



**Commission Meeting Summary (FINAL)**  
**for Wednesday, January 21, 2004 (Approved 2/18/04)**  
**at Suffolk County Park Police Headquarters and Pine Barrens Center,**  
**Southaven County Park, Victory Avenue, Yaphank**  
**2:00 pm**

Commission members present: Mr. Levy and Mr. Deering (for Suffolk County), Mr. Scully (for New York State), Mr. Hoffman, Ms. Prusinowski and Ms. Compitello (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Murphree (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members from the Commission included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, Mr. Randolph, Ms. Longo (from the Commission), Mr. Proios and Mr. Freleng (from the Suffolk County Planning Department), Mr. Turner (from the Brookhaven Town Planning Division), and Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC). Additional attendees are shown on the attached sign-in sheet.

Philip J. Cardinale  
Member

The meeting was called to order at approximately 2:35 pm by Mr. Corwin on behalf of the Commission. A five member quorum was present.

Patrick A. Heaney  
Member

#### **Administrative**

John Jay LaValle  
Member

Welcoming and opening remarks by the Commission members

Summary: Mr. Corwin welcomed everyone in attendance, and explained that he has been asked to chair today's meeting until the Commission elects a Chair at the next meeting in February. He noted that there are new members and attendees at today's Commission meeting. He also noted that Commissioners will have available today and in future meetings revised, standard maps for all of the projects under discussion, as suggested at an earlier meeting by Mr. Proios, as well as an overview map showing the locations of all of the projects on the day's agenda.

Steven A. Levy  
Member

Peter A. Scully  
Member

County Executive Levy then spoke about the planning, vision, and consensus building that has gone into both the pine barrens act as well as the planning and administration of it. He stated that the Commission's efforts have been successful, and noted the progress that has been made in land acquisition by the various involved agencies. He also introduced Mr. Michael Deering, his Director of Environmental Affairs who will be his Designated Representative to the Commission. He noted Mr. Deering's experience with the passage of the pine barrens act, the recent state brownfields legislation, and extensive experience in environmental affairs, including pine barrens matters. Mr. Levy also noted and complimented Mr. Proios' past contributions to the Commission.

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Mr. Scully, the Governor's Appointee to the Commission, noted that this

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is a great time for the Commission to evaluate its work and progress to date, and he stated that the Governor remains committed to pine barrens preservation and management. Mr. Scully noted that the Governor recently signed into law the enforcement amendments to the pine barrens law.

Mr. Hoffman, Executive Assistant for Brookhaven Supervisor John Jay LaValle and one of his Designated Representatives, stated that Supervisor LaValle is excited by the Commission's good work. He introduced Ms. Prusinowski, Ms. Compitello (both Designated Representatives), and Mr. Turner, the Town's new Assistant Director of Planning overseeing land preservation and management. He also noted Mr. Turner's long and distinguished record on environmental issues.

Ms. Jill Lewis, the Executive Assistant to, and Designated Representative for, Supervisor Phil Cardinale of Riverhead, spoke about looking forward to the Commission's work, and noted that she has worked closely in the past with the new Commission members and meeting attendees.

Mr. Murphree, the Southampton Town Planning and Development Administrator and a Designated Representative for Southampton Supervisor Patrick Heaney also welcomed the new members and attendees.

#### **Public Comment**

Summary: The only speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society, who briefly welcomed the new members and attendees.

#### **Administrative**

Minutes for 11/19/03, 12/17/03 approval: review

Summary: The following change was suggested to the draft 11/19/03 Commission meeting minutes: under "Gabreski Airport / Westhampton", the second paragraph's second sentence refers to an aerial photograph of the airport that was utilized in that day's discussion, and the date of the photograph is not noted. The date should be obtained by the staff and inserted into that portion of the minutes.

**A motion was then made by Mr. Scully and seconded by Mr. Murphree to approve the 11/19/03 meeting summary with that change. The motion was approved by a 5-0 vote.**

The following changes were suggested to the draft 12/17/03 Commission meeting minutes: (1) under "Sprint Spectrum / Manorville", the third paragraph's first sentence should read: "A brief discussion ensued regarding the status of such work as "nondevelopment" under the pine barrens law."; (2) under "Long Island Power Authority / Riverhead - Jamesport", the third paragraph's first sentence should read, in part: "Mr. Milazzo noted that the Commission may find that the project does not constitute "development" under the pine barrens law, ...".

**A motion was then made by Mr. Scully and seconded by Mr. Murphree to approve the 12/17/03 meeting summary with those changes. The motion was approved by a 5-**

**0 vote.**

Mr. Levy left at this point. A five member quorum remained.

### **Pine Barrens Credit Program**

Gazza / Flanders and Westhampton (Southampton; 900-331-3-28) / new Credit appeal: set hearing (decisions due 3/8/04)

Summary: Ms. Longo reported that the attached letter has been received from Mr. Gazza, in which he states that he is only appealing at this time the Credit allocation for parcel 900-331-3-28, and he is seeking an increase in the allocation from 0.37 Credit to 1.0 Credit for that parcel. **A motion was made by Mr. Scully and seconded by Mr. Deering to schedule a public hearing on this appeal at 3:00 pm at the 2/18/04 Commission meeting. The motion was approved by a 5-0 vote.**

Ferrara and Gregory c/o Balin / Wildwood (Southampton; 900-181-8-misc.) / new Credit appeal: set hearing (decision due 2/18/04)

Summary: Mr. Randolph reported that the attached Credit allocation appeal letter has been received from Mr. Balin, representing Robert Gregory and Donna Ferrara. The 14 parcels involved are on the southeast corner of Wildwood Lake. **A motion was made by Mr. Murphree and seconded by Ms. Lewis to schedule a public hearing on this appeal at 3:00 pm at the 2/18/04 Commission meeting. The motion was approved by a 5-0 vote.**

### **Plan, Stewardship & Related Issues**

Stewardship funding EPF proposal draft: review

Summary: Mr. Corwin briefly discussed the attached memo and draft funding request, which has previously been faxed to the Commissioners. Also present today was Mr. William Patterson of the Long Island Chapter of The Nature Conservancy (TNC), one of the member organizations of the Protected Lands Council (PLC) and the Wildfire Task Force (WTF).

Mr. Corwin and Mr. Patterson described the recently completed pine barrens wide ecological threat analysis undertaken by the PLC, as well as the work of the WTF in general and its Prescribed Fire Committee in particular. They explained that the draft funding proposal would request state funds through the Environmental Protection Fund for the next state fiscal year for these specific stewardship initiatives, and that these would be over and above the Commission's regular administrative funding allocation. The draft was completed with the assistance of TNC's Albany Office. Mr. Corwin noted that some of the topics suggested for funding were identified through the Protected Lands Council's (PLC) recent "5S" ecological threat analysis process, during a period when Mr. Scully was serving as the Co-chair of the PLC during his tenure as County Parks Commissioner.

Mr. Scully asked about the new Foundation for Ecological Research in the Northeast (FERN), and Mr. Patterson described its purpose, its recent formation as a separate entity, and listed its board members. Mr. Pavacic asked about the ownership of any equipment that might be purchased under such an allocation, and Mr. Corwin explained that such

equipment would be the property of the Commission. Mr. Deering asked about the not for profit status of the FERN, and Mr. Corwin explained that it was recently incorporated as a not for profit corporation under state law. **A motion was then made by Mr. Deering and seconded by Ms. Lewis to endorse the funding request. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Mr. Scully.**

### **Pine Barrens Credit Program**

Buquicchio / Westhampton (Southampton; 900-307-3-11) / Credit appeal: hearing; withdrawal; acceptance (adjourned from 12/17/03; decision was due today)

Summary: A separate stenographic transcript exists for this item. The withdrawal letter from Mr. Buquicchio is attached here; the withdrawal was accepted during the hearing.

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

Newport Estates Residential Subdivision / Miller Place (Brookhaven; 200-98-8-6, etc.) / hardship: hearing (decision due 01/29/04; extension needed)

Summary: A separate stenographic transcript exists for this item. The decision deadline was extended during the hearing to 2/18/04.

Weeks Ave Residential Land Division c/o Fuller / Manorville (Brookhaven; 200-589-1-8) / hardship: hearing (decision due 2/11/04; decision or extension needed)

Summary: A separate stenographic transcript exists for this item. The decision deadline was extended during the hearing to 2/18/04.

### **Core Preservation Area**

Keyspan Gas Transmission Main Project Phases 4 and 5 / Manorville to Riverhead (Brookhaven and Southampton) / new hardship: schedule hearing

Summary: Ms. Jakobsen distributed and discussed the attached Core hardship application from Keyspan Energy for Phases IV and V of the gas transmission main project in eastern Brookhaven Town and western Riverhead Town. Also included is a letter from Keyspan to the NYS Department of Transportation's Albany Office regarding this project, which is proposed for the Long Island Expressway corridor from approximately Exit 70 eastward to Exit 71 and Nugent Drive. She noted that Mr. Frank Murphy, a staff counsel for Keyspan, was present at today's meeting. Mr. Murphy noted that the NY State Department of Transportation will be seeking lead agency status for this project. Mr. Amper of the LI Pine Barrens Society remarked that former Commissioner Cowen had been adamant that the Commission should be the lead agency on this.

**A motion was then made by Mr. Murphree and seconded by Mr. Hoffman to schedule a public hearing on this Core hardship application at 3:00 pm at the 3/17/04 Commission meeting. The motion was approved by a 5-0 vote.**

A discussion then occurred regarding authorizing the Commission staff to appeal any lead agency determination that may occur before the next Commission meeting. It was also noted that Phases 4 and 5 of this project would require lead agency coordination with the

### Compatible Growth Area (CGA)

***These three new items are clearing violations and hardship applications in the Meadows at Miller Place (Brookhaven) subdivision:***

Lamattina (200-213-7-33): discussion

Lingen (200-213-7-34): discussion

Southwick (200-214-1-11): discussion

Summary: Ms. Longo explained that these three parcels in the Meadows at Miller Place subdivision involved various violations of Town covenants and restrictions (e.g., construction of a pool, clearing beyond the permitted area), and that the owners have been told to apply to the Commission for a hardship waiver. She noted that some owners do not have the covenants and restrictions on their deeds, although the restrictions are filed with the County Clerk.

She also noted that the Commission is prohibited from considering hardship applications for sites on which there is an unresolved violation, and hence the Commission cannot process the three CGA hardship applications that these owners have submitted until a resolution is reached on the violations.

Mr. Scully then noted that the larger issue being manifested here is the long term preservation of open space in subdivisions such as this, and better mechanisms for assuring that this situation does not arise in the future. Mr. Hoffman noted that the covenants and restrictions must be placed on the actual deeds. A discussion then followed regarding how the Town might address these situations. Mr. Deering asked that these be kept on next month's agenda for an update from the Town.

### Core Preservation Area

Mittachione c/o Cramer / Ridge (Brookhaven; 200-294-4-22) / residential 2 lot subdivision / hardship: request for decision extension to April 2004 (hearing held 2/19/03; decision currently due 2/28/04)

Summary: Mr. Randolph reported that the attached request has been received from Mr. Cramer, the representative for the applicant, for a delay in the Commission's decision deadline on this Core hardship application until the April Commission meeting. **A motion was made by Mr. Murphree and seconded by Ms. Lewis to accept and agree to the decision extension request to the 4/21/04 Commission meeting. The motion was approved by a 5-0 vote.**

Calverton Shooting Range land mining / Calverton (Brookhaven; 200-300-1-3.3, 4, 5.3, 6): withdrawal; acceptance (decision was due today)

Summary: Mr. Randolph reported that the attached letter has been received from Ms. Inge Schmelzer on behalf of this project's sponsor withdrawing the Core hardship application. **A motion was made by Ms. Lewis and seconded by Mr. Hoffman to accept the withdrawal of this Core area hardship application. The motion was approved by a 5-0 vote.**

## Pine Barrens Credit Program

Cusumano & Gergela / Middle Island (Brookhaven 200-454-1-9.1) / horse and cattle pole barn: jurisdiction (from 12/17/03)

Summary: Mr. Randolph distributed and discussed the attached letter from Ms. Lora Cusumano on behalf of herself and Mr. John Gergela requesting the Commission's response to their proposal for a pole barn on their property on East Bartlett Road in Middle Island. This property is covered by a Pine Barrens Credit Program easement which prohibits any new clearing but also contains reserved rights. The materials submitted to the Commission included, in part, a survey, photographs of the proposed site, and a description of the barn.

The interpretation of the easement with respect to the proposed action was discussed briefly with Mr. Gergela, who was present. Specifically, the discussion touched upon whether there would be an additional sanitary facility as part of the project, the amount of existing clearing on the site, whether the building footprint or the ancillary activities would require additional clearing, and the need for further details, perhaps in the form of a property survey or site plan, in order for the Commission to make a determination. It was agreed that Mr. Gergela will provide the Commission additional materials, including a survey or site plan showing, at least in part, the existing clearing and the location of the proposed structure.

## Core Preservation Area

Beckwith c/o Gazza Industrial Building / Westhampton (Southampton; 900-311-1-26) / hardship: decision (hearing held 12/17/03; decision due 01/27/04 - today is last meeting before then)

Summary: Ms. Jakobsen explained that this project involved an uncoordinated review, and that she recommended a negative declaration for this action. The project site is a 6,400 square foot parcel, zoned LI-40, on the west side of CR 31, south of Stewart Avenue, in Westhampton. The project consists of the construction of a 1,200 square foot building for industrial use. A public hearing was held on at the 12/17/03 Commission meeting.

Ms. Jakobsen reviewed the suggested conditions for this project, if the Commission should issue a permit. Specifically, her recommendations included, in part, the use of the building only for dry industrial uses without discharges to groundwater (excluding the septic system), restrictions on exterior lighting to avoid light pollution, compliance with the Town's Aquifer Protection Overlay District restriction of no more than 50% clearing, and the sharing of an existing driveway with the adjacent property.

**A motion was made by Mr. Murphree and seconded by Mr. Scully to issue a negative declaration for this project under the State Environmental Quality Review Act. The motion was approved by a 5-0 vote.**

**A motion was then made by Mr. Murphree and seconded by Mr. Hoffman to (1) issue an approval of the Core hardship permit with the recommendations contained in the 01/21/04 staff report, and (2) to issue this permit on the basis of the information contained within the 12/17/03 public hearing transcript for this application which shows that this application meets the hardship requirements. A brief discussion was held regarding the need for feedback from the Town on whether recommendation #4**

***in the staff report regarding the shared driveway proved to be feasible. The motion was approved by a 5-0 vote.***

Westhampton Mining Aggregates / Westhampton (Southampton; 900-332-3-26, 28.1, 28.2; 900-334-1-1) / change in nonconforming use; concrete facility: correspondence from Town  
***Summary:*** Ms. Longo explained that the Town has issued citations to this site for recent construction and land use activities, including a concrete facility. The site was a permitted mining and rock crushing facility under NYS DEC permits. The current use may require a permit from the Commission, but no application has been submitted. It was agreed that an application will be forwarded to the site operator and that this will be placed on the 2/18/04 Commission agenda.

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

***The following item is partly within the Core area:***

Middle Island Country Club & Lustgarten Nursery Land Division / Middle Island (Brookhaven; 200-501-1-3.1): jurisdiction (new item)

***Summary:*** Mr. Randolph explained the background of this application to separate these two uses on a site which stretches from the east side of CR 21 to the south side of Longwood Road, in Middle Island. The golf course is approximately 188 acres, including cleared areas, greens, and forested sites; the Lustgarten property is approximately 23 acres, and was the site of a nursery business, and is still used informally by the golf course staff to harvest "specimen trees" for the golf course. The question before the Commission is whether the division of this parcel into two lots constitutes "development" under the pine barrens law. It was agreed that Commission counsel will examine this question, and that it will be placed on the 2/18/04 Commission agenda.

For Acres Realty c/o Summer / Shirley (Brookhaven; 200-554-3-4.32) / industrial subdivision / hardship: decision (hearing held 12/17/03; decision due 01/24/04 - today is last meeting before then)

***Summary:*** Ms. Jakobsen summarized the issues raised with respect to this application at the 12/17/03 public hearing, and distributed the attached follow up correspondence from the project's representative, Mr. Charles Voorhis. Mr. Voorhis was present today and spoke about the refinements to the plans that the Commission suggested at the hearing. Ms. Jakobsen noted that an uncoordinated review was done for this project which is an unlisted action under SEQRA. The staff recommendations note that the permit is only for a waiver of the clearing standard; that the applicant must submit for review the revegetation plan and notify the Commission staff prior to the issuance of a Certificate of Occupancy; that no discharge other than sanitary waste is to be permitted; and that exterior light fixtures must reduce and minimize light pollution.

***After a brief discussion, a motion was made by Mr. Murphree and seconded by Mr. Scully to issue a negative declaration for this project under SEQRA. The motion was approved by a 5-0 vote.***

***A motion was then made by Mr. Murphree and seconded by Ms. Lewis (1) to approve the CGA hardship application with the first preference being for the site plan labeled "Plan A" and dated 1/14/04, with the condition that the island separating the two parcels be realigned to minimize clearing and maximize revegetation, and with all of***

*the staff report recommendations to be endorsed, and (2) if the applicant cannot obtain the Town variances needed to build out the site as noted above, then to approve the site plan labeled "The Conceptual Plan" with the conditions contained in the staff report and with the condition that the revegetation also be maximized. The Commission also observed that the area is an industrial park, and that they are cognizant of the applicant's statement that a separate facility is required for the secure nature of his business. The motion was approved by a 5-0 vote.*

#### **Closed Advisory Session**

Summary: *A motion was made by Mr. Scully and seconded by Mr. Murphree to enter into a closed advisory session for the purpose of discussing pending litigation. The motion was approved by a 5-0 vote.*

#### **Litigation**

Summary: *A motion was made by Mr. Hoffman and seconded by Mr. Murphree to withdraw the currently pending appeals of the two "horse arena" cases known as Hidden Ponds and Sloane - Marcus and to direct the Commission's staff counsel to send a letter to the Commission's outside counsel for these matters to that effect. The motion was approved by a 5-0 vote.*

#### **Adjournment**

Summary: *The meeting was then adjourned without a formal adjournment resolution.*

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

1. Attendance sheet (01/21/04; 2 pages)
2. Speaker sign in sheet (01/21/04; 1 page)
3. Credit appeal letter from Mr. Gazza (01/19/04; 1 page)
4. Credit appeal letter for Gregory & Ferrara from Mr. Balin (12/16/03; 1 page)
5. Memo and draft EPF Stewardship funding proposal (01/16/04; 4 pages)
6. Credit appeal withdrawal letter from Mr. Buquicchio (01/20/04; 1 page)
7. Core hardship cover letter from Keyspan for gas main (12/19/03; 26 pages)
8. Mitacchione decision extension request from Mr. Cramer (01/6/04; 1 page)
9. Calverton Shooting Range withdrawal letter from Ms. Schmelzer (01/16/04; 1 page)
10. Cusumano and Gergela jurisdiction inquiry (01/6/04; 1 page)
11. Staff report for Beckwith c/o Gazza application (01/21/04; 2 pages)
12. For Acres letters from Nelson & Pope (01/15/04 and 01/19/04; 4 pages)





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

**Commission Meeting Summary (FINAL)  
for Wednesday, February 18, 2004 (Approved 3/17/04)  
at Suffolk County Park Police Headquarters and Pine Barrens Center,  
Southaven County Park, Victory Avenue, Yaphank; 2:00 pm**

Commission members present: Mr. Deering (for Suffolk County), Mr. Scully (for New York State), Mr. Hoffman, Ms. Prusinowski and Ms. Compitello (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Murphree (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Mills, Ms. Carter, Mr. Randolph and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), Mr. Freleng (from the SC Planning Department), Ms. Longo (from the Suffolk County Planning Department's Real Estate Division) and Mr. Turner (from the Brookhaven Town Planning Department). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:03 pm by Mr. Corwin, with a five member quorum.

Philip J. Cardinale  
Member

Patrick A. Heaney  
Member

John Jay LaValle  
Member

Steven A. Levy  
Member

Peter A. Scully  
Member

**Public Comment and Administrative**

**Public comments**

Summary: The first speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He first spoke about the Keyspan gas pipeline hardship application, stating that Keyspan has contacted the Society regarding the Society's position. Mr. Amper asked the Commission members to immediately approach the appropriate state and federal officials and agencies regarding obtaining a waiver from the Federal Highway Administration to allow the placement of the pipeline in the shoulder of the Long Island Expressway, in order to avoid new clearing adjacent to the existing cleared corridor. He stated that the next 30 days are important for resolving this issue before the 3/17/04 Core hardship hearing. He also noted that there is a precedent for this waiver in the placement of the LI Power Authority's South Fork underground transmission line along the shoulder of the Sunrise Highway.

Mr. Amper then spoke about the pending Newport Estates CGA Hardship application. He stated that no hardship should be granted, and that the sponsor should exercise his right to build the original project which is exempt under the pine barrens law.

The second speaker was Mr. Alan Stadler, representing the Ridge Civic Association. Mr. Stadler asked about the status of the Ridge Elementary School land use violation. Mr. Scully responded that the NYS DEC and the Commission are jointly pursuing a resolution and that both agencies are awaiting a response to their current proposed settlement from the Longwood School District Board, which will not meet until the end of February.

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Commission Chair: vote (from 01/21/04)

**Summary: A motion was made by Mr. Hoffman and seconded by Mr. Murphree to appoint Mr. Scully as the Chair of the Commission. Mr. Deering stated that the County Executive believes that the Commission chair should be the regionally elected official, as it has been since the formation of the Commission. The motion was approved by a 3-0-2 vote, with the abstaining votes cast by Mr. Deering and Ms. Lewis.**

Mr. Scully then noted that he believes that the next few months are an excellent time for the Commission to look at the big picture of its work, including progress to date, and challenges remaining. This overview should include the progress of the acquisition program, the remaining unprotected parcels in the core area, the stewardship work etc. Specifically, he suggested holding separate Commission meetings - in addition to the current slate of monthly meetings - as work sessions to focus upon these topics. The Commission staff will coordinate dates for those meetings, and the Commission will vote on them at the next meeting. Mr. Amper of the LI Pine Barrens Society, who also serves as the Vice Chair of the Advisory Committee, suggested that the Advisory Committee can be of assistance in this work.

Mr. Scully also noted that he would like to schedule preparation meetings with the staff prior to each Commission meeting. During a brief discussion on the Commission's general administrative protocols, Mr. Corwin noted that there is a set of Commission by laws from 1994, and it was agreed that those by laws will be faxed to the current Commission members before the next meeting.

Minutes for 01/21/04: review, approval

**Summary: A motion was made by Mr. Hoffman and seconded by Mr. Murphree to approve the 01/21/04 meeting minutes as drafted. The motion was approved by a 5-0 vote.**

#### **Project Decisions: Compatible Growth Area (CGA)**

Newport Estates Residential Subdivision / Miller Place (200-98-8-6, etc.) / hardship: decision extension request (hearing held 01/21/04; decision due today)

**Summary: Ms. Carter explained that the attached decision deadline extension request to the 3/17/04 Commission meeting has been received for this project from Ms. Rate of Certilman Balin on behalf of the project sponsor. She also distributed the attached letter from the SC Department of Health Services granting a waiver to this project.**

Following a brief discussion of the prior development map for this site which would be exempt under the pine barrens law; the waiver granted by the SC Department of Health Services for the current proposal; and the report by the NYS Office of Parks for the current proposal stating the lack of archaeological concerns on the site, Mr. Hoffman suggested that a one month delay in the Commission's decision would be helpful in allowing the Town to further address some of its concerns. It was also noted that Brookhaven Town is the lead agency, the Commission is an involved agency, and that therefore the Commission cannot issue a decision until the lead agency determines the significance of the proposal under the State Environmental Quality Review Act (SEQRA). **A motion was then made by Mr. Hoffman and seconded by Mr. Murphree to accept the extension of the decision deadline offered by Newport Estates to 3/17/04. The motion was approved**

**by a 5-0 vote.**

Middle Island Country Club & Lustgarten Nursery Land Division / Middle Island (200-501-1-3.1):  
jurisdiction (from 01/21/04; no deadline)

Summary: Mr. Randolph summarized the details of this proposed land division into two parcels, one to contain the existing golf course and one to contain the former nursery property. Mr. Milazzo then summarized the questions before the Commission with respect to determining whether the division itself constituted "development" under the pine barrens law. He cited the section of the law which pertains to the "nondevelopment" status of certain subdivisions of land in the CGA into five or fewer parcels. He explained the implications of the question of whether repeated applications of this provision to the same parcel(s) could allow future projects to be deemed "nondevelopment" by developing an overall site in projects of five or fewer lots at a time.

He also explained some of the options that the Commission has available for addressing this general policy, including a Commission policy resolution, a Central Pine Barrens Plan amendment, a legislative amendment, or a decision that simply addresses the specifics of this instant project.

Mr. Thomas Cramer, the applicant's representative, stated that his client owns the golf club and course which he does not intend to develop, and that he is selling the former nursery property to someone else who, in turn, will sell it for development. He stated that he believes that the current division is clearly "nondevelopment" and that the lots involved are residential, not commercial or industrial.

Mr. Deering then asked that the Commission counsel draft a resolution for this project for consideration by the Commission at the next meeting.

Brookhaven Walk, formerly Brookhaven Town Center / Yaphank (200-584-1-4.31,4.32) / regional shopping center / Development of Regional Significance: decision extension request (ECL 57 hearing 10/17/01; decision due today)

Summary: Mr. Corwin explained that the attached decision deadline extension request from today to the latest Commission meeting in April 2004 has been received for this project Nelson, Pope & Voorhis on behalf of the project sponsor. **A motion was made by Mr. Hoffman and seconded by Mr. Scully to agree and accept the new decision deadline as 4/21/04. The motion was approved by a 5-0 vote.**

Weeks Ave Residential Land Division c/o Fuller / Manorville (200-589-1-8) / hardship (hearing held 01/21/04; decision due today)

Summary: Mr. Randolph summarized this CGA hardship project involving the division of the five acre project site zoned A2 Residence into two parcels, with one parcel to contain 80,000 square feet and an existing dwelling and the second to contain 137,800 square feet and a new house. The staff recommended that the permit be granted with restrictions on any new clearing. A discussion ensued regarding the best manner in which to quantify the maximum amount of clearing that would be permitted to allow the construction of the second home.

**A motion was made by Mr. Murphree and seconded by Mr. Hoffman to issue a negative declaration for this application under SEQRA. The motion was approved by a 5-0 vote.**

**A second motion was then made by Mr. Murphree and seconded by Mr. Hoffman to approve the requested CGA hardship subject to the restrictions (1) that the clearing is not to exceed 50 feet around the new dwelling, and (2) that the clearing is not to exceed 25% of the lot containing the new dwelling, including in that percentage the clearing required for the driveway. The motion was approved by a 5-0 vote.**

Westhampton Mining Aggregates / Westhampton (900-332-3-26, 28.1, 28.2; 900-334-1-1) / change in nonconforming use; concrete facility: status; jurisdiction (from 01/21/04; not an application; no deadline)

Summary: Mr. Milazzo summarized this existing land use, noting that it is a concrete facility located in the Core area that is currently before the Southampton Town Justice Court for processing a violation complaint issued by the Town. It is not currently an application before the Commission. It was agreed that the Commission has jurisdiction, and that the project owner should have an application sent to him. **A motion was made by Mr. Murphree and seconded by Ms. Lewis to assert that the Commission does have jurisdiction over this project. The motion was approved by a 5-0 vote.**

#### **Public hearings: Pine Barrens Credit appeals**

Ferrara and Gregory c/o Balin / Wildwood (900-181-8-misc.) (decision due today)

Summary: A separate stenographic transcript exists for this item.

Gazza / Westhampton (900-331-3-28) (decisions due 3/8/04; today is last meeting before then)

Summary: A separate stenographic transcript exists for this item.

#### **Compatible Growth Area**

McCormick / Rocky Point (200-77-1-1, 2) / business addition site plan new application: schedule hearing (decision deadline 6/2/04)

Summary: Mr. Corwin reported that a complete CGA hardship application has been received for this 0.448 acre site on the south side of Main Street (old NYS Route 25A) in Rocky Point for a 3,200 square foot addition to an existing dive shop and retail business for the purpose of constructing a dive pool. The applicant is Mr. Charles McCormick, and he is represented by Mr. Richard Searles. **A motion was made by Mr. Murphree and seconded by Ms. Lewis to schedule a public hearing on this application for the 4/21/04 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

**These three items are all clearing violations and hardship applications in the Meadows at Miller Place subdivision:**

Lamattina (200-213-7-33): status of Town action (from 01/21/04)

Lingen (200-213-7-34): status of Town action (from 01/21/04)

Southwick (200-214-1-11): status of Town action (from 01/21/04)

Summary: A discussion was held regarding the information that the Town is seeking from the Commission regarding the handling of alleged violations such as these. Based upon today's discussion, Mr. Milazzo will forward a letter to the Town with the requested information.

#### **Core Preservation Area**

Westhampton Mining Aggregates / Westhampton (900-332-3-26, 28.1, 28.2; 900-334-1-1) / change in nonconforming use; concrete facility: status; jurisdiction (*from 01/21/04; not an application; no deadline*)

Summary: *A brief further discussion on this project was held. It was agreed that the Commission counsel will send a letter to the Town Supervisor with a copy to the Town Attorney regarding the Commission's jurisdiction over this project.*

Gazza / Eastport (900-213-1-71) / communications tower: schedule hearing (*jurisdiction affirmed 9/24; from 12/17 meeting*)

Summary: *Ms. Carter reported that this application was complete as of 2/9/04 and recommended that a public hearing be scheduled on it. **A motion was then made by Mr. Murphree and seconded by Mr. Hoffman to schedule a public hearing on this application for the 4/21/04 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.***

### **Pine Barrens Credit Program**

Designation of Commissioners and Representatives to sign easements

Summary: *Mr. Randolph explained that the Commission needs to designate one or more of its members or designated representatives to sign Credit Certificates, conservation easements, and other Pine Barrens Credit program documents, and that such designations are especially useful during the periods between Commission meetings. **A motion was made by Mr. Hoffman and seconded by Ms. Lewis to designate and authorize the Commission Chair, or in the event of his absence or unavailability, any other Commission member, to sign conservation easements for the Pine Barrens Credit Program. The motion was approved by a 5-0 vote.***

### **Plan, Stewardship & Related Issues**

Wildfire Task Force: proposed change in quorum for meetings

Summary: *Mr. Corwin discussed the attached recommendation from the Executive Board of the Wildfire Task Force regarding changing the quorum requirement for the Wildfire Task Force from 18 of its 41 organizational members to 16. **A motion was made by Mr. Scully and seconded by Mr. Murphree to modify the Wildfire Task Force resolution to reflect the change in the quorum requirement from 18 member organizations to 16. The motion was approved by a 5-0 vote.***

### **Core Preservation Area**

Gazza / Eastport (900-213-1-71) / communications tower: schedule hearing (*jurisdiction affirmed 9/24; from 12/17 meeting*)

Summary: *Ms. Carter recommended that the hearing for this application be held at the March Commission meeting instead of the April meeting due to the decision deadline for this application. **A motion was then made by Mr. Murphree and seconded by Ms. Lewis to reschedule the public hearing on this application for the 3/17/04 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.***

Beckwith c/o Gazza Industrial Building / Westhampton (900-311-1-26) / hardship: new information; reconsideration of permit basis (hearing held 12/17/03; permit issued 01/21/04)

Summary: Mr. Milazzo explained that Mr. Gazza, at the 12/17/03 hearing on this Core hardship application, represented that the owner of the property was Mr. Beckwith, and that Mr. Gazza was his agent in making the application. The Commission then voted to issue the permit at the 01/21/04 meeting. Mr. Milazzo noted that the date of purchase of a Core property by the applicant has been a factor which the Commission has determined to be important in such decisions. He noted that the Commission staff subsequently saw a title search which indicated that the owner of the property at the time of the hearing was not Mr. Beckwith, but rather was Mr. Gazza. Mr. Milazzo noted that there are thus two issues: the representations made at the hearing and the validity of the permit. It was agreed that a short break would be taken at this time to see if the NYS Attorney General's (AG) representative would arrive for this discussion.

Following the break, the NYS AG's representative had not arrived. **A motion was then made by Mr. Hoffman and seconded by Mr. Murphree to direct the Commission staff not to issue the written permit resolution for this project. A brief discussion was also held at this time on the need to consult with the NYS AG's Office on the issues associated with this project. The motion was approved by a 5-0 vote.**

#### **Adjournment**

Summary: The meeting was then adjourned at approximately 4:33 pm without a formal adjournment resolution.

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

1. Attendance sheet (date; 2 pages)
2. Speaker sign in sheet (date; 1 page)
3. Project location map for today's meeting (2/18/04; 1 page)
4. Newport Estates decision deadline extension request (02/11/04; 1 page)
5. Newport Estates waiver letter from SC DHS (09/25/03; 2 pages)
6. Brookhaven Walk decision deadline extension request (01/29/04; 1 page)
7. Wildfire Task Force quorum change memo (02/12/04; 2 pages)



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

**Commission Meeting Summary (FINAL)  
for Wednesday, March 17, 2004 (Approved 4/21/04; Corrected 7/21/04)  
at Southaven County Park, Victory Avenue, Yaphank  
2:00 pm**

Commission members present: Mr. Deering (for Suffolk County), Mr. Scully (for New York State), Mr. Hoffman and Ms. Compitello (for Brookhaven), Mr. Hanley (for Riverhead), and Mr. Murphree (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, Mr. Randolph and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), Mr. Freleng (from the Suffolk County Planning Department), and Mr. Turner (from the Brookhaven Town Planning Department). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:12 pm by Mr. Scully, without a quorum. Initially present were three Commission members or representatives: Mr. Scully, Mr. Deering, and Mr. Hoffman (and Ms. Compitello, both for Brookhaven). Mr. Hanley was initially present, but the Commission was awaiting a faxed letter authorizing him to represent Riverhead.

Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

Patrick A. Heaney  
*Member*

John Jay LaValle  
*Member*

Steven A. Levy  
*Member*

**Public Comment and Administrative**

**Public comments**

Summary: The first speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. Mr. Amper distributed the attached news clipping regarding the suggestion made by the Riverhead Development Corporation (RDC) for a new exit from the LI Expressway to access the Enterprise Park at Calverton, along with a suggested draft letter that he recommends that the Commission send to the RDC in opposition to this.

He also noted, with respect to the Keyspan gas pipeline core area application being heard later today, that Keyspan has agreed to seek a waiver of the federal regulations which would normally prevent the proposed gas pipeline from being installed in the shoulder area of the main LIE corridor. He requested and encourage the Commission to send letters of support for the waiver to the appropriate federal and state agencies, the LI representatives to the House, the two New York federal senators, the Governor, and the LI state legislative delegation.

The second speaker was Mr. Alan Stadler, representing the Ridge Civic Association. Mr. Stadler first spoke in support of the proposed new LIE exit for the Enterprise Park at Calverton, stating that the new exit would hardly pose any burden to the existing roads between the Enterprise Park and the LIE,, that there would not hardly be any impact to the ecosystem in that area, and that routing traffic along Route 25 instead would be a significant problem for the community and people north and west of the Enterprise Park.

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

Mr. Stadler also asked about two items pertaining to the Ridge Elementary School violation status. The first was for an explanation as to why this violation was no longer listed on the page of the Commission's web site entitled "Pending and Recent Development Applications" (see the attached handout which he distributed), and the second was the status of the violation resolution. Mr. Scully addressed the second item first, stating that the NYS DEC has had a recent discussion with the Longwood School District officials and board representatives, and that he would keep Mr. Stadler informed of the progress of the matter. With respect to the first item, Mr. Corwin explained that he had removed the Ridge violation from that page since it was not an application, and that he intended to create a separate page to list such items, but has not yet done so.

## **Plan, Stewardship & Related Issues**

Environmental Protection Fund: stewardship funding request status (approved by Commission 01/21/04)

Summary: Mr. William Patterson, the LI Pine Barrens Project Director for The Nature Conservancy's Long Island Chapter briefed the Commission members on their organization's recent flurry of meetings - both on Long Island and in Albany - with members of the State Legislature and their staff regarding the Commission's request for stewardship specific funding in the upcoming state fiscal year. He noted that Sen. LaValle, one of the original sponsors of the pine barrens legislation, has endorsed this request in correspondence to Sen. Carl Marcellino, Chairman of the Senate Environmental Conservation Committee and one of the senators with whom the TNC, Commission, and LI Pine Barrens Society staff met on this issue.

## **Administrative**

Scheduling of a 4/7/04 work session meeting: approval

Summary: Mr. Corwin distributed a preliminary draft version of the proposed 4/7/04 Commission "work session" meeting. A discussion ensued regarding the scope and detail of the listed topics that could be addressed in this initial status and overview session. It was agreed that the Commissioners will try to forward to the Commission Office their comments upon these agenda items prior to approximately April 1 in order to allow the staff to finalize the agenda and prepare.

## **Other Project and Land Use Items - CGA**

Lamattina (200-213-7-33), Lingen (200-213-7-34), Southwick (200-214-1-11) / violations and hardships: status of Town action (from 2/18/04; applications suspended due to violations; no decision deadline)

Summary: It was agreed that Mr. Milazzo will forward a letter to the Brookhaven Town Attorney's Office regarding the Commission's customary handling of alleged violations such as these.

Mr. Murphree arrived at this point, and a four member quorum was present.

## **Administrative**



Minutes for 2/18/04: review, approval (faxed)

Summary: The following change was suggested to the 2/18/04 draft summary: under "Newport Estates Residential Subdivision", the motion in the second paragraph should read, in part, "...made by Mr. Hoffman and seconded by Mr. Murphree to accept the extension of the decision deadline offered by Newport Estates to 3/17/04." **A motion was made by Mr. Hoffman and seconded by Mr. Deering to approve the 2/18/04 Commission meeting summary with this change. The motion was approved by a 4-0 vote.**

Scheduling of a 4/7/04 work session meeting: approval

Summary: **A motion was made by Mr. Hoffman and seconded by Mr. Deering to schedule an additional Commission meeting for 4/7/04 at 10:00 am at the Commission Office. A discussion ensued regarding the time of the meeting, due to conflicts for some members with other obligations, and the motion was then amended to set a time of 2:00 pm for the 4/7/04 meeting instead. The amended motion was then approved by a 4-0 vote.**

### **Project Decisions - Compatible Growth Area (CGA)**

Newport Estates Residential Subdivision c/o Dries / Miller Place (200-98-8-6, etc.) / hardship: decision (hearing held 01/21/04; from 2/18/04; decision due today)

Summary: **A motion was made by Mr. Hoffman and seconded by Mr. Murphree to accept and approve the extension of the Commission's decision deadline for this project requested by the project representative (see attached) to 5/19/04. The motion was approved by a 4-0 vote.**

A letter appointing Mr. Hanley as a Designated Representative of the Riverhead Town Supervisor was received during the following discussion, and a five member quorum was present from that point.

Middle Island Country Club & Lustgarten Nursery Land Division c/o Cramer / Middle Island (200-501-1-3.1) / jurisdiction: determination (from 2/18/04)

Summary: Mr. Randolph summarized this proposed land division previously discussed by the Commission. Mr. Milazzo then referred to two sections of the pine barrens law which the Commission might utilize to determine whether this action constitutes "development". The first is section 57-0107(13)(xiii), which states that actions which are not "development" include, in part, "in the compatible growth area, land divisions or subdivisions in the compatible growth area consisting of five or fewer residential lots which conform to the lot area requirement of the existing zoning for the subject parcel". The second is section 57-0107(13)(b), which states that actions which are "development" include, in part, "a material increase in the intensity of use of land or environmental impacts as a result thereof".

A brief discussion ensued regarding the applicability of each provision to the current situation. Further discussion was held until after the public hearings.

### **Public Hearings - Core Preservation Area**

Keyspan Gas Transmission Main Phases 4 and 5 / Manorville to Riverhead (LI Expressway; Brookhaven and Southampton) / compelling public need hardship (materials mailed; decision due 4/24/04)

Summary: A separate stenographic transcript exists for this item. During the hearing, the decision deadline was extended to be concurrent with the State Environmental Quality Review Act time frames of all the involved and interested agencies.

Gazza / Eastport (900-213-1-71) / communications monopole / hardship (decision due 6/8/04)

Summary: A separate stenographic transcript exists for this item.

#### **Project Decisions - Compatible Growth Area (CGA)**

Middle Island Country Club & Lustgarten Nursery Land Division c/o Cramer / Middle Island (200-501-1-3.1) / jurisdiction: determination (from 2/18/04)

Summary: **A motion was made by Mr. Hoffman and seconded by Mr. Hanley to adopt the following resolution:**

***“Whereas, the Middle Island Country Club, (hereinafter “MICC”) owns a 211+/- acre parcel located on Yaphank-Middle Island Road, in Middle Island in the Compatible Growth Area of the Central Pine Barrens in the Town of Brookhaven, which parcel has the Suffolk County Tax Map identifier number 200-501-1-3.001 (hereinafter the “Property”) and***

***Whereas, the Property is developed with an 188+/- acre golf course and 23+/- tree farm nursery, and***

***Whereas, the golf course portion of the Property is located within the A Residence 5 zoning district of the Town and the nursery portion of the Property is within the A Residence 1 zoning district of the Town, and***

***Whereas, MICC has applied to Central Pine Barrens Joint Planning and Policy Commission (the “Commission”) by letter dated December 15, 2003 and supplemented by letter dated January 6, 2004 to subdivide the Property into two lots, one containing the golf course and one containing the nursery, and offer the nursery lot for sale for single family housing, (hereinafter collectively the “Lots”) and***

***Whereas, MICC’s representative, Thomas Cramer of the Cramer Consulting Group, appeared at the Commission’s meetings of January 21 and February 18, 2004 to discuss the application and stated on February 18, 2004 that he was not certain that an application for development would be submitted for the nursery lot; and***

***Whereas, Environmental Conservation Law §57-0107(13) defines development to mean “the performance of any building activity or mining operation, the making of any material change in the use or intensity of use or any structure or land,” and further states that without limitation any activity which involves “a material increase in the intensity of use of land or environmental impacts as a result thereof” is defined to be development; and***

***Whereas, pursuant to Environmental Conservation Law §57-0121(4)©), the Commission was required to prepare a land use plan that with respect to the Compatible Growth Area was to be designed to, “(a) preserve and maintain the essential character of the existing Pine Barrens environment, including plant and animal species indigenous thereto and habitats therefor; (b) protect the quality of***

*surface and groundwaters; ( c ) discourage piecemeal and scattered development; (d) encourage appropriate patterns of compatible residential, commercial, agricultural and industrial development in order to accommodate regional growth influences in an orderly way while protecting the Pine Barrens environment from the individual and cumulative adverse impacts thereof . . . (f) allow appropriate growth consistent with natural resource goals pursuant to this article,” and*

*Whereas, the Commission adopted a Central Pine Barrens Comprehensive Land Use Plan on June 28, 1995, and which Plan was amended on May 1, 1996, and*

*Whereas, pursuant to Environmental Conservation Law §57-0123(3)(a) subsequent to the adoption of the land use plan, “no application for development within the Central Pine Barrens shall be approved . . . unless such approval or grant conforms to the provisions of such land use plan,” and*

*Whereas, pursuant to Article 57, the Town of Brookhaven amended its Zoning Code to be in compliance with the Land Use Plan, and to incorporate the Plan’s Standards and Guidelines for development in the Compatible Growth Area and subsequently has jurisdiction over development which conforms to the Standards, and*

*Whereas, the Commission finds that the proposed MICC subdivision does not result in a material increase in the intensity of use of land or environmental impacts as a result thereof provided that any “development” on the Property or the Lots conform to the provisions of the Land Use Plan, now therefore be it,*

*Resolved, that the proposed MICC subdivision is a use which does not constitute development for the purposes of ECL Article 57 because simply subdividing the Property into the Lots does not result in a material increase in the intensity of use of land or environmental impacts as a result thereof and is not violative of the Land Use Plan and thus is not subject to the Commission’s review and it is further*

*Resolved, that any development on the Property or the Lots must conform to the applicable provisions of the Zoning Code of the Town of Brookhaven, and it is further*

*Resolved, if any project sponsor applies to the Commission for further relief under Article 57 of the Environmental Conservation Law for the Property or the Lots, the Commission may consider the sponsor to be engaged in “segmentation” as defined by the State Environmental Quality Review Act and retains the right to require a full environmental review of the environmental impacts of the project including those associated with this determination and it is further*

*Resolved, to place subsequent owners of the Property or the Lots on notice of this determination, Middle Island Country Club shall record a copy of this resolution against the Property and the Lots with the Suffolk County Clerk within 180 days of this resolution and provide proof of recording to the Commission.”.*

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

**Project Decisions - Pine Barrens Credit Appeals**

Ferrara and Gregory c/o Balin / Wildwood (900-181-8-1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 21, and 22) (hearing held 2/18/04; decision due today)

Summary: Mr. Milazzo summarized this Credit appeal, referring to a statement of facts and issues which was distributed. He also summarized the arguments presented at the recent public hearing for an increase in the Credit allocation by the appellants' representative, Mr. Balin who was also present today. Mr. Milazzo addressed several issues, including the Commission's right to make a correction to Letters of Interpretation, which are, by definition, estimates of Credit allocations and not final determinations; whether the parcels involved could be developed under Southampton Town and County Health Department rules; how intensely the parcels might be developed under those rules; his evaluation that single and separate status of a lot does not have precedence over the pine barrens law, based upon case law; and the observation that the Commission's decision can be based upon what it believes to be a fair Credit allocation. A discussion ensued regarding the range of final Credit allocation values that the Commission members believed may be reasonable, based, in part, upon the levels of development that they believe might be feasible on the parcels.

**A motion was then made by Mr. Deering and seconded by Mr. Hanley to adopt the following resolution:**

***"Whereas, Donna Ferrara and Robert Gregory own, individually and collectively, fourteen parcels of land in the Core Preservation Area in the Town of Southampton and by their attorney, Herbert M. Balin, applied for Letters of Interpretation for the parcels, and***

***Whereas, on October 14, 2003, fourteen Letters of Interpretation each for 1.00 Pine Barrens Credit were issued to the Applicants based on the erroneous conclusion that each parcel had 4,000 square feet or greater of area and fronted on an existing improved road and thus qualified for an allocation of 1.00 Pine Barrens Credit pursuant to Section 6.7.6.6 of the Central Pine Barrens Comprehensive Land Use Plan, and***

***Whereas, upon discovery of the erroneous conclusion, the Clearinghouse on December 4, 2003 issued fourteen new Letters of Interpretation totaling 1.54 Pine Barrens Credits to the Applicants for the parcels based upon the fact that none of the parcels contained 4,000 square feet of area, and***

***Whereas, on December 16, 2003, Mr. Balin filed with the Commission an appeal of the allocations contained in the December 4, 2003 Letters of Interpretation, and***

***Whereas, the Commission at its January 2004 meeting scheduled a public hearing on the appeal for February 18, 2004, and***

***Whereas, at the February 18, 2004 public hearing, Mr. Balin submitted a petition, a Memorandum of Law, a letter from an appraiser and oral testimony in support of his clients' request for an increased allocation of Pine Barrens Credits based on the arguments that the parcels were single and separate and buildable under the Southampton Town Code, that the parcel's value was greater than the value of the Pine Barrens Credits and that if the total square footage owned by the applicants was divided by 4,000 the parcels would be eligible for approximately 9.0 Pine Barrens Credits, and***

**Whereas, a transcript of the hearing was thereafter made available to the Commission, and**

**Whereas, the Commission has considered all materials submitted in connection with the appeal, and**

**Whereas, the Commission considered the merits of the appeal including the unique features of the parcels and the equity issues involved at its February 14, 2004 meeting and a review of prior Pine Barrens Credit appeals; now, therefore, be it**

**Resolved, the Commission finds that it retains the right to revoke Letters of Interpretation that are issued in error, and be it further**

**Resolved, that the alleged single and separate status of parcel, in and of itself, does not mandate the allocation of 1.00 Pine Barrens Credit for the parcel, and be it further**

**Resolved, the Commission finds that the parcels are unique for the following reasons: all of the parcels are described property located in the R-10 zoning district of the Town of Southampton; twelve of the parcels front on an existing improved road in a residential area not on major roads; eight of the subject parcels are located on Wildwood Lake; five of the parcels abut a large New York State conservation area; the parcels are located in a developed area and are in proximity to parcels on the Core Roadfront Residential Parcel Exemption List pursuant to Environmental Conservation Law §57-107(13); there is a potential the Applicants could develop 4 to 5 homes on the subject lots due to their configuration and such development would not change the essential character of the area; and there is no significant economic impediments to development because existing infrastructure, such as public water mains, electric lines and telephone lines are present in the immediate vicinity of the parcels, and be it further**

**Resolved, that the Commission, based on the unique features of the parcels hereby grants the appeal to the extent that a total of 5.00 Pine Barrens Credits are allocated to the parcels as a group.”.**

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

#### **Project Decisions - Core Preservation Area**

Beckwith c/o Gazza Industrial Building / Westhampton (900-311-1-26) / hardship: new information; reconsideration of permit basis (hearing held 12/17/03; permit issued 01/21/04; from 2/18/04)

**Summary: It was agreed that a public hearing on this project and the previously approved permit should be held, with a notice being sent to both Mr. Gazza and Mr. Beckwith. A motion was made by Mr. Hoffman and seconded by Mr. Murphree to adopt the following resolution:**

**“Whereas, Joseph Frederick Gazza applied for a hardship approval on behalf of Herman Beckwith to construct a 1,200 square foot building on a 6,400 square foot parcel located at 245 Westhampton-Riverhead Road in the Town of Southampton, which parcel has the Suffolk County Tax Map identifier number 900-311-1-26, (the**

***“Application”) pursuant to Environmental Conservation Law §57-0123 by submitting a Core Preservation Area Hardship Application dated September 18, 2003 to the Central Pine Barrens Joint Planning and Policy Commission (the “Commission), which Application was received on September 29, 2003, and***

***Whereas, in considering such applications, the Commission must evaluate the Application pursuant to ECL §57-0121(10) and consider whether the hardship “relate[s] to or arise out of any action or inaction by the applicant or the owner or his predecessors in title including any transfer of contiguous lands which were in common ownership on or after June 1, 1993” and***

***Whereas, included within the Application was a copy of a deed dated October 31, 1946 between the United States of America and Herman Beckwith, and a copy of a Retainer Agreement by which Mr. Beckwith retained Mr. Gazza for “all applications, requests for variances and or hardship permits before the Pine Barrens Commission; Suff. Co. Dept of Health Services, Southampton Town Planning & Zoning Depts - affecting my premises at 245 Westhampton Riverhead Road,” and which retainer was dated September 18, 2003, and***

***Whereas, the Central Pine Barrens Joint Planning and Policy Commission considered the Application at its November 19, 2003 meeting and scheduled a public hearing on the Application for December 17, 2003, and***

***Whereas, at the December 17, 2003 public hearing, Mr. Gazza made the following statements:***

***(A) “I’m talking about a parcel of land owned by Herman Beckwith who is about 80 years old. He’s offered to sell me the land.” (Transcript Page 9).***

***(B) “I’m appearing before you today with the express consent of Mr. Beckwith by retainer agreement which we’re going to call Exhibit 1, and I would like to start by saying that Mr. Beckwith has owned this property since October 24, 1946.” (Transcript Page 9).***

***( C ) “So we have a situation where Mr. Beckwith has a small parcel industrial zoned. . . . I think the best thing to do for Mr. Beckwith would be allow him to get a hardship exemption so he can sell the lot to me and I can build the industrial building on the property.” (Transcript Page 11).***

***(D) “I know that Mr. Beckwith does not own any contiguous properties because I know the owners [of the surrounding lands].” (Transcript Page 13).***

***(E) Question: “Is the hardship the result of any action or inaction on the part of the applicant or any predecessors in title?”  
Mr. Gazza: “No, nothing on that.”***

***Whereas, the Commission approved the Application at its January 21, 2004 meeting, and***

***Whereas, following the January 21, 2004 approval, the Commission staff became aware that a deed dated September 18, 2003 was recorded with the Suffolk County***

*Clerk on September 19, 2003 conveying the parcel from Mr. Beckwith to Mr. Gazza, and*

*Whereas, the ownership of the parcel is relevant and material to Commission's consideration of a hardship application pursuant to ECL §57-0121(10), and*

*Whereas, it appears that the material facts presented to the Commission were inaccurate or misleading, now therefore be it*

*Resolved, that the Commission shall hold a public hearing on April 21, 2004 at the Southaven County Park at 3:00 p.m. for the purposes of receiving information from Mr. Gazza or any member of the public on whether the hardship approval issued for the Application should be modified, suspended or revoked, and be it further,*

*Resolved, that a stenographic record of such hearing shall be made, and be it further,*

*Resolved, a notice of the hearing shall be provided to Mr. Gazza and Mr. Beckwith by certified mail and regular mail to their last known addresses and a copy of the notice shall be published at least 14 days prior to the hearing in a newspaper of general circulation in Suffolk County, and be it further*

*Resolved, Mr. Gazza or any member of the public is invited to submit a written statement concerning the Application to the Commission on or before April 14, 2004."*

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

#### **Project Decisions - Pine Barrens Credit Appeals**

Gazza / Westhampton (900-331-3-28) (hearing held 2/18/04; decision due today)

Summary: Mr. Randolph summarized this previously discussed appeal for a parcel on the Core side of Summit Boulevard, south of Sunrise Highway. He recommended granting the appeal for one full Credit based upon the parcel's location on Summit Boulevard and the physical status of that road as both passable and accessible. **A motion was made by Mr. Murphree and seconded by Mr. Hoffman to grant the appeal on this parcel for 1.0 Credit. The motion was approved by a 5-0 vote.**

#### **Other Project and Land Use Items - CGA**

Flowerwood Development c/o Barrett, Bonacci / Yaphank (200-584-1-4.23, 4.24, 4.31, 4.32) / industrial site plan: new hardship; schedule hearing (decision due 6/16/04)

Summary: Ms. Jakobsen reported that this new CGA hardship application (cover page attached) has been received for a site in the Brookhaven R&D Plaza on Ramsay Road in Yaphank. **A motion was then made by Mr. Murphree and seconded by Mr. Hoffman to schedule a public hearing on this application for the 4/21/04 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

## Other Project and Land Use Items - Core Preservation Area

Gazza - Vanderbilt Park / Eastport (900-331-3-9, 10, 11): resurfacing of Summit Blvd; request from Planning Board (to be distributed)

Summary: Mr. Randolph described the attached letter from the Southampton Town Planning Board requesting whether the proposed resurfacing and widening of Summit Boulevard leading to the above parcel would require review by the Commission. In the discussion which followed, it was noted that the project involves some widening of the road, that a portion of the road is within the Core area, and that the lot being accessed is within the CGA. Mr. Gazza stated that he had some "selective pruning" performed along the road, and the question then arose as to what that exactly involved, including, for example, any tree clearing. It was agreed to hold this until the next meeting and the Town agreed to have a Town staff member inspect the site in the interim.

## Other Project and Land Use Items - Pine Barrens Credit Program

Fabrizio / Calverton (200-356-4-6, 9.1, 10; 200-413-2-7): new Credit appeals; schedule hearings (decisions due 5/3/04)

Summary: **A motion was made by Mr. Hoffman and seconded by Mr. Hanley to schedule a public hearing on these Credit appeals (see attached materials) for the 4/21/04 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

PBC conservation easement: proposed changes; approval

Summary: Mr. Randolph briefly described the changes to the standard easement attached here, including the "Reserved Rights" section. **A motion was then made by Mr. Hanley and seconded by Mr. Hoffman to approve the proposed attached revisions to the standard Pine Barrens Credit Program conservation easement. The motion was approved by a 5-0 vote.**

## Plan, Stewardship & Related Issues

Law Enforcement Council: Council representatives to proposed SC ATV Park Task Force under SC Intro. Res. 1207-2004 (memo faxed)

Summary: It was agreed that this matter will be held until the SC Legislature and the County Executive act upon this pending bill.

## Adjournment

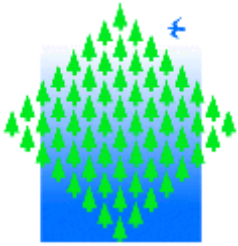
Summary: **A motion was made by Mr. Deering and seconded by Mr. Hoffman to adjourn the meeting. The motion was approved by a 5-0 vote, and the meeting ended at approximately 5:08 pm.**

## Attachments (in order of discussion):

1. Attendance sheet (3/17/04; 1 page)
2. Speaker sign in sheet (3/17/04; 1 page)
3. Project location map for today's meeting (2/18/04; 1 page)
4. Article re RDC's suggestion for new LIE exit (3/11/04; 1 page)
5. LI PBS' proposed draft letter from Commission to RDC (3/17/04; 1 page)



6. Memo from Mr. Stadler re Ridge School and Commission web site (undated; 1 page)
7. Decision extension request from Newport Estates representative (3/15/04; 1 page)
8. First page of Flowerwood CGA hardship transmittal (2/11/04; 1 page)
9. Letter from Southampton Planning Board re Vanderbilt Park / Gazza (2/4/04; 1 page)
10. Credit appeal letter from Mr. Fabrizio with original LOIs (01/23/04; 5 pages)
11. Draft proposed changes to standard PBC conservation easement (undated; 8 pages)
12. Memo re LEC representatives to proposed SC ATV Task Force (2/27/04; 6 pages)



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

Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

Patrick A. Heaney  
*Member*

John Jay LaValle  
*Member*

Steven A. Levy  
*Member*

**Commission Meeting Summary (FINAL)  
for Wednesday, April 7, 2004 (Approved 4/21/04)  
at Commission Office, 3525 Sunrise Highway, 2<sup>nd</sup> Floor  
Great River, NY  
2:00 pm**

Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Mr. Hoffman, Ms. Prusinowski, and Mr. Turner (for Brookhaven), Mr. Cardinale (for Riverhead), and Mr. Shea (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members from the Commission included Mr. Corwin, Ms. Jakobsen, Ms. Carter, Mr. Randolph and Mr. Born. Staff members from other cooperating organizations included Mr. Pavacic and Ms. Amster (NYS Department of Environmental Conservation (DEC)), Capt Otterstedt (NYS Environmental Conservation Police and Chair of the Law Enforcement Council), Mr. Freleng (from the Suffolk County Planning Department and Vice Chair of the Pine Barrens Credit Clearinghouse), Ms. Longo (from the SC Planning Department's Real Estate Division), Mr. Laton (from the SC Parks Department and Vice Chair of the Law Enforcement Council), Mr. Jones (from the SC Water Authority and Chair of the Advisory Committee), Dr. Green (from the Brookhaven National Laboratory and member of the Protected Lands Council), and Mr. Amper (of the LI Pine Barrens Society and Vice Chair of the Advisory Committee). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:10 pm by Mr. Scully, with a four member quorum initially present consisting of Mr. Scully, Mr. Deering, Mr. Hoffman, and Mr. Shea.

#### **Introduction**

Summary: Mr. Scully introduced the members of the Commission and several members of the various pine barrens committees and councils present today. He explained that the purpose of today's meeting is to provide an overview of the work of the Commission to date for the benefit of both the new and experienced members of the Commission.

#### **Administrative**

##### Authorization to renew insurance policy

Summary: Mr. Milazzo explained that the application for renewal of the Commission's directors and officers insurance policy is ready for submittal, and asked that the Commission approve submittal of the application and authorization of the Chair to sign it. **A motion was then made by Mr. Hoffman and seconded by Mr. Shea to authorize the submittal of the renewal application and its signing by the Commission Chair. The motion was approved by a 4-0 vote, and Mr. Scully then signed the renewal application**

#### **Overview of the 1993 Pine Barrens Legislation and its Implementation 1993 ECL Article 57: major provisions and history**

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Chapter amendments: since 1993

Commission and Advisory Committee: brief background

*Summary: Mr. Scully noted that the pine barrens effort has been an interagency effort from the enactment of the legislation in July 1993. Mr. Corwin noted that the 1993 Long Island Pine Barrens Protection Act amended Article 57 of the NY Environmental Conservation Law (ECL), which had originally been established in 1990 as the LI Pine Barrens Maritime Reserve Act, by adding several new sections to define and address the Central Pine Barrens zone.*

*He described several major provisions of the pine barrens act, including, in part, the creation of the Core Preservation and Compatible Growth Areas; the two year planning period from July 1993 through June 1995 (when the Plan was signed into law after approval by the three towns and the Commission); the requirements in the law that a defined set of topics be addressed in the Plan; the requirement for a transferable development rights program (which was addressed by the creation of the Pine Barrens Credit Program); the existence within the law (as opposed to the Plan) of the requirements that have to be met for Core area development permits; and the types of development applications in the Compatible Growth Area and their treatment in the Plan.*

*He also noted that there have been four amendments to the pine barrens law since 1993, including (1) a 1996 amendment to approve the Core parcel residential exemption list contained in the 1995 Plan; (2) a 1998 amendment to add the Wertheim National Wildlife Refuge to both the Central Pine Barrens zone and the Core Preservation Area (which increased the 100,000 acre size of the Central Pine Barrens to 102,500 acres); (3) a 2001 amendment to approve the expanded Core parcel residential exemption list contained in the Commission's February 2001 Plan amendments; and (4) a 2003 amendment to provide enforcement penalties for violations.*

*Finally, he noted that the 1993 legislation created both the Central Pine Barrens Commission and the Central Pine Barrens Advisory Committee. The latter was charged under the law with advising and assisting the Commission in the creation and implementation of the Plan. The law also requires the Commission to consult with the Committee in the preparation of the Plan and to meet with the Advisory Committee periodically.*

## **Overview and Status of Pine Barrens Preservation**

Acquisition program overview

Pine Barrens Credit Program easement protected parcels

Unprotected remaining parcels in Core, especially parcels in excess of five acres

Other preservation and acquisition issues

*Summary: Ms. Amster from the NYS DEC and Ms. Longo from the SC Real Estate Division described the current focus of the two agencies' acquisition efforts, and in particular the approximate quantity, size, and distribution of the remaining privately held parcels within the Core area that are undeveloped and unprotected. There are approximately 3,700 acres of land in total which meet these criteria and upon which both agencies are focusing their efforts. (The attached reference materials contain a breakdown of Core area acreage by land use categories in general, as well as a breakdown of these 3,700 acres by parcel sizes).*

*A discussion ensued regarding the land acquisition policy contained in the 1995 Plan and*

how well the acquisition efforts since that time have progressed. Mr. Corwin read the policy from Chapter 3 of Volume 1 of the Plan:

*"It is a goal of this Plan to advocate the use of fee simple acquisition as the principal protection measure - the tool of choice - for the majority of the privately held, undeveloped and currently unprotected lands within the Core Preservation Area. Acquisition of the full interest in conservation, park, preserve and recreational lands provides a secure foundation for management, recreation and resource protection.*

*Specifically, it is this Plan's long range goal that 75% of the privately held, undeveloped and currently unprotected lands within the Core Preservation Area be protected through acquisition. The Commission recognizes that achieving this goal is dependent upon the availability of public funds."*

A brief exchange occurred among attendees regarding the origin and intent of this policy.

Ms. Amster then estimated that approximately 11,600 acres of the private unprotected and undeveloped lands in 1993 have been preserved by this time.

Mr. Randolph then described the statistics for land protection through conservation easements for the Pine Barrens Credit (PBC) Program since 1995. The PBC program has protected approximately 545 acres on 451 parcels as of 4/1/04 (see attached materials). He described the process by which Letters of Interpretation and Credit Certificates are obtained by sending area landowners, and by which conservation easements are placed upon parcels in exchange for Credit certificates. Mr. Corwin noted the dual purpose of the PBC program, namely to simultaneously protect the natural resources of the pine barrens and to maintain value in lands located within the Core area.

Mr. Randolph stated that there is approximately \$7 million currently in the Pine Barrens Credit Clearinghouse account. The origin of the \$5 million from the NYS DEC Natural Resources Damages settlement for the Northville oil spill was described, as was the investment of those funds with the Suffolk County Treasurer, the use of the funds for Credit purchases, the replenishment of the fund through sales of Credits owned by the Clearinghouse, and the initial ten year, renewable term of the no interest loan of those funds to the Commission by the NYS DEC (which will end in November 2005). A brief exchange among attendees occurred over the potential use of those funds in the future for other land related programs in Suffolk County.

Mr. Cardinale arrived during the following discussion, and five member quorum was then present.

#### **Pine Barrens Comprehensive Land Use Plan**

The 1995 Central Pine Barrens Comprehensive Land Use Plan: overview and brief history  
Plan amendments: since 1995

Current Plan amendment process

Summary: Mr. Corwin noted that much of the Plan organization and contents had been covered earlier today in the description of the legislative requirements for the Plan contents. He briefly described the overview of the Plan organization into three volumes: Volume 1: Policies, Programs and Standards, Volume 2: Existing Conditions, and the Central Pine Barrens Generic Environmental Impact Statement (GEIS) (Volume 3), as well

as the principal chapters in Volume 1.

He noted that there have been two amendments to the Plan: (1) a 1996 set of changes to, in part, propose a legislative change to the pine barrens law to endorse the Core area residential roadfront exemption list and to make certain modifications to the Pine Barrens Credit Program chapter; and (2) a 2001 amendment proposing legislative endorsement of a second revision to the Core area residential roadfront exemption list. He explained that there has been one overall review of the Plan by the Commission in keeping with the legislative requirement to review the Plan's effectiveness at least once every five years.

Mr. Born explained the current preparations for a 2004 Plan amendment process that are underway. He is working with each of the Commission's subordinate branches to produce a set of proposed changes to the Plan, and he used his work with the Protected Lands Council in reviewing their portion of Chapter 7 as an example. He discussed the draft Plan review and amendment schedule contained in the attached materials.

### **Advisory Committee (AC) overview**

Administrative notes and overview of past efforts

Present and future focus

Summary: Members of the AC present included Mr. Jones, Mr. Amper, Mr. Balin, Mr. Lembo, Mr. Wieboldt, Mr. Patterson, and Dr. Green. Mr. Jones, the Chair of the AC, stated that the proposed Plan amendments should go through the AC for review and comment. He stated that one of the AC members, Mr. Darrow, has suggested that the past problem of the AC obtaining a quorum could be addressed by appointing an executive committee. He then noted some of the issues that he believes that the AC should examine in the near future, including, in part, the 1995 to present history, and current status, of CGA zoning; the current status of CGA lands that have been rezoned; the relationship of the Maritime Reserve, the Peconic Bay Estuary, and other geographically overlapping planning areas and plans; the fate of the PBC Clearinghouse funds in 2005; the operation of the transfer of development rights program countywide; and the possibility of including the upcoming SC Comprehensive Water Resource Management Plan (SCCWRMP) in the Pine Barrens Plan Chapter 8.

Mr. Balin commented that he would be concerned that the balance of interests represented in the composition of the AC in 1993 be maintained in the formation of any executive committee. Mr. Lembo stated that he is concerned that there is a need for preservation efforts within the CGA. Mr. Weiboldt stated that he felt that there has been too much emphasis upon the acquisition efforts, and that there should be some transfer of development rights when future lands are preserved by government action. Mr. Amper asked whether the current density in the CGA is consistent with the 1995 GEIS. He also stated that he is concerned about the issuance of hardship permits to government and the vulnerability of public land to development.

A brief discussion ensued regarding the question of land preservation within the CGA; the definition of Critical Resource Areas (CRAs) within the CGA; and their statutory basis and definition in the 1995 Plan.

### **Other Pine Barrens Credit program matters**

Administrative notes, including past efforts and current fund status

## Recent Credit transactions and other summaries

### Future focus

*Summary:* Mr. Randolph summarized some of the recent Credit transaction prices that have been recorded with the Clearinghouse. Mr. Freleng, Vice Chair, discussed the issue of intertown transfers of Pine Barrens Credits, and specifically the policies of the Clearinghouse, the SC Department of Health Services (SC DHS), and the Towns on this matter to date. He also described some of the issues which the Clearinghouse has discussed, or will be discussing, including Letters of Interpretation for partially developed lots (i.e., lots that are "underdeveloped" as compared with their maximum development potential under their zoning category); the recent interest of the SC DHS in examining the specific lots from which Credits originate and whether those lots were defined as single and separate under SC DHS rules based upon the 1981 tax maps; the increasing values of Credits; the fate of the Clearinghouse funds in 2005; and the use of incentives to increase participation in the program.

## Future Priorities

### Roundtable and general discussion

*Summary:* Mr. Scully asked for the Commissioners' thoughts on issues of interest to them at this point, as some members would need to leave soon. Mr. Hoffman noted that Brookhaven Town and the LI Pine Barrens Society are in negotiations regarding their positions on the use of hardships by municipalities.

Mr. Shea noted that Southampton Town has addressed the South Fork Pine Barrens area that is within his town through the Critical Wildlands Groundwater Protection Program. He noted some of the features of the plan, including the use of transferable development rights (TDRs); a new zoning district for aquifer protection; protection of the Paumanok Path and the Peconic Bay ecosystem; and the acquisition of lands. He noted that the area is approximately 4,600 acres, and that 60% has been protected.

Mr. Turner believes that an enhanced public outreach and education program is needed. He also observed that scientific research needs better coordination.

Mr. Deering noted that the County is interested in the SCCWRM Plan update mentioned earlier, and is examining the issue of countywide TDR use.

Mr. Cardinale noted that Riverhead Town is very interested in the use of TDRs for land protection.

Mr. Deering and Mr. Cardinale left during the following item.

## Stewardship Councils

Protected Lands Council (PLC): administrative notes, history, and current focus

Law Enforcement Council (LEC): (same)

Wildfire Task Force (WTF): (same)

Research initiatives: (same)

*Summary:* Mr. Corwin briefly described these four major stewardship areas, and the origin and composition of the committees overseeing them.

Dr. Green and Mr. Patterson, both members of the PLC, described some of the recent

work being undertaken. Specifically, they described the work of the PLC to date in crafting an interagency, interorganizational regional management plan for the protected lands in the Central Pine Barrens. The PLC's Technical Subcommittee is currently working on contributions to the Plan amendments by incorporating everything done to date by the PLC into that section of Chapter 7 of the Plan Volume 1.

Mr. Jones noted at the close of the discussion that the SC Water Authority (SCWA) has worked with the SC Legislature to obtain access to SC lands for well fields and that the funds paid by SCWA for that access will be used for stewardship. Mr. Lembo commented upon the extensive damage that off road vehicles have inflicted upon the Paumanok Path and other marked trails on public lands, and the dangers that the riders pose to other citizens on the trails.

Capt. Otterstedt, Chair of the LEC, spoke about the work of the LEC in writing the 1995 LEC portion of the Plan; the LEC's team approach to environmental protection, patrol, investigation, and enforcement; the production of the second version of the Pine Barrens Law Enforcement Handbook; the programs with the NY Army and Air National Guards, including the vehicle lifts and water bucket firefighting training; the recent invitations to new agencies to join the LEC; the new land use violation report investigation protocol which the Commission requested from the LEC and which will be discussed at the 4/21/04 Commission meeting; the relentless efforts of the LEC agencies to address trespassing, illegal off road vehicle use, dumping, and other violations and crimes; and the recent public service announcement filming with the assistance of the SC Police Academy video unit.

Mr. Laton, the LEC Vice Chair, spoke about the efforts to work with SC District Court on tracking repeat offenders of the County's all terrain vehicle (ATV) law, under which repeat offenses lead to increasing fines and possible forfeiture. He praised the efforts of the District Court staff and Chief Administrative Judge Fitzgibbons in this effort. A brief discussion ensued regarding the extent of violations, deterrents, and the availability of enforcement personnel.

Mr. Corwin and Ms. Jakobsen described the work of the WTF and its subcommittees. They touched upon, in part, the work of the Public Education Committee with its public event attendance, the wildfire video, and the upcoming CD ROM instructional version of the video; the Prescribed Fire Committee's effort to craft a program for the pine barrens, as required by the pine barrens law; the Fire Protection Assessment Committee's recent obtaining of a grant for holding an instructional class to train local personnel to perform a fire assessment of risks, hazards and values in the pine barrens; and the Fire Weather Committee's efforts to provide a daily fire danger rating, operate the fire weather station; and upgrade it to a satellite station under the federal Geostationary Orbiting Environmental Satellite (GOES) system

Dr. Green then summarized the work of the Research Committee in sponsoring the annual Pine Barrens Research Forum; the current status of the US Department of Energy's Upton Ecological and Research Reserve at Brookhaven National Laboratory; and the establishment of the Foundation for Ecological Research in the Northeast as a new private nonprofit research entity that will focus upon stimulating and encouraging scientific research in the pine barrens as well as the larger maritime reserve and northeastern pine barrens area

**Closing**

Next Commission work session topics

Summary: Mr. Scully summarized some of the issues raised today, and thanked everyone for their attendance and contributions. The scheduling of future work sessions will be an agenda item for the 4/21/04 Commission meeting.

**Adjournment**

Summary: The meeting was adjourned at approximately 5:20 pm without a formal adjournment resolution.

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

1. Attendance sheet (4/7/04; 2 pages)
2. Reference material handout (4/7/04; 61 pages)



**Commission Meeting Summary (FINAL)  
for Wednesday, April 21, 2004 (Approved 5/19/04)  
at Southaven County Park, Victory Avenue, Yaphank; 2:00 pm**



Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Mr. Hoffman, Ms. Prusinowski, Ms. Compitello and Mr. Turner (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Murphree (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, Mr. Randolph and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), Mr. Proios and Mr. Freleng (from the Suffolk County Planning Department and Vice Chair of the Pine Barrens Credit Clearinghouse Board). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:02 pm by Mr. Scully, with a four member quorum initially present consisting of Mr. Scully, Mr. Deering, Ms. Lewis and Mr. Murphree.

Peter A. Scully  
*Chair*

**Public Comment and Administrative**

Philip J. Cardinale  
*Member*

Public comments

Summary: *There were no comments at this time.*

Patrick A. Heaney  
*Member*

Minutes for 3/17/04, 4/7/04: review, approval

Summary: *The following change was suggested to the 3/17/04 minutes: the listing of attachment #8 should be deleted and the other attachments following it should be renumbered. **A motion was then made by Mr. Murphree and seconded by Mr. Deering to approve the 3/17/04 Commission meeting minutes with this change. The motion was approved by a 4-0 vote.***

John Jay LaValle  
*Member*

Steven A. Levy  
*Member*

***A motion was made by Mr. Murphree and seconded by Mr. Deering to approve the 4/7/04 Commission meeting minutes as drafted. The motion was approved by a 4-0 vote.***

Mr. Hoffman, Ms. Prusinowski, Ms. Compitello, and Mr. Turner arrived during the following item, and a five member quorum was present from that point.

Future work session topics & scheduling (from 4/7)

Summary: *Mr. Scully commented that the 4/7/04 work session was productive, and that the topics raised that day included the ability of the Advisory Committee to obtain a quorum at its meetings, and the possibility of an "executive committee" of the Advisory Committee being established. A brief discussion was also held regarding the possibility of Commission work sessions, and when they might be feasible.*

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Draft agreement with LI Greenbelt Trail Conference for use of maps: review, possible approval

Summary: *Mr. Milazzo explained he is handling this issue since Mr.*

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Corwin is also a Board Member of the LI Greenbelt Trails Conference. Mr. Milazzo explained that the LI Greenbelt Trail Conference has a set of maps which the Commission staff and the Protected Lands Council would find very useful if the information on them could be included in the Commission's geographic information systems database for producing maps for use only by the Commission and its councils. He suggested that the Commission could consider approving and signing the attached, draft written agreement, which involves no exchange of money, between the Commission and the Conference. **A motion was made by Mr. Murphree and seconded by Ms. Lewis to approve the attached draft agreement and to authorize the Commission Chair to sign and execute the agreement on behalf of the Commission. The motion was approved by a 5-0 vote.**

## Project Decisions

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

Brookhaven Walk / Yaphank (200-553-1-1.3; 200-584-2-1.2) / Development of Regional Significance / shopping center: extension to 6/16/04 (hearing 10/17/01; decision due today)  
Summary: Mr. Corwin reported that the attached written request has been received from the project sponsor's representative to extend the Commission's decision deadline on this project to the June meeting. **A motion was then made by Ms. Lewis and seconded by Mr. Murphree to agree to, and approve, the requested extension of the Brookhaven Walk decision deadline to the 6/16/04 Commission meeting. The motion was approved by a 5-0 vote.**

### **Core Preservation Area**

Mittachione c/o Cramer / Ridge (200-294-4-22) / hardship / subdivision: withdrawal; acceptance (hearing 2/19/03; decision due today)  
Summary: Mr. Randolph reported that the attached written core hardship application withdrawal has been received from the project sponsor's representative. **A motion was then made by Ms. Lewis and seconded by Mr. Deering to accept the withdrawal of the Mittachione core hardship application. The motion was approved by a 5-0 vote.**

Brookhaven Town Volunteer Fire Fighters' Museum, Firemen's Park / Ridge (200-296-1-1.2) / hardship: withdrawal; acceptance (permit issued 7/10/02; annulled by court 2/11/03)  
Summary: Mr. Corwin summarized the most recent milestones in the history of this application and its processing by the Commission, including the issuance of a permit and the subsequent voiding of that permit by a court. He noted that Brookhaven Town has forwarded the attached letter withdrawing the application, and further noted that the letter asserts that the Town believes that the project is outside the Commission's jurisdiction. He recommended that the Commission simply accept the withdrawal at this time, without addressing the questions of jurisdiction raised in the letter. Mr. Hoffman then requested that the Commission not act on the letter today, but rather delay it to the next meeting. Following a brief discussion, the Commission agreed to hold this matter until the May meeting.

Gazza / Eastport (900-213-1-71) / communications monopole / hardship: indefinite extension request (hearing held 3/17/04; decision due 6/8/04)  
Summary: Ms. Carter reported that the attached written request has been received from

Mr. Gazza for an indefinite extension of the Commission's decision deadline on this project. Following a brief discussion, **a motion was made by Mr. Deering and seconded by Ms. Lewis to agree to this request. The motion was approved by a 5-0 vote.**

### **Pine Barrens Credit Program**

AVR Realty / Ridge (200-504-1-7.2) / final LOI allocation and easement: report from 4/20/04  
Clearinghouse meeting; review

Summary: Mr. Corwin and Mr. Milazzo summarized the issues that have brought this Letter of Interpretation (LOI) application to the Commission's attention. This application is for one of three parcels in the Middle Island - Yaphank area of the Core which Rose Breslin owns and for which they have applied for LOIs. The LOI applications on the other two parcels have been processed, and their Credit Certificates and accompanying conservation easements are ready to be signed later today by Mr. Scully. Mr. Milazzo distributed the attached letter which he forwarded on today's subject parcel to the applicant's representative.

The subject parcel is approximately 80 acres, and runs generally from Longwood Road on the north end to the LI Expressway North Service Road on the south end. The principal issue which is holding up the issuance of an LOI is the presence and legal status of an unpaved, passable dirt road which runs the entire length of the parcel along its easterly side. Towards the southern third of the parcel, the width of the parcel tapers to the southeast, so that at the southern end the parcel consists solely of the dirt road. It was also noted that only the approximately northerly two thirds of the parcel is in the Core area. The specific aspects of the application in general, and the road issue in particular, which the Pine Barrens Credit Clearinghouse identified at their meeting yesterday include, in part, whether the road should receive Credits; whether there is any sewer main and / or accompanying sewer line easement on the subject property (which would connect to the Dorade Sewage Treatment Plant); the exact delineation of the Core - CGA line; and the willingness of the applicants to block unauthorized access to the dirt road.

A brief discussion ensued regarding these issues. Mr. Pavacic suggested that the Commission staff contact Mr. Ben Wright of the SC Department of Public Works to determine the status of any sewer mains and easements in this area.

Cusumano & Gergela / Middle Island (Brookhaven 200-454-1-9.1) / barn: easement interpretation (from 01/21/04)

Summary: Mr. Randolph explained that he has received the attached correspondence from one of the project sponsors, including a sketch on a copy of a survey of the location of the proposed barn. A discussion ensued regarding the placement of the barn in the cleared area; the restriction in the easement against new clearing; the exemption under ECL 57 for agriculture, in this case the breeding of cattle; the need to have a fence erected along the edge of the vegetated area which would keep the cattle from entering that area and trampling the vegetation there; the prohibition against any sanitary facilities being added; and the need for a formal survey with these restrictions shown before the Commission issues any resolution of approval. This will be kept on the next agenda.

### **Other Project and Land Use Items**

#### **Core Preservation Area**

Gazza - Vanderbilt Park / Eastport (900-331-3-9, 10, 11): Summit Blvd resurfacing and clearing; request from Planning Board (from 3/17/04)

Summary: Mr. Randolph distributed the attached letter from Mr. Gazza regarding this matter. Mr. Murphree stated that the Town has not yet completed its investigation into whether any clearing violations have occurred on this site. The Commission will leave this on the next agenda pending a report from the Town.

## **Plan, Stewardship & Related Issues**

### ***Pine Barrens Credit Program Appeals***

Ferrara and Gregory c/o Balin / Wildwood (900-181-8-misc.) request for new appeal (appeal hearing held 2/18/04; decision issued 3/17/04)

Summary: Mr. Randolph distributed the attached request from Mr. Balin, on behalf of this previously decided appeal's principals, for an additional allocation of Credits for that appeal. Mr. Milazzo observed that there is no basis in the Central Pine Barrens Plan for reopening an appeal. A brief discussion followed on whether there exists a basis to reopen the appeal, and the Commission concluded that there is not. The staff will forward a letter to that effect to Mr. Balin.

## **Public hearings**

### ***Compatible Growth Area***

McCormick a/k/a Swim King Dive Shop c/o Searles / Rocky Point (200-77-10-1,2) / hardship / commercial site plan (decision due 6/2/04)

Summary: A separate stenographic transcript exists for this item.

Flowerwood Development c/o Barrett, Bonacci / Yaphank (200-584-1-4.23, 4.24, 4.31, 4.32) / hardship / industrial site plan (decision due 6/16/04)

Summary: A separate stenographic transcript exists for this item.

### ***Core Preservation Area***

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship (from 3/17/04; decision runs with SEQRA)

Summary: A separate stenographic transcript exists for this item.

### ***Pine Barrens Credit Program Appeals***

Fabrizio / Calverton (200-356-4-6, 9.1, 10; 200-413-2-7) (decisions due 5/3/04; today is last meeting before then)

Summary: A separate stenographic transcript exists for this item.

### ***Core Preservation Area***

Gazza - Beckwith Industrial Building / Westhampton (900-311-1-26) / hardship / reconsideration of prior approval (approval issued 01/21/04)

Summary: A separate stenographic transcript exists for this item.

## Plan, Stewardship & Related Issues

### **Law Enforcement**

Law Enforcement Council (LEC): land use violation investigation protocol (Capt. Richard Otterstedt, LEC Chair; faxed)

Summary: Capt. Richard Otterstedt of the NYS EnCon Police, the Chair of the Pine Barrens Law Enforcement Council, explained the recent history of the law enforcement amendments to ECL 57; the request from the Commission to the LEC to develop an interagency protocol to identify, investigate, coordinate, and track the resolution of land use complaints; and the work of the LEC's subcommittee which worked and produced the draft (attached) Pine Barrens Land Use Complaint Investigation Protocol.

He went through the sections of the agreement, and concluded with the "Complaint Report" form, describing how the agencies involved might use it. Capt. Otterstedt noted that the Villages of Westhampton Beach and Quogue have responsibility in this area, and he has extended, at the LEC's request, an invitation to those villages' Police Departments to join the LEC for the first time at the next Council meeting. Mr. Scully concluded the discussion by noting that we need to obtain the agreement of all of the three towns, and requested that the Towns distribute the draft agreement for comments before the Commission acts.

### **Closed Advisory Session**

Summary: **A motion was made by Mr. Murphree and seconded by Ms. Lewis 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 4:52 pm to 5:16 pm.**

## Project Decisions

### **Core Preservation Area**

Gazza - Beckwith Industrial Building / Westhampton (900-311-1-26) / hardship / reconsideration of prior approval (approval issued 01/21/04)

Summary: **A motion was made by Mr. Hoffman and seconded by Mr. Murphree to direct the Commission staff to communicate to the NYS Attorney General's Office the subject matter and purpose of today's hearing on the Beckwith / Gazza matter, and to communicate to that office the decision made on that matter during today's hearing. The motion was approved by a 5-0 vote.**

## Administrative

Extra Commission work sessions: discussion (not on the original agenda)

Summary: A discussion was held regarding the possibility of additional work sessions. No decision was made.

Minutes for 3/17/04, 4/7/04: further discussion

Summary: A discussion was held regarding whether the minutes approved today should be

*revised, based upon whether the final text of certain specific resolutions should be considered part of the meeting minutes or not. No changes were made.*

Fee schedule: discussion (*not on the original agenda*)

Summary: *A discussion was held regarding whether the Commission should charge fees for processing applications. No decision was made.*

#### **Adjournment**

Summary: *The meeting was adjourned at approximately 5:25 pm without a formal adjournment resolution.*

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

1. Attendance sheet (4/21/04; 2 pages)
2. Speaker sign in sheet (4/21/04; 1 page)
3. Project location map for today's meeting (4/21/04; 1 page)
4. Draft agreement with the LI Greenbelt Trail Conference (undated; 2 pages)
5. Decision extension request for Brookhaven Walk (3/25/04; 1 page)
6. Application withdrawal letter for the Mittachione core hardship (4/1/04; 1 page)
7. Letter from Brookhaven Town re Firemen's Park (3/17/04; 1 page)
8. Letter from Mr. Gazza requesting extension on the monopole application (4/8/04; 1 page)
9. Letter to Rose Breslin Associates re LOI application (3/29/04; 1 page)
10. Letter from Ms. Cusumano re barn proposal in easement area (3/15/04; 2 pages)
11. Letter from Mr. Gazza re Summit Boulevard properties (4/6/04; 1 page)
12. Letter from Mr. Balin re Gregory and Ferrara Credit appeal (4/9/04; 1 page)
13. Draft Pine Barrens Land Use Complaint Investigation Protocol (4/14/04; 4 pages)

**FINAL Commission Meeting Summary for  
Wednesday, May 19, 2004 (Approved 6/16/04)  
at Brookhaven Town Hall, 1 Allstate Hill, Farmingville  
2:00 pm**



Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Mr. Hoffman, Ms. Prusinowski, and Ms. Compitello (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, Mr. Randolph and Mr. Born (from the Commission), and Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:03 pm by Mr. Scully, with a five member quorum.

Peter A. Scully  
*Chair*

**Public Comment and Administrative**

Philip J. Cardinale  
*Member*

Public comments

Summary: There were no speakers.

Patrick A. Heaney  
*Member*

Minutes for 4/21/04: review, approval

Summary: **A motion was made by Mr. Hoffman and seconded by Mr. Deering to approve the 4/21/04 Commission meeting minutes as drafted. The motion was approved by a 5-0 vote.**

John Jay LaValle  
*Member*

Draft reimbursement budget for FY 03-04; draft for FY 04-05: review, approval

Summary: It was requested that this item be held until the next meeting.

Steve A. Levy  
*Member*

Commission special counsel: status; possible action (from 01/03)

Summary: Mr. Corwin explained the history of the Commission's outside general counsel starting in 1994. He explained that the Commission was represented for many years by MacMillan Rather Bennett & Rigano, with James Rigano, one of the named partners in that firm, representing the Commission. When that firm was purchased by another firm in 2002, Mr. Rigano left to join his current firm of Certilman Balin.

In January 2003, the Commission voted to retain Mr. Rigano as a "special counsel" for certain specific matters upon which he had been working. Since that time, those matters have all been completed or have been taken over by staff counsel. Mr. Corwin recommended that the "special counsel" designation for Mr. Rigano be terminated. **A motion was made by Ms. Lewis and seconded by Mr. Hoffman to terminate the "special counsel" designation for Mr. Rigano. The motion was approved by a 5-0 vote.**

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**Project Decisions**

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

Newport Estates Residential Subdivision c/o Dries / Miller Place (200-98-8-6, etc.) / hardship: request for decision extension to 7/21/04 (*hearing held 01/21/04; decision currently due today*)

Summary: **A motion was made by Mr. Deering and seconded by Mr. Hoffman to accept and approve the attached written request for a decision deadline extension on the Newport Estates application to the 7/21/04 meeting. The motion was approved by a 5-0 vote.**

Flowerwood Development c/o Barrett, Bonacci / Yaphank (200-584-1-4.23, 4.24, 4.31, 4.32) / hardship / industrial site plan (*decision due 6/16/04*)

Summary: *Ms. Jakobsen distributed the attached staff report with specific recommendations for an approval of the project with conditions. She noted that the Environmental Assessment Form has been completed and that the project is an unlisted, uncoordinated project under the State Environmental Quality Review Act (SEQRA). Following a brief discussion, a motion was made by Mr. Hoffman and seconded by Mr. Deering to issue a negative declaration under SEQRA for this application on the basis of the staff report and to approve the application with the conditions specified in the staff report. The motion was approved by a 5-0 vote.*

### **Core Preservation Area**

Brookhaven Town Volunteer Fire Fighters' Museum, Firemen's Park / Ridge (200-296-1-1.2) / hardship: withdrawal; acceptance (*permit issued 7/10/02; annulled by court 2/11/03; from 4/21/04; from 4/21/04*)

Summary: *Mr. Milazzo suggested that the Commission discuss the legal aspects of this project with counsel in a closed session. Mr. Hoffman noted that Brookhaven Town has held discussions with the Long Island Pine Barrens Society regarding both this project and the more general topic of Core area hardships being granted to government. He noted that the latter subject might be an appropriate topic for a work session.*

### **Pine Barrens Credit Program**

Fabrizio / Calverton (200-356-4-6, 9.1, 10; 200-413-2-7) / appeal (*hearing held 4/21/04; decision due today*)

Summary: *Mr. Randolph summarized this Credit allocation appeal which for which a hearing was held at the previous Commission meeting. The original appeal letter, an aerial photograph of the site, and a prior Credit appeal denial decision on a similarly situated appeal, are all attached here. A motion was then made by Mr. Deering and seconded by Ms. Lewis to deny this Credit appeal on the basis that there are no unique features of the parcels upon which to base an increased allocation. The motion was approved by a 5-0 vote.*

Cusumano & Gergela / Middle Island (Brookhaven 200-454-1-9.1) / barn: easement interpretation; new survey (*from 4/21/04*)

Summary: *Mr. Randolph reported that no new material has been received for this matter. It was agreed that this will be carried over to the next meeting.*

### **Public hearing**



### **Core Preservation Area**

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship: request for a continuation to 6/16/04 (from 3/17/04 and 4/21/04; decision runs with SEQRA)

**Summary: A motion was made by Mr. Hoffman and seconded by Ms. Lewis to accept and approve the attached written request from this project's sponsor to continue this public hearing (originally scheduled to resume today) to the 6/16/04 meeting. The motion was approved by a 5-0 vote.**

### **Other Project and Land Use Items**

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

Stop & Shop Supermarket a/k/a Hampton Bays West / Hampton Bays (900-221-3-16.1, 17, 18) / hardship: determination of jurisdiction (requested by Southampton Town)

**Summary: Mr. Corwin explained that the Commission has just received material on this project located between the Sunrise Highway and Montauk Highway in the CGA portion of Hampton Bays, in Southampton Town, and that the Town has requested that the Commission determine whether it wishes to seek lead agency status and to review the project's adherence to the CGA clearing standard. After a brief discussion, the Commission determined that it does not wish to seek lead agency status on this project, and instructed the staff to inform the Town of that decision. The Commission also instructed the staff to review the project for compliance with the CGA standards, and to report on their findings at the 6/16/04 Commission meeting.**

### **Core Preservation Area**

Brookhaven National Laboratory (BNL) / Upton: Peconic River "off site" (i.e., outside BNL property) remediation in Suffolk County Parkland: briefing by BNL and US DOE staff

**Summary: Present for this discussion were representatives of both the Brookhaven National Laboratory and the U.S. Department of Energy, the project sponsors. Also present was Ms. Theresa Elkowitz, the Chair of the Suffolk County Council on Environmental Quality, which is coordinating the County's SEQRA review of this project within Suffolk County Parkland.**

*Mr. Skip Medieros, the project manager for Brookhaven Lab, gave the attached detailed presentation on the project specifics to the Commission, and answered a number of questions afterward. A discussion then ensued regarding the proper classification of this project under the pine barrens law's "development" and "nondevelopment" provisions. It was agreed that certain legal aspects of this determination should be deferred to a closed session for the purpose of receiving legal advice from counsel.*

Gazza - Vanderbilt Park / Eastport (900-331-3-9, 10, 11): Summit Blvd resurfacing and clearing; request from Planning Board; report from Town inspection (from 3/17/04 and 4/21/04)

**Summary: Mr. Thompson reported that the Town has investigated the issue raised in prior meetings as to whether there has been a violation on this site, and that the Town has determined that there is not.**

## Plan, Stewardship & Related Issues

### **Law Enforcement**

Law Enforcement Council: land use violation investigation protocol: comments (from 4/21/04)

Summary: Ms. Lewis reported that Riverhead Town has reviewed the draft protocol and found it acceptable. The Commission will formally consider this matter at a later meeting when the other proposed parties have reviewed and agreed to it.

### **Fire Management**

Recent wildfires in Rocky Point Natural Resource Management Area: status and issues

Summary: Mr. Corwin summarized the recent fires and firefighting responses that have occurred in the NYS DEC's Rocky Point Natural Resources Management Area, and some of the issues that have arisen as a result. He noted the specific incidents on 4/21/04 and 4/30/04 for which bulldozers were used in the suppression work, and several aspects of that clearing which are now under discussion. These include new ingress points into formerly interior points within the property which may result in future problems of illegal activity along those new corridors; the unfortunate fact that one of the cleared lines went through a long term ecological research plot placed there by Dr. Jessica Gurevitch of the State University of NY at Stony Brook; the need to close the new access points before any future intrusions result; and the inadvertent creation of new dead fuel piles along the corridors which may become fuel for a future fire. He also described the Commission's statutory role with respect to wildland and prescribed fire, the role of the Wildfire Task Force, and the 1998 Central Pine Barrens Fire Management Plan.

Mr. Phil Drower, Chair of the Wildfire Task Force, spoke about the work of the Wildfire Task Force, the participation of some fire departments in the Task Force, the annual Wildfire Academy; and the differences in training between structural firefighting and wildland firefighting. Mr. David Fischler, Commissioner of the Suffolk County Department of Fire, Rescue and Emergency Services, also spoke about the training aspects and challenges for future wildland firefighting training. Capt. Timothy Byrnes of the NYS Forest Rangers spoke about the characteristics of the fires under discussion. Mr. Brian Kurtz of The Nature Conservancy noted some of the differences in the types of fire situations faced by the local fire departments.

It was agreed that the Wildfire Task Force will discuss this further at their June meeting.

### **Closed Advisory Session**

Summary: **A motion was made by Mr. Hoffman and seconded by Ms. Lewis 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 3:58 pm to 5:30 pm.**

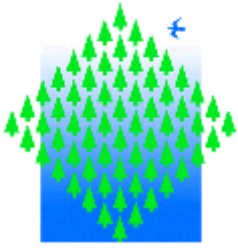
### **Adjournment**

Summary: The meeting was adjourned immediately following the closed session without a formal adjournment resolution.

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

1. Attendance sheet (5/19/04; 2 pages)
2. Speaker sign in sheet (5/19/04; 1 page)
3. Project location map for today's meeting (5/19/04; 1 page)
4. Decision extension request for Newport Estates (5/7/04; 1 page)
5. Staff report for Flowerwood Development Corporation application (5/12/04; 3 pages)
6. Fabrizio Credit allocation letter, aerial photo, and similar precedent (misc. dates; 3 pages)
7. Hearing extension request for the Keyspan pipeline project (5/13/04; 1 page)
8. Peconic River Remediation presentation (undated; 22 pages)

**Commission Meeting Summary (FINAL)**  
**for Wednesday, June 16, 2004 (Approved 7/21/04)**  
**at Brookhaven Town Hall, 1 Independence Hill, Farmingville**  
**2:00 pm**



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

Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Mr. Hoffman, Ms. Prusinowski, and Mr. Turner (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Ms. Mills, Ms. Jakobsen, Mr. Randolph and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), Capt. Otterstedt (from the NY EnCon Police and Chair of the Pine Barrens Law Enforcement Council), Ms. Preston (from the Brookhaven Town Attorney's Office), and Mr. Chartuk (from the Brookhaven Town Parks Department). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order by Mr. Scully with a five member quorum.

Peter A. Scully  
*Chair*

**Public Comment and Administrative**

Philip J. Cardinale  
*Member*

**Public comments**

Patrick A. Heaney  
*Member*

Summary: The only speaker was Mr. Alan Stadler, who remarked upon recent newspaper stories about problems in some school districts. He then remarked on his concerns about the Longwood School District and the Ridge Elementary School and the problems at the school regarding pine barrens law violations. He requested a report on the status of those issues.

John Jay LaValle  
*Member*

Steve A. Levy  
*Member*

Mr. Scully said he is involved in negotiations in an enforcement action against the Longwood School District in reference to the situation at Ridge Elementary School, and hopes to be able to brief the Commission members at the July meeting.

Minutes for 5/19/04: review, approval

Summary: **A motion was made by Ms. Lewis and seconded by Mr. Hoffman to approve the minutes as drafted. The motion was approved by a 5-0 vote.**

Draft reimbursement budget for FY 03-04; draft for FY 04-05: review, approval (from 5/19/04)

Summary: A discussion was held regarding the Commission's budget process, the time periods involved for approving the overall State budget, then having the Commission's funds distributed to it through the NYS DEC's Albany Office. Mr. Hoffman stated that he would like to speak with the staff and the Commission further on the proposed 2004-05 budget, particularly with regard to future litigation expenses. **A motion was made by Mr. Hoffman and seconded by Mr. Deering to approve the previously distributed reimbursement budget for the 2003-04 State fiscal year. The motion was approved by a 5-0 vote. No action**

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was taken at this time on the projected 2004-05 budget.

*Directors and Officers, General Liability and Excess Insurance: ratification of purchase*  
Summary: Mr. Milazzo explained that the Commission had previously authorized the staff to acquire both general liability insurance as well as directors and officers insurance. The prior policies expired 6/9/04, and coverage was obtained so as not to have a lapse occur. Mr. Milazzo asked that the Commission ratify today the terms of the directors and officers policy (see attached), including the cost. **A motion was made by Mr. Deering and seconded by Ms. Lewis to ratify the attached terms of the directors and officers policy. The motion was approved by a 5-0 vote.**

## Project Decisions

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

Brookhaven Walk / Yaphank (200-553-1-1.3; 200-584-2-1.2) / Development of Regional Significance / shopping center: decision or extension request (hearing 10/17/01; from 4/21/04; decision due today)

Summary: Ms. Jakobsen explained that a written request has been received from this project's representative to extend the Commission's decision deadline on this application to the August meeting, which is scheduled for 8/18/04. **A motion was made by Mr. Hoffman and seconded by Ms. Lewis to accept and approve this request. The motion was approved by a 5-0 vote.**

### **Pine Barrens Credit Program**

Cusumano & Gergela / Middle Island (Brookhaven 200-454-1-9.1) / barn: withdrawal of easement interpretation request (from 5/19/04; not an application; no vote required)

Summary: Ms. Jakobsen explained that the Mr. Cusumano sent a letter asking to put this matter on hold indefinitely. That was agreed, and no further action on the Commission's part is currently required.

## Public hearing

### **Core Preservation Area**

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) /

hardship: continuation (from 3/17/04, 4/21/04 and 5/19/04; decision runs with SEQRA)

Summary: Mr. Milazzo said there is no continuation today of the public hearing on this matter because the Commission decided that it would resume the previously started hearing when Keyspan received a determination from the Federal Highway Administration and the NYS Department of Transportation (NYS DOT) on their request for a waiver. The waiver is for the placement of the proposed gas main within the LI Expressway corridor's "mainline" area. Mr. Steve Dalton of Keyspan was present, and explained that the NYS DOT wants additional information as well as a SEQRA and/or NEPA evaluation. He would like to get a three way discussion among Keyspan, DOT and the Commission staff soon.

Mr. Amper of the LI Pine Barrens Society (LIPBS) stated that he received the attached letter from NYS DOT in regard to this project, which he distributed. Ms. Jakobsen

reported that she also received a letter from NYS DOT similar to the one which Mr. Amper received.

## **Other Project and Land Use Items**

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

Stop & Shop Supermarket a/k/a Hampton Bays West / Hampton Bays (900-221-3-16.1, 17, 18) /

hardship: staff evaluation of CGA standards compliance (from 5/19/04)

Summary: Ms. Jakobsen reported that the project would meet the CGA standards on the Central Pine Barrens Plan depending upon the legal status of a strip of property which is included in the project site and which is located along the eastern side of the site. This strip has some type of restriction on it, but is also being used for part of the proposed construction. The status of this area would affect whether or not it is included in the calculation of clearing, and hence whether the overall project meets the CGA land use standard for clearing.

Mr. John Wagner, one of the attorneys representing the project sponsor, spoke about a 1960 deed for the parcel which has direct frontage on the highway and now has a gas station on it. A discussion was held regarding the question of whether that deed's provisions are still applicable, due to subsequent changes of ownership. He stated that he would send a letter explaining why the deed restrictions were not an issue. No further action was taken on this item.

### **Core Preservation Area**

Brookhaven National Laboratory (BNL) / Upton: Peconic River "off site" (i.e., outside BNL property)

remediation in Suffolk County Parkland: status under ECL 57 (from 5/19/04)

Summary: Mr. Milazzo explained that the last meeting featured a presentation by the staff from both the U.S. Department of Energy's Brookhaven Office and the Brookhaven National Laboratory regarding their offsite remediation of the Peconic River corridor (which is in Suffolk County parkland). There will be some diverting of water and removal of sediment to clean out the chemical contamination in the riverbed, and the wetlands will then be restored to their present conditions or better. The question before the Commission is whether the project constitutes "development" under the pine barrens law.

Mr. Milazzo noted that there are several sections of the pine barrens law which define "development" (over which the Commission would have jurisdiction) and "nondevelopment", and that the Commission should look at all of those sections together. Specifically, the law provides that certain environmental restoration activities are nondevelopment, as well as public improvements undertaken for the health, safety or welfare of the public. It was then agreed that the Peconic River "offsite" cleanup project does not constitute "development" under the pine barrens law, and that it is outside of the Commission's jurisdiction.

## **Plan, Stewardship & Related Issues**

### **Pine Barrens Advisory Committee**

Recent Activities of the Advisory Committee (not on the original agenda)

Summary: Mr. Scully acknowledged the recent efforts of the Advisory Committee (AC). The AC is attempting to address issues raised by the Commission at the recent Commission work session. AC Chairman, and Suffolk County Water Authority (SCWA) CEO, Stephen Jones has been actively trying to muster a quorum and identify an agenda of issues for the AC to address. As the AC moves forward, it would good for them to keep the Commission informed of their progress. Mr. Scully said that he received an email from Mr. Jones suggesting that the Commission needs to appoint a new organizational member to one of the organizational vacancies on the AC. The Commission discussed the fact that these appointments are done by the AC itself and not by the Commission. The AC is meeting on 7/13/04 at 8:00 am at the SCWA's Coram facility. Mr. Amper, Vice Chair of the AC, remarked on possible reasons for the low attendance by some organizations, and suggested that an amendment to the pine barrens law may be needed to update the roster of organizations on the AC.

## **Project Decisions**

### **Core Preservation Area**

Brookhaven Town Volunteer Fire Fighters' Museum, Firemen's Park / Ridge (200-296-1-1.2) / hardship: withdrawal; acceptance (permit issued 7/10/02; annulled by court 2/11/03; from 4/21/04 and 5/19/04)

Summary: Mr. Hoffman distributed the attached chronology and related materials that describe the Firemen's Park activities related to the Museum. He explained that, in July 2002, an application was submitted for a hardship to allow three things to happen on the property of Firemen's Park: build a walkway and camping pads, allow the Firemen's Museum to construct housing for antique fire engines, and provide a parking lot for overflow visitors for fifty cars. There were three important dates: 7/10/02, when the Commission granted a hardship permit; February 2003, when the court vacated the permit and indicated that the Commission should take a "hard look" under the State Environmental Quality Review Act (SEQRA); and August 2003, when the pine barrens law's new enforcement provisions were added.

Mr. Hoffman explained that he and Mr. John Turner of the Town Planning Department went to the site and observed that the walkway and recreational vehicle camping pads have been constructed. When he reviewed the situation, he felt that most of the clearing and base preparation were probably done before the court decision in February 2003. The town changed contractors sometime in 2003 by going to bid and selecting a second contractor, which was hired in July 2003, at the time that the final pavement on the campground area was done. He says there were no willful violations by the town, and that once the hardship was granted, the Town's Parks Department pursued the work and knew what they were permitted to do. He also observed that there are materials indicating two possible dates for filing the Notice of Entry of the court's decision: 01/21/04 or 7/16/03. Mr. Hoffman also presented two aerial photographs, one with the foundation of the Firemen's Museum, which has been standing this way for one and one half years, the other showing the pavement with the campgrounds. He requested guidance from the Commission.

A long discussion followed on the specific details of the actions that have occurred at the site and their exact or approximate dates; the various aerial photographs that several individuals brought with them and what they showed on particular dates; the provisions of the law that may apply to those various actions (including their relationship to either the

*February 2003 court decision or the August 2003 pine barrens enforcement provisions); and the elements that would need to be addressed in order to craft a stipulation of settlement among the various litigants.*

*Mr. Amper of the LIPBS spoke at length about the concerns which he and his Board have over this site and the events which have occurred there. Specifically, he expressed deep concern over the potential for contempt of court if development and construction occurred following the court decision; the need to apply the provisions of Article 57, including the 2003 enforcement amendments, fairly and evenly to everyone including government; the reports that he and his staff have been receiving about activities at the site; the precedents that both the activities there, as well as the handling of them by the Commission, present for the future; the need to have a formal investigation of the situation; and the need for amendments to the pine barrens law to prohibit government agencies from receiving Core hardships.*

*The ensuing discussion among the Commissioners and attendees raised the possibility of having an independent investigative body, such as the NYS Environmental Conservation (EnCon) Police, look into the sequence of events and their relationship to the court decision, and provide a formal report to the Commission. The Commission agreed that this request would be forwarded from the Commission to the NYS EnCon Police. (Capt. Otterstedt of the NYS EnCon Police was present for today's discussion.)*

*Mr. Joseph Callari, President of the Firefighters' Museum, then spoke with the Commission. He thanked the Town for its efforts, and also noted that he does not want to go through another winter with the Museum's trucks uncovered. Mr. Scully explained that the worst thing he could do right now would be to give a tentative time frame which would have no real basis in fact; he also noted that there is an interest on the part of everyone here in resolving this matter correctly and expeditiously. Mr. Callari stated that he does not look forward to telling hundreds of members in dozens of fire districts that we are on hold again.*

*The Commission members recognized the need to act promptly on the issues relating the Museum, and agreed to schedule a special work session of the Commission. The Commission staff will find the earliest available date for that meeting.*

## **Adjournment**

**Summary: A motion was made by Ms. Lewis and seconded by Mr. Deering to adjourn. The motion was approved by a 5-0 vote.**

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

1. Attendance sheet (6/16/04; 2 pages)
2. Project location map for today's meeting (6/16/04; 1 page)
3. Memo re 2003-04 and 2004-05 Commission budgets (5/12/04; 6 pages)
4. Directors and officers policy details for 6/9/04 to 6/9/05 (undated; 1 page)
5. Letter to Mr. Amper of the LIPBS from NYS DOT re Keyspan gas main (5/21/04; 2 pages)
6. Chronology of Town's Activities at Firemen's Park (undated; 6 pages)
7. LIPBS' suggested pine barrens law amendments re hardships (undated; 3 pages)





**Commission Meeting Summary (FINAL)  
for Friday, July 2, 2004 (Approved 7/21/04)  
at the Suffolk County Park Police and Pine Barrens Center,  
Southaven County Park, Victory Avenue, Yaphank  
9:00 am**

Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Mr. Hoffman, Ms. Prusinowski, and Mr. Turner (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Carter, Mr. Randolph and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), Mr. Freleng (from the Suffolk County Planning Department and Vice Chair of the Pine Barrens Credit Clearinghouse Board), Ms. Preston (from the Brookhaven Town Attorney's Office). Additional attendees are shown on the attached sign-in sheet.

Peter A. Scully  
*Chair*

The meeting was called to order at approximately 9:06 am by Mr. Scully, with a five member quorum.

Philip J. Cardinale  
*Member*

**Plan, Stewardship & Related Issues**

Patrick A. Heaney  
*Member*

Possible amendments to ECL Article 57 for 2005 State Legislative session:  
hardship permit provisions

John Jay LaValle  
*Member*

Summary: Mr. Scully summarized the chronology of events and prior meetings and discussions that led to today's special meeting. Specifically, he described the issues pertaining to the Brookhaven Volunteer Firefighters Museum project at the Brookhaven Town owned Firemen's Park on Route 25 in Ridge, including the past issuance of a permit for the project and the subsequent vacating of that permit following a legal challenge by the Long Island Pine Barrens Society.

Steve A. Levy  
*Member*

He also described the larger issue that has arisen partly as a result of those events as to whether there should be an amendment to the pine barrens law (NY Environmental Conservation Law (ECL) Article 57) which would prohibit or restrict governmental entities from obtaining "extraordinary hardship" permits in the Core area of the Central Pine Barrens (as distinguished from "compelling public need" permits).

With respect to the legislative issue, the Society submitted draft language to the Commission at the 6/16/04 meeting. Mr. Milazzo, staff counsel, has reviewed that draft and produced a revised version, which was distributed to the Commission as well since then. Mr. Scully suggested that the Commission focus upon that version today.

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Mr. Amper, representing the Society, discussed the formation of the pine barrens law, including its exemption or "nondevelopment" provisions, and the distinctions that he sees between the "extraordinary hardship" and the "compelling public need hardship" provisions in the law. He observed that the purpose of the law was partly to protect lands through such

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means as acquisition, and not to have government develop lands in the Core.

At this point, Mr. Scully asked Mr. Milazzo to take the Commission members through the provisions of his version of the proposed legislative changes. In the long session which followed, numerous topics and proposed areas of change in the pine barrens and related laws were discussed, including:

- the definition of "person" in Article 1 of the ECL and its applicability to Article 57;
- the "scouting" exemption in ECL 57-0107(13);
- the idea of having an enumeration of governmental Core area projects that would be identified explicitly in either the statute or the Central Pine Barrens Plan as being "nondevelopment" (a topic upon which there was extensive discussion regarding the level of specificity that would be needed and the means by which unanticipated future projects would be addressed);
- the set of changes that would be required in several passages throughout Article 57 to clarify when and where in the statute governmental entities (i.e., the state and/or public corporations) are being included or excluded in that passage;
- changes needed to 57-0123 regarding the Commission's jurisdiction;
- the specific case of the Suffolk County Community College Eastern Campus (including the Commission's past approach to addressing the campus' expansion needs through analysis of the College's master plan);
- the specific case of the Firemen's Park issues, especially the Volunteer Firefighters Museum);
- the specific case of the Southampton Town Wildwood Lake Park (for which the Commission previously issued a compelling public need hardship);
- the possibility of complementing any legislative changes with appropriate fine tuning of the provisions' detailed application through the issuance of rules and regulations by the Commission (i.e., NY Code of Rules and Regulations); and
- the immediate need to resolve the Firemen's Park issues and the timetables under which legislative changes are likely (possibly not until next year's legislative session).

Mr. Scully then asked the members to focus upon the next steps. It was agreed that those steps would include requesting the state, county and town representatives on the Commission to identify through their respective staffs those future government sponsored Core area projects which their agencies or branches of government have already identified in their planning processes, and to request that they submit them in a list form to the Commission office approximately one week prior to the next Commission meeting (i.e., 7/14/04 in preparation for the 7/21/04 Commission meeting). The Commission staff will distribute the compiled lists to all Commission members as soon as they are all received. Mr. Milazzo was also requested to revise his draft of the proposed legislative changes in accordance with the specific changes noted today.

## **Adjournment**

Summary: The meeting was adjourned at approximately 11:50 without a formal adjournment resolution.

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

1. Attendance sheet (7/2/04; 1 page)



**Commission Meeting Summary (FINAL)  
for Wednesday, July 21, 2004 (Approved 8/18/04)  
at Brookhaven Town Hall, 1 Independence Hill, Farmingville  
2:00 pm**



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

Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

Patrick A. Heaney  
*Member*

John Jay LaValle  
*Member*

Steve A. Levy  
*Member*

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Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Mr. Hoffman, Ms. Prusinowski, and Mr. Turner (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, Mr. Randolph and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), Mr. Freleng (from the SC Planning Department), and Ms. Preston (from the Brookhaven Town Attorney's Office). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:05 pm by Mr. Scully, with a five member quorum.

### **Public Comment and Administrative**

#### **Public comments**

Summary: The first speaker was Mr. Paul Rabinowitz, representing The Nature Conservancy's Long Island Chapter. He stated that the Commission should start to think about fire management for future stewardship of the pine barrens; that fire is the foremost issue facing the pine barrens today; that the pine barrens needs to have fire to perpetuate itself; and that the Conservancy has analyzed the fire risk areas of the Central Pine Barrens where prescribed fire is needed in order to reduce the risk to the community from fires such as the recent Rocky Point wildfires which the Commission previously discussed.

He stated that the prescribed fire plan needs to be completed and implemented, and that the Conservancy believes that the goal should be to burn approximately 1,000 acres per year. He also stated that the Commission needs to have a full time fire management staff member. (See attached letter on this.)

A discussion ensued regarding the work of the Wildfire Task Force (WTF) in general and the Prescribed Fire Committee in particular; the degree of participation of the various member organizations of the WTF, including the fire departments; the staffing needs of the Commission in general and fire in particular; the amount of burning that would be accomplished under different staffing levels; the need to start more modestly to achieve yearly acreage goals, and the level of burning that the WTF and the Prescribed Fire Committee have actually endorsed; the 1998 Fire Management Plan contents and its incorporation into the overall Pine Barrens Plan in the upcoming Plan amendments; and the SEQRA process that would apply to this work.

The second speaker was Mr. Joseph Callari, representing the

Brookhaven Volunteer Fire Fighters' Museum. He expressed considerable frustration at the length of time that approval of the Museum is taking and the pressing need to finish the buildings in order to get the antique fire apparatus out of the weather before the winter. A brief discussion ensued regarding the Commission's prior discussion of this matter, and the sequence of events that has led to the current legal obstacles in approving or permitting the project.

The third speaker was Mr. Richard Amper, representing the LI Pine Barrens Society. He stated that he shared Mr. Callari's concern, and that this matter was supposed to have been discussed prior to today's meeting. Mr. Amper stated that the Society will seek to hold the Town in contempt if the Commission does not endorse the proposed pine barrens law amendments by 9/1/04, and that the Society will also seek a court ruling that the individual Commissioners are derelict in their duty if they do not vote by that date to find that the Town violated Article 57.

Minutes for 6/16/04, 7/2/04: review, approval 3/17/04 correction

Summary: **A motion was made by Mr. Thompson and seconded by Ms. Lewis to approve both the 6/16/04 and 7/2/04 minutes as drafted. The motion was approved by a 5-0 vote.**

Mr. Corwin explained that an error has been found in the previously approved minutes for the 3/17/04 meeting. In the "Gazza / Westhampton (900-331-3-28)" summary, the first sentence should read: "Mr. Randolph summarized this previously discussed appeal for a parcel on the Core side of Summit Boulevard, south of Sunrise Highway." **A motion was then made by Mr. Thompson and seconded by Ms. Lewis to make this correction to the 3/17/04 meeting minutes. The motion was approved by a 5-0 vote.**

Advisory Committee: 7/13/04 meeting report

Summary: Mr. Richard Amper, the Vice Chair of the Pine Barrens Advisory Committee (AC) and the Executive Director of the LI Pine Barrens Society, summarized the AC's 7/13/04 meeting, and the resolutions passed at that time (see attached). These include resolutions regarding the "development" status of sand mining in the pine barrens; the eventual disposition of the original Northville funds being utilized by the Credit Clearinghouse; support for the signing of the previously approved memorandum of agreement for a parks twinning with the Pisa, Italy regional parks; and the addition of the Peconic Land Trust as a member of the Pine Barrens Advisory Committee (with this last resolution not included in the attachment).

Meeting schedule for rest of 2004: review, approval

Summary: Mr. Corwin distributed the attached draft list of meeting dates for the remainder of 2004, which includes one full business meeting per month and one limited topic "work session" per month. It was agreed that, in general, the Commission will try to hold a work session meeting on the second Tuesday of each month in addition to its regular third Wednesday meeting. **A motion was then made by Mr. Thompson and seconded by Mr. Hoffman to approve the attached meeting schedule for the remainder of 2004. The motion was approved by a 5-0 vote.**

Status of outside counsel

Summary: Mr. Corwin reported that Mr. Les Bennett, who served as one of the Commission's outside general counsel attorneys at McMillan, Rather Bennett and Rigano (MRBR), and later at Fischbein, Badillo, Wagner Harding (when that firm bought out

MRBR), has notified him that he has left that firm. Mr. Bennett is now at the firm of Berkman, Henoch, Peterson & Peddy in Garden City, following the reduction in size by Fischbein Badillo of the Melville office where Mr. Bennett was working.

Mr. Corwin also noted that he has learned from Mr. Bennett that Mr. Michael Schmidt, an attorney and associate of Mr. Bennett's at both MRBR and Fischbein Badillo, and who has also represented the Commission in legal matters in the past, is with Fischbein Badillo, but is now located in New York City.

Mr. Corwin then offered the opinion that these changes have essentially terminated, for all practical purposes, the Commission's connections with Fischbein Badillo as an outside counsel. He recommended that the Commission formally terminate its attorney client relationship with Fischbein Badillo Wagner Harding, which is the successor in interest to the original outside counsel firm of MRBR. He noted that the Commission now has staff counsel, can always request the assistance of the NYS Attorney General, and could undertake a new outside counsel search at any time in the future as the need may arise.

**A motion was then made by Mr. Deering and seconded by Mr. Thompson to formally terminate any remaining attorney client relationship with the firm of Fischbein Badillo Wagner Harding, the successors in interest to the Commission's original general counsel firm of McMillan, Rather Bennett and Rigano. The motion was approved by a 5-0 vote.**

## Project Decisions

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

McCormick a/k/a Swim King Dive Shop c/o Searles / Rocky Point (200-77-10-1,2) / hardship / commercial site plan: extension to September (hearing begun 4/21/04; extended indefinitely; currently due today)

**Summary: A motion was made by Mr. Hoffman and seconded by Mr. Lewis to agree to this request and to approve the requested extension to the 9/15/04 Commission meeting. The motion was approved by a 5-0 vote.**

Newport Estates Residential Subdivision c/o Dries / Miller Place (200-98-8-6, etc.) / hardship: decision or extension request (hearing held 01/21/04; currently due today)

**Summary: A motion was made by Mr. Hoffman and seconded by Mr. Thompson to agree to the requested extension to the 8/18/04 meeting. The motion was approved by a 5-0 vote.**

Gazza applications / Westhampton (west side CR 31):

- Home occupational residence (900-247-1-2),
- Clearing for agriculture (247-1-4.1; 285-2-30.02; 285-2-31.02; 285-2-32.02; 286-2-19.01; 286-2-22.01; 286-2-37.01),
- Industrial building (285-2-29.2),
- Core boundary change request (misc. parcels):

public acquisition of parcels; applications to be deemed withdrawn

**Summary: Mr. Corwin distributed the attached summary of the remaining nine Core area hardship applications, and one Core boundary change request, that Mr. Joseph Gazza has pending before the Commission. He noted that the Commission has received notification from the NYS DEC that the DEC has purchased the subject properties from Mr. Gazza. He then recommended that the Commission formally deem these**

applications and request to be withdrawn, as the applicant no longer owns the affected and subject properties.

**A motion was then made by Mr. Thompson and seconded by Ms. Lewis to deem these development applications to be withdrawn, and to deem the Core boundary change request to be withdrawn, based upon the fact that the applicant no longer owns any of the affected properties. The motion was approved by a 5-0 vote.**

## Other Project and Land Use Items

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

Spring Meadow / Wading River (200-128-1-16.2 / residential subdivision: correspondence

*Summary:* Ms. Carter reviewed the details of this residential subdivision for 51 lots on 69 acres on a parcel zoned A1 on the south side of NYS Route 25A. This project is currently being reviewed by Brookhaven Town, and is not currently an application before the Commission. She distinguished this current project from a similarly named project in this area over which the Commission asserted jurisdiction in 2002, and which was the subject of subsequent litigation. She reviewed the details of the plan for the current application, and went through the CGA standards and guidelines as they apply to this application. She noted that the project met the Commission's standards. It was also noted that the attached request was received from the LI Pine Barrens Society for the Commission to assert jurisdiction over this application.

Mr. Thomas Cramer, the project sponsor's representative, was present and stated that the project meets all of the CGA standards. The discussion which ensued touched upon the amount of clearing being proposed; the distribution of the land to be preserved across the lots to be created; and the question of whether the Islander East Pipeline project has proposed using a portion of this site for that project's right of way. Mr. Cramer noted that he believes that there is no current plan for the pipeline to traverse this site.

It was agreed that the Commission would not assert jurisdiction over this project and that the Commission staff will submit comments on it to the Town. It was also agreed that the status of the pipeline project with respect to the Spring Meadow site would be verified.

Hidden Ridge / Manorville (200-509-7-1.3, 1.4) / residential subdivision: determination of jurisdiction

*Summary:* Ms. Jakobsen summarized this current residential subdivision pending before Brookhaven Town. The project involves the creation of 18 lots on a 38 acre site zoned A2 Residence, which is to include the redemption of two Pine Barrens Credits. She distributed the attached memorandum and materials regarding this project and related, past projects.

She explained that the current site is part of a former development proposal known as the Manorville Nursery Expansion, which was a 119 acre site over which the Commission asserted jurisdiction and was later sued by the LI Pine Barrens Society when it approved the project. A court found that the approval violated the act, and annulled it.

Ms. Jakobsen explained that she is seeking guidance from the Commission on ascertaining the exact definition of the "project site" for the current, Hidden Ridge

proposal, given both the litigation based upon this question in the past, as well as the chronology (see attached materials) of the Manorville Nursery Expansion, Graystone Estates, and Hidden Ridge projects.

Mr. Michael Strauss, the attorney for the project sponsor, and Mr. Chic Voorhis, the sponsor's consultant, were present for today's discussion. Mr. Strauss said that his client is Campo Brothers, and that a single and separate search dating back to 1993 will be produced and forwarded to the Commission. Mr. Voorhis went through the history of the present project, with an emphasis upon the origin of the 38 acres with which the Hidden Ridge proposal is concerned.

A discussion followed regarding the origin of that tract, and was concluded with the Commission agreeing that production of a single and separate search acceptable to Commission staff counsel would be required to verify the project's nondevelopment status.

Mr. Deering left at this point, and a four member quorum remained.

### **Core Preservation Area**

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship: FHWA waiver status (*hearing begun 3/17/04 and extended indefinitely; decision runs with SEQRA*)

Summary: *It was agreed that there is nothing new to report on this matter at the present time.*

### **Plan, Stewardship & Related Issues**

Pine Barrens Credit Program: change to basic title insurance levels for conservation easements

Summary: *Mr. Milazzo explained that the insurance levels for the Commission's conservation easements should be updated to reflect the increasing value of Pine Barrens Credits on the private market. (See attached memo.) He recommended that the Commission modify its title insurance policy as described in the memo. It was agreed that the title insurance should be based in the future upon an approximate value of \$60,000 per Credit. A motion on this was held until a quorum returns to the room.*

Law Enforcement Council: SC ATV Task Force representation

Summary: *Mr. Corwin explained that the SC Legislature has recently passed a new version of the SC ATV Park Task Force bill, and that the bill provides for a "public safety community" representative to be on the Task Force and which would be appointed by the Legislature's Presiding Officer. He reminded that Commission that the Pine Barrens Law Enforcement Council had previously forwarded to the Commission a recommendation that Mr. Steve Laton, the SC Parks Security Director and the Vice Chair of the Pine Barrens Law Enforcement Council, and Sgt. Arthur Pendzick, a SC Park Police officer and a member of the Council, be nominated to the Presiding Officer as suggested principal and alternative representatives, respectively, for that position. The Commission agreed today to these suggestions and the staff will forward that recommendation to the Presiding Officer.*

Wildfire Task Force: 6/30 meeting report re Rocky Point fires discussion; 2004 Academy curriculum; changes to Academy Board; correspondence re prescribed fire program

Summary: *Mr. Corwin reported that the Task Force, at its regular 6/30/04 meeting,*



discussed the spring Rocky Point Natural Resource Management Area brush fires for which bulldozing was employed as part of the suppression response. Specifically, he noted that participants in the Commission's 5/19/04 meeting discussion of this topic were also present at the Task Force meeting, and that they had reported that they have spoken informally with members of the fire departments involved and conveyed to them the nature of the Commission's concerns and discussions.

Mr. Corwin distributed the attached 2004 brochure for the NY Wildfire and Incident Management Academy (NYWIMA).

Pine Barrens Credit Program: change to basic title insurance levels for conservation easements  
**Summary: A motion was made by Mr. Hoffman and seconded by Mr. Thompson to approve the attached and previously discussed changes to the Commission's title insurance policy, with a new approximate value of \$60,000 per Credit to be used in the future when obtaining title insurance for Pine Barrens Credit Program conservation easements. The motion was approved by a 4-0 vote.**

## Plan, Stewardship & Related Issues

Brookhaven Town Volunteer Fire Fighters' Museum, Firemen's Park / Ridge (200-296-1-1.2) / hardship: site status (permit issued 7/10/02; annulled by court 2/11/03; continued from prior meetings)

Legislation: proposed changes to ECL Article 57 (from 7/2/04 meeting)

**Summary: A discussion ensued regarding the best approach to both the specific issues regarding the Fireman's Park Museum and the potential adoption by the State Legislature of ECL 57 amendments that would restrict the ability of government entities to obtain Core area hardships. Mr. Milazzo went through the proposed amendments, outlining the possible approaches that could be used. Discussion followed regarding the level of specificity that should be present on such a list; the format of the list; the placement of the list in a Plan amendment first, with the subsequent proposed State legislation making a reference to the date on which the Plan was amended; and the need to obtain the lists as soon as possible to allow the Commission staff to place the projects in a similarly formatted and equally detailed structure. It was agreed that the lists will be submitted to the Commission Office as soon as possible for consideration at the 8/10/04 Commission meeting.**

## Closed Advisory Session

**Summary: A motion was made by Mr. Thompson and seconded by Mr. Hoffman to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 4-0 vote, and the Commission entered into closed session from approximately 5:21 pm to 5:35 pm.**

## Adjournment

**Summary: The meeting was adjourned immediately following the closed session without a formal adjournment resolution.**

## Attachments:

1. Attendance sheet (7/21/04; 2 pages)

2. Speaker sign in sheet (7/21/04; 1 page)
3. Project location map for today's meeting (7/21/04; 1 page)
4. Letter from The Nature Conservancy re fire management program (6/3/04; 2 pages)
5. Memo and attachments re Advisory Committee recommendations (7/21/04; 10 pages)
6. Decision extension request for the Swim King CGA application (6/24/04; 1 page)
7. Decision extension request for the Newport Estates application (7/20/04; 1 page)
8. Gazza / CR 31 development applications and core boundary change (7/21/04; 1 page)
9. Request from the LI PBS re the Spring Meadow project (7/2/04; 1 page)
10. Materials re Hidden Ridge project (miscellaneous dates; 13 pages)
11. Memo with draft ECL 57 changes regarding Core hardships (7/16/04; 8 pages)
12. Memo re update of title insurance policy (7/16/04; 1 page)
13. 2004 NYWIMA brochure (undated; 7 pages)



**Commission Meeting Summary (FINAL)  
for Tuesday, August 10, 2004 (Approved 8/18/04)  
at Pine Barrens Commission Office,  
3525 Sunrise Highway, 2<sup>nd</sup> Floor, Great River  
2:00 pm**

Commission members present: Mr. Scully (for New York State), Mr. Hoffman and Ms. Prusinowski (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Carter, and Mr. Born (from the Commission), and Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:05 pm by Mr. Scully, initially without a quorum. Initially present were Mr. Scully, Ms. Lewis, and Mr. Thompson. Mr. Hoffman and Ms. Prusinowski arrived during the following items.

Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

Patrick A. Heaney  
*Member*

John Jay LaValle  
*Member*

Steve A. Levy  
*Member*

### **Public Comment and Administrative**

#### Public comments

Summary: The first speaker was Mr. Bill Patterson, representing The Nature Conservancy's Long Island Chapter. He thanked the Commission for their time considering fire management issues raised by TNC at the 7/21/04 Commission meeting. He handed out and discussed the attached vegetation map and chart of fire regime management goals, noting that TNC believes that approximately 1400 acres should be burned per year under their preferred fire management program.

He also distributed the attached technical paper regarding conceptual ecological models for the LI pitch pine barrens, coauthored by a TNC staff member, Dr. Marilyn Jordan. He stated that he believes that the planned revision of Chapter 7 of the Pine Barrens Plan is good, but does not go to a sufficient level of detail regarding the strategies and costs of a prescribed fire management program.

Finally, he noted that a draft State budget is expected to be released today, and that would indicate whether the previously requested enhancement of the Commission's Environmental Protection Fund allocation (which the Commission endorsed earlier this year) would be contained within it.

### **Plan, Stewardship & Related Issues**

ECL Article 57: draft Core hardship changes and potential lists of future Core projects (from 7/2/04 and 7/21/04 meetings; previously distributed)

Summary: Mr. Scully summarized the Commission's prior meetings and discussions regarding the proposed changes to the pine barrens law (Environmental Conservation Law Article 57). He also noted that there are two handouts today, one containing the draft ECL

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amendments (which is the same as distributed at the 7/21/04 Commission meeting) and the other containing the draft future Core area project lists received to date. Specifically, the latter contains lists from the NY State DEC and the Town of Southampton.

Mr. Scully also noted that he has spoken with Mr. Deering, who was unable to be here today, and that the County will submit a draft list prior to the 8/18/04 Commission meeting. Mr. Scully reported that Mr. Deering has indicated that the two principal geographic areas where the County has concerns over future project needs are the Gabreski Airport in Westhampton and the Suffolk County Community College site in Southampton Town, south of the Riverhead business district.

Mr. Corwin noted that the Commission may see the draft Core - CGA boundary interpretation for the Gabreski site in time for consideration of it at the 8/18/04 meeting, and that an adoption of a boundary interpretation there would be very helpful in evaluating any County project list for that site, since the boundary interpretation would determine what portions of the site are in the CGA and which are in the Core. Mr. Scully asked for a brief background on the boundary interpretation practice which the Commission has followed in the past, and Mr. Corwin summarized two such examples.

With respect to the College, Mr. Corwin explained what the Commission has done in the past in evaluating the College's master plans, and determining which specific projects in the master plan constitute "development", or are "nondevelopment", under the pine barrens law. He noted that he has provided a list of past Commission meeting excerpts regarding the College's Eastern Campus to the County for its review.

The Commission then reviewed the State DEC list (part of the attached handout), and determined that, of the seven projects listed, the second ("Consolidation of 2 Derelict Barns to 1 New Barn"), third ("Modification / Expansion of Motor Equipment Maintenance Facility"), and fourth ("Reorganization of Fleet Compound") projects would be placed on the proposed nondevelopment list. It was agreed that the other projects on the list do not constitute "development" under the pine barrens law.

The Commission then reviewed the Southampton Town list (also part of the attached handout) and determined that the first project ("Constructing a footbridge and wetlands restoration at Wildwood Lake") would be added to the proposed nondevelopment list, and that the other three projects listed would not be added. Specifically, with respect to the second and third items, the Commission discussed that they are County and State road projects, not Town projects, and that, further, they would be treated as "development" with review by the Commission in the future. With respect to the last item, "Utility extensions to the East End", it was agreed that the Commission has evaluated numerous utility projects in the past as to whether they are "development" on a case by case basis, and that should continue to be the process. It was noted that some utility projects in the past have been treated as requiring Core hardship review.

Ms. Lewis stated that Riverhead Town does not have any projects to be placed on the proposed nondevelopment list.

The Commission then reviewed the Brookhaven Town list (attached; not part of the staff handout). The Commission determined that the following items listed on the attachment will be added to the proposed nondevelopment list: the additional bathroom listed in Fireman's Park Item 3 (but not the other portions of that); the Fireman's Museum Item 1 (existing structures plus new museum storage structure) and the Fireman's Museum 2

*(additional handicapped parking lot).*

*A discussion then followed regarding the Plan amendment process; the adoption of a stand alone Plan amendment for this issue (not to be combined with the longer overhaul of the Plan currently underway); the manner in which the “Core residential parcel exemption list” was treated in the past and how that can be the model for this topic; and the language that the pine barrens law amendments would utilize to reference the amended Plan.*

## **Adjournment**

*Summary: The meeting was adjourned at approximately 3:12 pm without a formal adjournment resolution.*

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

1. Attendance sheet (8/10/04; 1 page)
2. Memo with draft ECL 57 changes regarding Core hardships (7/16/04; 8 pages)
3. Potential future Core area project lists received to date (8/10/04; 4 pages)
4. Brookhaven Town future Core area project list (8/10/04; 1 page)
5. TNC vegetation map and fire regime chart (undated; 2 pages)
6. Conceptual ecological models paper (2003; 18 pages)



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**Commission Meeting Summary (FINAL)  
for Wednesday, August 18, 2004 (Approved 9/15/04)  
at Suffolk County Park Police and Pine Barrens Center,  
Southaven County Park, Victory Avenue, Yaphank  
2:00 pm**

Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Mr. Hoffman, Ms. Prusinowski, and Mr. Turner (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, Mr. Randolph and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), Mr. Freleng (from the Suffolk County Planning Department and Vice Chair of the Pine Barrens Credit Clearinghouse Board), and Mr. Bagg (from the SC Department of Planning). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:09 pm by Mr. Scully, with a five member quorum.

### **Public Comment and Administrative**

#### Public comments

Summary: The only speaker was Mr. William Patterson, representing The Nature Conservancy. He reported the good news that the Commission's prior request for an increase in its budget for funding of various stewardship efforts has been included in the recently adopted state budget, and that increase is \$250,000. He noted that this reflects an increased recognition among legislators of the importance of stewardship.

#### Minutes for 7/21/04, 8/10/04: review, approval

Summary: The following changes were suggested to the 7/21/04 summary: (1) under "Public Comments", the summary of the third speaker's remarks regarding the actions which he pledged that the Long Island Pine Barrens Society would take against the Commission should be corroborated with the audio tape of this meeting; and (2) under "Spring Meadow / Wading River", in the first paragraph, a new sentence should be added as the next to last sentence of that paragraph which should read as follows: "She noted that the project met the Commission's standards." **A motion was then made by Mr. Thompson and seconded by Ms. Lewis to approve the 7/21/04 minutes with these changes. The motion was approved by a 5-0 vote.**

The following change was suggested to the 8/10/04 summary: under "ECL Article 57", a statement should be added to the effect that Ms. Lewis stated that Riverhead Town does not have any projects to be placed on the proposed nondevelopment list. **A motion was then made by Mr. Thompson and seconded by Ms. Lewis to approve**

**the 8/10/04 minutes with this change. The motion was approved by a 5-0 vote.**

## Other Project and Land Use Items

### **CGA and Core Areas**

Gabreski Airport / Westhampton (900-312-1-4.2) / boundary interpretation: draft map interpreting statutory boundary; review; possible approval (from 12/17/03)  
Summary: Mr. James Bagg of the SC Planning Department was present for this discussion, and he distributed and discussed the attached draft map of a proposed Core area boundary interpretation for the portion of the boundary which lies in the vicinity of the County's Gabreski Airport in Westhampton. He described the content and level of detail present in the 1990 County Airport Master Plan, to which the ECL 57 Core boundary delineation makes reference. He described those areas of the Airport which the Master Plan has designated for various purposes, including, in part, general aviation and airport use, open space, and buildings, and the manner in which the proposed boundary map accommodates those specifications from the Master Plan.

A brief discussion ensued regarding various aspects of the 1990 Master Plan, the current vegetation on the Airport property, the extreme northwest corner of the Airport property, and the portion of the Airport property adjacent to the Quogue Wildlife Refuge. **A motion was then made by Mr. Thompson and seconded by Mr. Hoffman to approve the attached map as an official interpretation of the Core and CGA boundary in the vicinity of the Airport. The motion was approved by a 5-0 vote.**

## Project Decisions

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

Newport Estates Residential Subdivision c/o Dries / Miller Place (200-98-8-6, etc.) / hardship: decision (hearing held 01/21/04; due today)  
Summary: Ms. Carter distributed and discussed the attached update to the previously issued staff report on this CGA hardship application. She described and showed both the original and revised plans for this site (map included in the attachment), and discussed the State Environmental Quality Review Act (SEQR) status of this. Ms. Leigh Rate, an attorney representing the project sponsor, was also present and participated in today's discussion.

A long discussion ensued regarding the SEQR status of this project (including the problem that both the Town and the Commission are necessarily awaiting each other's decision prior to being able to proceed); the involved agency status of the Commission; the possibility of the Commission issuing a "conceptual" approval, in order to permit the processing of this application to proceed; the layout of the lots, including the placement of the recharge basin; the prior opinion of the SC Planning Commission (which recommended denial of the version which it reviewed); the application of the specific CGA standards for land use from the Pine Barrens Plan; the status of this project before the SC Health Department; and the yield of the property under current zoning.

Ms. Rate, on behalf of the applicant, agreed to an extension of the Commission's decision deadline from today until the 9/15/04 Commission meeting. **A motion was then made by Mr. Hoffman and seconded by Ms. Lewis to agree to and accept the**

**decision deadline extension until the 9/15/04 Commission meeting. The motion was approved by a 5-0 vote.**

Brookhaven Walk / Yaphank (200-553-1-1.3; 200-584-2-1.2) / Development of Regional Significance / shopping center: extension request (hearing 10/17/01; from 6/16/04; due today)

Summary: Ms. Jakobsen reported that the attached written request has been received from this project sponsor's representative to extend the Commission's decision deadline on this project to October 2004. **A motion was then made by Mr. Thompson and seconded by Mr. Deering to accept and approve the request decision deadline extension to the 10/20/04 Commission meeting. The motion was approved by a 5-0 vote.**

### **Core Preservation Area**

Peconic River Sportsman's Club Pump House / Calverton (600-142-2-1.1, etc.): determination of jurisdiction

Summary: Present for today's discussion were Mr. John Hall and Mr. Anthony Muratore, representing the Club, and Riverhead Fire Marshal Bruce Johnson. Ms. Carter summarized this proposed construction of a single story, wood framed pump house to contain the water well (already permitted by NYS DEC) to be used for fire protection purposes at this site. She included a thorough review of the project specifications, as outlined in the attached report.

Fire Marshal Bruce Johnson also spoke on the purpose of, and need for, this project for fire protection and safety. He explained the origin of the project, which is based, in part, upon his inspection of the Club's facilities. Mr. Muratore also spoke briefly about the design and specifications of the pump, the piping, and the pump house, including the operational aspects of its installation and maintenance. It was stated that no clearing is required for this project.

**A motion was then made by Ms. Lewis and seconded by Mr. Deering to determine that the proposed project does not constitute "development" under the pine barrens law, and that it specifically falls under ECL 57-0107(13)(l). The motion was approved by a 5-0 vote.**

### **Other Project and Land Use Items**

#### **Core Preservation Area**

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship: status (hearing begun 3/17/04 and extended indefinitely; decision runs with SEQRA)

Summary: Mr. Scully reported that he, Mr. Corwin, and Mr. Milazzo met with representatives from Keyspan, the Albany office of the NYS Department of Transportation, and the NY State office of the Federal Highway Administration on 8/3/04 to discuss the possible waiver of the Federal restrictions on the placement of the proposed Keyspan gas main within the Long Island Expressway right of way from Exit 70 in Manorville to Exit 71 in Calverton. He explained that, as a result of that meeting, Keyspan intends to revise its application before the Commission to utilize directional drilling, and will submit that revision in the near future.



Brookhaven Town Volunteer Fire Fighters' Museum, Firemen's Park / Ridge (200-296-1-1.2): site status (permit issued 7/10/02; annulled by court 2/11/03; continued from prior meetings)

Summary: Mr. Scully summarized the work that has occurred on this project by the Commission members during the past several months. Mr. Hoffman explained to the Commission that the Town has looked carefully at the work done on the site, and that it appears to them at this time that there was a possible violation of Article 57 at this site with respect to the surfacing materials used in the camping area, and that the Town probably exceed its authority in paving there. He further noted that the Town would like to settle this question and will consider revegetation and mitigation in portions of the Fireman's Park museum and training area that would involve the planting of approximately 1,000 trees.

Mr. Turner stated that he has looked at the site and its aerial photos, and that revegetation of areas in and near to the camping site can be accomplished by the Town. He specifically noted that this work in separate from, and in addition to, any work related to the shooting range on the easterly portion of the property. It was agreed that this will be addressed in an upcoming meeting, and that a stipulation will be worked on in the interim.

## **Plan, Stewardship & Related Issues**

ECL Article 57: Core hardship statutory language and draft project lists (from 8/10/04 meeting; to be faxed)

Summary: Mr. Corwin reviewed the work done to date on the proposed amendments to ECL Article 57 with respect to changes in government's ability to obtain Core area hardships, and the incorporation of that into a proposed Plan amendment. He explained that the latter would then include a list of government sponsored Core area projects that would be deemed to not constitute "development" under the pine barrens law, and that such a list would take legal effect only upon the adoption of the proposed statutory amendments by the State Legislature and Governor. He then went through the project list that is part of the draft Plan amendment document. During the ensuing discussion, the Commission decided to (1) add the SC Community College Eastern Campus Master Plan Phase 1 project list as of 1/3/95, and (2) to not list any Gabreski Airport projects.

**A motion was then made by Mr. Hoffman and seconded by Mr. Thompson to (1) endorse the proposed Plan amendment attached, with the changes noted above; (2) endorse the proposed amendments to ECL Article 57 contained within the Plan amendment document; (3) schedule a public hearing on the proposed Plan amendment at 3:00 pm at the 9/15/04 Commission meeting; and (4) publish a legal notice of the Commission's intent to vote on this Plan amendment at the 10/20/04 Commission meeting. The motion was approved by a 5-0 vote.**

Wildfire Task Force: auditor's report on the NY Wildfire and Incident Management Academy  
Summary: Present for today's discussion was Mr. Salvatore Marsala, the Certified Public Accountant retained by the Commission to audit the records of the NY Wildfire and Incident Management Academy, as well as his assistant, Ms. Ruth Marsala. His auditing report was previously mailed to the Commissioners and their Designated Representatives, as well as to the members of the Academy Board.

Mr. Marsala discussed the specific recommendations contained in the report, and the

Commission members asked about each item. It was agreed that this will be placed on the 9/15/04 Commission meeting agenda for a discussion of the specific recommendations.

Wildfire Task Force: changes to Academy establishing resolution

Summary: Mr. Corwin went through the attached suggested changes to the Academy establishing resolution, and the Commission made a number of changes as annotated. The changes address the structure and lines of reporting of the Academy and Board. They are mostly based upon the 6/23/04 Academy Board meeting. **A motion was made by Ms. Lewis and seconded by Mr. Thompson to adopt and approve the attached changes to the Academy's establishing resolution. The motion was approved by a 5-0 vote.**

#### **Closed Advisory Session**

Summary: **A motion was made by Mr. Thompson and seconded by Mr. Hoffman 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 5:09 pm to 5:27 pm.**

#### **Adjournment**

Summary: The meeting was adjourned immediately following the closed session without a formal adjournment resolution.

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

1. Attendance sheet (8/18/04; 2 pages)
2. Speaker sign in sheet (8/18/04; 1 page)
3. Project location map for today's meeting (8/18/04; 1 page)
4. Gabreski Airport Pine Barrens Boundary map (undated; 1 page)
5. Commission staff update to the 01/21/04 Newport Estates staff report (8/18/04; 11 pages)
6. Brookhaven Walk decision extension request (8/11/04; 1 page)
7. Commission staff report for the Peconic River Sportsmen's Club (8/18/04; 13 pages)
8. Proposed Plan amendment (including statutory changes and project list) (8/17/04; 9 pages)
9. Auditor's Report of the NYWIMA for period ending 3/31/04 (7/12/04; 16 pages)
10. Recommended modifications to the Academy establishing resolution (8/18/04; 1 pages)



**CENTRAL  
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BARRENS**  
JOINT  
PLANNING  
&  
POLICY  
COMMISSION

**Commission Meeting Summary (FINAL)  
for Tuesday, September 7, 2004 (Approved 9/15/04)  
at Pine Barrens Commission Office,  
3525 Sunrise Highway, 2<sup>nd</sup> Floor, Great River  
1:30 pm**

Commission members present: Mr. Scully (for New York State), Ms. Prusinowski (for Brookhaven), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, and Mr. Born (from the Commission), Mr. Mr. Freleng (from the Suffolk County Planning Department and Vice Chair of the Pine Barrens Credit Clearinghouse Board), Mr. Bagg (from the SC Department of Planning), and Mr. Kiely (from the Brookhaven Town Law Department). Additional attendees are shown on the attached sign-in sheet.

Peter A. Scully  
*Chair*

The meeting was called to order at approximately 1:41 pm by Mr. Scully, without a quorum present.

Philip J. Cardinale  
*Member*

### **Public Comment and Administrative**

Patrick A. Heaney  
*Member*

Public comments

Summary: *There were no speakers.*

John Jay LaValle  
*Member*

### **Plan, Stewardship & Related Issues**

Steve A. Levy  
*Member*

Central Pine Barrens Plan: overview of existing Central Pine Barrens Comprehensive Land Use Plan topics (Volumes 1, 2, and GEIS), and conceptual overview of revision

Summary: *Mr. Corwin gave an overview of the topics that are currently covered in the existing Central Pine Barrens Comprehensive Land Use Plan, initially approved in 1995 and amended twice since then.*

*Specifically, he explained that the Plan presently contains material (chapters, sections, or other units of text) regarding the following principal concepts:*

- *a statement of the goals and objectives of the Plan and the pine barrens law (including the area specific goals which the law sets forth for the overall pine barrens, the Compatible Growth Area (CGA), and the Core Preservation Area);*
- *the jurisdiction of the Commission and the law, including geographic (i.e., Core versus CGA) jurisdiction and categories of land use projects (i.e., two types of Core hardships, several categories of CGA projects);*
- *land use standards and guidelines, and procedures for the review of each type of application or project;*
- *the Pine Barrens Credit (transfer of development rights) Program, including allocations of Credits, appeals procedures, receiving area specifications by town, reports, and miscellaneous policies;*
- *Stewardship programs and policies, including protected and*

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- *public lands management, law enforcement, and fire management, and including the creation of the Protected Lands and Law Enforcement Councils; miscellaneous other areas, including administrative policies.*

*He then outlined several areas where changes are anticipated during the Plan amendment process, including:*

- *General reorganization of the Plan contents to more closely follow a standard comprehensive land use plan format, including, in part, the incorporation of “policies” throughout the Plan as the basic unit of the Plan. This would include the replacement of “standards and guidelines” for land use with land use policies.*
- *Refinement of the policies relating to the CGA and the Core area to include all policy determinations made by the Commission regarding jurisdiction, interpretation of the statute and the Plan relating to land use projects, boundary interpretations, new and/or refined land use policies addressing native vegetation definition, application of the clearing limits, incorporation of Firewise, ecological preserve design, and open space management principles into site design, light pollution and management policies, identification of truly regional CGA policies that identify areas within the CGA where customized goals have been jointly identified by the relevant Town in conjunction with the Commission, and other policies furthering the statutory CGA goal of promoting “compact, efficient and orderly development”.*
- *Expansion of the law enforcement section to include policies necessary and appropriate to implementing the August 2003 statutory “enforcement” amendments, including, in part, the land use complaint investigation protocol and reporting form developed by the Law Enforcement Council at the Commission’s request, and the promulgation of formal rules and regulations (i.e., NY Code of rules and Regulations) to enforce the Plan and statute, and provide a sound basis for penalties and related actions.*
- *Fire management policies that fulfill the statute’s fire management goals and required Plan contents. This would include policies from the 1998 Fire Management Plan, which would be subsumed under the revised Pine Barrens Plan, policies affirming the creation of the Wildfire Task Force (WTF), the NY Wildfire and Incident Management Academy, possibly subcommittees of the Task Force, policies regarding our de facto operational work with the fire weather station and daily fire danger broadcasts, operation of the prescribed fire program, adoption of National Wildfire Coordinating Group (NWCG) standards and policies, proper operation of the Commission’s “home unit” under NWCG, cooperation with the Northeast Regional Compact, and incorporation of Firewise principles into land use policies (also noted above), and other related items.*
- *Refinement of the protected and public lands management work advanced to date by the efforts of the Protected Lands Council (PLC), including, in part, incorporation of their ecological and related analyses into land use policies, and refinement of the existing mandate of the PLC to review new clearing on public lands above a certain level, etc.*
- *Identification of those Plan components which can help satisfy the NYS Executive Law’s Article 2 requirements for a Comprehensive Emergency Management Plan (CEMP), in order to achieve state certification of a Pine Barrens CEMP and increase our chances to compete for funding for tasks which we are already undertaking. Examples of existing elements which would fit into a CEMP include the operation of the LEC and the WTF, the helicopter training programs with the NY National Guard, the NY Wildfire and Incident Management*

- *Academy, the prescribed fire program, the fire weather and fire danger program, land use policies which accommodate fire and management considerations, etc.*
- *Expansion of research policies to affirm the Pine Barrens Research Forum and our general support for the work of the new Foundation for Ecological Research in the Northeast (FERN), among other initiatives.*

*A brief question and discussion period followed, with the discussion touching upon the identification of sub areas within the CGA and the types of policies that might be promulgated regarding them; the draft Plan amendment work accomplished to date through Mr. Born's work with the PLC; the need for an overall schedule and identification of specific groupings of topics upon which the Commission can focus during work sessions, and coordination among the Commission and the Advisory Committee.*

**Central Pine Barrens Plan:** Brookhaven Town's long term planning goals and strategies for the Brookhaven portion of the Compatible Growth Area, and integration into regional Pine Barrens Plan

*Summary: Ms. Prusinowski presented details of two areas within the Brookhaven portion of the CGA upon which the Town and local citizens have been working to develop local plans. One such area is the NYS Route 25 corridor. Originally, the Town imposed a moratorium on certain development projects along this corridor from approximately the Route 112 and Route 25 intersection on the west to the Route 25 and Wading River Hollow Road intersection on the east. This area later became incorporated into a larger "study area" which extended the entire west to east length of the Town, from the Lake Grove village border on the west to the Riverhead Town border on the east. The Town utilized a consulting firm to facilitate a community visioning process for this study area, and the resulting report identified, among other principles, three "nodes" along the corridor where the community groups wanted to see specific types of land use in the future. She explained that the study groups would like to foster smart growth principles, including walkable communities, in these nodes.*

*The second area currently identified is the Overton Preserve area, south of the Route 25 corridor in the general vicinity of Coram and Gordon Heights. She explained that Mr. Turner of the Town planning staff is assigned to work on a preservation plan for this area, and that several options for accomplishing this are under consideration.*

*Ms. Prusinowski noted that during the identification of these areas and their planning goals (as well as other possible areas within the CGA of Brookhaven Town), it became apparent that there are a number of possible constraints as well as benefits that emanate from the pine barrens act and the Plan, and that the planning staff and the Commission staff have been meeting to discuss these.*

*A general discussion then followed regarding the Town's intentions in these study areas; the possibility of Town development rights transfers being used; the concerns that would arise with any density increases, even from transfers of rights; the opportunity to create a preserve area within the CGA; the status of specific parcels within the two areas identified today; the desirability of coordinating the Town's ongoing planning for these two areas with the Commission's Plan amendment work; and the need for the Commission staff to itemize the general area of Plan changes being discussed today.*

**Adjournment**

*Summary: The meeting was adjourned at approximately 2:52 pm without a formal*

*adjournment resolution.*

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

1. Attendance sheet (9/7/04; 1 page)

**Commission Meeting Summary (FINAL)**  
**for Wednesday, September 15, 2004 (Approved 10/20/04)**  
**at Quogue Wildlife Refuge Nature Center,**  
**Old Country Road, Quogue,**  
**2:00 pm**



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

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), and Mr. Freleng (from the Suffolk County Planning Department and Vice Chair of the Pine Barrens Credit Clearinghouse Board). Additional attendees are shown on the attached sign-in sheet.

Peter A. Scully  
Chair

The meeting was called to order at approximately 2:08 pm by Mr. Scully, with a five member quorum.

Philip J. Cardinale  
Member

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

Patrick A. Heaney  
Member

##### Public comments

John Jay LaValle  
Member

Summary: The only speaker was Mr. Alan Stadler, representing the Ridge Civic Association. He asked about the status of the Commission's and the NYS DEC's attempt to resolve the Ridge Elementary School Core area violation, and Mr. Scully explained that his staff is currently trying to commit a settlement to paper and to conduct accompanying title searches towards that end. Mr. Scully also noted that there has been a Region 1 staff change, and that has hindered the production of a written settlement.

Steve A. Levy  
Member

Minutes for 9/7/04, 8/18/04: review, approval

Summary: The following changes were suggested to the draft 8/18/04 meeting minutes: (1) under "ECL Article 57", the first paragraph's first sentence should read, in part, "... in government's ability to obtain ..."; (2) in the same section, the second paragraph's first sentence should read, in part, "... endorse the proposed amendments ..."; and (3) under "Attachments", the title of Attachment 5 should read, in part, "... the 01/21/04 Newport Estates staff report ...". **A motion was then made by Ms. Prusinowski and seconded by Mr. Shea to approve the 8/18/04 minutes with these changes. The motion was approved by a 5-0 vote.**

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**A motion was made by Ms. Prusinowski and seconded by Mr. Shea to approve the 9/7/04 minutes as written. The motion was approved by a 5-0 vote.**

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Commission audit: authorization to be included in new SCWA auditing RFP  
Summary: Mr. Millazzo explained that the Suffolk County Water Authority (SCWA) is currently planning to issue a Request for Proposals (RFP) for

*new auditing services for the SCWA, and could include in that RFP a separate component that would require the auditing of the Commission's funds which the SCWA handles pursuant to a contract between the SCWA and the Commission. **A motion was made by Mr. Shea and seconded by Ms. Lewis to authorize the SCWA to include in its upcoming Request for Proposals for auditing services a component which would require the successful bidder to provide an audit of the Pine Barrens Commission funds which the SCWA handles for the Commission. The motion was approved by a 5-0 vote.***

## **Project Decisions**

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

McCormick a/k/a Swim King Dive Shop c/o Searles / Rocky Point (200-77-10-1,2) / hardship / commercial site plan: extension to October (*hearing begun 4/21/04 and extended indefinitely; **decision currently due today***)  
*Summary:* Ms. Jakobsen reported that a new site plan for this application has been received by the Commission, but that the Commission staff has not yet been able to fully review it. She also reported that the attached written request for a decision extension to October 2004 has been received for this project. **A motion was then made by Ms. Prusinowski and seconded by Mr. Shea to accept and approve the decision extension request to the 10/20/04 Commission meeting. The motion was approved by a 5-0 vote.**

Newport Estates Residential Subdivision c/o Dries / Miller Place (200-98-8-6, etc.) / hardship: decision or extension request (*hearing held 01/21/04; **decision currently due today***)  
*Summary:* Ms. Carter reported that the attached written request for a decision extension has been received for this project, with the period of the extension being until such time as the State Environmental Quality Review (SEQR) process has been completed by Brookhaven Town (which is the lead agency for this review). She also explained that the attached letter from the applicant's counsel has also been received which summarizes the project sponsor's arguments in favor of the Commission granting the CGA hardship permit.

*She then distributed the attached update to the staff recommendations for this project, along with a draft letter to Brookhaven Town with specific comments. She explained each of the enumerated points in the draft letter. Following a brief discussion, **a motion was made by Ms. Lewis and seconded by Mr. Shea (1) to accept and approve the decision extension request until the SEQR process has been completed by Brookhaven Town, and (2) to authorize the issuance of the draft letter to Brookhaven Town. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Ms. Prusinowski.***

## **Other Project and Land Use Items**

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

Gabreski Airport / Westhampton (900-312-1-4.2, etc.) / 2003 clearing: staff counsel opinion (*from 12/17/03; the Airport is partly within the CGA and partly within the Core*)  
*Summary:* Mr. Scully and Mr. Corwin summarized the Commission's past discussions on the clearing that occurred last year in the northeastern portion of the airport property, including the Commission's decision to defer a determination as to whether that constituted clearing until such time as the Core area boundary had been clarified by the Commission. Since the boundary clarification was made last month, the discussion of the status of the



2003 clearing has been examined by staff counsel.

Mr. Milazzo explained that the area which has been cleared is now determined to be within the CGA based upon the Core boundary interpretation made at the last Commission meeting, and he explained that ECL section 57-0107(13)(l) regarding "public improvements undertaken for the health, safety or welfare of the public" applies to this matter. The Commission then agreed that the clearing did not constitute "development" pursuant to that section of the pine barrens law.

### **Core Preservation Area**

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship: status; scheduling of resumption of hearing (*hearing begun 3/17/04 and extended indefinitely; decision runs with SEQRA*)

Summary: Present for today's discussion was Mr. Steve Dalton from Keyspan. He described the revisions that Keyspan has submitted to this Core hardship application in the past weeks, and displayed an annotated aerial photograph showing the proposed new layout of the gas main along the Long Island Expressway (LIE) corridor utilizing directional drilling. Mr. Dalton summarized the history of the application with the Commission, including the recent discussions and efforts regarding a proposed waiver of Federal Highway Administration regulations relating to the placement of the main along the LIE.

He also described the normal trenching operations that Keyspan uses for such projects, and compared that with the alternate underground and trenched sections currently being proposed. He noted that under the directional drilling approach, approximately 60% of the LIE portion of this gas main project would be underground, and the remaining 40% which would be accomplished by trenching would be allowed to revegetate. The length of the gas main route would then be monitored over the years by having employees walk the length of the route with backpacked equipment.

He also noted that the Nugent drive portion of this project would be under a County Road, and that there is no vegetation removal issue along that portion. A brief discussion ensued regarding renotifying the involved and interested parties under SEQRA of the change in this application, and it was agreed that a new notice will be published regarding the resumption of the hearing at the 10/20/04 Commission meeting.

### **Plan, Stewardship & Related Issues**

NY Wildfire and Incident Management Academy: follow up discussion on auditor's report presented at last meeting (*from 8/18/04*)

Summary: It was agreed that the Commission will await comments from the Academy Board prior to acting upon any of the recommendations contained in the auditing report.

Parks twinning Memorandum of Agreement with Migliarino - San Rossore - Massaciuccoli Regional Parks Authority (MSRMRPA) in Pisa, Italy (*from 7/21/04 Commission meeting and 7/13/04 Advisory Committee meeting; MOA initially approved by Commission 2/16/00; to be signed at 10/8/04 Forum; Commission staff and Mr. Kim Darrow, Advisory Committee member*)

Summary: Mr. Corwin distributed the attached draft Memorandum of Agreement with the MSRMRPA, and explained the history of the Commission's involvement in this park and

protected area “twinning” proposal. The Commission had previously approved a version of this in 200, which was unable to be signed at the 2001 Forum due to the 9/11/01 attacks causing the cancellation of the MSRMRPA representatives travel plans.

He also distributed and briefly discussed a document comparing the Central Pine Barrens and the MSRM Regional Park. He explained that the principal differences between the 2000 MOA and the current draft is the organization of the Cooperation Committee. The current draft leaves the Committee appointments up to the respective boards, without identifying individuals in the actual document. **A motion was then made by Mr. Shea and seconded by Ms. Prusinowski to approve the revised MOA with the MSRMRPA and to authorize Mr. Scully to sign the MOA on behalf of the Commission. The motion was approved by a 5-0 vote.**

2004 Pine Barrens Research Forum: agenda

Summary: Mr. Corwin summarized the 2004 Forum program (see attached agenda), including both the twinings related talks and the theme of scientific monitoring that characterizes most of the technical presentations.

#### Public hearing

**Pine Barrens Plan, Volume 1 amendment** (from 8/18/04; vote to be held 10/20/04)

Summary: A separate stenographic transcript exists for this item. The hearing was closed today, but the hearing record will be kept open for an additional 24 hours.

#### Adjournment

Summary: The meeting was adjourned at approximately 3:15 pm without a formal adjournment resolution.

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

1. Attendance sheet (9/15/04; 2 pages)
2. Project location map for today's meeting (9/15/04; 1 page)
3. Decision extension request for Swim King Dive Shop (8/11/04; 1 page)
4. Decision extension request for Newport Estates (9/7/04; 1 page)
5. Letter summarizing Newport Estates hardship arguments (9/14/04; 1 page)
6. Updated staff comments and draft letter re Newport Estates (9/15/04; 7 pages)
7. Memorandum of Agreement with MSRM Regional Park Authority (9/15/04; 4 pages)
8. 2004 Pine Barrens Research Forum agenda and registration form (undated; 3 pages)
9. Public notice and proposed Plan amendments (8/18/04; 10 pages)

**Commission Meeting Summary (FINAL)**  
**for Wednesday, October 20, 2004 (Approved 11/17/04)**  
**at Quogue Wildlife Refuge Nature Center,**  
**Old Country Road, Quogue,**  
**2:00 pm**



Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Ms. Prusinowski, and Mr. Turner (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), and Mr. Freleng (from the Suffolk County Planning Department and Vice Chair of the Pine Barrens Credit Clearinghouse Board). Additional attendees are shown on the attached sign-in sheet.

Peter A. Scully  
Chair

The meeting was called to order at approximately 2:03 pm by Mr. Scully, with a five member quorum.

Philip J. Cardinale  
Member

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

Patrick A. Heaney  
Member

##### Public comments

John Jay LaValle  
Member

Summary: The first speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He asked that he be copied on all non privileged materials that the Commission receives prior to its meetings, and noted that he only received an agenda for today's meeting.

Steve A. Levy  
Member

The second speaker was Mr. William Patterson, representing The Nature Conservancy (TNC). He noted that TNC has received a National Fire Plan grant to undertake a fuel reduction demonstration site on State land in the pine barrens, and commented that this work was in the same spirit as the prescribed fire program, as both would reduce fuel loads in the pine barrens. He also noted that TNC staff will continue to contribute to the prescribed fire plan.

A brief discussion followed regarding the status and timetable for the prescribed fire plan. Mr. Corwin explained that the Prescribed Fire Subcommittee of the Wildfire Task Force has been revising the prescribed fire portion of the 1998 Fire Management Plan, with the intention of including the revised document directly in the overall Central Pine Barrens Plan. He also explained that the Subcommittee's recommendation is that a two year operational burn plan be completed, and revised every two years, which would identify the specific sites that are candidates for prescribed burning during those periods, and that each two year operational plan would be reviewed and approved by the Commission, including undergoing a State Environmental Quality Review (SEQR). Mr. Scully indicated that there should be a schedule for both the Plan amendments and the first prescribed fire two year

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operational plan.

Minutes for 9/15/04: review, approval

**Summary: A motion was then made by Ms. Lewis and seconded by Ms. Prusinowski to approve the 9/15/04 meeting minutes as drafted. The motion was approved by a 5-0 vote.**

Report from Advisory Committee on 10/12/04 meeting (Steve Jones, AC Chair)

**Summary: Mr. Stephen Jones, Chief Executive Officer of the Suffolk County Water Authority and the Chair of the Pine Barrens Advisory Committee (AC), briefed the Commission on the results of the 10/12/04 AC meeting. He noted that the AC had adopted by laws at its July 2003 meeting, and that the AC had also recommended at the July meeting that NYS DEC and Suffolk County Real Estate determine the feasibility of further land preservation in the South Setauket Pine Barrens area (which is not within the Central Pine Barrens area). At the October meeting, the AC passed a resolution endorsing the extension of the NYS DEC - Commission agreement by two years from its currently scheduled November 2005 date and to request that the Commission recommend this to the NYS DEC Commissioner, who is the sole Trustee under the original Northville Industries - NYS DEC agreement. The AC recommended that this two year extension be used by the responsible real estate departments to determine the availability of remaining private land in the South Setauket Pine Barrens area, and the willingness of any such landowners to sell their property for preservation.**

*Mr. Jones also reported that the AC is interested in evaluating whether the Commission should be charging fees for review of development projects. He is targeting the January AC meeting for a discussion of this, with background data and materials to be compiled for the AC by the Commission and other staff before then. One possibility discussed at the AC meeting is the imposition of fees pursuant to the SEQR regulations. He mentioned that the AC is looking at the possibility of recommending that the fees go into a dedicated fund for the Commission's stewardship work.*

*Mr. Jones then noted that the AC is interested in changes in both zoning and land uses since the adoption of the 1995 Plan, especially in the Compatible Growth Area (CGA). Related to this review is the record of how Pine Barrens Credits (PBC) have been used, or not used, in the CGA since 1995, especially with respect to any changes of zone which were granted by the three towns. He passed out the attached three pie charts which show the types of PBC redemptions within the three pine barrens towns since the start of the PBC Program. The charts show all redemptions, not just those within the CGA portion of the towns. He noted that the AC's goal in this is to look at the larger picture of impacts within the CGA since 1995.*

## **Project Decisions**

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

McCormick a/k/a Swim King Dive Shop c/o Searles / Rocky Point (200-77-10-1,2) / hardship / commercial site plan: decision or extension; also see hearing continuation below (hearing begun 4/21/04 and extended indefinitely; decision currently due today)

**Summary: Mr. Scully noted that this project is scheduled for a hearing later today, and it was agreed that the question of a possible extension of the Commission's decision deadline would be addressed at that time.**

Brookhaven Walk / Yaphank (200-553-1-1.3; 200-584-2-1.2) / Development of Regional Significance / shopping center: extension request (hearing held 10/17/01; from 4/21/04; decision due today)

Summary: Ms. Jakobsen explained that the project sponsor is awaiting a Final Supplemental Environmental Impact Statement from Brookhaven Town, and is therefore requesting a new extension of the Commission's decision deadline. **A motion was then made by Ms. Prusinowski and seconded by Ms. Lewis to accept and approve the requested decision extension on this application to the 12/15/04 Commission meeting. The motion was approved by a 5-0 vote.**

#### Other Project and Land Use Items

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

Cavallo Lot Split / Ridge (200-217-3-6,24) / CGA hardship: new application; schedule hearing

Summary: Ms. Jakobsen explained that this is a new CGA hardship application for a split of two lots previously merged by common ownership into two separate lots, each containing 5,000 square feet, with one of the new lots containing an existing residence. The site is in an A1 Residence zone, and the proposed split would not meet the CGA clearing standard. The project site is located between Corchaug Trail and Setauket Trail, in the Lake Panamoka area. **A motion was then made by Mr. Thompson and seconded by Ms. Prusinowski to schedule a public hearing on this application for 3:00 pm at the 11/17/04 Commission meeting. The motion was approved by a 5-0 vote.**

#### Plan, Stewardship & Related Issues

Pine Barrens Plan, Volume 1 amendment: vote (hearing held 9/15/04)

Summary: Mr. Scully briefly recounted the history of the attached Central Pine Barrens Comprehensive Land Use Plan amendment.

**A motion was then made by Mr. Deering and seconded by Ms. Lewis to issue the attached negative declaration for this Plan amendment. The motion was approved by a 5-0 vote.**

**A second motion was then made by Mr. Thompson and seconded by Ms. Prusinowski to approve the Plan amendment. The motion was approved by a 5-0 vote.**

Mr. Corwin then noted that he has already spoken with Sen. LaValle's staff about the amendments to ECL 57 being requested by the Commission, and has provided that office with copies, and will be speaking with Assemblyman DiNapoli's staff on the same topic.

#### Other Project and Land Use Items

##### **Core Preservation Area**

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship: comments prior to hearing (hearing begun 3/17/04 and extended indefinitely; decision runs with SEQRA)

Summary: Mr. Amper distributed the attached several letters from various organizations

*commenting upon the Keyspan application on today's agenda.*

A recess was held from approximately 2:28 pm to 3:00 pm, which was the scheduled start time for the public hearings.

### **Public hearings**

McCormick a/k/a Swim King Dive Shop c/o Searles / Rocky Point (200-77-10-1,2) / hardship / commercial site plan (*hearing begun 4/21/04 and extended indefinitely; decision currently due today*)

Summary: *A separate stenographic transcript exists for this hearing. During the hearing, the decision deadline was extended to the 11/17/04 Commission meeting.*

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship: resumption of hearing (*hearing begun 3/17/04 and extended indefinitely; decision runs with SEQRA*)

Summary: *A separate stenographic transcript exists for this hearing. At the conclusion of the hearing, the comment period was kept open until 10/27/04.*

### **Closed Advisory Session**

Summary: ***A motion was made by Mr. Thompson and seconded by Ms. Lewis 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 4:55 pm to 5:14 pm.***

### **Other Project and Land Use Items**

#### **Core Preservation Area**

Brookhaven Town Volunteer Fire Fighters' Museum, Firemen's Park / Ridge (200-296-1-1.2): draft restoration plan and stipulation of settlement (*John Turner, Brookhaven Planning; from 8/18/04*)

Summary: *Mr. Scully stated that the Commission had been engaged in ongoing discussions regarding potential violations of ECL Article 57 related to the paving of the camping pad area at Fireman's Park. He noted that, at the Commission's September 7, 2004, meeting, the Town had indicated that a review of the situation resulted in a conclusion that the paving activity may have exceeded the Town's authority, and that the Town was interested in resolving the issue through a mitigation plan involving revegetation at the site. At that time, the Commission agreed to that approach. Mr. Scully noted that the Commission had received an investigation report and that the Town has submitted a proposed restoration plan for the site (attached) as previously agreed..*

***A motion was then made by Ms. Lewis and seconded by Mr. Thompson to authorize the Commission Chair to execute a stipulation of settlement acceptable to Commission staff counsel by a date certain to be on or before 11/20/04, and to accept the proposed restoration plan with any changes that may be required for implementation. The motion was approved by a 5-0 vote.***

## Adjournment

*Summary: A motion was made by Ms. Prusinowski and seconded by Ms. Lewis to adjourn the meeting. The motion was approved by a 5-0 vote, and the meeting ended at approximately 5:18 pm.*

## Attachments (in order of discussion):

1. Attendance sheet (date; 2 pages)
2. Project location map for today's meeting (date; 1 page)
3. Pie charts showing categories of PBC redemptions from 1996 to 2004 (undated; 3 pages)
4. Brookhaven Walk decision extension request letter (9/20/04; 1 page)
5. Proposed Plan amendments (8/18/04; 9 pages)
6. Pine Barrens Plan amendment negative declaration and short EAF (10/20/04; 7 pages)
7. Keyspan original comment letter from The Nature Conservancy (9/16/04; 1 page)
8. Keyspan revised comment letter from The Nature Conservancy (10/19/04; 3 pages)
9. Keyspan comment letter from Great South Bay Audubon (10/14/04; 1 page)
10. Keyspan comment letter from Open Space Council (10/18/04; 2 pages)
11. Keyspan comment letter from Group for the South Fork (10/19/04; 2 pages)
12. Keyspan comment letter from Citizens Campaign for the Environment (9/29/04; 1 page)
13. Keyspan comment letter from Save Open Spaces Now 2000 (10/2/04; 1 page)
14. Keyspan comment letter to Sen. Schumer from Save Open Spaces (10/2/04; 1 page)
15. Keyspan comment letter to Gov. Pataki from LI Pine Barrens Society (9/21/04; 1 page)
16. Keyspan comment letter to Sen. Schumer from LI Pine Barrens Society (9/21/04; 1 page)
17. Keyspan revised hardship SEQRA letter from Commission (9/27/04; 1 page)
18. Brookhaven Town Firemen's Park Restoration Plan (undated; 3 pages)

**Commission Meeting Summary (FINAL)**  
**for Wednesday, November 17, 2004 (Approved 12/15/04)**  
**at the Suffolk County Park Police**  
**and Pine Barrens Center**  
**at Southaven County Park, Yaphank,**  
**2:00 pm**



Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Ms. Prusinowski, and Mr. Turner (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, Ms. Carter, and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), and Mr. Freleng (from the Suffolk County Planning Department and Vice Chair of the Pine Barrens Credit Clearinghouse Board). Additional attendees are shown on the attached sign-in sheet.

Peter A. Scully  
Chair

The meeting was called to order at approximately 2:02 pm by Mr. Scully, with a five member quorum.

Philip J. Cardinale  
Member

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

Patrick A. Heaney  
Member

##### Public comments

John Jay LaValle  
Member

Summary: There were no speakers at this time. Comments upon the Keyspan application were held until later in the meeting.

Steve A. Levy  
Member

Minutes for 10/20/04: review, approval

Summary: **A motion was made by Mr. Thompson and seconded by Ms. Lewis to approve the 10/20/04 meeting summary. The motion was approved by a 5-0 vote.**

SCWA - Commission administrative agreement: review; approval

Summary: Mr. Corwin explained that the attached draft agreement constitutes an extension of the prior arrangement between the Commission and the Suffolk County Water Authority (SCWA) to provide staff and administrative support, and provides for an increase in the SCWA's administrative fee from 2% of the annual budget to 5%, as per the attached memo. He also noted that the draft agreement covers both the 2004-05 and 2005-06 State fiscal years. **A motion was then made by Mr. Thompson and seconded by Ms. Lewis to approve the agreement and to authorize the Commission Chair to sign and execute the agreement on behalf of the Commission. The motion was approved by a 5-0 vote.**

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#### **Project Decisions**

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



McCormick a/k/a Swim King Dive Shop c/o Searles / Rocky Point (200-77-10-1,2) / hardship / commercial site plan: decision (hearing begun 4/21/04 and completed 10/20/04; decision currently due today)

Summary: Ms. Jakobsen recommended that the Commission issue a negative declaration under SEQRA for this action, and approve the application with the provision that some clearing be provided around the building to permit access to machinery under the direction of the Town Planning Board, and that a copy of the final site plan be provided to the Commission prior to the final approvals from the Town. A brief discussion ensued regarding the best manner in which to quantify the amount of additional clearing that is to be permitted for that purpose.

**A motion was then made by Ms. Lewis and seconded by Mr. Thompson to issue the attached negative declaration under SEQRA, with the attached document to be modified to indicate that the requirement for revegetation is changed from 36.5% to 35% of the site, with the detailed location of the extra clearing to be decided by the Town. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Ms. Prusinowski.**

**A second motion was then made by Mr. Thompson and seconded by Ms. Lewis to approve the application with the requirement for revegetation changed from 36.5% to 35% of the site, with the detailed location of the extra clearing to be decided by the Town. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Ms. Prusinowski.**

Dragone Vegetation Clearing for Existing Home / Manorville (200-590-3-28.2) / new hardship: schedule hearing (decision due 2/15/05)

Summary: Ms. Jakobsen explained that a new CGA hardship application has been received for the additional clearing of vegetation around an existing home on a 1.25 acre site zoned A2 Residence on the west side of Silas Carter Road in Manorville. The site is currently 33.8% cleared and the application seeks to clear a total of 45%.

**A motion was made by Mr. Deering and seconded by Mr. Thompson to schedule a hearing on this application for the 12/15/04 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

Rosko Farms Subdivision / East Quogue (900-251-1-92) / Critical Resource Area / new application: schedule hearing

Summary: Mr. Born explained that a new Critical Resource Area application has been received for an 8 lot residential subdivision of a 56.8 acre parcel zoned CR-120 and CR-200. The northernmost 1000 feet of the property is in the Core area, and the remainder is within the CGA. (No development is proposed for the Core area portion of the property.) The parcel is a Critical Resource Area under the Pine Barrens Plan.

**A motion was made by Ms. Lewis and seconded by Mr. Deering to schedule a hearing on this application for the 12/15/04 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

#### **Core Preservation Area**

Ridge Center Day Care / Ridge (200-351-1-10) / new hardship: schedule hearing (decision due 2/18/05)

Summary: Ms. Jakobsen explained that a new Core hardship application has been received for this proposed change of zone (from A1 Residence and J2 Commercial to J4 Commercial) and a day care facility on a 1.49 acre parcel on the south side of NYS Route 25 (Middle Country Road), west of Giant Oak Road, in Ridge.

**A motion was made by Mr. Deering and seconded by Mr. Thompson to schedule a hearing on this application for the 12/15/04 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

## **Other Project and Land Use Items**

### **Core Preservation Area**

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship: status of SEQR review (hearing begun 3/17/04 and continued 10/20/04; decision runs with SEQRA)

Summary: Mr. Frank Murphy of the Keyspan Legal Department spoke about whether an agency can issue a negative declaration for a Type 1 action, and read from the SEQRA regulations on this. He also cited several prior court decisions that he believed applied to this question. He then discussed the questions related to this, specifically whether an agency has identified the areas of environmental concern; has taken the required "hard look" at the action; and has presented a reasoned elaboration of the basis of its determination.

Mr. Frank Murphy of the KeySpan Legal Department stated that in the November 16, 2004 meeting between NYSDEC staff and KeySpan, NYSDEC determined that the KeySpan gas main would not result in any significant environmental impacts and indicated that it would not oppose the project. Chairman Scully asked Mr. Pavacic of NYSDEC to respond. Mr. Pavacic stated that Mr. Murphy's statement was a mischaracterization of the meeting and that at no time did NYSDEC state that it had found that the project would not have significant environmental impacts.

Ms. Regina Selzer, an attorney for the LI Pine Barrens Society, stated that she believed that the proposed alternative "B prime" with accompanying mitigation is essentially equivalent to a conditioned negative declaration under SEQRA, which is not permissible for Type 1 actions. She also read the attached statement from Mr. Richard Amper, Executive Director of the Society, dated 11/17/04.

Ms. Louise Harrison, also representing the Society, summarized her understanding of the results of a set of telephone calls that a Society researcher, Ms. Michelle Zaloom, had made to the Federal Highway Administration's Office of Pipeline Safety re the feasibility of a waiver for the pipeline and the applicable process and regulations. Mr. Scully then pointed out several discrepancies between what Ms. Harrison was reporting and what Commission representatives, including himself, had heard directly from the FHWA representatives at an August 2004 meeting with them.

Mr. Steve Dalton of Keyspan then explained that it was Keyspan's understanding that the NYS DOT must be the applicant for a waiver, not Keyspan, and that no such waiver had ever been issued.

Ms. Selzer then asked the Commission to hold off for approximately one week, and to hold

*a special meeting in order to make a SEQRA determination on this project. Mr. Murphy disagreed with the need for a delay, stated that all necessary information is before the Commission, and stated that Keyspan needs to know the Commission's SEQRA determination so that they can react appropriately.*

*Ms. Jakobsen distributed the attached 11/16/04 letter from Mr. Amper (separate from the previously read one). Ms. Harrison noted that Ms. Marilyn England of the Open Space Council will also send a letter supporting the waiver for the pipeline.*

*The discussion then focused upon the information currently available to the Commission; the events that have transpired regarding this application since the public hearing, and the staff recommendation for a positive declaration (attached), including the specific issues contained within it. It was agreed that this discussion will be continued later in the meeting.*

### **Plan, Stewardship & Related Issues**

Foundation for Ecological Research in the Northeast (FERN) presentation (*Dr. Tim Green, Chair*)  
Summary: *Dr. Timothy Green, Chair of the Foundation, distributed the attached summary of the organization, and spoke about some of the immediate research questions which the Foundation is attempting to address. He described the role of FERN in advancing the formulation of ecological monitoring protocols in the pine barrens, the desire of the FERN Board to assist in the management of the Upton Ecological and Research Reserve at Brookhaven National Laboratory, the need to construct a regional database of research papers and results, the desire of FERN to advance some of the research related tasks identified by the Protected Lands Council during the 5S process, and the membership of the FERN Board.*

### **Public hearing**

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

Cavallo Lot Split / Ridge - Lake Panamoka (200-217-3-6,24) / residential lot split / hardship  
Summary: *A separate stenographic transcript exists for this item.*

### **Plan, Stewardship & Related Issues**

Law Enforcement Council (LEC): Land Use Complaint Investigation Protocol final approval (*from 5/19 meeting; refaxed 10/29*)  
Summary: *Capt. Richard Otterstedt, Chair of the LEC, summarized the attached draft protocol for land use complaints which was created by the LEC at the request of the Commission, which has been discussed at Commission meetings earlier this year, and which has been used already to handle several actual complaints. A brief discussion ensued, and one change was made to the text of the protocol (see attached version).*

***A motion was then made by Mr. Thompson and seconded by Mr. Deering to adopt the attached pine barrens land use complaint investigation protocol. The motion was approved by a 5-0 vote.***

Law Enforcement Council: presentation of patch boards to Commission (*LEC Chair Capt.*

*Otterstedt, Sgt. Nordt*)

**Summary:** *Sgt. Kenneth Nordt of the NYS Park Police presented two framed patch boards to the Commission, each containing the patches of the various member organizations of the LEC. One board is already hanging in today's meeting room at the Suffolk County Park Police Headquarters in Southaven County Park (where the LEC meets), and the other is intended to hang in the Commission Office in Great River.*

Law Enforcement Council: new LEC representative to the Suffolk County ATV Task Force

**Summary:** *Capt. Otterstedt explained that the LEC has nominated Lt. John McGann of the Suffolk County Sheriff's Office to be the new LEC representative to the "public safety community" position on the Suffolk County ATV Task Force. His resume is attached.*

#### **Closed Advisory Session**

**Summary:** *A motion was made by Ms. Lewis and seconded by Mr. Deering 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 4:03 pm to 4:28 pm.*

#### **Other Project and Land Use Items**

##### **Core Preservation Area**

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship: status of SEQR review (*hearing begun 3/17/04 and continued 10/20/04; decision runs with SEQRA*)

**Summary:** *Mr. Murphy of Keyspan clarified the statement which he made earlier in today's meeting regarding his understanding of the results of Keyspan's meeting yesterday with the NYS DEC. Mr. Murphy explained that he overstated the characterization of the meeting with the NYSDEC and expressed regret for his prior statements. Mr. Scully thanked him for that, and the discussion turned towards the SEQRA processing of the Keyspan application. A motion was then made by Ms. Lewis and seconded by Mr. Deering to accept the staff recommendation that the Commission issue a positive declaration (attached) under SEQRA for this application, and to direct the staff to formulate and circulate a draft DEIS scoping outline with a comment period of 15 days such that the comments can be received and collated for the Commission's review at the next Commission meeting on 12/15/04. The motion was approved by a 5-0 vote.*

#### **Adjournment**

**Summary:** *A motion was made by Ms. Lewis and seconded by Mr. Thompson to adjourn the meeting. The motion was approved by a 5-0 vote, and the meeting ended at approximately 4:32 pm.*

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

1. Attendance sheet (11/17/04; 2 pages)
2. Project location map for today's meeting (11/17/04; 1 page)
3. Memo and SCWA - Commission administrative agreement (11/15/04; 4 pages)
4. SEQRA Negative Declaration for McCormick / Swim King Dive Shop (undated; 1 page)

5. Remarks to the PB Commission (re Keyspan) by Richard Amper (11/17/04; 1 page)
6. Letter to Commission re Keyspan from Richard Amper (11/16/04; 2 pages)
7. Memo from Ms. Jakobsen to Commission re Keyspan (11/17/04; 2 pages)
8. Positive SEQRA Declaration for the Keyspan project (undated; 9 pages)
9. EAF for Keyspan project (undated; 19 pages)
10. Foundation for Ecological Research in the Northeast description (11/17/04; 4 pages)
11. PB Land Use Complaint Investigation Protocol (November 2004; 3 pages)
12. Resume for Lt. John McGann (undated; 1 page)

**Commission Meeting Summary (FINAL)  
for Wednesday, December 15, 2004 (Approved 1/19/05)  
at the Suffolk County Park Police and Pine Barrens Center  
at Southaven County Park, Yaphank,  
2:00 pm**



Commission members present: Mr. Scully (for New York State), Mr. Deering (for Suffolk County), Ms. Prusinowski and Mr. Turner (for Brookhaven), Ms. Lewis (for Riverhead), and Mr. Thompson (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Staff members included Mr. Corwin, Ms. Jakobsen, Ms. Mills, and Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), and Mr. Freleng (from the Suffolk County Planning Department and Vice Chair of the Pine Barrens Credit Clearinghouse Board). Additional attendees are shown on the attached sign-in sheet.

Peter A. Scully  
*Chair*

Philip J. Cardinale  
*Member*

Patrick A. Heaney  
*Member*

John Jay LaValle  
*Member*

Steve A. Levy  
*Member*

The meeting was called to order at approximately 2:00 pm by Mr. Scully, with a four member quorum initially present consisting of Mr. Scully, Mr. Deering, Ms. Prusinowski (also Mr. Turner for Brookhaven), and Mr. Thompson.

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

##### Public comments

Summary: *There were no speakers.*

##### Minutes for 11/17/04: review, approval

Summary: *The following changes were suggested to the draft meeting summary: (1) under the first instance of the "Keyspan Gas Main" summary, the second paragraph should read:*

*"Mr. Frank Murphy of the KeySpan Legal Department stated that in the November 16, 2004 meeting between NYSDEC staff and KeySpan, NYSDEC determined that the KeySpan gas main would not result in any significant environmental impacts and indicated that it would not oppose the project. Chairman Scully asked Mr. Pavacic of NYSDEC to respond. Mr. Pavacic stated that Mr. Murphy's statement was a mischaracterization of the meeting and that at no time did NYSDEC state that it had found that the project would not have significant environmental impacts.";*

*(2) also under the first instance of the "Keyspan Gas Main" summary, the fourth paragraph's last sentence should read, in part: "... FHWA representatives at an August 2004 meeting with them.";* (3) *under the second instance of the "Keyspan Gas Main" summary (at the end of the minutes), the following new sentence should be inserted after the first sentence: "Mr. Murphy explained that he overstated the characterization of the meeting with the NYSDEC and expressed regret for his prior statements."*

***A motion was then made by Mr. Thompson and seconded by Mr. Deering to approve the 11/17/04 minutes with these changes. The motion was approved by a 4-0 vote.***

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Commission draft budget: review; approval

Summary: Mr. Corwin described the previously distributed (attached) draft budget for the 2004-05 state fiscal year, and provided updated numbers for each of the budget categories regarding the amount of each category that would be derived from the additional stewardship funds for this year (see attached copy). Following a brief discussion, **a motion was made by Mr. Turner and seconded by Mr. Thompson to approve the attached budget. The motion was approved by a 4-0 vote.**

## Project Decisions

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

Longwood Public Library Improvements / Middle Island (200-402-1-24.9; 200-403-1-3, 4) / parking lot expansion and drainage improvements: determination of jurisdiction and request for postponement of discussion

Summary: Ms. Jakobsen explained that the Longwood Public Library is proposing parking and drainage improvements at the Library, located at 800 Middle Country Road, Middle Island, in Brookhaven Town (see attached determination of jurisdiction request). She also explained that a written request (also attached) has been received from the Library's consultant requesting a postponement of this discussion to a future meeting.

Present today representing the Longwood Library was Mr. David Clemens, the Library's Director. He thanked the Commission for placing this item on its agenda so quickly, and apologized for the delay request. It was agreed that this item will be on the Commission's 01/19/05 agenda.

Brookhaven Walk / Yaphank (200-553-1-1.3; 200-584-2-1.2) / Development of Regional Significance / shopping center: extension request (hearing 10/17/01; from 10/20/04; decision due today)

Summary: Ms. Jakobsen explained that the project sponsor is awaiting a Final Supplemental Environmental Impact Statement from Brookhaven Town, and is therefore requesting a new extension of the Commission's decision deadline (attached). **A motion was then made by Mr. Deering and seconded by Mr. Turner to accept and approve the requested decision extension on this application to the 3/16/04 Commission meeting. The motion was approved by a 4-0 vote.**

### **Core Preservation Area**

Peconic River Sportsmen's Club / Calverton (200-298-1-1; 600-142-2-1.1; 600-143-1-8.1, 13.1, 15) / Pine Barrens Credit Program easement: approval of customized easement (Counsel memo faxed)

Summary: Mr. Milazzo explained that the Club is seeking to customize the standard Clearinghouse conservation easement to (1) provide that a Club representative accompany anyone who conducts a future inspection of the property, (2) retain the right to restore the property and structures in the event of a natural disaster or act of God, and (3) have the easement reflect their prior approval by the Commission to construct a pump house for their fire protection water supply well (see attached memo). Mr. Milazzo recommended approval of the requested changes. Following a brief discussion, **a motion was made by Mr. Thompson and seconded by Mr. Turner to accept and approve the requested changes to the easement for this Credit applicant. The motion was approved by a 4-0 vote.**

Southaven County Park Trap and Skeet Range / Yaphank (200-745-1-1, etc.) / improvements:  
determination of jurisdiction (memo faxed)

Summary: Ms. Jakobsen explained that the attached correspondence has been received from Suffolk County Parks regarding proposed improvements to the trap and skeet range on the west side of Southaven County Park, along the east side of Gerard Road. One of the several improvements is the construction of a noise barrier approximately 17 feet tall and 1,850 feet in length. The letter notes that Suffolk County seeks to be the lead agency. Ms. Jakobsen noted that the Pine Barrens Plan requires the Commission to seek lead agency status for development within the Core area, if the Commission finds that this project constitutes "development" under the pine barrens act.

Present for today's discussion was Mr. Nicholas Gibbons, an Environmental Analyst with the Parks Department, who distributed the attached aerial photos of the site and explained the purpose and details of the project. He also noted that the Suffolk County Council on Environmental Quality (CEQ) has asked him to coordinate the project review pursuant to SEQRA, and that the CEQ understands that the Commission must seek lead agency status for development projects in the Core area. Mr. Gibbons also noted that the original project has been slightly altered so that the wall will be constructed entirely within a previously cleared area, and no new vegetation removal would be required.

**A motion was then made by Mr. Thompson and seconded by Mr. Turner (1) to find that the project does constitute "development" under the state pine barrens law, and (2) to deem the request to be a Core hardship application and to schedule a public hearing on it for 3:00 pm at the 01/19/05 Commission meeting. The motion was approved by a 4-0 vote.**

## Other Project and Land Use Items

### Core Preservation Area

Keyspan Gas Main / Manorville to Riverhead (LI Expressway; Brookhaven, Southampton) / hardship: DEIS scoping document review and approval (previously distributed; hearing begun 3/17/04 and continued 10/20/04; decision runs with SEQRA; pos dec issued 11/17/04)

Summary: Ms. Jakobsen distributed the attached written comments received from Keyspan on the draft scope, as well as the attached proposed final scope. Mr. Amper of the LI Pine Barrens Society distributed the attached set of comment letters from various public officials regarding this project. Ms. Jakobsen summarized the activities that have occurred regarding this project since the last Commission meeting, at which time the draft DEIS scoping document was approved by the Commission for circulation and public comment.

She explained that the draft scope, along with the Commission's positive declaration, was distributed to numerous parties (both involved and interested parties under SEQRA), and that comments on the draft scope were received from Keyspan, the Town of Brookhaven, the SC Department of Public Works, and the LI Pine Barrens Society. She also noted that the Commission staff, along with a representative of the NYS DEC, met with the Keyspan staff on 12/10/04 to discuss Keyspan's comments on the draft scope in detail. A brief discussion ensued regarding the applicable time frames under SEQRA for production and review of the EIS. **A motion was then made by Mr. Deering and seconded by Mr. Turner to approve the attached scoping document as final. The motion was approved by a 4-0 vote.**



## Plan, Stewardship & Related Issues

Law Enforcement Council donation: authorization to accept and deposit

Summary: *Mr. Scully noted that the Commission has received a donation to be used by the Law Enforcement Council. The funds were received as part of an environmental violation settlement between the NYS DEC and a corporation. **A motion was then made by Mr. Scully and seconded by Mr. Turner to accept the donation and to authorize the Chair to sign the check on behalf of the Commission and to deposit it with the Commission's funds, and to request that the Law Enforcement Council prepare a budget for the expenditure of the funds. The motion was approved by a 4-0 vote.***

Possibility of charging administrative fees: initial discussion (requested by Mr. Turner)

Clearing and revegetation standards: initial discussion (requested by Mr. Turner)

Summary: *Mr. Turner summarized these two items, noting with respect to the fees that one potential use of any such fees might be stewardship work, including, for example, restoration of degraded sites. A brief discussion then ensued regarding the amount of money that such fees might generate, perhaps based upon the number and type of past development and land use reviews that the Commission has conducted, as well as the legislative authority that either exists, or would be required, in order to charge administrative fees. It was noted that the Pine Barrens Advisory Committee is working on this subject and will be discussing it again at its 01/11/05 meeting.*

*With respect to the clearing and vegetation standards, Mr. Corwin distributed the attached excerpt from the Central Pine Barrens Plan regarding "Natural Vegetation and Plant Habitat" standards and guidelines, along with the 9/26/01 Commission resolution interpreting the standard for development projects which use Pine Barrens Credits in Residential Overlay Districts in the CGA.*

*It was then agreed that a further discussion of these two items should be reserved for a Commission work session. Towards that end, the Commission staff was asked to identify possible dates for such a session between the January and February Commission meeting dates.*

Ms. Lewis arrived at this point, and a five member quorum was present for the remainder of the meeting. There was a brief recess pending the start of the 3:00 pm public hearings.

## Public hearings

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

Dragone Vegetation Clearing for Existing Home / Manorville (200-590-3-28.2) / hardship  
(decision due 2/15/05)

Summary: *A separate stenographic transcript exists for this item.*

Rosko Farms Subdivision / East Quogue (900-251-1-92) / Critical Resource Area / application  
(decision due 3/15/05)

Summary: *A separate stenographic transcript exists for this item. It was determined during the hearing that the hearing will be continued at the 1/19/05 Commission meeting.*

### **Core Preservation Area**

Ridge Center Day Care / Ridge (200-351-1-10) / hardship (decision due 2/18/05)

Summary: A separate stenographic transcript exists for this item.

### **Plan, Stewardship & Related Issues**

Law Enforcement Council donation: authorization to accept and deposit

Summary: Capt. Richard Otterstedt of the NYS Environmental Conservation Police, Chair of the Pine Barrens Law Enforcement Council, spoke briefly about the waste disposal violation prosecution that resulted, in part, in the \$175,000 donation to the Commission for use by the Law Enforcement Council. He explained that the case was developed and pursued jointly by the Suffolk County District Attorney's Office, the NYS Environmental Conservation Police, and the NYS DEC. The overall settlement of the case included guilty pleas by the corporation involved, a consent order with DEC, monetary penalties, payment to Suffolk County relating to one of its sewage treatment plants which was affected by the offense, and a voluntary public benefit donation by the corporation (which is the donation being discussed today).

### **Adjournment**

Summary: **A motion was made by Mr. Turner and seconded by Ms. Lewis to adjourn the meeting. The motion was approved by a 5-0 vote, and the meeting ended at approximately 4:56 pm.**

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

1. Attendance sheet (12/15/04; 2 pages)
2. Project location map for today's meeting (12/15/04; 1 page)
3. Commission budget materials (undated; 5 pages)
4. Longwood Library determination of jurisdiction request (11/16/04; 10 pages)
5. Request for postponement of Longwood Library discussion (12/13/04; 1 page)
6. Brookhaven Walk decision extension request letter (11/30/04; 1 page)
7. Memo regarding Peconic River Sportsmen's Club proposed easement (12/3/04; 2 pages)
8. Memo and attached letter regarding Southaven County Park (12/13/04; 3 pages)
9. Aerial photos of Southaven County Park trap and skeet range (undated; 2 pages)
10. Keyspan's comments upon the draft EIS scope (12/8/04; 3 pages)
11. Final EIS scope (12/15/04; 5 pages)
12. Letters regarding Keyspan gas main (misc. dates; 38 pages)
13. Memo from Mr. Turner re fees and the vegetation standard (11/18/04; 1 page)
14. Plan excerpt re vegetation standards and interpreting resolution (misc. dates; 8 pages)