. As a contingency, the Commission could consider approving a waiver of the Excess Liability insurance contract provision if L IMM was unable to obtain it. After a brief discussion, the Commission indicated that it wanted the 2010 Barrens to Bay program to proceed. **A motion was made by Mr. Shea and seconded by Ms. Prusinowski to accept L IMM insurance and to modify the Commission-L IMM agreement by revising Paragraph 6(A) as follows "\$2,000,000 per occurrence" and deleting Paragraph 6(D) if L IMM is unable to obtain said coverage prior to the commencement of the 2010 Barrens to Bay program. The motion was approved by a 4-0 vote.**

## Land Use

### **Pine Barrens Credit Program**

Tuccio Credit Appeal / Westhampton (900-248-1-110.4):

Summary: Mr. Milazzo provided a summary of this case for the Commission and discussed a proposed resolution to approve the allocation of 18.46 credits to the Tuccio property. (Mr. McCormick subsequently arrived at 3:50 pm.) Ms. Prusinowski asked for clarification as to why this number of credits was proposed as opposed to 8.5. Mr. Milazzo cited several Town zoning provisions which provided the basis for the 18.46 credit allocation including the amount of land that could be cleared or disturbed as well as the amount of land on which improvements could be constructed. Mr. Milazzo also noted that the Comprehensive Land Use Plan requires that credit allocations for partially-improved properties, such as the subject property, must be reduced by the amount of existing improvements and that the state appellate court indicated that the applicant is owed some credits. Mr. Dick Amper of the Long Island Pine Barrens Society asked if the applicant is requesting a specific number of credits whereupon Mr. Milazzo indicated that at the 4/21/10 hearing the applicant had requested 50 credits. Mr. Milazzo also indicated that the applicant had granted an extension of time so if the Commission rendered a decision today it would be on time. **A motion was made by Mr. Scully and seconded by Mr. Shea to approve the resolution to adopt a SEQRA Negative Declaration and allocate 18.46 Pine Barrens Credits to the Tuccio property. The motion was approved by a 5-0 vote.**

## Adjournment

Summary: **A motion was made by Mr. Shea and seconded by Ms. Prusinowski to adjourn. The motion was approved by a 5-0 vote, and the meeting ended at approximately 3:55 pm.**

## Attachments (in order of discussion):

1. Attendance sheet (7/6/10; 2 pages)
2. Tuccio Credit Appeal Resolution, SEQRA Negative Declaration and EAF



**Pine Barrens Commission Meeting Summary (FINAL)  
for Wednesday, July 21, 2010 (approved 8/11/10)  
at the Brookhaven Town Hall, 1 Independence Hill,  
Farmingville, NY, 2:00 pm**

Commission members present: Mr. Scully (for New York State), Ms. Gallagher (for Suffolk County), Mr. Lesko, Ms. Prusinowski and Mr. Turner (for Brookhaven), Ms. Lewis (for Riverhead), and Ms. Throne-Holst and Mr. Shea (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Commission and other agency staff members included Mr. Pavacic, Ms. Jakobsen, Ms. Mills, Ms. Hargrave, Ms. Griffiths and Mr. Hynes (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation - NYS DEC), Ms. Longo (from the Suffolk County Department of Environment and Energy) and Mr. Freleng (from the Suffolk County Department of Planning). Additional attendees are shown on the attached sign-in sheet.

Peter A. Scully  
Chair

Mark Lesko  
Member

Steve A. Levy  
Member

Anna E. Throne-Holst  
Member

Sean M. Walter  
Member

The meeting was called to order at approximately 2:10 pm by Mr. Scully, with three members present consisting of New York State, Brookhaven Town and Riverhead Town representatives. The Pledge of Allegiance was recited.

#### **Public Comment and Administrative**

Mr. Scully noted that because a quorum was not present the Commission would not be able to make decisions until a quorum was achieved.

#### **Public Comment and Change in Order of Agenda**

Mr. Scully recommended that the Commission change the order of the agenda until a quorum was present. He asked if any member of the public would like to speak. Mr. Dick Amper, of the Long Island Pine Barrens Society, was the sole speaker and asked to defer comments until a quorum was present. Mr. Scully then suggested the meeting commence with a presentation by Ms. Griffiths on Education and Outreach.

#### **Stewardship & Education**

##### **Environmental Education**

Summary: Ms. Griffiths distributed a report to the members and said the six week summer camp program with the Long Island Maritime Museum (LIMM) and the Central Pine Barrens Commission is underway. She noted that the LIMM had obtained the required insurance coverage. The US Fish and Wildlife Service at Wertheim has purchased and provided new equipment for use in educational programs. She then mentioned that four educational kiosks are being developed for the Dwarf Pine Trail. Ms. Griffiths will be collaborating with the Wildfire Task Force (WTF) and the Flanders Fire Department to develop a pamphlet on fire danger issues regarding the Oak Tree mortality in the Pine Barrens. Brookhaven National Lab's Open Space Stewardship Program will give a 4 hour Pine Barrens Ecology Course workshop for 27 teachers. Ms. Griffiths suggested members could review the report for additional details on these topics. (At 2:15 pm, Ms. Gallagher, representing Suffolk County, and Ms. Throne-Holst and Mr. Shea, representing the Town of

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
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Phone (631) 224-2604  
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Southampton, joined the meeting.)

## Wildfire Task Force

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Summary: Ms. Jakobsen stated that John Searing, representing the WTF and NY Wildfire Academy, was present and noted that the WTF Chair, John Urevich, was unable to attend. Ms. Jakobsen gave a brief overview of the letter submitted by the WTF in response to the Advisory Committees's (AC's) recommendations. Ms. Jakobsen then provided a summary of key points in the regard to the AC's WTF recommendations and offered staff recommendations. Mr. Pavacic noted how the Commission had requested that Academy representatives be afforded an opportunity to be heard by the Commission in regard to the AC's recommendations as well as answer questions. Mr. Searing noted how the WTF was established after the 1995 wildfires to improve Fire department coordination and was present to answer any questions the Commission had.

## NY Wildfire Academy

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Summary: Mr Searing noted how the NY Wildfire and Incident Management Academy was an outgrowth of the WTF and that the Academy submitted a letter on behalf of the board members. Mr. Scully noted there were questions about how closely the Wildfire Academy was monitored by the Commission, even though it was under the aegis of Commission authority. It was agreed the Commission staff and AC should meet one more time with the Academy and WTF Executive Committee to attempt to achieve consensus on a course of action.

## Public Comment and Administrative

### Public Comments

Summary: Mr. Amper, of the Long Island Pine Barrens Society (LIPBS), stated that although the American Physical Society (APS) is good for the economy and science, he is reluctantly opposed to the approval of the hardship application of the American Physical Society. He stated the Commission should only grant the minimum relief allowed under the Land Use Plan and that their expansion request does not conform to the ACT. Mr. Amper stated that this was a self-created hardship, an increase in intensity of use and that minimum relief was already granted in 1994. Mr. Amper indicated there was nothing in the 1994 waiver about a pre-ordained future waiver for vertical expansion and that APS still has a beneficial use. Mr. Amper cited a number of prior cases in which Commission approvals questioned by the LIPBS had been overturned in the courts.

### Minutes for 6/19: review, approval

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Summary: Ms. Prusinowski noted several changes needed to be made to the minutes of 6/19/10. **A motion was then made by Mr. Lesko and seconded by Ms. Gallagher to adopt the 6/19/10 minutes with the amendments offered by Ms. Prusinowski. The motion was approved by a 5-0 vote.**

## Land Use

### Compatible Growth Area

Hamptons Club at Eastport / Eastport (200-563-5-1.1-1.50; 200-594-1-5.1-5.23) (decision deadline is 7/21/10)

Summary: Ms. Hargrave stated that the applicant had requested an extension of the decision deadline to the July 21 Commission meeting. Ms. Hargrave has asked to keep

*the hearing and the record open. The applicant has now asked to extend the decision deadline time period to the September 15 Commission meeting. **A motion was made by Ms. Gallagher and seconded by Mr. Lesko to approve the extension of the decision deadline to the September 15 Commission meeting and keep the hearing open. The motion was approved by a 5-0 vote.***

### **Core Preservation Area**

American Physical Society Expansion / Ridge (200-459-1-1.4): (Hearing held 4/21, decision deadline is 7/21; original Core permit issued 12/12/94)

Summary: *Ms. Hargrave noted that the applicant had submitted a letter in response to the staff report and these materials had been distributed to the Commission members. She also noted that the decision deadline is 7/21. Ms. Hargrave submitted a draft resolution for approval, a long EAF Part 2 and a draft State Environmental Quality Review Act Negative Declaration on the Core Preservation Area Extraordinary Hardship Application of the American Physical Society located in Ridge. Mr. Scully asked what conditions of approval were proposed in the resolution. Ms. Hargrave subsequently summarized these. Ms. Gallagher noted that the resolution stated that the applicant's redemption of 3.29 credits would result in the preservation and sterilization of 3.29 acres of land, and that this was not correct as number of credits did not equate to an equal number of acres. Mr. Shea stated the resolution should strictly address the sanitary discharge and recommended the phrase referencing the 3.29 acres be deleted. Mr. Lesko subsequently asked why there was a policy against Pine Barrens Credit redemption in the Core and sought clarification. Mr. Pavacic provided a synopsis of the ECL Article 57 and Comprehensive Land Use Plan language regarding this issue. Under condition number 4 in the Resolved section of the resolution, Mr. Milazzo indicated that the phrase "which will result in the preservation of land and sterilization of development rights on 3.29 acres in Suffolk County" should be deleted and the word "should" in the phrase "which should not be in the form of" should be changed to "must". **A motion was made by Mr. Lesko and seconded by Ms. Gallagher to adopt the resolution with the suggested amendment. The motion was approved by a 4-0-1 vote with the abstaining vote cast by Mr. Scully.***

### **Hearings**

Willow Wood at Coram / Coram (200-523-1-1.2): schedule 7/21 hearing (*decision deadline is currently 9/24*)

Summary: *A separate stenographic transcript exists for this hearing. During the hearing staff and appellant exhibits were distributed. (Staff exhibit list attached and Appellant exhibits attached.) (Mr. Lesko left the meeting at 3:15 pm and returned at 3:21 pm. Mr. Lesko subsequently left the Commission meeting at 4:16 pm and Ms. Throne-Holst left the Commission meeting at 4:18 pm.)*

### **Pine Barrens Credit Program**

Eagan Credit Appeal / Westhampton Beach (900-335-1-22 & 900-333-3-31)

Summary: *Mr. Eagan has requested an extension of time to review materials received via a FOIL request prior to hearing. **A motion was made by Mr. Scully and seconded by Ms. Gallagher to grant the extension to the October Commission meeting. The motion was approved by a 5-0 vote.***

## **Land Use Activity**

Summary: Ms. Hargrave distributed a Land Use Division update report and provided a brief summary.

## **Compliance and Enforcement**

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Summary: Mr. Hynes distributed a compliance and enforcement report and reported five vehicles were airlifted out of the Pine Barrens by the NY Army National Guard in cooperation with the LEC and WTF on June 17. Mr. Hynes is working closely with Ms. Hargrave on site visits to ensure compliance with prior Commission enforcement actions and hardship approvals. Mr. Hynes also noted that staff are receiving calls about clearing of small parcels and is working closely with Brookhaven Town in investigating these.

## **Adjournment**

Summary: **A motion was made by Ms. Prusinowski and seconded by Ms. Gallagher to adjourn. The motion was approved by a 5-0 vote, and the meeting ended at approximately 4:27 pm.**

## **Attachments (in order of discussion):**

1. Attendance sheet (7/21/10; 3 pages)
2. 6/19/10 minutes
3. Education and Outreach July 2010 update report
4. Wildfire Task Force 3/26/10 Response letter
5. NY Wildfire Academy 4/5/10 response letter
6. WTF Response to the AC Recommendation Summary of Key Points Staff Report
7. American Physical Society Core Hardship Waiver Resolution, SEQRA Determination and Long EAF Part 2
8. Willow Wood at Coram Materials
9. Eagan Environmental Solutions Credit Appeal Extension Request
10. Land Use Division Update Report
11. Compliance and Enforcement July 2010 update report



Pine Barrens Commission Meeting Summary (FINAL)  
for Wednesday, August 11, 2010 (Approved 9/15/10)  
at the Brookhaven Town Hall, 1 Independence Hill,  
Farmingville, NY, 2:00 pm

Commission members present: Mr. Scully (for New York State); Ms. Gallagher (for Suffolk County; Mr. Lesko, Ms. Prusinowski and Mr. Turner (for Brookhaven), Mr. Walter and Mr. McCormick (for Riverhead) and Mr. Shea (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Commission and other agency staff members included Mr. Pavacic, Ms. Jakobsen, Ms. Sholl and Mr. Hynes (from the Commission; Mr. Spitz (from the NYS Department of Environmental Conservation) and Mr. Shilling (from the Suffolk County Legislature). Additional attendees are shown on the attached sign-in sheet.

Peter A. Scully  
*Chair*

Mark Lesko  
*Member*

Steve A. Levy  
*Member*

Anna E. Throne-Holst  
*Member*

Sean M. Walter  
*Member*

The meeting was called to order at approximately 2:03 pm by Mr. Scully, with a four member quorum initially present consisting of the New York State, Suffolk County, Riverhead Town and Brookhaven Town representatives. The Pledge of Allegiance was recited. (At 2:04 pm Mr. Shea, representing the Town of Southampton, joined the meeting.)

### **Public Comment and Administrative**

#### **Public Comment**

Summary: Mr. Amper, of the Long Island Pine Barrens Society (LIPBS), discussed the history of the Central Pine Barrens and expressed his appreciation to the Town supervisors for their attendance at Commission meetings. However, Mr. Amper then stated his concerns regarding the recent changes in Town leadership and the Commission's ability to maintain consistent policy-making decisions. He noted that the Commission must operate under extremely limiting criteria, as in the case of hardships, which constrain their authority even if they supported a particular project such as the American Physical Society (APS). He expressed his desire that a mutually-respectful relationship be maintained and pointed out that the Long Island Pine Barrens Protection Act and the provisions in the Comprehensive Land Use Plan address conflicts of interest between development and environment. Mr. Amper stated that the legislation and the Plan contain guidelines that were meant to be used for the purpose of protecting the groundwater and the Pine Barrens ecosystem. He noted that the Commission has a responsibility to take seriously the statute and its definition of development and non-development. He further observed that the hardship exemption provision was intended to offer minimum relief to land owners and to not be used for the purpose of overriding a statute that facilitates protection of the Pine Barrens. Mr. Amper noted that the LIPBS was proceeding to litigate the Commission's approval of the APS hardship and distributed copies of the LIPBS request for judicial intervention. (At 2:10 pm, Ms. Prusinowski, of the Town of Brookhaven, joined the meeting)

P.O. Box 587  
3525 Sunrise Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

## **Administrative**

### **Minutes for 7/6: review, approval**

**Summary: A motion was made by Mr. Shea and seconded by Mr. McCormick to adopt the minutes of 7/6/10. The motion was approved by a 5-0 vote.**

### **Minutes for 7/21: review, approval**

**Summary: A motion was made by Ms. Gallagher and seconded by Mr. Turner to adopt the minutes of 7/21/10. The motion was approved by a 4-0-1 vote with the abstaining vote cast by Riverhead.**

## **Stewardship & Education**

### **N.Y. Wildfire Academy Auditor RFP: results and action**

**Summary:** Mr. Pavacic stated that staff have received two multi year proposals for audits which would cover the 2009 academy and the subsequent 4 years. Mr. Pavacic recommended that the Commission take no action regarding selection of an auditor and execution of an audit contract until there was a final determination on the future and fate of the academy. He noted that staff, the Wildfire Task Force, Academy Board and Advisory Committee were scheduled to meet to discuss the academy and other issues on August 24, 2010, as requested by the Commission, and indicated he would provide further information at the September Commission meeting.

## **Land Use**

### **Compatible Growth Area**

#### **Hamptons Club at Eastport / Eastport (200-563-5-1.1-1.50; 200-594-1-5.1-5.23) (decision deadline is 9/15/10)**

**Summary:** Ms. Hargrave provided an update on the project and noted that staff had received the FEIS today. Mr. McCormick asked if any new information had been received and Ms. Hargrave stated that no response for additional information on the project had yet been received. A continuation of the hearing is scheduled for the September 15 Commission meeting which is also the decision deadline for the project.

#### **Willow Wood at Coram / Coram (200-523-1-1.2) (decision deadline is 9/24/10)**

**Summary:** Ms. Hargrave reiterated that project site is 25.44 acres and that the project consists of the construction of 140 residential condominium units and a recreation building. Ms. Hargrave distributed an updated staff report, which included information pertaining to outstanding items, development on the adjoining parcel and confirmation of the final clearing limit. The size of the recreational facility is in question in so far as its effect on the amount of clearing proposed. Mr. Shea asked if there was any potential for modification, such as changing the clearing or changing the configuration of the site plan. He also asked if the staff report was in response to a modified

plan. Ms. Hargrave indicated that if there is a desire to reduce the amount of clearing, there would need to be a request to the Town for a variance to reduce the size of the facility or eliminate it altogether. She also stated that the plan was essentially the same as before with some minor changes. The application before the Town is still incomplete and the Town has not issued a SEQRA determination. Ms. Prusinowski indicated that she had met with the applicant but that the applicant had no intention of altering the plan any further.

**Artist Lake Plaza DRS / Middle Island (200-379-1-3.1, 5.1, 12) (schedule hearing, decision deadline 11/29/10)**

Summary: Ms. Hargrave provided a brief overview of this Development of Regional Significance (DRS). The project entails redevelopment of a vacant commercial site involving the demolition of an existing vacant 123,275 square foot commercial building and construction of two large anchor stores and seven smaller retail buildings for a total of 379,411 square feet of commercial uses in nine retail buildings. Other site development related to the proposed commercial use includes 2,021 parking spaces and individual on-site septic systems. In addition, three athletic fields and appurtenant recreational facilities will be created.

**A motion was made by Mr. Walter and seconded by Ms. Prusinowski to schedule a hearing for this project on September 15, 2010. The motion was approved by a 5-0 vote.**

**Core Preservation Area**

**Gazza Telecommunicatons Monopole / Eastport (900-213-1-72.1)**

Summary: Ms. Hargrave provided a brief summary. The project site is 0.34 acres and is zoned Open Space Conservation (OSC). The project consists of the construction of a 99 foot telecommunications monopole on a parcel purchased after the passage of the Act. The application has been before the Commission since 2003. The Commission assumed lead agency status 2/27/08. After several requests to the applicant to prepare a draft scope, a draft scope was prepared by Commission staff and circulated to the public. A final scope was approved by the Commission on 7/16/08. The applicant was subsequently asked to provide a DEIS. However, the applicant indicated verbally and in a recent letter that he does not intend to prepare a project-specific DEIS. (Mr. Lesko of Brookhaven Town arrived at 2:20 p.m.) SEQRA allows a lead agency to terminate its review of an application if an applicant does not prepare a DEIS.

**A motion was made by Mr. Shea and seconded by Mr. Walter to deny the proposed Gazza Telecommunications Monopole Core Hardship application without prejudice. The motion was approved by a 5-0 vote.**

**Estate of Constance DiPeri Extraordinary Hardship application / Ridge (200-383-1-22) (schedule hearing, decision deadline 11/29/10)**

Summary: The project consists of the construction of a single family residentially dwelling and associated infrastructure on a 21,780 square foot, undeveloped, wooded site. The decision deadline is 11/29/10. A motion was made by Mr. Scully and seconded by Mr. Lesko to schedule a hearing for this project on September 15, 2010. The motion was approved by a 5-0 vote.

### **Pine Barrens Credit Program:**

#### **Public Hearing Policy - draft revision to include payment of credit appeal hearing notice by applicant.**

Summary: The current policy for hearing notice payment is that the applicant must reimburse the Commission for a public notice that is published in a newspaper and paid by the Commission. Until now the policy did not include hearing notices for credit appeals. Formal adoption of a resolution to include credit appeal hearing notices under the policy would address this omission. A motion was made by Mr. Shea and seconded by Ms. Gallagher to amend the current hearing notice payment policy to require that applicants for credit appeals reimburse the Commission for the cost of the publication of credit appeal hearing notices. The motion was approved by a 5-0 vote.

Sivan Pound Ridge, LLC / Eastport (900-235-1-59) credit appeal: Summary: The original Letter of Interpretation (LOI) for this parcel consisting of 38 acres was for 10 Credits. A subsequent review of the criteria for allocation revealed that the parcel is eligible for only 9 Credits. As a result, a revised LOI was sent to the applicant.

The applicants have used the 9 Credits for increased sanitary flow on a project in Selden. A total of 38 acres have been protected as a result of the transfer and the applicants have been advised they could appeal to the Commission for restoration of the tenth credit and revision of the credit allocation. A motion was made by Mr. Scully and seconded by Mr. Lesko to schedule a hearing for the credit appeal for October 20, 2010 at 3:00 pm. The motion was approved by a 5-0 vote.

### **Carmans River Watershed Protection:**

Summary: Mr. Lesko spoke about the Carmans River Conference, which was held several months ago. A Carmans River Watershed Protection overlay district and plan are being drafted as a result of the conference. Mr. Lesko indicated that the Town would be poised to adopt the overlay district in the near future and wanted this effort to be completed as expeditiously as possible. He expressed his desire that there be two lead agencies for this effort and that the Commission be the other co-lead. He requested that the Commission consider participating in this endeavor and assign staff to support the effort in that regard. Mr. Lesko stated that the Town is being very aggressive in protecting the Carmans River. He noted that a concern had been raised about groundwater flow but did not want this to hinder continuing progress. Mr. Pavacic stated that he and staff have attended several meetings regarding this study and that there are several areas of the study that need further investigation including groundwater contributing areas, especially those north of Middle Country Road and south of the Groundwater Divide. He indicated that at a meeting with the Town, it was determined that the Carmans River protection efforts could continue while a group of hydrogeological experts was empaneled to investigate the fate of groundwater. He indicated that all involved were seeking to ensure the Carmans River was protected. Mr. Scully noted that in 2009 he had raised interest in protection of the Carmans River. Ms. Gallagher indicated that a draft County watershed plan had been prepared and could be utilized. Mr. Amper noted that a similar effort to study and protect the Forge River was doomed from the start due to undue constraints placed on the planning process and its outcome and hoped that this did not occur with the Carmans River effort. He stated that everyone agrees that the effort should continue and should not be held up. Mr. Lesko indicated that he would seek to have Town staff make a

presentation regarding the Carmans River Watershed Protection effort at the September 15, 2010 meeting.

### **Solid Waste Task Force**

Summary: Mr. Lesko asked Mr. Scully if Commission staff could be added to the Solid Waste Task Force as a number of solid waste sites were located in the Central Pine Barrens. Mr. Scully stated his belief that this could be accomplished.

Adjournment Summary: A motion was made by Mr. Scully and seconded by Ms. Gallagher to go into executive session. The motion was approved by a 5-0 vote, and the meeting ended at approximately 2:40 pm.

### Attachments (in order of discussion):

1. Attendance sheet (8/11/10; 1 page)
2. 7/21/10 minutes
3. Adopted Resolution to schedule public hearing for Artist Lake Plaza
4. Adopted Resolution to terminate review of Gazza Telecommunications Monopole Core Hardship Waiver application
5. Adopted Resolution to schedule Estate of Constance Diperi Core Hardship Waiver hearing
6. Adopted Resolution to approve change to Public Hearing Notice Payment Policy





**CENTRAL  
PINE  
BARRENS**  
JOINT  
PLANNING  
&  
POLICY  
COMMISSION

Peter A. Scully  
*Chair*

Mark Lesko  
*Member*

Steve A. Levy  
*Member*

Anna E. Throne-Holst  
*Member*

Sean M. Walter  
*Member*

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
www.pb.state.ny.us

**Pine Barrens Commission Meeting Summary (FINAL)  
for Wednesday September 15, 2010 (Approved 10/20/10)  
at Riverhead Town Hall, 200 Howells Avenue,  
Riverhead, NY, 2:00 pm**

Commission members present: Mr. Scully (for New York State), Ms. Gallagher (for Suffolk County), Ms. Prusinowski (for Brookhaven), Mr. Walter (for Riverhead), and Ms. Throne-Holst and Mr. Shea (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Commission and other agency staff members included Mr. Pavacic, Ms. Jakobsen, Ms. Griffiths, Ms. Carter, Ms. Hargrave, Ms. Sholl and Mr. Hynes (from the Commission) and Ms. Longo (from Suffolk County). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:00 pm by Mr. Scully, with a four member quorum initially present consisting of the New York State, Brookhaven Town, Riverhead Town and Southampton Town representatives. The Pledge of Allegiance was recited.

**Public Comment and Administrative**

Public Comment:

Summary: Mr. John Palasek of the South Yaphank Civic Association discussed the Commission's Resolution regarding the Trap and Skeet Range at Southaven County Park, dated June 6, 2010, which states that the re-opening of the Range constitutes development due to the re-establishment of a use which has been abandoned for one year. The Resolution requires Suffolk County to submit a Core Area Hardship application to the Commission for its activities at the Southaven County Park Trap and Skeet Range. Mr. Palasek further stated that the Commission's resolution allows for continued operation of the Range in lieu of the submission of a Hardship application. He indicated that the Civic Association takes issue with this decision on the grounds that it is inconsistent with Article 57 and the Comprehensive Land Use Plan (CLUP) Core Area Hardship application guidelines. Mr. Palasek requested that the Commission re-visit its decision and enjoin the County from operating the Trap and Skeet Range until the hardship waiver application is submitted to the Commission for review and a decision has been made regarding the application. Otherwise, he indicated that the Commission has issued a defacto operating permit to the Trap and Skeet facility.

Mr. Robert Kessler, a resident of Yaphank, spoke about the illegal dumping activities taking place at 275 East Main Street in Yaphank. The area is 1000 feet from the Carmans River and the dumping is occurring day and night. He requested that the Commission's Law Enforcement division takes action to stop the dumping. Mr. Kessler subsequently requested that the Commission review and address the proposed building of a fishing wharf on the eastern side of Lower Lake. The project would require the removal of trees that are an integral part of the beauty of this area and with its proposed lighting would make the area look like "Coney Island." Mr. Kessler further stated that neither the tax payers nor the

Yaphank Civic Association support the building of this project.

Ms. Gail Lynch-Bailey, a resident of Middle Island and a member of the Longwood Alliance, thanked the Commission and its staff for enabling their Veterans Memorial project to move forward in time for their June 19<sup>th</sup> New Monuments Dedication Ceremony that honored Longwood's Veterans including those who served in World War II, the Korean War and the Vietnam War. She supplied the Commission with a program from the events (attached).

Minutes for 8/11: review, approval

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**Summary: A motion was made by Mr. Walter and seconded by Ms. Throne-Holst to adopt the minutes of 8/11/10. The motion was approved by a 4-0 vote.**

NY Wildfire Academy Auditor RFP

**Summary:** Mr. Pavacic stated that two proposals were received in response to the Auditor RFP placed in August on a contract that would cover the time period from 2009 through the next four years. Mr. Pavacic suggested that selection of a proposal and execution of a contract be delayed until a final resolution is reached on the future status of the Academy. The Academy will be meeting with the Northeast Compact to discuss the possibility of joining with that organization to host the Academy. Mr. Pavacic also stated that both prospective RFP contractors agreed to honor their prices until the end of 2010. (At 2:15 pm Ms. Gallagher, representing Suffolk County, and Mr. Turner, representing Brookhaven Town, arrived at the meeting.)

Commission Audit performed by KPMG LLP

**Summary:** Mr. Pavacic distributed to the Commission members copies of a draft audit report on the Commission's finances which was prepared by KPMG LLP. He stated that there were no significant adverse findings found in the Commission audit. **A motion was made by Mr. Walter and seconded by Ms. Prusinowski to accept the findings of the audit. This motion was approved by a 5-0 vote.**

## **Stewardship & Education**

Science and Stewardship Division: monthly update

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**Summary:** Ms. Carter distributed and discussed the attached status report. She described Stewardship initiatives which include the cultivation and distribution of native grasses and forbs at the Suffolk Community College greenhouse for restoration projects and scouting for invasive plants work event mapping at Brookhaven State Park where data was entered into a Statewide database referred to as "Imapinvasives." Ms. Carter attended the quarterly meeting regarding invasives on August 5<sup>th</sup> at Marine Park Nature Center in Brooklyn and a New York State Department of Environmental Conservation (NYSDEC) meeting to discuss management issues. She spoke about the on-going work with Cornell Cooperative Extension Master Gardeners to enhance the Native Plant Demonstration Garden at the Westhampton Dwarf Pine Plan Trail.

Ms. Carter discussed the ATV damage and mitigation effort including the multi-party monitoring, litter removal and repair of barriers and signs in the Flanders area as well as the air lift of two junk vehicles.

Ms. Carter discussed the current work of the Protected Lands Council (PLC) on management of public lands in the Upper Carmans River region which will lead to recommendations to the Commission. These will focus on issues pertaining to ATV

destruction and dumping, the promotion of legitimate uses and a unified trail system. Other items Ms. Carter discussed included the 2010 Research Forum on September 30<sup>th</sup> and October 1<sup>st</sup>, the theme of which is "The Pine Barrens Maritime Reserve: Beyond the Trees" and the Oak Mortality issue being addressed by the Science and Stewardship Committee, the LEC and the WTF.

Mr. Turner spoke about an informal agreement with the Saratoga Tree Nursery which allows for pitch pine cones to be collected and forwarded to the nursery to generate additional planting stock for the area. In addition, he inquired as to whether or not the log at the Dwarf Pine Trail was being used. Mr. Carter indicated that it was.

#### Wildfire Task Force and NY Wildfire Academy:

Summary: Mr. Pavacic stated that on August 24<sup>th</sup> he and Ms. Jakobsen participated in a meeting at Southaven County Park with the board members of the Wildfire Task Force (WTF) and the Wildfire Academy (NYWIMA) to discuss the Advisory Committee (AC) recommendations to the Commission. A member of the Commission's Advisory Committee also attended the meeting. A consensus was reached in regard to the AC's recommendations concerning the WTF and a draft resolution (attached) was provided. A consensus was achieved with the WTF in regard to the elimination of certain committees, as recommended by the AC, with the exception of the Training Committee. Further agreement was achieved that the prescribed fire program should be supported and reinvigorated.

Mr. Pavacic mentioned that the draft resolution included a request by the WTF board that the Commission's Outreach and Education Coordinator, Ms. Melissa Griffiths, work closely with the WTF Public Education subcommittee and Ms. Griffiths is currently working on developing a brochure.

Other items agreed to at the August 24<sup>th</sup> meeting and reflected in the draft resolution included maintaining the current structure of the WTF with two co vice-chairs, allowing members of the WTF and NYWIMA boards to serve on both at least until the future of the Academy is determined and keeping the WTF quorum at sixteen with an emphasis on discussing and implementing techniques to increase membership.

Mr. Scully noted that the WTF draft resolution (provided) contained no clauses regarding the status of the Fire Academy since the AC recommendations pertaining to the Fire Academy will not be addressed until after this year's Fire Academy. Mr. Pavacic stated that discussion regarding the status of the Fire Academy will continue throughout the coming months and he was hopeful that a decision can be reached by December.

**A motion was made by Mr. Scully and seconded by Ms. Throne-Holst to approve the aforementioned resolution regarding the Wildfire Task Force. The motion was approved by a 5-0 vote.**

#### Environmental Education and Outreach Division: monthly update

Summary: Ms. Griffiths distributed and discussed the September Education and Outreach Report. Included in the report were activities that took place in September and those scheduled for October. She discussed programs she is providing to high schools that include Patchogue-Medford, Longwood, Sayville, and Southampton school districts. The focus of the programs include the Twinnings project and biodiversity sampling at the upper Carmans River, an Earth Explorers Club and biodiversity web conferencing with Glasgow, Scotland and France. Ms. Griffiths described in detail projects she is currently

working on such as the Oak Tree Mortality Brochure and the web conference during this year's Research Forum with students of Longwood and Patchogue-Medford High School and the students from Liceo Scientifico in Pisa, Italy.

She stated that she has had the pleasure of working closely with Brookhaven National Laboratory (BNL) over the past four years and this past year specifically with its National Synchrotron Light Source (NSLS) on two different projects. Both projects also involved seven schools on Long Island. The project involves sampling Carmans River sediment, shell fish, water and vegetation to determine the health of the river. The second project involved comparing the samples with samples taken from the San Rossore, Italy area as part of the Twinings project. Ms. Griffiths described the findings of certain metals in the Carmans River samples and invited Dr. Keith Jones of BNL to further discuss the findings. Dr. Jones discussed results regarding metals, particularly in regard to copper, lead and arsenic. He noted that arsenic is very ubiquitous and traces were found throughout the Carmans River system. Dr. Jones discussed other findings including long-term sedimentation and other contaminants and indicated that the intent of the program was to bring "big science" into the classroom.

Mr. Scully thanked Ms. Griffiths for her efforts in reaching out to the schools in the Pine Barrens. He also thanked Dr. Jones for taking the time to speak to the Commission today and for his efforts in involving students in high-level scientific research. Mr. Scully also noted that Ms. Griffiths work with schools has the potential of effectively deterring illegal activities and misuse of public lands. He asked Ms. Griffiths and Commission staff to investigate the potential for Longwood School District students to become involved in the stewardship of Carmans River public lands, such as the Novak property.

## Land Use

### **Compatible Growth Area (CGA)**

Willow Wood at Coram (200-523-1-1.2) (Decision deadline is 9/24/10)

Summary: Ms. Hargrave distributed a draft resolution with conditions for approval pertaining to the Willow Wood project and mentioned that an amended site plan was received on 9/14/10 which included modifications to recreational facilities and the location of parking. An area would be revegetated with conditions pertaining to the future maintenance, including keeping new grassland areas free of invasive species. Additional resolution conditions included the submission of an amended alignment plan, installation of a snow fence around the existing area that will remain natural and the inclusion of a 10-foot wide trail easement.

Mr. Turner expressed concern about the revegetation plan, particularly in that it entailed only the planting of herbaceous meadow and no woody species. He felt it would be appropriate for the revegetation plan to be supplemented with woody species to compensate for the loss of woody and heath species to be cleared. Ms. Throne-Holst was also troubled by the lack of woody vegetation and the fact that there had been no reduction in the size of the recreational amenities to reduce the amount of clearing required. Mr. Richard Amper, of the Long Island Pine Barrens Society, inquired as to whether or not the project had yet been approved by Brookhaven Town and was advised by Ms. Prusinowski that only the SEQRA Negative Declaration had been approved. Mr. Amper continued that he had a problem in that the Brookhaven Town Code was not complying with the Comprehensive Land Use Plan in allowing this project to occur. He noted that in the Stipulation of Settlement the Town Board did not agree to a certain

density and that this project creates a precedent. Mr. Amper asked how much development did the Comprehensive Land Use Plan GEIS anticipate. He also indicated he had issues with project changes being brought to the Commission at the last minute and this information then not available to the general public. He was concerned that this same issue could occur in the other towns within the Central Pine Barrens. Mr. Robert Wieboldt, of the Long Island Builders Institute, stated that the Comprehensive Land Use Plan and GEIS were not site-specific and that much of what has happened since has been good for the environment. He stated that applying the GEIS in a site-specific manner was nonsense. Mr. Wieboldt noted further that town regulations were changed to incorporate the requirements of Chapter 57 and the Comprehensive Land Use Plan.

## Hearings

Estate of Constance DiPeri Extraordinary Hardship Application/Ridge (200-383-1-22): hearing (decision deadline is 11/29/10)

Summary: A separate stenographic transcript exists for this hearing. During the hearing, staff and appellant exhibits were distributed (Staff exhibit list attached and Appellant exhibits attached).

**A motion was made by Mr. Scully and seconded by Ms. Gallagher to close the hearing and postpone a decision to the next meeting as no owners consent form had been provided by the applicant's consultant. The motion was approved by a 5-0 vote.**

Hamptons Club at Eastport / Eastport (200-563-5-1.1-1.50; 200-594-1-5.1-5.23):

Summary: A separate stenographic transcript exists for this hearing. During the hearing, appellant submitted a written request (attached) that the decision date be extended to the October 20, 2010 Commission meeting,

**A motion was made by Ms. Throne-Holst and seconded by Mr. Walter to close the hearing, for the applicant to submit final comments by a deadline of October 6, 2010 and to accept public comments up to October 27, 2010. The motion was approved 5-0 vote. A subsequent motion was made by Ms. Gallagher and seconded by Mr. Walter to accept the request made by the applicant to extend the decision deadline to November 17, 2010. The motion was approved by a 5-0 vote.**

Artist Lake Plaza DRS / Middle Island (200-379-1-3.1, 5.1, 12) (decision deadline 11/29/10)

Summary: A separate stenographic transcript exists for this hearing. During the hearing, staff and appellant exhibits were distributed (Staff exhibit list attached and Appellant exhibits attached).

**A motion was made by Ms. Throne-Holst and seconded by Mr. Turner to leave the hearing and public comment period open, accept the extension of the decision deadline to December 15, 2010 and to have the applicant respond to a discrete series of staff questions by October 6, 2010. The motion was approved by a 5-0 vote.**

(Ms. Gallagher and Mr. Walter left the hearing at approximately 5:45 pm. Ms. Lewis arrived at the hearing at approximately 5:45 pm)

## Land Use

### **Compatible Growth Area**

Willow Wood at Coram (200-523-1-1.2) (Decision deadline is 9/24/10)

Continuation of prior discussion

Summary: Mr. Scully advised the applicant that there were insufficient votes for the Commission to render a decision in regard to the application. He suggested Mr. Klar, the applicant, consider granting an extension of the decision deadline to the following meeting. The applicant subsequently requested that the final decision deadline be extended to October 20, 2010.

***A motion was made by Ms. Lewis and seconded by Mr. Turner to extend the decision deadline for the Willow Wood project to the October 20, 2010 Commission meeting. The motion was approved by a 4-0 vote.***

### **Planning and Land Use**

Comprehensive Land Use Plan (CLUP) Amendments: status

Summary: Given the late hour, Mr. Scully requested that Mr. Pavacic's presentation on the CLUP Amendments be postponed till the next Commission meeting.

### **Adjournment**

Summary: ***A motion was made by Ms. Prusinowski and seconded by Ms. Throne-Holst to adjourn the meeting. The motion was approved by a 4-0 vote, and the meeting ended at approximately 6:15 pm.***

### **Attachments (in order of discussion):**

1. Attendance sheet (9/15/10; 2 pages)
2. Longwood Veterans Monuments 6/19/10 Dedication Program
3. 8/11/10 Meeting Minutes for approval
4. CPBJPPC Statement of Cash Receipts and Cash disbursements March 31, 2010
5. Science and Stewardship Division Update
6. Draft Resolution Pertaining to action on AC Resolution Recommendations on WTF
7. Education and Outreach September 2010 Update
8. Land Use Division Update September 15, 2010
9. Draft Resolution on the Willow Wood at Coram CGA Hardship
10. The Hamptons Club at Eastport: request for extended decision letter dated 9/9/10
11. Estate of Constance DiPeri: Staff Exhibits
12. Estate of Constance DiPeri: Appellant Exhibits
13. Artist Lake Plaza: Staff Exhibits



**Pine Barrens Commission Meeting Summary (FINAL)  
for Wednesday October 20, 2010 (Approved 11/17/10)  
at Brookhaven Town Hall  
1 Independence Hill  
Farmingville, NY**

Commission members present: Mr. Scully (for New York State), Ms. Gallagher (for Suffolk County), Mr. Turner (for Brookhaven), Mr. Walter and Mr. McCormick (for Riverhead) and Ms. Throne-Holst and Mr. Shea (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Commission and other agency staff members included Mr. Pavacic, Ms. Jakobsen, Ms. Hargrave, Ms. Sholl and Mr. Hynes (from the Commission). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:00 pm by Mr. Scully, with a five member quorum initially present consisting of the New York State, Suffolk County, Brookhaven Town, Riverhead Town and Southampton Town representatives. The Pledge of Allegiance was recited.

Peter A. Scully  
Chair

Mark Lesko  
Member

Steve A. Levy  
Member

Anna E. Throne-Holst  
Member

Sean M. Walter  
Member

**Public Comment and Administrative**

Public Comments

Summary: No public comments were provided.

Minutes for 9/15: review, approval

Summary: **A motion was made by Mr. Walter and seconded by Ms. Gallagher to approve the 9/15/10 minutes. The motion was approved by a 5-0 vote.**

NYSDEC-Commission contract: Resolution

Summary: Mr. Pavacic referred to and discussed the Resolution approving agreement C304142 with the New York State Department of Environmental Conservation (NYSDEC) that was distributed to the Commission members. Mr. Pavacic explained that although a prior contract had been approved by the Commission, a number of changes were required in order for the Commission to receive reimbursement. The prior draft contract had a term of 2008 to 2013. The term of the contract would be changed from a five year to a three year period that would end in 2011. As the New York State Environmental Protection Fund is the source of the funds for Commission operations, it was also decided that it would be a prudent measure to list the State fiscal years and allocations covered by the contract. Mr. Milazzo, as Commission Counsel, has reviewed the contract and approved its contents. **A motion was made by Mr. Walter and seconded by Ms. Gallagher to approve the revised agreement C304142 with the NYS Department of Environmental Conservation. The motion was approved by a 5-0 vote.**

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
www.pb.state.ny.us

Central Pine Barrens Commission Hearing Procedures

Summary: Mr. Scully noted that three hearings were scheduled to take

*place at last month's Commission meeting and issues arose regarding various factors including whether or not a hearing should remain open or be closed, extending decision deadlines or allowing additional time for public comments. He further observed that factors unique to each application sometimes affect whether or not a consensus could be achieved as to how to move forward in the decision-making process. Therefore, Mr. Scully requested Commission staff review the current hearing process and develop more formal procedures. Commission staff conducted a review and then prepared an internal set of procedures that would streamline the process, clarify application requirements and maximize the time afforded to the Commission for review of an application. Commission staff subsequently circulated to the Commission members a draft of their internal Commission Hearing Procedures that will be implemented in upcoming months.*

## **Stewardship & Education**

NY Wildfire & Incident Management Academy Board 10/13 meeting resolutions: review, approval

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*Summary:* Mr. Pavacic referred to and discussed a memorandum from the NY Wildfire and Incident Management Academy Board to the Commission Members (attached). The memo listed four resolutions adopted at the last meeting of the Academy Board concerning NY Wildfire and Incident Management Academy (the "Academy") expenditures and the Academy's future.

The first resolution referred to an equipment purchase for the 2010 Academy. The second resolution pertained to a contract that would enable Mr. Charles Hamilton, recently retired from the New York State Department of Environmental Conservation, to continue to serve as Academy Coordinator for 2011. The second resolution also included the appropriation of \$20,000 of Academy funds to cover Mr. Hamilton's personal services and overhead including office space and storage space for a period of one year.

Mr. Pavacic stated that in connection to resolutions two and four, which relate to funding for office and storage space, that Suffolk County Water Authority (SCWA) has offered to make rent-free space available for Academy use. These locations can house the Academy trailer rent-free as well.

Mr. Pavacic explained the history of the Academy for those Commission members not familiar with the origins or connection to the Fire Academy and its connection to the 1995 Wildfires that affected eastern Long Island. He stated that after the 1995 Wildfires the Commission decided that there was a great need to address the potential for future wildfires and the need to implement prescribed fire, which can reduce the amount of fuel or combustible material found on the forest floor, as well as provide ecological benefit.

Soon after the 1995 Wildfires the Commission approved a series of resolutions that established the Academy including provisions for its daily operations. The Academy website and Academy staff were provided by the NYSDEC. Now that Mr. Hamilton is retired from the NYSDEC his salary and his services are no longer covered by the State and therefore it will be necessary to contract with him for his services for a period of one year or until the future of the Academy is determined. Mr. Pavacic was hopeful that a decision will be reached by the end of the year to determine the fate of the Academy, which could include, as one option, the Northeast Compact partnering with the Commission and the Fire Academy in a three way agreement, which could potentially allow Academy expenses to be shared.

Mr. Pavacic further explained that the third resolution describes the Academy Board's



vision for the future of the Academy including maintaining a connection with the Central Pine Barrens Commission but allowing it to expand its reach. The fourth resolution related to maintaining the office and rental space at the current Rocky Point location for the next six months. The second, third and fourth resolutions required Commission approval. The first resolution did not since the Academy Board is authorized to make purchases of up to \$1000 using Academy funds.

Mr. Pavacic stated that Commission approval in regard to the second resolution, which related to Academy funds being used for Mr. Hamilton's services, should be modified to include a termination clause if the Academy was completely transferred to another entity, such as the Northeast Compact. Mr. Milazzo explained that Mr. Hamilton would be considered a private contractor if the second resolution were approved.

***A initial motion was made by Ms. Gallagher and seconded by Mr. McCormick to approve the Academy Resolutions 2, 3 and 4 under the following conditions: No RFP for an Academy Coordinator would be required if the Academy remained with the Commission, but if the Academy joined with a different entity during the contractual period, Mr. Hamilton's agreement with the Academy to serve as an independent contractor would be cancelled. The option of free rental and storage space offered by SCWA should be given preference over rental of private space.*** However, Mr. McCormick questioned whether or not Mr. Hamilton could be hired without a competitive Request for Proposal process, as enumerated in General Municipal Law. Mr. Milazzo indicated that Mr. McCormick was correct. ***After additional discussion, Ms. Gallagher subsequently amended her motion to require an RFP to be prepared and circulated for an Academy Coordinator for 2011, an Academy Coordinator to be hired pursuant to such RFP with a termination clause if the Academy were assumed by another entity and consideration and utilization of free SCWA-offered space before use of private rental space. The motion was approved by a 5-0 vote.***

## Planning and Land Use

Carmans River Watershed Management Plan: Town of Brookhaven

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**Summary:** Mr. Lesko stated that Brookhaven Town announced today that a Carmans River study group will be formed to continue the project started by Mr. Scully two years ago which has the goal of protecting the Carmans River Watershed. Mr. Lesko stated that current reviews and decisions related to Brookhaven Town projects within the watershed of the Carmans River had been temporarily suspended until the study is completed. Mr. Lesko further acknowledged there are hundreds of stakeholders but in the interest of keeping the work focused and completing a plan in shore time period, the study group charged to develop the plan would be kept small and would be chaired by Dr. Lee Koppleman. Mr. Lesko mentioned members of the study group included Jim Tripp representing the Carmans River Partnership and Credit Clearinghouse, Kevin McDonald representing The Nature Conservancy and Mr. Peter Scully as Commission Chair. He also noted that the development community would be participating on the study group including the Long Island Builders Institute (LIBI) and the Association for a Better Long Island (ABLI). Mr. Lesko also stated that a Technical Advisory Committee has been established to assist and advise the study group. He indicated that the study group would provide opportunities for input from groups such as Carmans River Partnership, the Invasive Species Committee chaired by Councilwoman Connie Keper and other civic and environmental groups.

It was indicated that Mr. Pavacic, acting as liaison between the different entities and interests involved in the Carmans River Watershed Protection effort, had constructed a draft time line of meetings that needed to occur in order to complete the study. Mr. Pavacic stated that the time frame will be aggressive and that the plan would be developed with parallel meetings of the different advisory groups occurring. Mr. Pavacic indicated that Jeffrey Kassner, Brookhaven Town Assistant Environmental Protection Director, he and several others will be among the primary drafters of the written content of the plan. Mr. Pavacic expects the State Environmental Quality Review (SEQRA) process to begin to advance early in November. Ultimately, the Town Board would be the first to adopt a plan of action, as early as January 2011, with implementation of the plan commencing soon thereafter.

Ms. Johan McConnell of the South Yaphank Civic Association, noted that there was no civic representation on the study group and asked that this be considered. Ms. Karen Blumer of the Open Space Council concurred and suggested that the head of the Affiliated Brookhaven Civic Organizations (ABCO) be added to the study group. Ms. Maryann Johnston, president of ABCO, expressed her support for civic representation and indicated she would be happy to serve. Mr. Richard Amper, Executive Director of the Long Island Pine Barrens Society, praised Mr. Tripp and Mr. Tom Williams for their outreach to the various civic groups and for inviting their participation in open discussions with the Carmans River Partnership and that Mr. Tripp was very willing to continue to meet with stakeholders from the community as part of this process for the Carmans River.

#### Comprehensive Plan Amendments: status

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*Summary:* Mr. Pavacic stated that at the last Commission meeting members were provided copies of the draft amendments of chapters 4, 5 and 6 of the Comprehensive Land Use Plan (CLUP), which is the first attempt to undertake broad changes to the CLUP since 1995. He stated that Article 57 calls for the review of the CLUP every five years and subsequent amendments, if required, but to date there have been no comprehensive changes to the CLUP. Mr. Pavacic mentioned that his predecessor Mr. Ray Corwin provided a presentation on the status of the amendments during the February 2010 Commission meeting.

Mr. Pavacic provided a PowerPoint presentation to explain the proposed CLUP amendments. He further stated that these amendments were a subset of all the amendments under consideration. This subset included elements that were further refinements of policies already contained within Article 57, the GEIS or the CLUP and that many were primarily ministerial in nature such as Commission resolutions adopted since 1995 that related to interpretation or changes in policy. He also noted that these amendments had been reviewed by the Credit Clearinghouse and the Advisory Committee and also contained their recommendations.

Mr. Pavacic explained a few of the specific changes. These included Chapter 4 changes as to what constituted a complete application, definitions including "tall structures" and refinement of Developments of Regional Significance. In Chapter 5, which related to standards for land use, Mr. Pavacic noted that amendments included upgrading guidelines to standards, organizing all standards together that apply to the same resource, incorporating updated references such as the Source Water Protection Program (SWAP), revising clearing standards, incorporating the mandatory redemption of credits and others. The same types of refinements were proposed for Chapter 6 which pertained to the Pine Barrens Credit Program.

Mr. Pavacic discussed a flow chart that outlined a time line for Commission review and adoption of the CLUP Amendments. He noted that a series of actions would be required to ensure a thorough review as well as public input and comment prior to Commission approval. Mr. Walters expressed his concern that because of statutory Town budget requirements during November, it would not be possible for the three Town Supervisors to participate in any discussions during that month. He suggested the Commission target the month of December and stated that the review process needed to include work sessions. Mr. Lesko and Ms. Throne-Holst concurred. A discussion regarding time lines for Commission review of all development applications ensued and whether work sessions were needed in general. The Commission requested two work sessions be undertaken for the CLUP amendments. The first would include technical staff of the Commission members to occur during November and the second would be conducted by the Commission, on a day other than that of a Commission meeting with a target date of sometime in December. Mr. Pavacic stated the CLUP Amendments and the PowerPoint presentation provided today would be posted on the Commission website for public review. Mr. Amper suggested that those items that are controversial be identified and addressed upfront.

## Hearings

Eagan Environmental Solutions, LLC, Credit Appeal on 2 parcels/ Westhampton (SCTMs 900-333-3-31 & 900-335-1-22) (Mr. Milazzo and Ms. Jakobsen): hearing

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*Summary: Mr. Eagan requested an extension of time in which to present his appeal. **A motion was made by Mr. Scully and seconded by Ms. Throne-Holst to extend the appeal to February 11, 2011 as requested by Mr. Eagan. The motion was approved by a 5-0 vote.***

Sivan Pound, LLC / Eastport (SCTM# 900-235-1-59): Credit Appeal (Mr. Milazzo and Ms. Jakobsen): hearing

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*Summary: A separate stenographic transcript exists for this hearing. During the hearing, staff and appellant exhibits were distributed. **A motion was made by Mr. Lesko and seconded by Mr. Walter to grant the appeal and restore the original allocation of 7.4 Pine Barrens Credit to the owner. The motion was approved by a 5-0 vote.***

## Land Use

### **Core/Compatible Growth Area**

7-Eleven Core Area Extraordinary Hardship and Compatible Growth Area hardship application/Ridge (200-351-2-6.1 and 20): schedule hearing

*Summary: **A motion was made by Mr. Lesko and seconded by Mr. Walter to schedule a hearing for 11/17/10. The motion was approved by a 5-0 vote.***

Estate of Constance DiPeri Extraordinary Hardship Application/Ridge (200-383-1-22): decision (Ms. Hargrave: deadline 11/29/10)

*Summary: **A motion was made by Mr. Walter and seconded by Mr. Lesko to grant the application for a Core Preservation Area Extraordinary Hardship exemption.***

**The motion was approved by a 5-0 vote.**

**Compatible Growth Area**

Willow Wood at Coram / Coram (200-523-1-1.2): decision (Ms. Hargrave: decision deadline is today, 10/20/10)

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*Summary:* Ms. Hargrave stated that the applicant submitted additional information on 10/15/10 regarding a chronology of activity on the site as well as information regarding prior approvals on the adjacent 9-acre property. Ms Hargrave provided statistics pertaining to acreage and zoning. She stated that in 1986 the subject property and the 9-acre parcel were one parcel but were subsequently split in 1999. Prior to the subdivision, there was a change of zone on the 9-acre parcel from D-1 to Nursing Home and there were two conditions for approval of the zone change. The first condition was that the applicant would need to retire Pine Barrens Credits for each additional bed and the second condition was related to revegetation of the second parcel. Ms. Hargrave further described the conditions of the revegetation and the percentage of revegetation required for approval.

Mr. Turner asked if a revised revegetation plan was submitted. Ms. Hargrave indicated that the applicant had added to the revegetation plan woody material comprised of DEC seedlings and plant material transplanted from cleared areas. Mr. Lesko asked for clarification regarding the clearing limits. Mr. Hargrave replied that a total of 70% of the site was allowed to be cleared and that the applicant was seeking a variance of 12% from this limit.

Mr. Walter noted that the site was highly disturbed and not pristine and how he was very familiar with the site from forays there during his childhood. He expressed his concern that if the Long Island Pine Barrens Society (LIPBS) sued, the applicant would be tied up in litigation. Mr. Walter stated additional concerns about the danger of setting a precedent related to clearing standards and future projects if the Commission were to approve the project and indicated that this project site should not serve as a representation of the types of areas that should be protected. He asked if the Commission had ever previously approved something similar after an applicant had subdivided after the enactment of Article 57.

Mr. Lesko stated that the property owner didn't create the hardship as the site was cleared and distressed when it was purchased by the applicant, Brookhaven's Environmental Protection Division was satisfied with the revegetation effort, the project provided a public benefit, the property owner had no connection with nor benefitted from the past sand mining activities and that the project would dramatically improve the ecological condition of the site. Mr. Lesko requested that the Commission members take into consideration all of the factors discussed and strongly urged the other members to reach a consensus on approval.

Ms. Throne-Holst stated that the Commission never got to see what a conforming plan looked like for comparison purposes. She expressed her concerns in regard to the applicant claiming an economic hardship. She stated that a benchmark and formula was needed for determining economic hardship. She noted that this was not an issue the Commission should address without additional proof of economic hardship and stated that it was not the responsibility of the Commission to interpret what constitutes economic hardships. She warned that doing so was dangerous as it could establish a

*precedent that was inconsistent with Article 57. Ms. Throne-Holst stated three items need to be discussed which are the need for a standard as to what constitutes a reasonable economic return and what is an economic hardship, the fact that the clearing standard has not been met and the fact that the applicant has not provided alternative proposals which are consistent with the Plan.*

*Mr. Amper asked what changes could be made to the project to obviate the need for a hardship. He noted that there was no provision in the CGA hardship requirements for consideration of economic hardship. Mr. Amper observed that the Town and the applicant had entered into a stipulation agreement that allowed for additional units based on criteria that did not conform to the standards of the Plan. He stated that the site should be developed but in a manner consistent with Article 57. Mr. Amper also stated that if the hardship waiver was granted without meeting criteria set forth in the Plan, the approval of this project had the potential to undermine Article 57.*

*Mr. Walter asked the applicant if they could submit an alternate design that conforms to Plan standards. Mr. Chic Voorhis, of Nelson, Pope and Voorhis, the applicant's consultant, stated that there were scattered patches of vegetation on the site and that it was impossible to weave development around these and maintain the yield.*

*Mr. Lesko asked if revegetation of the site with its own natural vegetation or if importation and planting of natural vegetation would allow the site to be in compliance. Mr. Amper noted that the Town's use of stipulations for certain densities was problematic and suggested that such stipulations were removing the Commission's approval authority. Mr. Walter suggested that each hardship factor be carefully considered and an approval resolution crafted to adequately address each.*

*Charlotte Biblow, attorney for the applicant, indicated that the stipulation for the site only restores the zoning to its prior zoning of MF and that this was equivalent to D-1 as D-1 no longer existed. She indicated the applicant could have sought a maximum of 7 dwelling units to the acre but only requested 5.1 dwelling units to the acre. Ms. Biblow stated that the site was a unique parcel, was split-zoned prior to the enactment of Article 57 in 1993 and that the 9-acre parcel was cleared. Mr. Robert Wieboldt of the Long Island Builders Institute (LIBI) indicated that they were restoring zoning back to a pre-Article 57 zoning category and that it was a "de minimus" relief. Ms. Maryann Johnston of ABCO stated that it was unfortunate the site was cleared but preferred a conforming site plan. Mr. Klar, the applicant, stated that he had worked with staff for 1.5 years to craft a plan that conformed as much as possible.*

*Mr. Amper stated that if the hardship was not granted the owner would out of necessity submit a conforming plan. If a hardship waiver were not necessary for this project then it would eliminate the danger of setting a precedent for future projects. Ms. Throne-Holst reiterated her position that the Commission needs to establish criteria as to what constitutes a reasonable return and asked if there is evidence that this is a self created hardship. Mr. Lesko stated that it could be assumed that the applicant would not realize a reasonable return if the plan were altered. Mr. Amper stated that there was a conflict between town zoning and the Central Pine Barrens standards in that the town was requiring a recreation center which required non-compliance with the clearing standards. He indicated if that need were relieved, the plan could conform.*

*Mr. Pavacic was asked to summarize the discussion. He noted that it appeared the applicant would need to request an extension, staff had been directed to prepare a*

*resolution for approval which was carefully crafted to avoid a precedent, a need had been indicated for establishment of economic hardship and reasonable return standards with the potential for an RFP to seek the services of a CPA or an economist and the Commission had requested a conforming plan (such as a yield map) be submitted and perhaps suggested this should be a future requirement for all hardship applications.*

*Mr. Scully reviewed the items for consideration and a consensus was met that the applicant needs to request an extension, that staff should formulate a resolution for approval that eliminates as much as possible the possibility of setting a precedent and the applicant should submit a sketch plan (not a fully-engineered plan) which conforms to standards.*

***A motion was made by Mr. Lesko and seconded by Mr. Walter to extend the decision deadline to November 17, 2010. The motion was approved by a 5-0 vote.***

Hamptons Club at Eastport / Eastport (200-563-5-1.1-1.50)

*Summary:* *It was opined that it appeared the Commission would be seeking a resolution for denial. Mr Scully stated that the record is complete with the exception of the public comment period, which is open until October 27, 2010.*

#### **Public Comment**

*Summary:* *Mr. Eagan expressed his concern regarding the title policy which is required for parcels receiving credits in exchange for a conservation easement. He indicated that even for small parcels worth only \$50,000 a title policy can cost as much as \$35,000. He requested that the Commission reconsider the policy to reflect what the credits are worth instead of the size of the parcel. He also requested that Mr. Dittmer's credit applications not be subject to the title policy since he is the original owner of the parcels and has been for fifty years. Mr. Eagan requested that the Commission reconsider the title policy for owners who have owned their property prior to the Pine Barrens Act if they can prove clear title at the onset of the credit application process.*

#### **Executive Session:**

***Summary:*** ***A motion was made by Ms. Gallagher and seconded by Mr. Lesko to enter into executive session at the request of Mr. Milazzo, with no further business to be conducted after. The motion was approved by a 5-0 vote.***

#### **Attachments (in order of discussion):**

1. Attendance sheet (10/20/10; 2 pages)
2. 9/15/10 meeting minutes for approval
3. Resolution approving agreement C304142 with the NYSDEC
4. NY Wildfire & Incident Management Academy Memorandum of Resolutions
5. PowerPoint Presentation on CLUP Amendments
6. Adopted Resolution for Estate of Constance DiPeri
7. Sivan Pound Ridge, LLC supporting documents
8. Willow Wood at Coram Timeline of Actions
9. Willow Wood at Coram Additional Information, Update and Summary
10. Hamptons Club at Eastport CGA Hardship Application Summary of New Information submitted by the Applicant on 10/6/10



**Pine Barrens Commission Meeting Summary (FINAL)  
for Wednesday November 17, 2010 (approved 12/15/10)  
at Brookhaven Town Hall  
1 Independence Hill  
Farmingville, NY**



**Commission members present:** *Mr. Scully (for New York State), Ms. Gallagher (for Suffolk County), Mr. Turner and Mr. Lesko (for Brookhaven), Mr. Walter (for Riverhead), Mr. Shea (for Southampton)*

**Others present:** *Staff counsel was Mr. Milazzo. Commission and other agency staff members included Mr. Pavacic, Ms. Jakobsen, Ms. Carter, Ms. Hargrave, Ms. Sholl, Ms. Griffiths and Mr. Hynes (from the Commission). Additional attendees are shown on the attached sign-in sheet.*

*The meeting was called to order at approximately 2:00 pm by Mr. Scully, with a five member quorum initially present. The Pledge of Allegiance was recited.*

Peter A. Scully  
*Chair*

**Public Comment and Administrative**

Mark Lesko  
*Member*

**Public Comments**

**Summary:** *Mr. Amper, Director of the Pine Barrens Society stated that he was impressed with the work the Commission staff has completed on the Carmans River Watershed Study and he commended the staff for their efforts.*

Steve A. Levy  
*Member*

**Minutes for 10/20**

**Summary:** *A motion was made by Mr. Shea and seconded by Mr. Turner to approve the 10/20/10 minutes. The motion was approved by a 5-0 vote.*

Anna E. Throne-Holst  
*Member*

Sean M. Walter  
*Member*

**Stewardship & Education**

**Summary:** *Ms. Carter provided an update regarding the ATV mitigation effort the Protected Lands Council (PLC) has been sponsoring for several years. She discussed the ATV activity occurring in the Flanders area and that the PLC has been exploring new materials for stronger barricades to prevent ATV access to public lands.*

*She mentioned the PLC has been meeting monthly to discuss recommendations for public lands along the Carmans River. She expects the final recommendations will be presented to the Commission early in 2011.*

*Ms. Carter reported that the annual Central Pine Barrens Research Forum was held at Brookhaven National Laboratory (BNL) on September 30<sup>th</sup> and October 1<sup>st</sup> and this year's theme was "The Pine Barrens Maritime Reserve: Beyond the Trees". After distributing the Research Forum brochure (attached), Ms. Carter reviewed the topics presented at the forum and explained that the trip to Plum Island planned for October 1 was cancelled due to inclement weather.*

*Ms. Carter mentioned that the Long Island Invasive Species Management Area quarterly meeting was held at the Cornell Cooperative Extension in Riverhead and that the Natural Heritage Program will now be responsible for the leadership of this program instead of the Nature Conservancy. In addition, staff and other volunteers participated in the harvesting of native grasses with the Long Island*

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
www.pb.state.ny.us



*Native Plant Initiative in Jamesport and with the US Fish & Wildlife Service in Sayville that will be used for future restoration projects.*

*Science and Stewardship staff conducted site inspections of dead and defective trees along state highways in Flanders, Riverhead, Calverton, and Ridge with the NYS Department of Transportation (NYS DOT) as part of their Highway Maintenance Project.*

*Mr. Turner requested on behalf of the Science and Stewardship Committee that Ms. Carter to prepare a status report on the Science and Stewardship annual work plan and the projects connected to this plan.*

#### **NY Wildfire Academy Meeting with NE Compact**

**Summary:** *Mr. Pavacic stated that the NY Wildfire Academy (NYWIMA) met with the Northeastern Forest Fire Protection Compact (NE Compact) on October 28 and he referred to the NE Compact materials distributed in this month's e-packet sent to the Commission members (attached). The NE Compact has sent representatives to past Academy training sessions as well as this year's Academy and strongly endorses and supports the Academy. The NE Compact was concerned that the Academy may fold due to changes related to the Academy Coordinator position and the review of the Academy being performed by the Commission. They discussed at the October meeting with the Academy Board and Mr. Pavacic their potential interest to partner with the Academy and the Commission, training needs for their partner states and how the Academy may be able to fill those needs.*

*Mr. Pavacic spoke briefly about the NE Compact's history and mission to provide cooperative forest fire protection services among states in the northeast and portions of Canada and that their mission would compliment the Academy's mission. It was mentioned that NE Compact could perhaps become a member on the Academy Board which would be in keeping with the Advisory Committee's recommendation to expand the Academy Board's membership.*

*The Executive Director of the NE Compact contacted Mr. Urevich, the Academy Chair, subsequent to the October meeting and advised him of the NE Compact's interest in a three way partnership that includes the Commission, however he had questions on what would be NE Compact's role and participation level with the Academy and this partnership. Mr. Pavacic stated he would contact the NE Compact Executive Director to respond to his questions.*

#### **Education and Outreach**

**Summary:** *Ms. Griffiths distributed a photo essay and program update that highlighted the events and outreach performed during the months of October and November. This included Ms. Griffiths participating in a program at the Quogue Wildlife Refuge educating Southampton Town elementary school students on the Pine Barrens. Over seven hundred students were reached during the months of October and November through environmental education presentations at approximately eight schools in the Pine Barrens.*

*Ms. Griffiths stated that Wertheim Wildlife Refuge is interested in developing an Educational Memorandum of Understanding (MOU) or Agreement (MOA) with the Central Pine Barrens Commission that would establish a more clearly defined relationship with the Commission and its use of the Wildlife Refuge and the new Interpretive Center for future events including the Barrens to Bay program.*

*Other current initiatives Ms. Griffiths spoke about included the teleconference held on Day 2 of the Research Forum where students from Patchogue-Medford and Longwood schools discussed the results of heavy metals detected in biodiversity samples collected*

*in the Carmans River area and that students are working with Brookhaven National Laboratory's National Synchrotron Light Source to analyze biodiversity samples collected from the Carmans River area and dragonfly samples from Pisa, Italy as part of Twinnings Program. Ms. Griffiths thanked Brookhaven Science Associates for allocating \$6,000 in funding toward travel expenses related to the Twinnings Program that has been instrumental in enabling the Twinnings Program to continue its mission. An Environmental Education and Outreach meeting to review and discuss 2011 goals is planned for the beginning of December.*

### **Comprehensive Plan Amendments**

**Summary:** *Mr. Scully stated that the Plan amendment technical work sessions have begun and the first work session occurred on Monday, November 8 at Southaven County Park. Mr. Pavacic discussed that the work session accomplished the review of Plan amendments for Chapters 4 and 6. He explained when there was non-consensus on a particular amendment, the issue was written down on a pad he referred to as a "parking lot" to hold for further discussion at the next work session. He stated that certain items reviewed and placed in the parking lot such as the definition of "completeness" and time frames related to the review of projects by the Commission will likely require a legislative amendment to NYS ECL Article 57 to clarify. Mr. Scully mentioned the Carmans River Watershed Management Plan may also trigger some legislative amendments to NYS ECL Article 57.*

*The review of Chapter 5 will occur at the next technical meeting and Mr. Pavacic noted that this Chapter has a substantial amount of changes. He stated that the work session for the Commission would follow the technical meeting scheduled for sometime in the beginning of December. He is waiting to hear a response back from the three Towns on the second technical meeting date. It was suggested that the meeting date for the Commission's work session be scheduled first and then the technical work session date. Mr. Shea thanked Mr. Pavacic and the Commission staff for a very productive work session and a thorough review of all presented materials.*

### **Pine Barrens Credit Program 10/18/10 Meeting update**

**Summary:** *Ms. Jakobsen provided an overview of the Credit Clearinghouse Board meeting on October 18<sup>th</sup>. Items discussed at this meeting included holding a reverse auction to buy credits from credit certificate holders using \$1million of Clearinghouse funds and to send a letter to private core property owners to make them aware of the credit program and solicit their participation in the program. There was no quorum at this meeting, therefore the reverse auction could not be authorized by the Board.*

*It was mentioned that the wife of Clearinghouse Board member Mr. Anrig from the Town of Southampton, recently passed away. Mr. Pavacic mentioned that the Clearinghouse chair will be scheduling a meeting of the Board for the first week in December to further discuss the mandatory redemption of credits program proposed by Brookhaven Town and to authorize the reverse auction.*

### **Pine Barrens Credit Program Title Policy Requirements**

**Summary:** *Ms. Jakobsen distributed copies of the Commission's title policy requirements implemented by resolution two years ago and referred the Commission members to the section of the policy that allows waivers from these requirements under certain circumstances. She noted that Mr. James Eagan was present today as a representative to Mr. Dittmer, a Core property owner and that he is requesting a waiver from the title policy requirements for Mr. Dittmer specifically and also in general.*

*Mr. Lesko and Ms. Gallagher arrived approximately 2:33 pm.*

Mr. Eagan explained that he represents Mr Dittmer a core property owner that has owned land for over 30 years. He stated that the title policy requirement went into effect only a couple years ago and Mr. Dittmer has owned the land well before the Pine Barrens Act of 1993. He furthered that Mr. Dittmer is in ill health and the title policy requirement is a financial burden to him due to his current situation. He is therefore requesting the title policy requirement be waived. Mr. Eagan also questioned the methodology of how much each parcel has to be insured under the current provisions. He feels the amount of coverage should be based on the value of the credit and not by the lot.

Mr. Milazzo as Counsel to the Commission explained the origins of the title policy as well as how it was determined that each parcel be insured for a statutory minimum of \$35,000. He indicated that the rates for these policies are set by the NYS Department of Insurance. Mr. Walter inquired whether the insurance companies know what they are insuring and Mr. Milazzo assured him that they did know. It was mentioned that a policy costs approximately \$300. Mr. Milazzo mentioned that other parcel owners have previously come before the Commission to request similar waivers and were denied. He explained why the Commission needs to be held harmless by the title policy if conservation easements are placed on parcels that do not have clear title.

Mr. Scully stated that the request for a title policy waiver by Mr. Dittmer will be taken under advisement and thanked Mr. Eagan for appearing before the Commission today.

Mr. Milazzo advised the Commission that a minor change to the conservation easement language and title policy is required and he asked for a resolution to allow him to make these changes.

**A motion was made by Mr. Walter and seconded by Mr. Lesko to allow Mr. Milazzo to make the minor changes to the conservation easement and title policy, as necessary. The motion was approved by a 5-0 vote.**

## Land Use Division

### Land Use Activity

**Summary:** Ms. Hargrave distributed a Land Use Division update report and provided a brief summary on projects occurring in the Pine Barrens that included: Artist Lake Plaza in Middle Island, Hampton Club at Eastport, the Meadows at Yaphank, Willow Wood at Coram and 7-Eleven in Ridge.

### Compliance and Enforcement

**Summary:** Mr. Hynes distributed a report on the conservation easement monitoring program and compliance and enforcement initiatives. He reviewed the current status of the easement monitoring program and stated that 727 parcels have been inspected to date, with just ten parcels left to inspect in the Town of Southampton. In terms of compliance and enforcement incidents, Mr. Hynes stated there were 23 incidents in Brookhaven Town, five incidents in Riverhead Town and six incidents in Southampton Town this year. There are currently ten active investigations involving dumping or illegal clearing in the Pine Barrens and the Towns are working with Mr. Hynes on these investigations. Mr. Hynes is also coordinating efforts with the NYSDEC to control illegal hunting in the Pine Barrens.

Mr. Hynes explained that his main function as Compliance and Enforcement Officer is to notify the Towns regarding illegal incidents and to help coordinate the process of investigation and prosecution. He is currently investigating a campground in Calverton that may not have the proper permits to operate.

Mr. Hynes thanked the Town of Brookhaven for the donation of an ATV to the Town of Southampton. Mr. Hynes stated the next Law Enforcement Council (LEC) meeting is scheduled for December 9<sup>th</sup>. He also mentioned as of November 14<sup>th</sup>, the LEC has begun its ATV Details again, resulting in eight summonses being issued and the confiscation of three ATVs.

## Project Review

### Compatible Growth Area (CGA)

**Hamptons Club at Eastport / Eastport** (200-563-5-1.1-1.50; 200-594-1-5.1-5.23):

**Summary:** A letter was received from the applicant dated November 4, 2010, requesting the application be withdrawn.

**A motion was made by Mr. Lesko and seconded by Mr. Shea to adopt the attached resolution that accepted the withdrawal of this application and terminated the review of the project. The motion was approved by a 5-0 vote.**

**Willow Wood at Coram / Coram** (200-523-1-1.2); decision (Ms. Hargrave)

**Summary:** Appraisal information was received and information was received from the project's accountant that stated the hardship was not self-created. Ms. Hargrave noted an error pertaining to acreage wording in the draft resolution.

**A motion was made by Mr. Walter and seconded by Mr. Lesko to enter into an advisory session to seek legal counsel. The motion was approved by a 5-0 vote.**

The Commission entered into advisory session approximately 2:50 pm and returned to public session approximately 3:00 pm.

Mr. Milazzo offered additional wording be added to the resolution to approve the project.

**A motion was made by Mr. Lesko and seconded by Ms. Gallagher to add a new whereas clause to the approval resolution for Willow Wood prior to the whereas clause that "Whereas, the Commission finds the Project is consistent with the purposes because the prior clearing..."**

**The new whereas clause is as follows:**

**"Whereas the Commission finds that Klar cannot satisfy the requirements contained in Standard 5.3.3.6.1 (the Vegetation Clearance Limits) while simultaneously satisfying the requirements of Standard 5.3.3.6.2 (the Unfragmented open space) because in order to meet the clearing standard the site plan would require additional fragmentation of open space and natural vegetation on the site, while in order to meet the unfragmented open space standard the site plan would require additional clearing of native vegetation, beyond that permitted by the clearing standards".**

**The motion to add the new whereas clause was approved by a 4-0-1 vote, Southampton abstained.**

**A motion was made by Mr. Lesko and seconded by Mr. Walter to approve the hardship waiver as outlined in the attached resolution and as amended with the new whereas clause. The motion was approved by a 4-1 vote, Southampton opposed.**

## Hearings

*Mr. Lesko left approximately 3:14 pm*

**Artist Lake Plaza DRS / Middle Island** (200-379-1-3.1, 5.1, 12) Ms. Hargrave; decision deadline 12/15/10)

**Summary:** *A separate stenographic transcript exists for this hearing. During the hearing staff and appellant exhibits were distributed. The applicant is requesting an decision deadline extension. Mr. Voorhis will prepare an sampling plan to additionally test nitrate levels on the site in order to better characterize ground water quality. The hearing was closed at 4:02 pm and the results of the additional sampling will be posted on the Commission website for public comment.*

**7-Eleven Core Preservation Area Extraordinary Hardship Application / CGA Extraordinary Hardship Application / Ridge** (200-351-2-6.1 and 20) (Ms. Hargrave; decision deadline 1/17/2011)

**Summary:** *A separate stenographic transcript exists for this hearing. During the hearing staff and appellant exhibits were distributed. Commission staff will review other similar Core area hardships in Ridge and a written response was requested of the appellant to provide alternatives related to the location of the loading zone and additional parking spaces and to identify what is required under Town zoning. The hearing was closed at 4:45 pm.*

## Adjournment

**The motion was made by Ms. Gallagher and seconded by Mr. Turner to adjourn the meeting. The motion was approved by a 5-0 vote.**

*The meeting ended at approximately 5:00 pm.*

## **.Attachments (in order of discussion):**

1. Attendance sheet (11/17/10; 2 pages)
2. Science and Stewardship handout provided by Ms. Carter
3. Northeast Compact meeting materials
4. Education and Outreach handout provided by Ms. Griffiths
5. Land Use handout provided by Ms. Hargrave
6. Compliance and Enforcement handout provided by Mr. Hynes
7. Adopted Resolution for Hamptons Club at Eastport
8. Artist lake supporting documents
9. 7-Eleven supporting documents



**Pine Barrens Commission Meeting Summary (FINAL)  
for Wednesday December 15, 2010 ( approved 1/19/11)  
at Brookhaven Town Hall  
1 Independence Hill  
Farmingville, NY**

**Commission members present:** Mr. Scully (for New York State), Ms. Gallagher (for Suffolk County), Mr. Lesko, Ms. Prusinowski and Mr. Turner (for Brookhaven), Mr. Walter and Mr. McCormick (for Riverhead), Mr. Shea (for Southampton)

**Others present:** Staff counsel was Mr. Milazzo. Commission and other agency staff members included Mr. Pavacic, Ms. Jakobsen, Ms. Carter, Ms. Hargrave, Ms. Sholl, Ms. Griffiths and Mr. Hynes (from the Commission). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:00 pm by Mr. Scully, with a five member quorum present. The Pledge of Allegiance was recited.

Peter A. Scully  
Chair

Mark Lesko  
Member

Steve A. Levy  
Member

Anna E. Throne-Holst  
Member

Sean M. Walter  
Member

**Public Comment and Administrative**

**Summary:** Mr. Scully acknowledged that this would be Ms. Gallagher's last meeting as the County Executive's designated representative to the Commission since she has accepted a position as Chief Sustainability Officer at Suffolk County Water Authority. He thanked Ms. Gallagher for her participation and contributions to the Commission and presented her with a Certificate of Appreciation.

There were no public comments.

**Minutes for 11/17/10**

**Summary:** Mr. Shea pointed out that there was an error on page five, referring to the "Where as clause" for the Willow Wood project and he stated the motion was approved by a 4-1 vote with Southampton opposed and not 4-0 with Southampton abstaining as indicated in the draft minutes. The correction was made to the November 17 draft minutes (attached).

**The motion was made by Mr. Shea and seconded by Ms. Gallagher to approve the 11/17/10 minutes as amended. The motion was unanimously approved by a 5-0 vote.**

**2011 Commission meeting schedule**

**Summary:** The 2011 Commission meeting schedule (attached) was reviewed and it was noted that several Commission meeting locations have not been specified since some of the desired meeting locations will not have their schedule available until after January 2011.

**The motion was made by Mr. McCormick and seconded by Ms. Gallagher to approve the 2011 Meeting Schedule. The motion was unanimously approved by a 5-0 vote.**

**Stewardship & Education**

**Summary:** Mr. Pavacic stated that Ms. Griffiths will provide a presentation today on the yearly Barrens to Bay Summer Camp program. A resolution to approve a 5 year

P.O. Box 587  
3525 Sunrise  
Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
www.pb.state.ny.us

agreement between the Commission and the Museum to co-sponsor this program will be provided at a subsequent meeting since the receipt of additional insurance information from the museum is pending.

Ms. Griffiths provided a handout on the "Barrens to Bay Summer Camp" program (attached) which highlights the last three years of the program. She reiterated Mr. Pavacic's statement regarding pending insurance.

Ms. Griffiths mentioned that approximately 500 children and their parents have participated in the Barrens to Bay Summer Camp over the last three years. Ten counselors have been trained and participated in the implementation of the program, eight of which will be moving on to teaching positions in Suffolk County. She described the areas of study covered that include water quality studies, mapping, animal and plant species and their habitats and other related topical areas.

Mr. Scully thanked Ms. Griffiths for her presentation and stated that the details of the agreement will be reviewed at the January 2011 meeting pending receipt of the additional information materials necessary to approve the agreement.

### **NY Wildfire Academy and future status**

**Summary:** Mr. Pavacic mentioned the news articles (attached) pertaining to the New York Wildfire and Incident Management Academy (NYWIMA) that were previously distributed. He stated that Commission staff recommends it would be a prudent measure for the Commission to retain the NYWIMA. He also stated that in the near future additional discussions will be held with the Northeast Compact to explore entering into a partnership agreement with the Academy and the Commission.

During future meetings with the Academy discussion will focus on the Advisory Committee's recommendation to the Commission regarding oversight and the expansion of the Academy Board from five to seven members. The Academy Board is also aware of the need to ensure adequate oversight and implement additional internal financial controls. Additional recommendations will be made for strengthening policies and procedures for the Academy, finding a new location for the headquarters and issuing an Request for Proposal (RFP) for an Academy Coordinator which is currently being prepared.

### **NY Wildfire Academy Auditor RFP**

**Summary:** The Commission is required, based on their established operating policy and procedures for the Academy, to have an annual audit performed of the Academy's financial records. Due to the current recommendation that the Fire Academy remain as an arm under the Commission, it is also necessary to move forward in conducting this year's Academy audit. A request for proposal (RFP) was reissued in July since the original RFP let out in April received only one response. Two auditor companies responded to the July RFP and a table was provided that compared both companies along with a draft resolution to select and contract with the company chosen by the Commission (both items are attached).

Ms. Jakobsen mentioned the Commission staff reviewed the bid proposals and both met the bid requirements. Staff recommends the selection of Padilla & Company, LLP since they were the lowest bidder.

**The motion was made by Mr. Turner and seconded by Mr. Scully to accept the Draft Resolution to Selection of and Contract with an Auditor to Review the Financial Records of the NY Wildfire and Incident Management Academy. The motion was unanimously approved by a 5-0 vote.**

### **Protected Lands Council**

**Summary:** Ms. Carter stated that it was the time of the year for the Commission to select a Chair and Vice Chair for the Protected Lands Council (PLC) and a memo along with a Draft Resolution to approve the PLC Chair and Vice Chair for the 2011 calendar year was distributed (both items attached).

Ms. Carter stated that the PLC recommends the approval of the current Chair and Vice Chair, Mr. Tom Casey and Mr. Tim Green, respectively, to continue their current PLC positions through 2011.

**The motion was made by Mr. Scully and seconded by Mr. Turner to accept the PLC Draft Resolution to approve the Protected Lands Council Chair and Vice Chair for calendar year 2011. There was a discussion and then a recommendation by Mr. Turner to amend the resolution to extend the term of the Chair and Vice chair to two years. The motion was approved as amended by a 5-0 vote.**

### **Law Enforcement Council**

**Summary:** Mr. Hynes announced that Brookhaven Town approved the donation of a seized, unclaimed, All Terrain Vehicle (ATV) to the Commission for the LEC to use. The LEC will be turning over the ATV to the Town of Southampton Police Response Unit to use in and around the Pine Barrens.. He distributed the draft resolution that was adopted by Brookhaven Town (attached). The Commission would need to transfer ownership of the ATV to the Town of Southampton.

**The motion was made by Ms. Prusinowski and seconded by Mr. Shea to approve the draft resolution to accept the ATV donated by Brookhaven Town to the Commission for the LEC to use and to authorize the transfer of ownership to the Town of Southampton. The motion was approved by a 5-0 vote.**

### **Comprehensive Plan Amendments**

**Summary:** Mr. Pavacic stated that in September the most recent Comprehensive Land Use Management Plan amendments (the "Plan Amendments") were distributed to the Commission members and their representatives. A presentation by Mr. Pavacic was made at the October Commission meeting that described the Plan amendment process and the proposed amendments for Ch 4, 5 and 6. It was decided at that meeting that a technical committee made up of Commission representatives would conduct the first detailed review of the amendments through work sessions.

The first work session was held in early November and Chapter 4 and 6 were completed. Another work session was held in December where only a portion of Chapter 5 was completed. Due to the amount of remaining material to be covered, additional work sessions will need to be scheduled. Mr. Pavacic mentioned that when consensus was not reached on a particular item it was placed in a "parking lot" and will be held for discussion until after the review of Chapter 5 is complete.

Mr. Pavacic mentioned that additional technical staff work sessions in 2011 are necessary before the Plan Amendments can be presented to the Commission members for their final review and adoption at a possible work session in early February. He further stated that there are a few amendments that the representatives have had significant disagreement over such as in Chapter 5 - the mandatory credit redemption requirement, Chapter 6 - certification and reporting of sending to receiving area analysis and in addition to some other proposed changes.

### **Pine Barrens Credit Program 12/8/10 Meeting**

**Summary:** Ms. Jakobsen provided an update on the most recent Clearinghouse Board meeting held on December 8<sup>th</sup>. Items discussed at the meeting included the latest financial report, the ratio of sending to receiving area requirement for the three Towns, and the authorization of a potential reverse auction for Credit owners in the Town of Brookhaven. The reverse auction will need to be formally authorized at the Clearinghouse Board's next meeting since there wasn't a quorum at its last meeting. It was mentioned that the Southampton Town credit analysis, Riverhead and Southampton Town's opposition to the mandatory credit redemption requirement and Brookhaven Town's support of the requirement at a different



percentage rate were also discussed at the Clearinghouse Board's meeting.

### **Pine Barrens Credit Program Title Policy Requirement**

**Summary:** Mr. Scully stated that Mr. James Eagan a Credit Program applicant came before the Commission at its last meeting to request relief from the Commission's title policy requirement and the Commission took the request under advisement. Mr. Milazzo, Commission Counsel, stated that he does not endorse changing the current title policy requirement for Credit applicants and furthered that past applicants were denied such waivers by the Commission. Mr. Milazzo stated there was no information presented by Mr. Eagan that would support why this request should be handled differently. Mr. Eagan was not present at this meeting and intended on submitting additional title company information, therefore the decision on this matter was held off to the next Commission meeting in January.

### **Project Review**

#### **Artist Lake Plaza DRS / Middle Island (200-379-1-3.1, 5.1, 12) Ms. Hargrave; decision deadline 12/15/10)**

**Summary:** Ms. Hargrave referred to the letter dated December 10, 2010 (attached) received from Nelson, Pope and Voorhis, LLC (attached) that requested the decision deadline for the application be extended to the January 2011 Commission meeting.

**The motion was made by Ms. Gallagher and seconded by Mr. Scully to accept the request to extend the decision deadline for the Artist Lake DRS application to January 19, 2011. The motion was approved by a 5-1 vote.**

#### **Dayton Avenue Elementary School Eastport South Manor Central School district/Manorville (200-589-3-13.7, 13.8 and 200-590)**

**Summary:** Ms. Hargrave discussed the materials she distributed that included a table which presented Commission actions on school projects in the Central Pine Barrens, a letter dated November 5, 2010 from VHB Engineering "Request for Hearing", and the two Draft Resolutions, one related to the determination of jurisdiction question and the other related to the revegetation of the site (attached). Ms. Hargrave spoke about the 1997 clearing of 4.6 acres of land that was donated to the school in 2003 and occurred when the school operated under a different school district that later merged with the current district. She also the request for a determination of jurisdiction, and the staff recommendation the project is development, however it conforms to standards. The amount of restoration of vegetation that could be accomplished at the school was discussed and the school district offered to work with staff on the restoration plan for the school.

Sean Walter arrived during Ms. Hargrave's discussion at approximately 2:30 pm.

Mr. Latham, the applicant's attorney, was provided with copies of the draft resolutions and he asked for time to review and discuss them with his client, who was present, to determine whether they would be acceptable to the school district. Mr. Scully stated the Commission would return to this agenda item after the next item concerning Willow Wood, to give Mr. Latham time to review the draft resolutions.

#### **Willow Wood at Coram Compatible Growth Area Hardship Hamlet of Coram, Town of Brookhaven, (200-523-1-1.002)**

**Summary:** Ms. Hargrave discussed the materials provided to the Commission related to the Willow Wood at Coram CGA Hardship application. A copy of the adopted resolution from November 17<sup>th</sup> Commission meeting and the proposed amended resolution (both attached) were provided with the necessary changes explained by Mr. Milazzo. The draft resolution was amended to change the owner's name to Yaphank Realty and that the revegetation plan would be carried out in phases, in addition to other technical

changes.

Mr. Lesko arrived approximately at 2:39 pm.

**The motion was made by Mr Scully and seconded by Mr. Lesko to accept the amended draft resolution pertaining to the Willow Wood At Coram CGA Hardship application. The motion was approved by a 4-1 vote with Southampton opposed.**

*Mr. Scully then returned to the Dayton Avenue School Elementary School agenda item. Mr. Latham stated his client accepts the resolutions as proposed by the staff. They were willing to sit down with staff to identify revegetation areas, but mentioned they don't have four acres to revegetate. Me. Lesko inquired whether the Commission could give staff guidance on the revegetation plan and amount of acres required to be revegetated to prevent the applicant from having to come back to the Commission for approval of the plan.*

*There was a discussion on how many acres were proposed to be revegetated at various times by the school district, however it was noted that it would have to be less than 4.6 acres. It was also mentioned that the revegetation of approximately 2 acres was discussed with staff at a meeting they had with district representatives. Mr. Lesko inquired whether the resolution could be amended to include a cap on the amount of acres to be revegetated. Mr. Pavacic recommended modifying the resolution to add "to the maximum extent possible, up to two acres total". Mr. Pavacic discussed the language of the draft resolution pertaining to recommended species for the revegetation of the site, in a response to Mr. Turner's question as to whether native species would be required.*

*Mr. Milazzo explained the reasons the Commission regards this project as development including that it falls within a category of activities that constitutes development, and based on NYS Article ECL 57-123.3(a), that he read aloud to the Commission, that requires approvals by municipalities, state and county to conform to the Plan and the Act. He also discussed school decisions prior to 2003 that were considered non-jurisdiction since a they were considered a public improvement. The Commission's perspective on this changed when it was made aware that certain school districts went beyond what was included in their determination of nonjurisdiction granted by the Commission and after closer scrutiny of the aforementioned provision of NYS ECL Article 57 as it pertains to these type of entities.*

*Mr. Scully stated that the school's request for determination of jurisdiction was honored and that the project was determined development, however it conforms to the standards so there is no need for a hardship permit. The staff will assist the school in it's efforts develop a plan to revegetate the cleared land and there will be no need for further Commission deliberation on this project.*

**The motion was made by Mr. Lesko and seconded by Mr. Scully to accept the Draft resolution that the project is development and meets the CLUP standards. The motion was approved by a 5-0 vote.**

**The motion was made by Mr. Lesko and seconded by Mr. Walter to accept the Draft resolution on the Proposed Revegetation and Restoration as amended by inserting the language to the first resolve after the phrase to the maximum extent possible the words "not to exceed 2 acres". The motion was approved by a 5-0 vote.**

**7-Eleven Core Preservation Area Extraordinary Hardship Application / CGA Extraordinary Hardship Application / Ridge (200-351-2-6.1 and 20) (Ms. Hargrave; decision deadline 1/17/2011)**

**Summary:** Ms. Hargrave reviewed the materials distributed in connection with the 7-Eleven application (attached). She stated that the applicant has requested an extension of the decision deadline to the January Commission meeting and that the applicant may provide additional information at that time. The applicant submitted two plans later than requested by the Commission. The plans showed alternatives for parking and development only on the CGA portion. It was questioned as to whether a lessee could apply for a hardship and it was clarified by Mr. Milazzo that as long as they have signed permission by the owner it is allowed. It was discussed whether 7-Eleven could relocate and then a hardship would not be necessary. It was unclear as to what was the hardship being claimed by the applicant - a truck safety issue or not enough parking. A discussion ensued as to whether the Commission should deny the application. It was noted that the applicant sent an extension request and out of courtesy to the applicant the Commission should accept the extension.

**The motion was made by Mr. Scully and seconded by Mr. Lesko to accept the request for an extension until January 19, 2011. The motion was approved by a 5-0 vote.**

### **Adjournment**

**The motion was made by Ms. Prusinowski and seconded by Mr. Shea to adjourn the meeting. The motion was approved by a 5-0 vote.**

*The meeting ended at approximately 3:05 pm.*

### **Attachments (in order of discussion):**

1. Attendance sheet dated 12/15/10
2. 2011 Pine Barrens Commission Meeting Schedule
3. Pine Barrens Commission Meeting Summary November 17, 2010
4. Barrens to Bay handout provided by Ms. Griffiths
5. NYWIMA News article
6. Draft Resolution to Selection of and Contract with an Auditor to Review the Financial Records of the NYWIMA, dated December 15, 2010.
7. Request for Proposal 1316 - Responses for an Academy Auditor (table)
8. Selection of 2011 PLC Chair & Vice Chair memorandum by A. Carter, dated December 9, 2010 and draft resolution to approve the PLC Chair and Vice Chair, dated December 15, 2010.
9. Brookhaven Town Adopted Resolution No 2010-114, Authorizing the donation of an ATV to the Pine Barrens LEC, Meeting of November 9, 2010.
10. Nelson, Pope & Voorhis letter Request for decision deadline extension letter for Artist Lake Plaza DRS, dated December 10, 2010.
11. Commission actions on school projects in the Central Pine Barrens for December 15, 2010 Commission meeting (table)
12. Letter to VHB Engineering Request for Determination of Jurisdiction letter regarding Eastport-South Manor from Commission Staff, J. Hargrave, dated September 20, 2010.
13. VHB Engineering letters to Chairman and Ms. Hargrave, Request for hearing Proposed Addition, Alterations and Site Improvements at the Dayton Avenue Elementary School documents and site plans, dated April 29, 2010, August 6, 2010 and November 5, 2010.
14. Letter to VHB Engineering Re. Eastport South Manor School District - Dayton Ave. School, from Commission Staff J. Hargrave, dated June 4, 2010.
15. Adopted Commission Resolution for Willow Wood at Coram project, dated November 17, 2010.
16. Proposed changes to the adopted Resolution for Willow Wood at Coram (Tracked changes version)
17. Draft Resolution Proposed Revegetation and Restoration Dayton Avenue School, Manorville, Town of Brookhaven, dated December 15, 2010 and amended version.
18. Draft Resolution on the Determination of Jurisdiction-Dayton Avenue School, Manorville, Town of Brookhaven, dated December 15, 2010.
19. Letter from Leigh Rate of Certilman Balin, Core Area Hardship Application, 7-Eleven @ Ridge, Request to extend decision deadline, dated December 2, 2010

20. Letter from Leigh Rate of Certilman Balin, Core Area Hardship Application, 7-Eleven @ Ridge, Response to Staff comments, dated December 2, 2010.