



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

**Commission Meeting Summary (FINAL)
for Wednesday, January 9, 2002 (Approved 2/27/02)
Suffolk County Park Police and Pine Barrens Center
Southaven County Park; Victory Avenue; 2:00 pm**

Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski (for Brookhaven), Mr. MacLellan (for Riverhead), and Mr. Murphree (for Southampton).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Plunkett, Ms. Jakobsen, Ms. Carter and Mr. Rizzo (from the Commission), and Mr. Spitz (from the NYS Department of Environmental Conservation). Additional attendees are shown on the attached sign-in sheet.

Robert J. Gaffney
Chair

The meeting was called to order at approximately 2:23 pm by Mr. Proios, with a four member quorum.

Ray E. Cowen
Member

Patrick Heaney
Member

Public Comment

Summary: *There were no speakers.*

Robert F. Kozakiewicz
Member

Administrative

John Jay LaValle
Member

- ! Summary of 12/19/01 meeting: review, approval
Summary: *One change was made to the draft 12/19/01 summary: under the "Gazza / Westhampton" section, the first paragraph's third sentence should read, in part: "... a discussion ensued regarding the Southampton Town Community Preservation Fund, the review by that Fund's staff of Mr. Gazza's properties, ..." **A motion was then made by Mr. MacLellan and seconded by Ms. Prusinowski to approve the summary of the 12/19/01 Commission meeting as amended by this change. The motion was approved by a 4-0 vote.***

Pine Barrens Credit Program

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

- ! Next Clearinghouse meeting (*not on the original agenda*)
Summary: *Mr. Rizzo reported that the next Clearinghouse meeting is scheduled for 1/29/02 at 9:30 am at the Commission Office in Great River.*

Phone (631) 224-2604
Fax (631) 224-7653
Internet:
<http://pb.state.ny.us>

- ! Gazza / Westhampton (Southampton) / Credit allocation appeal: schedule hearing
Summary: *Mr. Rizzo reported that Credit allocation appeals have been received for two parcels, Suffolk County Tax Map numbers 900-243-1-16 and 900-308-1-5. The original Letters of Interpretation for these parcels awarded 0.1 Credit to each parcel, and the appeal seeks 0.129 and 0.128 Credit, respectively. **A motion was made by Mr.***

Murphree and seconded by Mr. MacLellan to schedule a public hearing on these credit allocation appeals at the 2/6/02 Commission meeting at 3:00 pm. The motion was approved by a 4-0 vote.

- ! Distribution of Pine Barrens Credit Program Registry: discussion (not on the original agenda)
Summary: Mr. Proios asked about the distribution of the monthly Registry by e-mail rather than regular mail, and Mr. Rizzo and Mr. Corwin explained that the Registry is posted on the Commission web site and e-mail notices are sent to interested individuals when that posting occurs.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / gasoline station and convenience store site plan / hardship: decision (hearing held 11/7/01; decision deadline is 1/15/02)
Summary: Several representatives of the project sponsor were present today for this discussion. Ms. Plunkett reported that she has spoken with Mr. Campagnola of the Suffolk County Department of Public Works and that he will review the traffic information provided by the project sponsor. Mr. Campagnola also provided to the Commission staff copies of two letters that he has already written regarding this site: one for the original David Kepner & Clancy Street Food Court application in 1993 and one for the current Hess application in December 2001. Ms. Plunkett distributed those letters (see attached copies). No response has been received yet from the NYS Office of Parks, Recreation and Historic Preservation regarding the archaeological resources of the site.

Ms. Plunkett asked Mr. DeNicola, the attorney representing the project sponsor, whether he would agree to an extension of the Commission's decision deadline to 2/6/02. A discussion then followed regarding the Town's and the Commission's SEQR review of this project, and the particular fact that the Town reportedly requested the applicant to file their application with the Commission, while the Town application is on hold. Mr. DeNicola agreed to the extension of the Commission's decision deadline to 2/6/02.

Mr. DeNicola then noted that Mr. Cowen raised several technical questions at the last Commission meeting regarding the installation of the underground fuel storage tank, and that Mr. DeNicola has brought several people with him today to address those topics. He also reported that the proposed tank design is being changed for efficiency purposes. Specifically, he stated that the project now intends to utilize a triple wall tank in lieu of the original double wall design, and that this will eliminate the need for the installation of the pea gravel about which Mr. Cowen had asked that would have been placed between the outer wall of the double wall tank and the inside of the tank vault. He noted that Mr. Cowen had also raised questions regarding the alarm system and its possible accidental activation by condensation.

Mr. Scott Knake, representing Containment Systems in Connecticut was present on behalf of the project, and spoke about the improved leak detection and pressure testing benefits of a triple wall tank over a double walled one. He also enumerated several disadvantages of a double walled tank, including the difficulty in ensuring that the liner is installed correctly and the potential for the pea gravel to damage the outside of a double wall installation (while no pea gravel is needed for the triple wall tank installations). He also distributed a sample cross section of the piping that would connect the tank to the gas pumps, and distributed the attached brochure on the triple wall tanks. A lengthy discussion ensued regarding the tank fittings, the piping system, installation procedures, the buoyancy of the tank in groundwater filled soil, etc.

Mr. Kevin Papasian, an engineer for this project, was present and spoke about the piping, his discussions with the Suffolk County Health Department about the County regulations and the fact that the triple wall tank exceeds the County's requirements, the condensation issue which he felt will not happen at 5 to 15 feet below the ground, the requirements of the NYS Department of Transportation regarding access to the South Service Road of the LI Expressway, and the trip generation analysis being looked at now. A discussion then ensued regarding the susceptibility of the station and the fuel to a forest fire that might occur nearby, and Mr. Papasian discussed the ability of Hess to shut down the system or empty the tanks into trucks if that should occur.

A motion was then made by Mr. MacLellan and seconded by Ms. Prusinowski to accept and agree to the extension of the Commission's decision deadline on this project to 2/6/02. The motion was approved by a 4-0 vote.

Pine Barrens Credit Program

- ! McDonnell / Manorville (Brookhaven) / Credit allocation appeal: public hearing
Summary: A separate stenographic transcript exists for this.

Core Preservation Area

The following item is also partly within the CGA:

- ! Islander East Pipeline / Brookhaven: status (not an application before the Commission)
Summary: Ms. Jakobsen reported that completion of the Islander East environmental impact statement is a couple of months away, that a preliminary determination has been made by the Federal Energy Regulatory Commission (FERC) on non-environmental issues, and that a final decision by FERC must await its environmental review. Mr. Rigano explained that the FERC divides their review into a need analysis and an environmental analysis.

A discussion occurred regarding the attached FERC "Preliminary Determination on Non-environmental Issues" for the Islander East Pipeline, its lack of any references to the also pending Iroquois Pipeline in the same area, and the question of how that document is kept updated by FERC as other developments occur with related federal and state regulated pipelines and energy projects. Ms. Jakobsen noted that there may be an additional field trip to the locations for this pipeline.

The discussion also touched upon the attached letter from Islander East to the FERC, and specifically on those points to which the Commission should reply and the need for state agency permits.

Mr. Richard Amper of the LI Pine Barrens Society was present and stated that he has met with Sen. Charles Schumer on this project, who offered his support. Mr. Amper also spoke about the need for Mr. Gaffney to speak with the Suffolk County Department of Public Works, the need for a large volume of mail to be forwarded to relevant officials, the development of a local consensus on the need for a change in the pipeline plan, and the need to influence FERC on this issue since Islander East will need to follow FERC instructions.

The following item is also partly within the CGA:

- ! Iroquois Pipeline / Brookhaven: status; intervenor application to FERC (not an application

before the Commission)

Summary: Ms. Carter reported that the Commission's petition to intervene was filed on 12/28/01 (see attached letter), and that the FERC filing by Iroquois Pipeline was received by the Commission yesterday. The Commissioners then examined the route shown on those papers, including the Southaven County Park portion, the crossing of the Carmans River, the sections along William Floyd Parkway, the LI Expressway, etc. The Iroquois documents list the Commission as an entity from which they intend to seek a permit.

Ms. Carter noted that a public information meeting is scheduled on this project on 1/14/02, and she noted that the Iroquois sponsors wish to attend the 2/27/02 Commission meeting to provide an overview of their proposal. A brief discussion followed regarding that request, and it was agreed that the project sponsor will be asked to submit a Core hardship application.

Compatible Growth Area (CGA)

- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: status; possible decision extension (hearing held 10/17/01; decision deadline is 1/31/02)

Summary: Ms. Plunkett reported that the attached request has been received from the applicant's representative to extend the Commission's decision deadline on this project to the last Commission meeting in February to accommodate the SEQRA process and its time schedule. **A motion was made by Mr. Murphree and seconded by Ms. Prusinowski to accept and agree to the requested extension of the Commission's decision deadline to the 2/27/02 Commission meeting. The motion was approved by a 4-0 vote.**

Mr. Murphree left at this point, and there was no longer a quorum.

The following item is also partly within the Core area:

- ! Keyspan Pipeline / Long Island Expressway service roads (Brookhaven): discussion (not on the original agenda)

Summary: Mr. Amper of the LI Pine Barrens Society noted that Newsday will report that Sen. Schumer is urging the Federal Highway Administration to waive some of its rules to permit Keyspan to place its LI Expressway underground gas pipeline in the shoulder of the road rather than clearing a new swath for it.

- ! Eastport Senior Living / Eastport (Brookhaven) / residential complex site plan / assertion of jurisdiction: status and correspondence (jurisdiction asserted 5/16/01; no hearing held yet; decision deadline is 3/1/02)

Summary: Ms. Jakobsen reported that the attached letter has been received from Mr. Voorhis regarding the reduction in density of the Eastport Senior Living project, and requesting that the Commission reevaluate its intention to review the project. The letter specifically discusses the Development of Regional Significance category, although the project was called up by the Commission for review under the assertion of jurisdiction provisions of the Pine Barrens Plan.

Closed Advisory Session

Summary: A closed advisory session was held for the purpose of receiving legal advice from counsel. The Commission entered into closed session from approximately 4:49 pm to 6:00 pm.

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Letters from Mr. Campagnola of SC DPW re Hess site (miscellaneous dates; 2 pages)
4. Containment Solutions product material (undated; 4 page brochure)
5. FERC Preliminary Determination for Islander East Pipeline (12/21/01; 16 pages)
6. Letter from Islander East to FERC (11/21/01; 5 pages)
7. Letter petitioning FERC to intervene on Iroquois application (12/28/01; 2 pages)
8. Letter requesting an extension of the Brookhaven Town Center deadline (1/9/02; 1 page)
9. Letter requesting a reevaluation of the Eastport Senior Living project (12/18/01; 1 page)



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0587

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**Commission Meeting Summary (FINAL)
for Wednesday, February 6, 2002 (Approved 3/20/02)
Riverhead Town Hall (initially), and later in
the Riverhead Justice Court (in Riverhead Police Department building)
200 Howell Avenue, Riverhead; 2:00 pm**

Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski (for Brookhaven), Mr. MacLellan (for Riverhead), Mr. Murphree (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Rizzo and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation (NYS DEC)), Capt. Conklin (from the NYS Forest Rangers, Vice Chair of the Wildfire Task Force, and member of the Law Enforcement Council), and Mr. Hamilton (from the NYS DEC and Academy Coordinator of the NY Wildfire and Incident Management Academy. Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:18 pm by Mr. Proios, with a five member quorum.

Public Comment

Summary: Mr. Richard Amper, representing the LI Pine Barrens Society, spoke about the Fireman's Park shooting range facility on the north side of NYS Route 25, in Ridge. The range is a privately operated concession on the Brookhaven Town owned parkland. Mr. Amper stated that he is here to inform the Commission about clearing and construction at the shooting range that the Society has looked into and researched, and which they believe violates the LI Pine Barrens Protection Act. Also present were Ms. Julie Passanante of the Society, and Ms. Christine Sosik of the Ridge Civic Association.

Ms. Passanante distributed the attached document and photographs regarding this site, including a letter to Sup. LaValle from Mr. Amper re Fireman's Park; the Brookhaven Shooting Range Franchise Agreement; the Letters Patent for Fireman's Park from NYS to Brookhaven Town from 1973; an Environmental Assessment Form (EAF) for the Brookhaven Shooting Range for their 1998 application to the Commission for a core hardship application; the 11/18/98 Commission resolution re the L.I. Shooting Range application which rescinded a prior core area permit from that year and found that the 1998 project was not "development" under the pine barrens law; a NYS DEC FOIL Response re the Brookhaven Shooting Range mining violation; a cover letter from Ms. Gladys Gentile of the Brookhaven Law Department for the 1998 L.I. Shooting Range application to the Commission; and a 1997 research paper re lead in shooting range soils.

Ms. Passanante reviewed the specifics of the 1998 project for this site for which the Commission issued a "nondevelopment" determination, including the lavatory improvements, the 240 square foot addition to the restaurant, and the installation of water mains along the interior park roadway. She also read portions of the EAF regarding the then current and the projected vegetated areas, and the anticipated grading. She then showed photographs of the site, both aerial and ground level, showing two buildings where one was proposed, and the addition of new shooting areas. She also summarized the attached NYS DEC materials regarding a sand mining violation at the site which was investigated by the NYS DEC, and for which a legal resolution was later reached. The franchise agreement was then discussed, including the provisions that specify that the facility shall acquire all necessary approvals and permits - including those of the Commission - before undertaking any new development activities.

She and Mr. Amper concluded by stating their hope that the Commission will enforce the pine barrens act with respect to this site, and will work to enhance the enforcement laws and regulations for handling such violations in general.

Ms. Sosik then spoke on behalf of the Ridge Civic Association, and distributed the attached letters which her organization has written to local officials regarding this facility. She called for noise mitigation, and noted that her group has met with the new owner of the shooting range, but that the noise has become worse. She also stated that the range has cleared additional land; that the owners are not cooperative with the community; that there are negative effects upon the surrounding community; that residents are concerned about the possibility of groundwater contamination from the lead; that residents south of the site have private well water and many of their wells have not had the water tested for contaminants; and that she is concerned about the effect of the removal of sand and topsoil upon the movement of any lead in the soil.

A discussion ensued regarding the level of clearing or mining activity that has occurred there; the fact that the Town is investigating this site (as Ms. Prusinowski reported); and the applicability of either the NY Environmental Conservation Law (ECL) in general or ECL Article 57 in particular to this site. Mr. Cowen summarized the DEC's handling of the prior sand mining violation at the site, the fact that the violation was resolved with a consent order, and noted that the DEC is unaware of any further violation at this site. A discussion followed regarding the amount of clearing that has occurred; the need for the Commission staff to obtain a set of aerial photographs of this site for the Commission to review; the amount of clearing in acres; and the disposition of any soil that was removed from the site, with specific reference to location to which it might have been transported.

Pine Barrens Credit Program

- ! McDonnell / Manorville (Brookhaven) / Credit allocation / appeal: decision (hearing held 1/9/02; decision deadline is 2/8/02)

Summary: Mr. Rizzo distributed the attached letter with an exhibit from the appellant, who could not be present, along with the transcript of the 1/9/02 hearing (not attached here), and the attached Commission staff report on this appeal. The distance of the subject parcel to the nearest public road (Hot Water Street) was discussed, and Mr. Rizzo estimated that distance to be approximately 1,450 feet. The effective date of the current five acre zoning was discussed briefly, and it was estimated that the current zoning might have taken effect around 1976. It was agreed that there was no documented reason to alter the initial allocation for this parcel. **A motion was then made by Ms. Prusinowski and seconded by Mr. Cowen to reaffirm the original allocation of 0.18 Pine Barrens**

Credit to this parcel. The motion was approved by a 5-0 vote.

Plan Implementation

- ! Protected Lands Council (PLC): resignation of Co-Chair
Summary: Mr. Charles Hamilton was present and stated that he wished to withdraw his attached resignation letter, in which he resigned as a Co-Chair of the PLC. A discussion ensued regarding the possibility of reappointing Mr. Hamilton as a Co-Chair. Mr. Rigano stated that there may be legal issues that apply here, and he advised the Commission not to act on this matter today. The Commission agreed not to act at this meeting.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / gasoline station and convenience store site plan / hardship: status; possible decision (hearing held 11/7/01; decision deadline is 2/6/02)
Summary: Mr. Rigano noted that today is the Commission's decision deadline for this application. Mr. DiNicola, the attorney for the applicant, was present and noted that, at the 1/9/02 meeting, questions previously raised by Mr. Cowen regarding the technical aspects of this proposal were addressed by experts that the applicant brought in. Ms. Carter reported that Parts 1 and 2 of the Environmental Assessment Form were completed, and she distributed copies (attached). She noted that there is a possibility that there may be significant impacts.

A discussion ensued regarding the need for a coordinated review of this project; the application for this project that is pending before Brookhaven Town; the observation that the coordination is being performed partly due to the complexity of the proposal, and that the coordination being performed for this Core area project does not imply that the Commission will always coordinate on other Core area projects.

*The applicants's representative and the Commission then agreed to change the Commission's decision date on this project to the 3/20/02 Commission meeting. **A motion was made by Mr. Cowen and seconded by Mr. Murphree to change the Commission's decision date to 3/20/02. The motion was approved by a 5-0 vote.***

A second motion was made by Mr. Cowen and seconded by Mr. MacLellan to perform a coordinated review for this application under the State Environmental Quality Review Act. The motion was approved by a 5-0 vote.

Pine Barrens Credit Program

- ! Gazza / Westhampton (Brookhaven) / Credit allocation appeal: public hearing (decision deadline is 2/18/02)
Summary: A separate stenographic transcript exists for this hearing.

After reading the legal notice at the start of this hearing, the meeting was briefly adjourned and moved to the Riverhead Justice Court in an adjacent building in order to accommodate a scheduling conflict with a Town hearing that was also scheduled for the Town Hall auditorium.

Core Preservation Area

- ! NYS DOT and SCWA / Westhampton: correspondence from J. Gazza (*materials to be distributed*)
Summary: Mr. Rizzo distributed the two attached letters from Mr. Gazza. There was no discussion at this time.

Mr. Stephen Jones of the Suffolk County Water Authority arrived during the following item.

- ! NYS DEC Region 1 / Sarnoff Preserve (Southampton) / proposed lean to structure: determination of jurisdiction (*materials to be distributed*)
Summary: Mr. Hamilton (the NYS DEC Region 1 Natural Resources Supervisor), Mr. Robert Galli, and Mr. Wes Gehres (both of the Region 1 Natural Resources staff) were present for today's discussion of this item. Ms. Carter read and distributed the attached request for a determination of jurisdiction for this project from Mr. Hamilton. The project consists of the construction of a 20 foot by 24 foot lean to on the NYS David A. Sarnoff Preserve in Southampton Town, just south of the Riverhead business district.

A discussion ensued with Mr. Hamilton and Mr. Gehres regarding the use of the lean to by the Long Island Field Trial Association (LIFTA) for sporting dog field trials; the use of the lean to by other groups or individuals; the purpose of the lean to, which is to provide shelter for these groups and individuals; the consistency of the proposal with the DEC's Unit Management Plan for the Sarnoff Preserve; it's location at the end of a paved road within the preserve; the lack of any rare or endangered species at the proposed site; the frequency of the organized sporting dog field trials (approximately 14 events by the LIFTA per year); the construction details of the lean to; the use of that area of the Sarnoff Preserve for the helicopter water bucket training by the NY National Guard.

Mr. Walter Olsen, representing Civil Property Rights Associates, asked whether cutting of vegetation was required for the field trials, stating that he has seen considerable cutting in the preserve recently. Mr. Hamilton stated that there is a maintenance area of approximately 100 by 200 feet. Mr. Joseph Gazza raised questions regarding the approximate total number of people per year that would use the site, and the disposition of the animal waste that results from the dogs that are involved in the trials. Mr. Ken Kohles, representing LIFTA, responded that two thirds of the people present for the trials do not bring dogs; that 40 to 60 dogs per day are probably present at the trials; that the individual trial runs span approximately 45 to 60 minutes each; that the field days occur generally from March through April, and again from September through October; that the LIFTA members have cleared approximately 14 tons of debris from the site; that portable lavatories are used during the trials; that people pick up after their dogs; that LIFTA will pay for construction of the lean to and will turn it over to the State; and that the 14 trials with 60 dogs each totals approximately 800 dogs over the course of a year.

Mr. Olsen raised the question of maintenance, and the discussion turned to the construction of the lean to, and the lack of grading necessary to construct it. The Commission then decided that the proposed lean to did not constitute development under the pine barrens law.

Mr. Galli and Mr. Gehres left at this time.

Administrative

- ! Expression of thanks to former Commission staff member Donna Plunkett (*not on the original*)

agenda)

Summary: Mr. Proios expressed his thanks to Ms. Donna Plunkett, a former Commission staff member who recently left for new employment. He expressed his gratitude for her fervor and concern for protection of the pine barrens, and complimented her for her work.

Core Preservation Area

The following four projects are the subject of a single EIS draft scoping document to be distributed for review:

- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship (hearing held 9/5/01; pos dec issued 12/19/01)
- ! Gazza / Westhampton (Southampton) / core boundary change request (hearing held 4/25/01; no decision deadline; pos dec issued 12/19/01)
- ! Gazza / Westhampton (Southampton) / clearing (for beach grass production) site plans / seven hardships (hearings held 9/5/01; pos dec issued 12/19/01)
- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship (hearing held 9/13/00; pos dec issued 12/19/01)

Summary: Ms. Jakobsen distributed a draft scoping outline, and noted that 60 days are required for the review of this draft. No further discussion was held at this time.

The following item is also partly within the CGA:

- ! Islander East Pipeline / Brookhaven: results of 1/23 field trip (Commission has intervenor status; not an application before the Commission)

Summary: Ms. Jakobsen distributed copies of the Federal Energy Regulatory Commission (FERC) preliminary determination of non-environmental issues (not attached here); copies of letters sent by the Commission to FERC regarding that preliminary determination; and a detailed response by the Commission to some of the statements made by Islander East in its written statements to FERC.

It was also noted that Mr. Peter Scully, Commissioner of the Suffolk County Parks Department, has sent a letter asking that other routes be considered. Mr. Proios suggested that local agencies be made aware that the Commission is an intervenor on this project. A staff member from Sen. Charles Schumer's office called the Commission staff to see what the Commission's position on this pipeline is. It was noted that copies of correspondence should be sent to that office. A brief discussion ensued regarding the original proposal for an alternative to the Calverton lateral portion of the project.

Mr. Bill Patterson of The Nature Conservancy was present and stated that his organization has met with the project sponsor, and commented upon his organization's interest in the restoration work involved in this project. A discussion then followed regarding the size of the pipe, the trench, and the corridor, and the need for the proposed corridor size for maintenance. Ms. Jakobsen described the field trips that have taken place, and a brief discussion then occurred regarding the construction techniques, and the possible difficulty in getting the sponsor to change the content of the project filings.

The following item is also partly within the CGA:

- ! Iroquois Pipeline / Brookhaven: status (not on the original agenda; Commission has intervenor status; not an application before the Commission)

Summary: Ms. Carter noted that she has sent a letter to the Iroquois project sponsors stating that the Commission will entertain a presentation from them if they submit a Core area hardship exemption application. She noted that there had been a flurry of calls between herself and the project representatives, but that no calls have been received

since that time.

- ! Suffolk County Water Authority / Westhampton (Southampton) / current maintenance work (not on the original agenda)

Summary: Mr. Stephen Jones, the Chief Executive Officer of the Suffolk County Water Authority, spoke about the work being undertaken at the Authority's Westhampton facility on the east side of County Road 31, south of Sunrise Highway, to which Mr. Gazza referred during his remarks earlier in the meeting. Mr. Gazza was no longer present when Mr. Jones spoke.

Mr. Jones explained that the Authority is in the first year of a three year project at that site, known as the Eastern Operations Center. The work includes installation of secondary chlorine containment; replacement of exterior lighting with energy efficient, shielded lighting that will satisfy security concerns while reducing the amount of light that is wasted by going up into the sky; replacement of vegetation and current landscaping with native and drought tolerant species, in cooperation with Southampton Town's policies; and the eventual replacement of all underground storage tanks with newer and more secure tanks, in conformance with Suffolk County regulations.

Closed Advisory Session

Summary: A motion was made by Mr. Murphree and seconded by Mr. Cowen 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 4:58 pm to 6:00 pm.

Adjournment

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

Attachments (in order of discussion):

1. Attendance list (2 pages)
2. Speaker list (1 page)
3. Letter to Sup. LaValle from Mr. Amper re Fireman's Park (undated; 6 pages)
4. Brookhaven Shooting Range Franchise Agreement (12/1/97; 33 pages)
5. Letters Patent for Fireman's Park from NYS to Brookhaven Town (7/26/73; 15 pages)
6. Environmental Assessment Form for Brookhaven Shooting Range (10/6/98; 11 pages)
7. Commission resolution re L.I. Shooting Range application (11/18/98; 1 page)
8. NYS DEC FOIL Response to R. Amper re Brookhaven Shooting Range (5/29/01; 8 pages)
9. Cover letter from G. Gentile for L.I. Shooting Range application (10/5/98; 6 pages)
10. Research paper re lead in shooting range soils (1997; 15 pages)
11. Ridge Civic Association letters re L.I. Shooting Range (miscellaneous dates; 10 pages)
12. Letter from P. McDonnell re Credit allocation appeal (undated; 2 pages)
13. Staff report for McDonnell Credit appeal (2/6/02; 3 pages)
14. Resignation letter from C. Hamilton re Protected Lands Council (12/14/01; 1 page)
15. Environmental Assessment Form for Hess application (1/28/02; 9 pages)
16. Letter from J. Gazza to Southampton Town re SCWA site (1/8/02; 1 page)
17. Letter from J. Gazza to Southampton Town re NYS DOT site (1/9/02; 1 page)
18. Letter from C. Hamilton re lean to proposal at Sarnoff Preserve (12/17/01; 4 pages)
19. Letter to FERC re Islander East Preliminary Determination (1/29/02; 1 page)
20. Letter to FERC re Islander East Data Request (1/24/02; 2 pages)

21. Letter to Iroquois Pipeline re presentation and permit application (1/16/02; 1 page)

Commission Meeting Summary (FINAL)
for Wednesday, February 27, 2002 (Approved 3/20/02)
Commission Office
3525 Sunrise Highway, 2nd Floor; Great River; 2:00 pm



Commission members present: Mr. Proios (for Suffolk County), Ms. Wiplush (for Brookhaven), Mr. Murphree (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Mr. Rizzo and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), and Ms. Jeanne Compitello (from the Brookhaven Town Law Department). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:24 pm by Mr. Proios, without a quorum present. Initially, the members present included Mr. Proios, Mr. Cowen, and Ms. Wiplush. Mr. Murphree arrived during the public comment period, and a four member quorum was present for the remainder of the meeting.

Robert J. Gaffney
Chair

Ray E. Cowen
Member

Patrick A. Heaney
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

Administrative

- ! Acknowledgment of Mr. Girandola's Retirement (*not on the original agenda*)
Summary: Mr. Proios noted that Mr. John Girandola, the Commissioner of the Brookhaven Town Department of Planning, Environment and Development and a longtime representative of the Brookhaven Supervisor to the Commission, will be retiring soon. Mr. Proios asked that the Commission look into a presentation to Mr. Girandola at an upcoming Commission meeting to thank him for all his assistance over the years.

Public Comment

Summary: The first speaker was Mr. Joseph Gazza, representing himself. He stated that the presentation at the last Commission meeting by Mr. Hamilton of the NYS DEC Region 1 office regarding the construction of a lean to at the David Sarnoff State Preserve bothered him. Specifically, Mr. Gazza was disturbed by the speed with which the project was deemed nondevelopment by the Commission. He stated that he has visited the site, and showed photographs (attached) that he took there. He stated that there was a complete eradication of understory, and that he has been unable to make any progress on his applications to the Commission, but rather is faced with a positive declaration and producing an environmental impact statement. Mr. Proios spoke briefly about the use of public lands by people, and Mr. Gazza described the clearing at the preserve and stated that it was in contradiction to the pine barrens act. Mr. Gazza also spoke about other areas including the railroad right of way, the NYS Department of

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Transportation storage area near his property, and the Suffolk County Water Authority property in Westhampton. He complained that he is surrounded by these properties.

The second speaker was Mr. Doug Dittko, a Manorville resident representing himself, who spoke about the number of residential units proposed for the Eastport Senior Living project as being too great; suggested a mixed use scenario instead; noted that there is already approximately 300 new homes nearby in the Country Pointe development in Manorville; that the site is near a water reservoir site; that the project will set a precedent for Planned Retirement Communities (PRCs); and that the community cannot handle the proposed density.

The third speaker was Mr. Brian Ferguson, representing himself, who also spoke about his opposition to the Eastport Senior Living project. Specifically, he noted that the Town has approved the zone change from A1 Residence to PRC, and asked exactly what the Commission will do since it has asserted jurisdiction. Mr. Proios spoke briefly regarding the Commission's role and the Towns' roles in reviewing development projects.

The fourth speaker was Mr. Peter Ruden of Manorville, representing himself, who echoed the previously expressed concerns regarding the Eastport Senior Living project, including the density. He also noted its location in a watershed area. Specifically, he questioned whether that was appropriate, and stated that even though it is in the CGA, it is still in a watershed area.

The fifth speaker was Mr. Ken Kohles, representing the Long Island Field Trials Association, who commented upon the photographs of the Sarnoff Preserve that Mr. Gazza distributed earlier today. He explained that the photos show a field which is used for helicopter training and model airplanes, and pruning for the field trials. He stated that LIFTA volunteers have removed 14 tons of debris from the site. Mr. Cowen noted that the field has been maintained as an open field habitat for approximately 50 to 60 years or more. A brief mention was made regarding the annual cleanup and the maintenance of quail habitats.

The sixth speaker was Mr. Jim Dwyer, who asked whether Mr. Gazza had a permit to be on the Sarnoff Preserve.

The seventh speaker was Mr. Richard Amper, representing the LI Pine Barrens Society. First, Mr. Amper congratulated the Commission on the recent federal court decision in its favor. Second, he commented briefly upon the assertion of jurisdiction provision of the pine barrens law, and its application to the Eastport Senior Living project. He specifically noted the applicability of the need for the project to be consistent with the goals of the CGA.

Third, he spoke regarding the LI Shooting Range at Brookhaven Town's Fireman's Park in Ridge. He stated that he is eager to see enforcement in this situation. He stated that the Society has asked the legislative sponsors of the pine barrens law to consider a chapter amendment for this purpose, and suggested that the Commission ought to look at how enforcement is done in other areas. He noted that paying a fine cannot be allowed to simply become a cost of doing business. He expressed hope that the Commission will speak directly with the Town. He noted that the franchise agreement for the shooting range gives the Town the power to resolve violations.

Fourth, he spoke on the Spring Meadow subdivision in the Wading River area of Brookhaven Town; the County's acquisition of some of the acreage from the original project

site; the changes that have occurred in the project since its first introduction; the fact that he believes that the current form of the project violates the clearing standard for the CGA; that the set aside area included in the original proposal was subsequently included in the area purchased by Suffolk County; and that the Commission should assert jurisdiction over the current project. Mr. Proios noted that there is a draft resolution in the County Legislature requiring an official estimate of the zoning yield for a parcel from the appropriate Town prior to County acquisition of parcels in the future.

The eighth speaker was Ms. Christine Sosik, representing the Ridge Civic Association, who stated that her association wants compliance with the applicable rules and laws by the shooting range; that the Commission should address the issue of contamination at the facility; that there has not been any periodic testing of soil; that there are public and private wells in the area; that there should be an ecological risk assessment for the contaminants; that there needs to be noise mitigation; and that the facility has been stressful for the residents. A discussion ensued regarding the lead contamination at Southaven County Park in Yaphank due to the now closed shooting range there; the bonding of metals such as lead to soils and their lack of extensive movement once that occurs; and the possibility of having monitoring wells installed in the Ridge area.

The ninth speaker was Mr. Daniel Morris, representing the Open Space Council. First, he also congratulated the Commission on the recent federal court decision in its favor. Second, he spoke about a new issue regarding a project entitled Meadows at the Ponds in the Coram portion of the CGA (previously known as The Ponds at Coram). He stated that the density of that project, resulting from a non-pine barrens development rights transfer from elsewhere in the Town, would have a negative effect upon the area, and specifically mentioned three tiger salamander ponds in the vicinity. Third, he mentioned a location in the Westhampton portion of the Core area that is apparently used for parachuting, and has a large "X" marking for that purpose. He noted that the material used for the marking is in tatters all over, and that there is considerable other trash and dumping as well. He asked whether there could be some sort of cleanup in that area.

Core Preservation Area

- ! Fireman's Park Shooting Range / Ridge (Brookhaven): results of 2/20/02 Commission and Town inspection (from 2/6/02 meeting)
Summary: Mr. Corwin reported that he and Ms. Jakobsen of the Commission staff met with Ms. Prusinowski of the Brookhaven Town Planning Department at the Fireman's Park facility on 2/20/02 to see the new facilities that were discussed at the last Commission meeting. He also noted that there was no permit in the Commission files for any of the new structures present, including the new shooting area stalls and the new pavilion and snack bar.

A discussion ensued regarding the materials distributed at the last Commission meeting, the franchise agreement provisions, the provisions of the 1998 nonjurisdiction determination of the Commission and the specific facilities mentioned in that finding, and the need to obtain a set of aerial photographs taken at different times during the past several years in order to pin down the dates at which various portions of the now developed areas were actually cleared. Mr. Cowen noted that he wants to be sure that the photographs have a definite source and date, and that they should be usable for measuring distances and areas. A discussion ensued regarding the responsibilities of the Town, the

Commission and other parties to enforce the pine barrens law and the other applicable regulations and laws.

Plan Implementation

- ! Enforcement of pine barrens law (not on the original agenda)
Summary: The preceding discussion continued with respect to the general approaches that could or should be taken to enforce the pine barrens law. Topics mentioned include the possible issuance of rules and regulations by the Commission; the issuance of tickets for alleged violations; the enforcement provisions that exist for the Environmental Conservation Law (ECL) in general and Article 57 in particular; the time that would be required for attorneys to pursue enforcement; and the potential role of the Law Enforcement Council member agencies.

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction by Commission: request for decision extension to 6/1 (jurisdiction asserted 5/16/01; decision deadline is 3/1/02; no application received)
Summary: **A motion was made by Mr. Cowen and seconded by Mr. Murphree to accept and adopt the new decision deadline of 6/1/02 for the Eastport Senior Living project, as requested by the project's representative in the attached letter. The motion was approved by a 4-0 vote.**

Administrative

- ! Summary of 1/9/02 meeting: review, approval
Summary: **A motion was made by Mr. Murphree and seconded by Mr. Proios to approve the 1/9/02 Commission meeting summary as final. The motion was approved by a 3-0-1 vote, with the abstaining vote cast by Ms. Wiplush.**

Pine Barrens Credit Program

- ! Gazza / Westhampton (Southampton) / Credit allocation appeal: decision (hearing held 2/6/02; decision deadline is today)
Summary: A brief discussion occurred regarding this appeal from the prior meeting. It was noted that the Clearinghouse Board's opinion on this appeal had been requested, but the Clearinghouse did not meet since the Commission hearing. The discussion touched upon the proper use of the 40,000 square foot figure for a "builder's acre" and the 43,560 square foot figure for an actual acre, and how the Credit Program portion of the Plan reads.

A motion was made by Mr. Cowen to approve the appeal based upon the 40,000 square foot figure. A brief discussion ensued regarding the possibility of waiting until the next meeting to decide this appeal, and Mr. Cowen agreed to withdraw his motion. Mr. Gazza agreed to an extension of the decision deadline for this appeal until the 4/10/02 Commission meeting, and a motion was made by Mr. Murphree and seconded by Mr. Cowen to extend the decision deadline for this appeal to the 4/10/02 Commission

meeting. The motion was approved by a 4-0 vote.

Plan Implementation

- ! Wildfire Task Force - Public Education Committee: status of wildfire video; 3/20 initial showing
Summary: Mr. Corwin reported that the wildfire public education video will be ready for showing at the 3/20/02 Commission meeting.

Core Preservation Area

These four projects are covered by a single EIS scoping document to be finalized at the 3/20 meeting; status to be discussed today:

- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship (hearing held 9/5/01; pos dec issued 12/19/01)
- ! Gazza / Westhampton (Southampton) / core boundary change request (hearing held 4/25/01; no decision deadline; pos dec issued 12/19/01)
- ! Gazza / Westhampton (Southampton) / agricultural clearing site plans / seven hardships (hearings held 9/5/01; pos dec issued 12/19/01)
- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship (hearing held 9/13/00; pos dec issued 12/19/01)
Summary: Ms. Jakobsen reported that the draft scoping document has been distributed to all involved agencies for comment, and that the Commission will need to approve the final version of that at the next Commission meeting.

The following two items are also partly within the CGA:

- ! Islander East Pipeline / Brookhaven: status and recent correspondence (Commission is an intervenor; not an application to the Commission)
- ! Iroquois Pipeline / Brookhaven: status (Commission is an intervenor; not an application to the Commission)
Summary: Ms. Jakobsen noted that the Commission has received correspondence from Congressman Grucci and Senator Schumer regarding the Islander East Pipeline. She also noted that Iroquois wants to be considered with Islander East for a certificate of public necessity from the Federal Energy Regulatory Commission (FERC). She also summarized a NYS Public Service Commission (PSC) letter to FERC in which the PSC notes that the Islander East Pipeline would provide an additional link to Long Island from New England, while the Iroquois Pipeline does not.

Compatible Growth Area (CGA)

- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping mall / Development of Regional Significance: request for decision extension to 4/10 (hearing held 10/17/01; decision deadline is today)
Summary: **A motion was made by Mr. Cowen and seconded by Mr. Proios to approve and adopt the new decision deadline for the Brookhaven Town Center project to the 4/10/02 Commission meeting, as per the attached letter from the project's representative. The motion was approved by a 4-0 vote.**

Mr. Proios noted that he has yet to see a map of the final proposal for this project. It was

also noted that the Open Space Council has submitted today the attached letter regarding this project. Mr. Morris of the Open Space Council was present and commented that the project materials provided to the Commission by the applicant do not state the hardship that they have. A brief discussion ensued regarding the difference between a CGA hardship and a CGA Development of Regional Significance (DRS); the Brookhaven Town Center is a DRS. Mr. Morris then commented upon the issues of the viewshed, the Dorade sewage treatment plant, the jurisdictions of the Suffolk County Health Department and the Suffolk County Sewer Agency. Mr. Morris pointed out that the sewage plant could be placed on the former Arrow property on the southeast corner of the LI Expressway and County Road 46, a parcel which the applicant owns but which is not part of this project. He noted that such a relocation would permit the plant's discharge to be outside and downgradient of the Central Pine Barrens zone. It was agreed that Mr. Rigano will write a letter to the SC Health Department.

- ! Spring Meadow / Wading River (Brookhaven) / subdivision (not on the original agenda; not an application to the Commission): status
Summary: Mr. Amper asked whether the Commission would consider calling up (i.e., asserting jurisdiction over) this project. A discussion then occurred regarding the clearing standard and the time periods for processing the development application.
- ! Pond View Estates / Ridge (Brookhaven) / subdivision: correspondence from S. Arnold (not an application)
Summary: The attached letter and map received by the Commission from Mr. Scott Arnold, a private citizen in the area of Ridge where this project is proposed, was distributed and discussed. The project is a nine lot subdivision clustered upon 12 acres, with 4.73 acres to be donated to the Town. Ms. Jakobsen also noted that phone calls have been received from another local individual also interested in seeing this parcel preserved. Ms. Wiplush noted that this site has been referred to the Town's Bond Act Committee.

Pine Barrens Credit Program

- ! Gazza / Westhampton (Southampton) / Credit allocation appeal: decision (hearing held 2/6/02; continuation of discussion from earlier today)
Summary: **A motion was made by Mr. Cowen and seconded by Mr. Murphree to grant the Gazza Credit allocation appeal discussed earlier today by modifying the allocation to each of the 0.59 acre lots involved to 0.118 Credit each, for a total new Credit allocation of 0.236 Credit (versus the original Letter of Interpretation allocation of 0.1 Credit each for a total of 0.2 Credit), and to note that this appeal is distinguished by the fact that the acreage involved is not "raw" land, but has an old filed map on it. After a brief discussion, which included the applicability of Section 6.4.4.1 of the Central Pine Barrens Comprehensive Land Use Plan, the motion was approved by a 4-0 vote.**

Closed Advisory Session

Summary: **A motion was made by Mr. Cowen and seconded by Mr. Proios 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 4:43 pm to 5:58 pm.**

Adjournment

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

Attachments (in order of discussion):

1. Attendance list (2 pages)
2. Speaker list (1 page)
3. Photographs from Mr. Gazza re various areas (undated; 4 pages)
4. Letter requesting Eastport Senior Living decision extension (2/20/02; 1 page)
5. Letter requesting Brookhaven Town Center decision extension (2/19/02; 1 page)
6. Letter from Open Space Council re Brookhaven Town Center (2/26/02; 3 pages)
7. Letter from Mr. Arnold re Pond View Estates (2/7/02; 2 pages)

Commission Meeting Summary (FINAL)
for Wednesday, March 20, 2002 (Approved 4/10/02)
Commission Office
3525 Sunrise Highway, 2nd Floor; Great River
2:00 pm



Robert J. Gaffney
Chair

Ray E. Cowen
Member

Patrick A. Heaney
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

Commission members present: Mr. Proios and Mr. Gaffney (for Suffolk County at the times noted), Ms. Prusinowski and Ms. Compitello (for Brookhaven; Ms. Prusinowski voting), Mr. MacLellan (for Riverhead), Mr. Shea (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Rizzo and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), Capt. Conklin (from the NYS Forest Rangers, Vice Chair of the Wildfire Task Force, and a member of the Law Enforcement Council), Wildfire Task Force Chair Phil Drower, Wildfire Task Force Co-Vice Chair John Urevich, and Wildfire Public Education Committee Chair Bruce Johnson. Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:20 pm by Mr. Gaffney, with a five member quorum.

Special Presentation and Reception: “Wildfire Safety and Awareness” video premiere.

Summary: Mr. Gaffney welcomed the members of the Wildfire Task Force and its Public Education Committee along with other attendees to this initial showing of this new video. Mr. Phil Drower, Chair of the Wildfire Task Force, spoke briefly on the video work, and thanked everyone involved. Fire Marshal Bruce Johnson, the Chair of the Public Education Committee, introduced the members of the Committee, along with those individuals who are featured in the video, and also thanked the Commission and everyone involved for their assistance.

After the showing the video, Mr. Johnson introduced and thanked Mr. Louis Amico of Production By Design (the company that produced the program) as well as his staff. Mr. Shea read the attached letter from Southampton Town Councilwoman Linda Kabot congratulating the Wildfire Task Force on the completion of the video.

Mr. Gaffney left at this point, and was then represented by Mr. Proios. A five member quorum remained for the rest of the meeting. The members of the Wildfire Task Force and it's Public Education Committee also left at this time.

Public Comment

Summary: The first speaker was Ms. Christine Sosik, representing the Ridge Civic Association, who provided the attached photographs taken on Monday, 3/18/02 along the Pine Barrens Trail in Ridge. The photos

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were taken on the NYS parkland which lies on the north side of NYS Route 25, between Route 25 and the Brookhaven Town Fireman's Park property. She stated that she believes that there have been clearing violations by the LI Shooting Range; that there is a safety problem because of the new archery course that has been cleared from the Town land south to the Pine Barrens Trail; that government action is needed; and that the LI Shooting Range has scheduled a tournament for this Sunday, 3/25/02, on the new course, thereby posing a serious safety hazard. She also provided the attached copy of pages from the LI Shooting Range web site which announced the tournament.

The second speaker was Mr. Joseph Gazza, representing himself. He provided the attached photographs which he took at the David Sarnoff State Preserve in Southampton. He stated that he felt that his visit to the last Commission meeting had not ended on a happy note, that he is here today on the same issue: the changes to the areas shown in the photographs. Mr. Gazza stated that this is a material change in vegetation, that he feels that the State is not being subjected to the same standards as his property has been. Mr. Proios said that he would request Mr. Rigano to examine this issue. Mr. Gazza stated that he is bothered that the State received a nonjurisdictional determination on the construction of a lean to on this property quickly, and noted that he has told the Commission about these concerns several times during its recent meetings. He stated that the photos show material alteration of vegetation as used in the pine barrens law. Mr. Shea spoke briefly about the types of management that sometimes are needed on preserved lands. Mr. Gazza asked what section of law he has missed, and stated that he felt that his assets are at stake.

The third speaker was Mr. Richard Amper, representing the LI Pine Barrens Society. First, Mr. Amper spoke on the LI Shooting Range issue, stating that the activity planned for this coming weekend was a concern, and that there is a potential for users of the State parkland to encounter persons practicing archery. He stated that this is a symptom of a larger issue, and that there has not been a rapid response to that larger issue. He stated that there is no need for a long investigation, that there were trees in an area and now they are gone. He asked that the Town Supervisor tell the franchise owner to stop, and offered the opinion that the Town and the Commission have the clearest responsibility to handle the issue. He stated that the problem needs to be stopped, and prevented from happening again.

Second, he spoke about the proposed Spring Meadow residential subdivision in Wading River, in Brookhaven Town. He noted that the Commission staff believes that the project as described violates the clearing standard. He also noted that a portion of the original site was sold to Suffolk County, and that it appears that the land which was sold to the County is still being utilized in the proposal to show that the project does meet the clearing standard. He posed the question as to what level of development is allowed for this project.

Mr. Proios stated that the Commission is looking at the legal issues related to both the LI Shooting Range and the Spring Meadow project. Mr. Amper then noted the 1998 nonjurisdictional determination by the Commission for a prior project at the Brookhaven Town Fireman's Park, and what activities that determination encompassed.

The fourth speaker was Mr. Brian Fucigna, representing the Manorville - East Moriches Civic Association, who spoke on the Eastport Senior Living planned retirement community project which has been under review by Brookhaven Town and which is the subject of a current assertion of jurisdiction by the Commission. Mr. Fucigna provided the attached materials, including the 6/6/01 Suffolk County Planning Commission letter reporting that

Commission's disapproval of the project for the reasons stated therein, a 2/22/02 letter from Town Clerk Stanley Allan to the project's representative transmitting the Town Board's conditional approval of the change of zone needed for the project; a portion of the 2/21/02 conditional approval of the Town Board which contains a clause stating that the change of zone is contingent, among other conditions, upon the Pine Barrens Commission's approval or its determination of nonjurisdiction, the vote of the Town Board, and the 2/21/02 negative declaration of the Town Board.

Mr. Fucigna noted the contingency of the Town approval upon the action of the Pine Barrens Commission, and read excerpts from the SC Planning Commission material. He stated that this project is the tip of an iceberg that will result from approval of this project, and that the Town will allow development to spread out from this site. He argued that the conditions of the SC Planning Commission resolution have not been met, and noted that the Town Board vote was 5-1. He also spoke about development conditions in the overall area, pointing out that there is already a night time lighting nuisance that is very intrusive for night time activities, including recreational walking.

Administrative

- ! Summaries from 2/6/02, 2/27/02: review, approval (faxed)

Summary: The following changes were noted to the 2/6/02 Commission meeting summary: (1) Ms. Prusinowski's name spelling was corrected; (2) under "NYS DEC Sarnoff Preserve", the third paragraph's second sentence should end as follows: "... approximately 100 feet by 200 feet." **A motion was then made by Mr. Cowen and seconded by Ms. Prusinowski to approve the summary of the 2/6/02 Commission meeting with these changes. The motion was approved by a 5-0 vote.**

The following change was noted to the 2/27/02 Commission meeting summary: under "Gazza / Westhampton / Credit allocation appeal", the last sentence should read, in part, as follows: "After a brief discussion, which included the applicability of Section 6.4.4.1 of the Central Pine Barrens Comprehensive Land Use Plan, the motion ..." **A motion was then made by Mr. Cowen and seconded by Mr. Proios to approve the summary of the 2/27/02 Commission meeting with this change. The motion was approved by a 5-0 vote.**

- ! Insurance renewal: approval, signing by Chair (materials to be distributed)

Summary: Mr. Rigano provided a renewal form for the Commission's Directors' and Officers' Policy. **A motion was made by Ms. Prusinowski and seconded by Mr. Shea to authorize the Chair or his designated representative to sign the insurance renewal application on behalf of the Commission. The motion was approved by a 5-0 vote, and Mr. Proios signed the renewal application.**

Plan Implementation

- ! Deer management (not on the original agenda)

Summary: Mr. Proios reported that the Brookhaven National Laboratory's Brookhaven Executive Roundtable meeting earlier today included a discussion of deer management, and he also reported that a seminar on this topic is scheduled for 4/24/02 at the Cornell Cooperative Extension office.

Pine Barrens Credit Program

- ! Gazza / Westhampton (Southampton) / new Credit allocation appeals: schedule hearing (materials to be distributed)

Summary: Mr. Rizzo distributed the attached new Credit allocation appeal from Mr. Joseph Gazza for several parcels in the Core area of Westhampton. He noted that the appeal letter contains four parcels, but that Letters of Interpretation (LOIs) have been issued for only the first three. He also noted that the LOIs were issued on 12/10/01, that the thirty day appeal period from that issue date expired before the receipt of this appeal on 3/7/02, and that prior late appeals have been accepted on a case by case basis.

Mr. Gazza stated that the reason for the delay in submitting this appeal is that the basis of it has only recently been established by the Commission on a recent appeal decision for another of his parcels. Specifically, he noted that the recently granted appeal involved the application of Section 6.4.4.1 of the Central Pine Barrens Plan, which addresses old filed maps in Southampton Town. Mr. Gazza then agreed to withdraw the fourth parcel listed in his letter since there is no LOI for it. A discussion then followed regarding the ownership of the current parcels by Mr. Gazza's son, and Mr. Gazza's statement that he has power of attorney for his son. **A motion was then made by Mr. Shea and seconded by Ms. Prusinowski to accept the appeal for a decision by the Commission. The motion was approved by a 5-0 vote.**

A motion was then made by Mr. MacLellan and seconded by Mr. Shea to schedule a public hearing on these new Credit allocation appeals at the 4/10/02 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.

- ! Other Clearinghouse Business (not on the original agenda)

Summary: Mr. Rizzo reported that the next Clearinghouse meeting will be on 3/26/02 at 9:30 am at the Commission Office in Great River. Mr. Proios stated that he would like to see increased usage of the Clearinghouse's funds to purchase Credits.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / gasoline station and convenience store site plan and zone change / hardship: SEQR determination; possible decision extension (hearing held 11/7/01; **decision deadline is today**)

Summary: Ms. Carter reported that the State Environmental Quality Review Act (SEQRA) coordination period for this project is up; that no objection was received to the proposed lead agency status of the Commission; that Parts 2 and 3 of the Environmental Assessment Form have been completed; that a SEQRA determination and a Commission decision are both due today; and that, based upon one or more large potential impacts of the proposed project, a positive declaration is recommended for this project. A brief discussion ensued regarding the specific comments that have been received from the agencies with whom the Commission coordinated its lead agency proposal. Mr. Cowen noted that there are more issues than simply traffic.

A motion was made by Mr. Cowen and seconded by Mr. Shea (1) to have the Commission assume lead agency status for this project under SEQRA, and (2) to issue a positive declaration under SEQRA. Ms. Carter distributed copies of the EAF (Parts 1, 2, and 3). Mr. Rigano then inquired of Mr. DeNicola whether he would agree to an

extension of the Commission's decision deadline (not part of this motion), and Mr. DeNicola agreed. The motion was then approved by a 4-0-1 vote, with the abstaining vote cast by Ms. Prusinowski.

A motion was then made by Mr. Shea and seconded by Ms. Prusinowski to agree to the change in the Commission's decision deadline for this project to 5/22/02. The motion was approved by a 5-0 vote.

- ! LI Shooting Range / Fireman's Park, Ridge (Brookhaven) / possible violation: continuation of 2/27/02 discussion

Summary: A discussion ensued regarding the information that was presented earlier in the meeting by the public speakers; the staff's report that they had confirmed reports received from members of the public last Friday that clearing had occurred on the State parkland property south of the Town park; the possible actions or steps that the involved parties should or could take at this time; the possibility of establishing a written agreement among the Town, the Commission, and the range operator to preclude further clearing; whether that agreement would be effective in light of the current clearing; the possibility of obtaining a court injunction against further clearing; and the immediate safety problem that currently exists on the State parkland, especially along the section of the hiking trail that is adjacent to the newly cleared archery areas.

A motion was then made by Mr. MacLellan to have Commission counsel draft a document to be signed by the Town, the Commission, and the site operator, plus any other relevant parties, that would avoid future clearing. A discussion then occurred regarding the effectiveness of such a document, the current franchise agreement between the Town and the franchisee, the need to first stop any current clearing activities and then to sort out the issues, and the communications within the Town government that are involved with activities at this site. It was agreed to amend the motion to authorize counsel to seek such an agreement, and if that effort should fail, then to authorize counsel to seek a court injunction immediately. The motion was then seconded by Mr. Cowen, and the motion was approved by a 5-0 vote.

A further discussion then occurred regarding the Town records for this site and their availability, the history of the Town's franchise agreement, and the construction of the new facilities at the range itself.

- ! North Fork Bank / Manorville (Brookhaven) / site plan: determination of jurisdiction (materials to be distributed)

Summary: Mr. Randolph distributed the attached letter from a consultant for the North Fork Bank regarding a proposed renovation and construction project on the east side of County Road 111 in Manorville, at the site of the former Gracie's Restaurant. After a brief discussion, it was agreed that the project constitutes "development" under the pine barrens act, and that the sponsor will be told that the project requires a Core hardship application. Mr. Proios then noted that he has observed apparent construction activity there, and the Town representatives stated that they would look into that report.

- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / pending violation: status (not on the original agenda)

Summary: A brief discussion occurred regarding possibly setting deadlines for responses to the Commission's previously issued Notice of Violation. It was agreed that Commission counsel will send out a letter to the Town regarding deadlines for progress in this matter.

These four projects are covered by a single EIS scoping document to be finalized today (materials to be distributed; pos dec issued 12/19/01):

- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship (hearing held 9/5/01)
- ! Gazza / Westhampton (Southampton) / core boundary change request (hearing held 4/25/01; no decision deadline)
- ! Gazza / Westhampton (Southampton) / agricultural clearing site plans / seven hardships (hearings held 9/5/01)
- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship (hearing held 9/13/00)

Summary: Ms. Jakobsen distributed the attached Scoping Outline for the Draft Environmental Impact Statement (DEIS) for these projects (the attached draft also includes a copy of the positive declaration by the Commission). She noted that comments were received on the draft scoping document from the NYS Department of Transportation, the NYS DEC, and the Southampton Town Planning Department. Mr. Gazza stated that he hoped that the scoping outline could be reduced, since a Generic EIS for the pine barrens area already exists. It was agreed that Mr. Gazza will review the scoping outline and will decide if he wishes to have the DEIS produced or wishes to have the Commission produce it. A brief discussion followed regarding how to estimate the effort and cost involved in producing the DEIS.

The following two items are also partly within the CGA (Commission is an intervenor for both projects, which are not applications to the Commission):

- ! Islander East Pipeline / Brookhaven: status

Summary: Ms. Jakobsen reported that this project's sponsors are considering the use of directional drilling within the Core area portions of the project in order to reduce the amount of land clearing that will be involved. Mr. Rigano reported that the sponsors have submitted an application to the NYS DEC for two types of DEC permits: a wetlands permit and a State Pollutant Discharge Elimination System permit. An application for a Clean Water Act Section 401 water quality state certification has also been filed with the DEC.

He stated that he did not see any difference in the project description in the permit applications from the original project proposal. He noted that the options discussed for crossing the Carmans River with the pipeline include directional drilling, damming with a culvert, and open trenching. He noted that their preferred option is directional drilling, but that the other options are not ruled out in the sponsors' permit filings. Mr. Cowen noted that the DEC will not issue any water quality certification for a plan that includes open cutting into the bed of the Carmans River.

- ! Iroquois Pipeline / Brookhaven: status (Commission is an intervenor for both projects, which are not applications to the Commission)

Summary: Ms. Carter reported that this project's sponsors are preparing a Core area hardship application, and that they are also proposing directional drilling under the Carmans River.

Plan Implementation

- ! Wildfire Task Force / Wildfire and Incident Management Academy: status (not on the original agenda)

Summary: Mr. Proios stated that the Suffolk County Soil and Water Conservation Board, which he chairs, is meeting tomorrow and will be considering the possibility of operating the NY Wildfire and Incident Management Academy. He briefly discussed some of the District's powers that might enable them to do this work.

Compatible Growth Area

- ! Brookhaven National Laboratory / Yaphank (Brookhaven) / groundwater remediation program: request for information (not on the original agenda)
Summary: Mr. Rigano reported that an attorney at Brookhaven National Laboratory called him recently to discuss groundwater remediation work that the Laboratory is undertaking on a privately owned parcel of land to the south of the Laboratory. There is an estimate that approximately 10 acres of the parcel's approximately 650 acres will be cleared for the work (including the installation of test wells, roads, etc.).

A question has been posed by the owner of that parcel as to what effect the clearing that would occur for this purpose would have upon his future ability to receive a CGA permit from the Commission. A general discussion then ensued regarding the "nondevelopment" status of environmental remediation work under the state pine barrens law; the presentation earlier today at the Laboratory's Brookhaven Executive Roundtable meeting on this remediation work; the siting and location of the wells that are needed; the revegetation portions of the project; the possible reasons for the amount of clearing; the possible configuration of the clearing, the types and number of groundwater contaminant plumes in the area; and the Commission's desire for additional information.

- ! Spring Meadow / Wading River (Brookhaven) / residential subdivision: assertion of jurisdiction (not on the original agenda)
Summary: **A motion was made by Mr. Proios and seconded by Mr. Cowen to assert Commission jurisdiction over the Spring Meadow / Wading River project. A discussion ensued regarding both the time periods that apply to the Commission's review of projects over which it asserts jurisdiction, as well as the specific standards and guidelines in the Central Pine Barrens Comprehensive Land Use Plan upon which this assertion will be based. After a brief discussion, it was agreed that Sections 5.3.3.1, 5.3.3.4, 5.3.3.5, 5.3.3.6, and 5.3.3.9 will be applied to the project, along with any other standards and guidelines in the Plan that may be applicable. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Ms. Prusinowski. A brief discussion followed regarding the scheduling of a hearing on this project, and it was agreed that the hearing would be held on 5/8/02, necessitating a change in the Commission's meeting schedule.**

Administrative

- ! Commission Meeting Schedule Change (not on the original agenda)
Summary: **A motion was made by Mr. Shea and seconded by Mr. MacLellan to change the date of the 5/1/02 Commission meeting to 5/8/02 at 2:00 pm. The motion was approved by a 5-0 vote.**

Compatible Growth Area

- ! Spring Meadow / Wading River (Brookhaven) / residential subdivision: assertion of jurisdiction
(not on the original agenda)
Summary: **A motion was made by Mr. MacLellan and seconded by Mr. Shea to schedule a public hearing on the Spring Meadow / Wading River development project for the 5/8/02 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

Closed Advisory Session

Summary: **A motion was made by Ms. Prusinowski and seconded by Mr. MacLellan 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 5:52 pm to 7:14 pm.**

Adjournment

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

Attachments (in order of discussion):

1. Attendance list (4 pages)
2. Speaker list (1 page)
3. Letter from Southampton Councilwoman Kabot re the wildfire video (3/20/02; 2 pages)
4. Letter and attachments from the Ridge Civic Association (3/20/02; 3 pages)
5. Web page from LI Shooting Range web site (3/20/02; 5 pages)
6. Photographs and notes from Mr. Gazza of Sarnoff Preserve (2/9/02; 6 pages)
7. SC Planning Commission letter re Eastport Senior Living (6/6/01; 1 page)
8. Brookhaven Town Clerk letter re Eastport Senior Living (2/22/02; 1 page)
9. Part of Brookhaven Town resolution re Eastport Senior Living (2/21/02; 1 page)
10. Brookhaven Town Board vote re Eastport Senior Living (2/21/02; 1 page)
11. Brookhaven Town negative declaration re Eastport Senior Living (2/21/02; 3 pages)
12. Credit allocation appeal letter from Mr. Gazza (3/6/02; 1 page)
13. EAF for the Hess application (3/20/02; 14 pages)
14. Letter from JRS Architect re the North Fork Bank (2/25/02; 1 page)
15. Draft EIS Scoping outline and attachments for the Gazza projects (3/20/02; 25 pages)

**Commission Meeting Summary (FINAL)
for Wednesday, April 10, 2002 (Approved 5/22/02)
Suffolk County Park Police and Pine Barrens Center
Victory Avenue; Yaphank; 2:00 pm**



Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski and Ms. Compitello (for Brookhaven; Ms. Prusinowski voting), Mr. MacLellan (for Riverhead), Mr. Murphree (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Rizzo and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), and Capt. Conklin (from the NYS Forest Rangers, Vice Chair of the Wildfire Task Force, and member of the Law Enforcement Council). Additional attendees are shown on the attached sign-in sheet.

Robert J. Gaffney
Chair

The meeting was called to order at approximately 2:17 pm by Mr. Proios, with a five member quorum.

Ray E. Cowen
Member

Patrick A. Heaney
Member

Public Comment

Robert F. Kozakiewicz
Member

Summary: The first speaker was Mr. Robert Bauman, representing the Suffolk Alliance of Sportsmen, Inc. He stated that there is a need to alleviate the lack of trap and skeet facilities in this area, that there is no longer a public facility at the Brookhaven Firemen's Park, and that the shooting range there should be reopened.

John Jay LaValle
Member

Mr. Proios then explained what the Commission's role in reviewing the LI Shooting Range at Firemen's Park is; that the Commission is only looking at the clearing that has occurred there; and that the Commission has not discussed the closing of the range. In response to a question from one of the attendees, Mr. Proios explained that the Commission has previously issued an approval for the construction of bathroom facilities and associated activities. He also explained that the recent clearing has extended into the State parkland to the south of the Town facility.

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The second speaker was Mr. William Whelan, the president of the Suffolk Alliance of Sportsmen, Inc. (SASI). He described SASI as the political wing of the sportsmen, and stated that the problem that he has is that there are now two public shooting ranges closed down. He further stated that many taxpayers are senior citizens; that he is tired of these problems; that sportsmen pay more taxes than any other recreational group; that he did not see any lead problem; that the Commission should look into this matter rapidly; that the group present here today could become thousands; that his organization sends out a newsletter; that the media should be told to report better; that the Commission should do its job; and that the ranges should be reopened. Mr. Proios and Ms. Compitello noted that the LI Shooting Range is not closed, but rather is open.

The third speaker was Dr. Jack Giannola, representing himself. He stated that he feels that someone has an agenda to close the range. He asked who feeds information to the media. He stated that any confusion regarding permits should not affect the sportsmen; asked why this meeting is necessary; and stated that the archery range has been closed.

The fourth speaker was Mr. Philip Profeta, representing himself. He stated that he has been a sportsman for thirty years; that he takes several classes each year; that sportsmen are helping youth; that the media should be getting its direction from the Commission; that he felt that last Sunday's Newsday article was the most accurate article; and that the sportsmen's alliance is set up and is growing to protect ranges.

The fifth speaker was Mr. Don Fiore, representing himself. He stated that he is a retired Suffolk County detective and a resident for 35 years; that he never shot at the range under discussion; that there are no lead shots going into the ground; that he does not know why the media is giving a distorted view; that the pine barrens can only be used by elite groups such as horse people and mountain bikes; that the deer do not feed when there's no grass and asked what was lost when trees were cut; that there is an increased participation of women in shooting sports; and asked how the pine barrens were defined.

The sixth speaker was Mr. Ray Bettenelli, representing himself. He stated that he is a senior citizen and retired businessman; asked how Brookhaven Town could get someone to build a facility and then tell him that he is in violation; that this range is one of the safest in operation; that he spoke with the Health Department regarding the Southaven range; and asked how anyone could give the range operator a hard time when he is giving us a world class facility.

The seventh speaker was Mr. Charles Bleistein, representing himself. He stated that he has been using this range since 1970; that if anyone is at fault, it is Brookhaven Town; that the range is one of the best facilities; that the range is everything that someone would want; and that, if there is any error, it is the Town's problem and not his.

The eighth speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He stated that the Commission is just trying to see if the law was broken, and is not trying to affect sportsmen; that if the Town and the operator are at fault, then the District Attorney and the Attorney General should be brought in; characterized his understanding of the lease agreement for the range; and stated that he does not think that the Town can properly investigate itself. Ms. Compitello then stated that she disagreed with Mr. Amper as to the contents of the lease agreement for the range.

A brief discussion then occurred regarding the possible replanting of several acres, mitigation efforts, the archery course and the nearby hiking trail on State land; a break in at the range office that occurred at some time in the past; that the fire departments using the park have also been clearing areas for their use; what permits the owners of the range were supposed to obtain; the parties involved in the current controversy; and the time periods over which events have transpired.

The ninth speaker was Mr. Ted Robinson, representing himself. He stated that many safety changes have been made; that portions of the range were reoriented to increase safety; that lead does not migrate; that the paved areas keep the lead from entering the soil; and that aerial photos do not show the whole truth.

The tenth speaker was Mr. Gil Herzy, representing himself. He stated that he felt that a loophole argument was being used against the sportsmen; that the first step was the

closing of the Yaphank range; that the Commission should make a strong effort to see that both ranges are opened; and that this is just a political plum that someone is using for his own advancement.

The eleventh speaker was Mr. Tom Casey, representing himself. He stated that he is both a sportsman and a Vice President of the LI Greenbelt Trail Conference; that he has used the Yaphank range; that he is sympathetic with the concerns of everyone here today; that the Commission is not the enemy; that he cannot imagine what the pressures would be on the ranges if it were not for the Pine Barrens Act; and described the location of the hiking trail.

Mr. Proios stated that the Commission has no intention of closing the range, and that members of SASI were involved in the development of the Pine Barrens Plan.

The twelfth speaker was Ms. Marilyn England, representing the Open Space Council. She described the details of the Eastport Senior Living development project which is pending before the Commission. She stated that the intensity and growth inducing impacts of this proposal upon the Eastport area require Commission oversight; that the project does not conform with the Pine Barrens Plan; that she questions whether this proposal would have been approved if it came to the Commission as an A1 Residence proposal; that it is a dangerous precedent; that it will induce sprawl in an area without it at present; and urged the Commission to reestablish lead agency status for this project.

The thirteenth speaker was Mr. Brian Fucigna, representing the Moriches - East Moriches Civic Association. He stated that the Eastport Senior Living proposal is related to the proposal nearby in Southampton Town for the Westhampton drag strip site; and that he is opposed to the Eastport project.

The fourteenth speaker was Mr. Donald Fiore, representing himself. He stated that the Brookhaven Town Board has someone who will put money into the shooting facility that has spin off effects.

Pine Barrens Credit Program

- ! Gazza / Westhampton (Southampton) / three Credit allocation appeals: public hearing (materials distributed at 3/20 meeting; decision deadline is 5/19)
Summary: A separate stenographic transcript exists for this hearing. At the close of the hearing, **a motion was made by Mr. Cowen and seconded by Mr. Murphree to change the total allocation of the parcels involved in this appeal from 0.57 Credit to 0.71 Credit. The motion was approved by a 5-0 vote.**

Administrative

- ! Summary for 3/20/02: review, approval (faxed)
Summary: **A motion was made by Mr. Cowen and seconded by Ms. Prusinowski to approve the 3/20/02 meeting summary as final. The motion was approved by a 5-0 vote.**

Core Preservation Area

- ! LI Shooting Range / Fireman's Park, Ridge (Brookhaven): status (from 3/20)
Summary: Mr. Rigano summarized the discussion on the shooting range at the last Commission meeting. He stated that an agreement has been signed among the Town, the franchise operator, and the Commission; distributed copies (see attached); and noted that any further clearing would lead to the Commission seeking an injunction. Mr. Amper asked how this agreement is different than the 1998 Core permit that the Commission issued. Mr. Rigano then discussed the 1998 Commission permit for bathroom and related facilities, and pointed out differences from the current agreement.

A discussion ensued regarding the topics; the current negotiations between the Town and the franchise operator; the 1972 deed and the conditions of the land transfer; the Town's responsibilities or obligations in providing this facility; the applicability of the nondevelopment provisions of the pine barrens law; and related topics.

Core Preservation Area

- ! Sprint Spectrum / Manorville (Brookhaven) / panel antenna installation: determination of jurisdiction
Summary: Mr. Rizzo distributed the attached request from Mr. Lawrence Re, representing Sprint Spectrum, for the Commission to issue a nonjurisdiction determination for the placement of a new antenna on an existing utility pole on the east side of Ryerson Avenue, north of Eastport Manor Road, in Manorville, in Brookhaven. The project would also involve the construction of an equipment box at the base of the pole in a previously cleared area. Mr. Proios asked about the progress of the three towns in planning for communications towers. It was agreed that this request for a determination of jurisdiction will be placed on the next Commission agenda.

Compatible Growth Area (CGA)

- ! Toussie c/o Kleis / Ridge (Brookhaven) / single family home: determination of jurisdiction
Summary: Ms. Jakobsen introduced this three lot subdivision on the north side of Route 25 in Ridge, in Brookhaven, and explained that Mr. Kleis is seeking to build one house on one of the three lots. One of the other two lots has an existing house, and the clearing on that built lot is in excess of the CGA clearing standards. When the Town granted the subdivision in 1998, the third lot was identified as a possible site for further subdivision.

The Town Planning staff is asking the Commission to review this subdivision, since it appears that the clearance standards cannot be met by the proposed house for Mr. Kleis. Specifically, the Town is asking how to apply the clearing standard to the overall three lot subdivision, and whether the overleaped lot has essentially used all of the clearing allowance for the subdivision. Following a brief discussion, the Commission agreed that this is a Town issue, possibly for the Zoning Board of Appeals.

Core Preservation Area

- ! Gazza / Westhampton (Southampton) / four projects combined:
Home residence office site plan / hardship (hearing held 9/5/01)
Core boundary change request (hearing held 4/25/01)
Agricultural clearing site plans / seven hardships (hearings held 9/5/01)
Agricultural building site plan / hardship (hearing held 9/13/00): finalize Draft EIS scoping

document (positive declaration issued 12/19/01)

Summary: Ms. Jakobsen reported that one additional comment letter has been received on the EIS scoping from the SC Department of Public Works. Mr. Proios urged Mr. Gazza to once again contact the Suffolk County Economic Development Office's airport committee staff regarding the possibility of transferring his proposed projects to the CGA portion of the County airport across County Road 31 from his property. A discussion followed regarding the County's space management efforts for the airport CGA site, the Town's review of that portion of the airport site's industrial uses, and the question of whether the Draft EIS for the current sites will be done by the Commission or by Mr. Gazza.

The following two items are partly within the CGA:

- ! Islander East Pipeline / Brookhaven: receipt of Draft EIS; comments (Commission is an intervenor with FERC; not an application to the Commission; comments due 5/19)
Summary: Ms. Jakobsen distributed the attached letter from the FERC web site which was written by a private citizen, Mr. Jerry Shaw, to FERC questioning the fundamental need for the Islander East pipeline. She also distributed the attached news clipping regarding Connecticut's legislative actions with respect to this pipeline. She noted that comments are due on the EIS to FERC by 5/19/02, and that two meetings, one in NY and one in Connecticut, are scheduled on that document.

Mr. Rigano reported that he has received the attached letter from Mr. Joseph Reinemann of Islander East proposing directional drilling under portions of the Core area upland forests, in addition to the already proposed directional drilling under water bodies. Mr. Cowen stated that the water quality certification application currently pending before the NYS DEC does propose directional drilling under the Carmans River, but retains the backup option of open trenching for crossing the river.

- ! Iroquois Pipeline / Brookhaven: Draft EIS scope; comments (Commission is an intervenor with FERC; not an application to the Commission; comments due 4/12)
Summary: Ms. Carter noted that this project should be examined in light of the known proposals by Islander East, and that the impacts of both projects being simultaneously built should be examined by FERC. A discussion ensued regarding the length of the underground runs that are involved in directional drilling, the compatibility and adjacency of the two pipelines, how much route sharing is feasible between the two projects, the sources of the gas that the pipelines will transmit, and the destinations of the gas product. It was agreed that the Commission will recommend that Iroquois consider the Islander East activities, and a brief discussion ensued as to whether FERC will consider or require such an analysis.

Compatible Growth Area (CGA)

- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: request for decision extension; receipt of Draft EIS; comments; possible extension of decision deadline (hearing held 10/17/01; decision deadline is today; Town hearing held 4/22; comments on DEIS due 5/13)
Summary: Ms. Jakobsen reported that the Commission has received an EIS on this project, as well as a request (attached) from the project sponsor's representative to extend the Commission's decision deadline to the last Commission meeting in May, which would be 5/22/02.

*A discussion ensued regarding the possibility of extending the deadline until Brookhaven Town finishes the SEQRA process, and of the proposed amendments to ECL 57 which would address timing problems between ECL Article 8 (SEQRA) and Article 57. **A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to agree to an extension of the Commission's decision deadline for this project to the 5/22/02 Commission meeting. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Ms. Prusinowski.***

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction by Commission: recent Town decision; status (*jurisdiction asserted 5/16/01; decision deadline is 6/1; no application received*)
Summary: Ms. Jakobsen reported that no application has been received for this assertion of jurisdiction project. She also noted that Brookhaven Town has issued a negative declaration for the zone change from A1 Residence to PRC, and that the Town Board has approved the project sponsor's request for a zone change conditioned upon several items, one of which is the approval of the project by the Commission or the issuance of a determination of nonjurisdiction by the Commission. A discussion then ensued regarding lead agency status, a SEQRA negative declaration, coordination with the Town's actions, and the Commission non-involvement in the zone change review and approval.

Mr. Daniel Morris of the Open Space Council stated that he believes that once the site plan application is before the Town Planning Board, the Commission could reestablish lead agency status. He also observed that the project does not comply with the Central Pine Barrens Plan, and that he believes that the Commission is obligated to support the production of a Generic EIS on this matter.

A discussion then followed regarding the overall impact of the zone change, the building patterns within this area of the CGA, and the Town zoning there.

Closed Advisory Session

Summary: **A motion was made by Mr. Murphree and seconded by Mr. MacLellan 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 5:30 pm to 7:20 pm.**

Adjournment

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

Attachments (in order of discussion):

1. Sign in sheets (4/10/02; 6 pages)
2. Speaker sheet (4/10/02; 1 page)
3. Agreement to prevent clearing at the Brookhaven Town shooting facility (4/2/02; 2 pages)
4. Letter from Mr. Re regarding Sprint Spectrum Manorville project (4/2/02; 3 pages)
5. Letter from Mr. Shaw to FERC re Islander East pipeline (2/28/02; 9 pages)
6. News article regarding Islander East and Iroquois pipelines (undated; 1 page)
7. Letter from Mr. Reinemann of Islander East to Mr. Rigano (3/25/02; 3 pages)
8. Letter from Mr. Voorhis to Ms. Jakobsen re Brookhaven Town Center (4/5/02; 1 page)

Commission Meeting Summary (FINAL)
for Wednesday, May 8, 2002 (Approved 5/22/02)
Commission Office; 3525 Sunrise Highway, 2nd Floor
Great River, NY; 2:00 pm



Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski and Ms. Compitello (for Brookhaven; Ms. Prusinowski voting), Mr. MacLellan (for Riverhead), Mr. Murphree (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Rizzo and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), and Capt. Conklin (from the NYS Forest Rangers, Vice Chair of the Wildfire Task Force, and member of the Law Enforcement Council). Additional attendees are shown on the attached sign-in sheet.

Robert J. Gaffney
Chair

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

Ray E. Cowen
Member

Patrick A. Heaney
Member

Public Comment

Robert F. Kozakiewicz
Member

Summary: The first speaker was Mr. Joseph Gazza, representing himself. He submitted the attached correspondence regarding two parcels of land that he owns at the southwest corner of Sunrise Highway and County Road 31 in Westhampton, Southampton Town (Suffolk County Tax Map numbers 900-247-1-2 and 4.1). He explained that he has received an expression of interest from Verizon Wireless about the possibility of constructing a communications tower or monopole on this site, and Mr. Gazza is asking the Commission for an opinion on the acceptability of this.

John Jay LaValle
Member

He then introduced Mr. Robert Monteleone, an attorney representing Verizon, who explained that the project would likely be 100 feet high; would require a 25 foot deep foundation in an area with a water table approximately 90 feet below grade; and would involve a shelter for equipment at the base of the tower.

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Mr. Proios raised the question of whether any government agencies would collocate on the tower, and Mr. Monteleone said that question has not arisen, but that other carriers could collocate on the structure. Mr. Murphree noted that this project has not been seen by the Town yet. Mr. Richard Amper of the LI Pine Barrens Society asked whether towers such as this belong in the core area of the pine barrens. Mr. Proios stated that an update is needed on the three Towns' planning efforts for communications towers.

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The second speaker was Ms. Lorraine Dittko, representing the Open Space Council (OSC). She read the attached statement opposing the Eastport Senior Living project, in place of Ms. Marilyn England, President of the OSC, who was not present today. The OSC is urging the Commission to not approve the project, and raises several planning

objections in their statement.

Mr. Proios then asked the Commission staff to request from the three towns a list of projects for which Pine Barrens Credits are being required. A brief discussion then occurred regarding the impact that zone changes of this type could have upon the pine barrens area, and whether they are compatible with the pine barrens statute's goals.

Administrative

! Recent court decision (*not on the original agenda*)

Summary: Mr. Rigano reported that the Commission and several other defendants received a favorable decision yesterday in a lawsuit filed in Albany State Supreme Court by a group of landowners. The decision dismisses the case. Mr. Rigano provided copies of the decision.

Core Preservation Area

! Firemen's Park (LI Shooting Range; Fireman's Museum) / Ridge (Brookhaven): status (*from 4/10*)

Summary: Mr. Robert Chartuk, the Commissioner of Parks and Recreation for Brookhaven Town, was present and read the attached statement regarding that portion of the Town owned Fireman's Park that is used for the Brookhaven Town Volunteer Fire Fighters Museum and for fire training and practice. He described the origin of the property, its military history, the current uses including the museum, ball fields, and practice areas, the charter (see attached materials) for the museum, the need for expansion of the museum, the willingness of the Town to remove dumped materials from the park and to undertake reforestation where necessary, the attached sketch plan of the museum buildings (both existing and planned), and an aerial photo of the site.

Ms. Compitello observed that the current work at the museum might be viewed as an expansion of an existing recreational use, and the conditions under which the federal government provided the property to the State, which provided it to the Town. She stated that an argument could be made that the museum work could be deemed nondevelopment under the pine barrens law.

A discussion ensued regarding the bathroom facilities, camping areas, and the holding tanks for septic waste that are planned for the area near the museum; the dates on which the various buildings were first discussed in the Town or on which construction started; the holdings of the museum, including the displays of fire fighting apparatus; the attached documents regarding the museum which were supplied by one of the museum volunteers attending the meeting; the exact name of the private museum group (Brookhaven Town Volunteer Fire Fighters Museum) and its charter; the plans to place and dedicate a monument and reflecting pool in the vicinity of the museum in an already cleared area as a tribute to the victims of the 9/11/01 terrorist attack; the need to have the Commission review that specific action quickly due to the intended dedication of the monument site this Memorial Day, and the specifics of that project.

After a brief discussion, a motion was made by Mr. MacLellan and seconded by Mr. Murphree to determine that this memorial project is not within the jurisdiction of the Commission, without prejudice to the Commission's future review of the other activities and projects at Fireman's Park, pursuant to NY ECL Article 57-0107(13)(i). The motion was approved by a 5-0 vote.

The discussion then turned towards the Long Island Shooting Range portion of Firemen's Park. Ms. Compitello outlined several elements of the draft settlement upon which the Town and the franchise operator have been negotiating. Some of those components include: a \$25,000 cash donation to the Town's Joseph Macchia Environmental Trust Fund; the revegetation of approximately 11 to 15 acres of land; the planting of vegetation starting in the Fall of 2002, with the planting to be completed by the Fall of 2003; the extension of the existing lead recovery system; the requirement that the operator comply with Suffolk County Health Department and NYS DEC requirements regarding lead contamination; a performance bond; the creation of a Citizens Advisory Committee; and the hiring of an outside expert on noise abatement. A discussion then occurred regarding the clearing that occurred on the State parkland to the south for a new archery course in the woods, and Ms. Compitello stated that was a separate issue and was being addressed independently. She noted that the portion of the Town land that was cleared in the construction of that archery course was not a part of the proposed settlement that she was outlining today for the main part of the shooting range.

Mr. Amper then stated that months have gone by, that the Town is asserting nonjurisdiction of the Commission over Town lands; that there have been lawsuits already decided regarding clearing in the Core area; that permits are needed; that buildings have not been taken down, and that someone should hold the Town accountable. Mr. Walter Olsen of the Civil Property Rights Associates stated that the public was sold the idea that the pine barrens area was for the public to use and that opportunities would be created for sportsmen. He stated that it appears to him that the Pine Barrens Society is looking to exclude those people, and that Mr. Amper is saying one thing when the sportsmen are present in a meeting, and another when they are not. He stated that Brookhaven Town needs to do what is necessary to run this facility in an orderly fashion.

Compatible Growth Area (CGA)

- ! Spring Meadow / Wading River (Brookhaven) / residential subdivision / Assertion of Jurisdiction: public hearing (*jurisdiction asserted 3/20; decision deadline is 7/18*)
Summary: *The attached letter from Mr. David Sloane, an attorney representing this project's sponsor, was distributed prior to the hearing. A separate stenographic transcript exists for the actual hearing.*

Plan Implementation

- ! Wildfire Task Force: New York Wildfire and Incident Management Academy, current fire situation: update (*not on the original agenda*)
Summary: *Capt. Conklin reported that 200 copies of the survey of course interest were mailed and 60 have been returned. At present, there are plans to offer 21 courses this fall at the 2002 Academy, and that the full course brochure will be produced next.*

Capt. Conklin also reported that the Helicopter Firefighting Awareness Training Day at Gabreski Airport, scheduled for 5/11/02, has been canceled due to an insufficient preregistration. He also noted that field conditions are very dry.

The US Forest Service is looking at numerous areas in the eastern part of the country for possible staging areas for fixed wing firefighting aircraft. He noted that US Forest Service personnel are looking specifically at the Islip, Westhampton (Gabreski), and Calverton airports for this purpose. This is not a definite promise that such aircraft will actually be

stationed at any of these sites, but rather a survey to determine suitability. A brief discussion ensued regarding the relative strengths of these airports for such a purpose.

Mr. Proios then commented that the standards and procedures to be utilized in the operation of the 2002 Academy are to be written by the Suffolk County Water Authority legal staff, and that they will work with the Academy Executive Board to do this.

Capt. Conklin left at this point.

Compatible Growth Area (CGA)

- ! Brookhaven National Laboratory / Upton (Brookhaven) / environmental remediation work: presentation and discussion (from 4/10 meeting; Lab representative to attend)
Summary: Mr. Michael McCann, an attorney for the Lab, was present today along with Mr. Robert House of the environmental remediation staff. They discussed the CERCLA (Federal Superfund) groundwater remediation work that the Lab is undertaking on the southern portion of its land, and in several privately held CGA parcels to the south of the Lab. One of those parcels' owners has asked for an assurance that the clearing for roads and well sites that the Lab would undertake on his property would not be counted against any future development proposal that he might wish to put forward.

Mr. Howe showed a large map of the groundwater contamination plumes that the Lab is attempting to pump and treat; noted that their depth can be as much as 200 feet below grade; that the remediation process would treat approximately 100 to 300 gallons per minute; that the private parcel in question is approximately 660 acres; that the Lab intends to revegetate the cleared areas when they are finished; and discussed the time periods in years over which the pump and treat, and the monitoring, wells are likely to operate. A discussion followed regarding the map details, the existing and future wells, the amount of land area that the lab would clear; and the relation of those cleared areas to future clearing calculations in a development project review.

A motion was then by Mr. Cowen and seconded by Mr. Proios to determine that land cleared for purposes of conducting environmental remediation pursuant to NY ECL Article 57-0107(13)(c), immediately after revegetation, shall be considered "natural vegetation", and shall not be considered "cleared" or "previously cleared" land in determining conformance with the vegetation clearance limits in Section 5.3.3.6.1 of the Central Pine Barrens Comprehensive Land Use Plan. The motion was approved by a 5-0 vote. It was agreed that Mr. Rigano will send a letter to Mr. McCann regarding this matter.

Plan Implementation

- ! Protected Lands Council: Co-Chair designation
Summary: **A motion was made by Mr. Cowen and seconded by Mr. Murphree to appoint Mr. Charles Hamilton of the NYS DEC as a Co-Chair of the Protected Lands Council. The motion was approved by a 5-0 vote.**

Compatible Growth Area (CGA)

- ! Toussie - Kleis / Ridge (Brookhaven) / residential subdivision: status (from 4/10 meeting; not

on the original agenda)

Summary: Mr. Rigano discussed the attached letter from Brookhaven Town to Mr. Matthew Kleis regarding the parcels in question, Suffolk County Tax Map numbers 200-291-3-13.2 and 13.3. Mr. Rigano noted that the Commission has received enough materials to schedule a CGA hardship hearing at the next Commission meeting. **A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to schedule a public hearing on this matter for 3:00 pm at the 5/22/02 Commission meeting. The motion was approved by a 5-0 vote.**

Core Preservation Area

- ! Firemen's Park (LI Shooting Range; Fireman's Museum) / Ridge (Brookhaven): status (from 4/10)

Summary: Mr. Cowen asked whether the previously discussed settlement that Brookhaven Town is negotiating with the franchisee contains an admission clause, and Ms. Compitello stated that it does not. A discussion then followed regarding what areas should be revegetated; the discussions at the last Commission meeting; whether the buildings that were built without a permit should be removed; what constitutes a violation of this portion of the ECL; the need for recreation and the references to recreation in the Central Pine Barrens Plan; and the restoration of the actual violation site or an equivalent area.

- ! North Fork Bank / Manorville (Brookhaven) / site plan: determination of jurisdiction; counsel's opinion (materials distributed 3/20)

Summary: Mr. Randolph distributed the attached letter from Ms. Teresa Elkowitz, a consultant for the North Fork Bank, explaining the nature of the work to be performed in the renovation of the former Grace's Restaurant in Manorville, on the east side of County Road 111, south of the LI Expressway. The Commission members agreed that the work as described does not constitute development under the pine barrens law.

- ! Gazza / Westhampton (Southampton) / four projects combined:
 - Home residence office site plan / hardship (hearing held 9/5/01)
 - Core boundary change request (hearing held 4/25/01)
 - Agricultural clearing site plans / 7 hardships (hearings held 9/5/01)
 - Agricultural building site plan / hardship (hearing held 9/13/00):
 - Draft EIS production (pos dec 12/19/01; DEIS scope finalized 4/10)

Summary: Ms. Jakobsen noted that Mr. Gazza has made a verbal request to the Commission to obtain estimates of the cost of producing a Draft EIS for this set of projects, and that there is no time schedule at present. It was agreed that Mr. Gazza's request should be in writing.

The following project is partly within the CGA:

- ! Islander East Pipeline / Brookhaven: Draft EIS comments status; results of 5/7 FERC public meeting (Commission is an intervenor; not an application to Commission; **comments due 5/19**)

Summary: Ms. Jakobsen reported that she attended the public meeting held last night (5/7/02) by the Federal Energy Regulatory Commission (FERC) on this project at Longwood High School, and that approximately 30 to 40 people, including FERC and Islander East staff, attended. She noted that approximately six individuals spoke. The comment deadline on the Draft EIS is 5/20/02, and that she is drafting the Commission comments now. It was noted that the recently proposed directional drilling alternative to uplands clearing is not discussed in the Draft EIS.

Compatible Growth Area (CGA)

- ! IGHL / East Moriches (Brookhaven): correspondence (*not an application to Commission; material to be distributed*)
Summary: The attached correspondence from a local citizen recommending a master planning effort was distributed. The letter focuses specifically upon the proposal by the Independent Group Home Living (IGHL) organization to construct a residential facility in the East Moriches area.

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction by Commission: correspondence (*jurisdiction asserted 5/16/01; decision deadline is 6/1; no application received; material to be distributed*)
Summary: The lack of an application for this assertion of jurisdiction project was discussed, as was the Town's recent approval of the necessary zone change for this project, contingent upon the Commission's approval or determination of nonjurisdiction. The question also arose as to what clearing standards to apply in this change of zone situation, since the standards depend upon the zoning category.

- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: Draft EIS comments (*hearing held 10/17/01; decision deadline is 5/22*)
Summary: Ms. Jakobsen reported that the Commission's comments upon the Draft Environmental Impact Statement for this project have been submitted to Brookhaven Town. A brief discussion ensued regarding the relationship of the State Environmental Quality Review Act (NY ECL Article 8) and the pine barrens law (NY ECL Article 57), especially with respect to the deadlines for project review imposed by each statute.

Closed Advisory Session

Summary: A motion was made by Mr. Murphree and seconded by Mr. Cowen 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 5:55 pm to 6:24 pm.

Adjournment

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

Attachments (in order of discussion):

1. Sign in sheet (5/8/02; 4 pages)
2. Speaker sheet (5/8/02; 1 page)
3. Letter from J. Gazza re possible Verizon communications tower (5/7/02; 4 pages)
4. Letter from the Open Space Council re Eastport Senior Living (4/27/02; 4 pages)
5. Footprint of buildings for Firemen's Museum (4/8/02; 1 page)
6. Statement by Brookhaven Parks Commissioner Chartuk (undated; 2 pages)
7. Brookhaven Town Volunteer Fire Fighters Museum Provisional Charter (11/20/92; 3 pages)
8. Brookhaven Town Vol. Fire Fighters Museum Franchise Agreement (11/30/94; 12 pages)
9. Brookhaven Town Volunteer Fire Fighters Museum site plan (undated; 8 pages)
10. Aerial photo of Brookhaven Town Firemens Park shooting range (undated; 1 page)
11. Letter from D. Sloane re Spring Meadow (5/3/02; 2 pages)

12. Draft resolution language re BNL remediation clearing (5/8/02; 1 page)
13. Letter from M. Shutka re Kleis residence (5/7/02; 1 page)
14. Letter from T. Elkowitz re North Fork Bank (4/16/02; 2 pages)
15. Letter from J. Clark re IGHL / East Moriches project (5/7/02; 1 page)



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**Commission Meeting Summary (FINAL)
for Wednesday, May 22, 2002 (Approved 7/10/02)
Brookhaven Town Hall, Building 4
3233 Route 112, Medford, NY; 2:00 pm**

Commission members present: Mr. Proios (for Suffolk County), Ms. Wiplush and Ms. Compitello (for Brookhaven), Mr. Murphree (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Rizzo and Mr. Randolph (from the Commission), and Mr. Spitz (from the NYS Department of Environmental Conservation). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:21 pm by Mr. Proios, with Mr. Proios for Suffolk County, Ms. Compitello and Ms. Wiplush for Brookhaven, and Mr. Cowen for NY State present. A quorum was not initially present.

Public Comment

Summary: There were no speakers.

Pine Barrens Credit Program

! Program Status

Summary: Mr. Rizzo reported that the Clearinghouse meeting originally scheduled for 5/29/02 has been canceled, and will be rescheduled, possibly for a date in June.

Mr. Proios stated that he would like to see the Clearinghouse make another solicitation to purchase Credits from all landowners with small lots. It was agreed that this suggestion will be brought to the Clearinghouse Board.

Mr. Corwin noted that the Commission staff is trying to contact the Towns' planning staffs to start receiving copies of Town development approvals that incorporate Credits as a requirement or as an option. This is a follow up to a request made at the last Commission meeting.

Core Preservation Area

! Suffolk Community College Eastern Campus / Eastport (Southampton) / sewage treatment plant: correspondence

Summary: Mr. Randolph distributed, and read portions of, the attached letter from Mr. Jon DeMaio of Suffolk Community College describing the upcoming construction work for the sewage treatment plant renovations. A brief discussion ensued regarding the history of this project, including the Commission's prior discussions; the lack of sufficient sewage flow into the original plant that was causing it to not function as well as it should; the prior suggestion by Mr. Walter Olsen of Civil Property Rights

Associates, who noted that he had suggested trucking excess sewage from the Riverhead sewage treatment facility to the College facility; and the possible reasons why that might not be attempted, including the need for pretreatment if such waste were to be imported from another facility such as Riverhead's.

Mr. Murphree arrived during the following item, and a four member quorum was present for the remainder of the meeting.

The following project is partly within the CGA:

! Keyspan / Brookhaven / LIE gas main: correspondence

Summary: Mr. Corwin distributed the attached two letters from Mr. Steve Dalton and Mr. David Manning of KeySpan. Mr. Rigano then summarized the prior history of this gas main project along the Long Island Expressway (LIE), noting that the Commission has previously determined that the portion of the project within the CGA is not considered "development" under the pine barrens law, whereas that portion which is planned for the Core area requires a Core hardship permit from the Commission. He noted that he and members of the Commission staff attended a meeting with several Keyspan staff members last year to discuss this. The attached letters discuss the possibility of moving the upcoming sections of the gas main to a location closer to the main portion of the LIE, which requires permission from the Federal Highway Administration. After a brief discussion regarding the clearing that might still be involved in the new location, it was agreed that a letter will be sent to Keyspan reiterating the Commission's prior position regarding the gas main.

Administrative

! Meeting summaries for 4/10, 5/8: review, approval

Summary: The following change was made to the draft 4/10/02 meeting summary: under Public Comment, the description of Mr. Amper's comments should include his remarks upon the contents of the lease agreement. **A motion was made by Mr. Cowen and seconded by Mr. Murphree to approve the summary of the 4/10/02 Commission meeting with these changes. The motion was approved by a 4-0 vote.**

The following changes were made to the draft 5/8/02 meeting summary: (1) under the Firemen's Park section, the second paragraph's last sentence should read: "She stated that an argument could be made that the museum work could be deemed nondevelopment under the pine barrens law."; (2) in the same section, the fifth paragraph's third sentence should begin as follows: "Some of those components include: a \$25,000 cash donation to the Town's Joseph Macchia Environmental Trust Fund, ..."; (3) later in that same sentence, the phrase: "a provision regarding the movement of materials on site;" should be deleted; and (4) under the Eastport Senior Living section, the first sentence should start as follows: "The lack of an application for this assertion of jurisdiction ...".

A motion was made by Mr. Cowen and seconded by Mr. Murphree to approve the summary of the 5/8/02 Commission meeting with these changes. The motion was approved by a 4-0 vote.

Core Preservation Area

! Suffolk Community College / Eastport (Southampton) / sewage treatment plant:

correspondence

Summary: A further discussion occurred regarding the alterations to the Suffolk Community College Eastern Campus' sewage treatment plant, including the possible reasons why trucking in additional sewage to the existing plant might not solve the plant's problem of operating under capacity and the need for pretreatment of waste that is trucked into a plant.

Core Preservation Area

- ! Firemen's Park - LI Shooting Range / Ridge (Brookhaven): status (from 5/8)

Summary: Ms. Compitello reported that active negotiations had been occurring between the Town and the shooting range operator, but that no resolution had yet been reached and the Town would have to take this matter to the next step. She reported that the Town Supervisor has been involved, and that he is speaking with the Town Board. She also noted that any future litigation by the Town needs to be approved by the Town Board. Mr. Cowen stated that he felt that the Commission should take some action if this matter is not otherwise resolved by the next Commission meeting.

Mr. Richard Amper of the LI Pine Barrens Society stated that he is not comfortable with the Town's stand on this matter, that there has not been any acknowledgment of wrongdoing, and that there is no assurance regarding the avoidance of future problems. Ms. Compitello described some of the possible aspects of any potential litigation, and noted the difficulty of the negotiation process and the lengthy amount of time required to review the records pertaining to this issue. Mr. Amper stated that, to his knowledge, there has been no acknowledgment by the Town of the Commission's jurisdiction in this matter.

He then requested that the designated representatives of the Commissioners try to have their actual Commissioners present at the Commission meetings to discuss this, stating that they need to address this issue. He stated that he feels that this is an egregious violation of the pine barrens act, and that the Commission has not done anything about it for the past five meetings. Mr. Proios then described some of the work that has been done and the people involved, and expressed the hope that a positive resolution will be achieved by the next meeting. Mr. Amper stated that he is unable to provide an assurance to his board, and that he believes that the State Attorney General will act on this matter if he is asked to do so.

Mr. Henry Dittmer of the Civil Property Rights Associates then asked about the clearing that occurred on State parklands, and Mr. Proios stated that the NYS Office of Parks is handling that matter.

Administrative

- ! Draft Commission meeting schedule: review, approval

Summary: The attached draft list of Commission meeting dates for the remainder of 2002 (previously faxed) was discussed, and it was agreed to omit the 8/21/02 meeting date due to conflicts. **A motion was made by Mr. Cowen and seconded by Mr. Murphree to approve the attached meeting schedule, with the omission of the proposed 8/21/02 date. The motion was approved by a 4-0 vote.** The Commission staff will determine the meeting locations next.

Core Preservation Area

- ! Firemen's Park - Firefighters' Museum / Ridge (Brookhaven): status; results of visit to Museum site (from 5/8)

Summary: Ms. Jakobsen and Mr. Randolph reported on their 5/16/02 field visit to the Brookhaven Town Volunteer Fire Fighters Museum site (within the larger Brookhaven Town Fireman's Park), and Mr. Randolph distributed the attached written summary. He Also provided photographs of the museum and vicinity taken during the field visit, showing the buildings, and the 9/11/01 memorial fountain and pool.

A discussion ensued regarding the cleared area in which the museum is being built, and the attending firefighters stated that this area has not been cleared since 1991, and explained that the piles of sand noted during the field visit originated from the excavation for the museum building. The presence of a fuel tank was also discussed briefly, with the firefighters stating that it is a 550 gallon tank for heating fuel, and Mr. Proios explaining the applicability of the Suffolk County Health Department's regulations regarding the tank and containment of any spills.

Also noted during the discussion were the training area and the camping area northeast of the museum site, and the plans for sewage holding tanks for the camping area. At this point, the aerial photographs from 1999 and 2002 of the site were discussed, with attention focused upon the camping area clearing. Ms. Compitello noted that this cleared area was previously reported to the Commission. Also noted was the concession building near the training area, and the attending firefighters stated that it was placed upon the site of an older concession building.

A discussion then followed regarding the cleared portions of the camping area; the date at which that clearing might have been done; and who may have been responsible for it, including the possibility that Town workers might have done some of the clearing. Mr. Cowen then noted that the Commission needs to decide whether this project is exempt, and to process a hardship application if that proves necessary. Mr. Amper urged the Commission not to find that the work is "nondevelopment" under the pine barrens law.

Closed Advisory Session

Summary: **A motion was made by Mr. Cowen and seconded by Mr. Murphree 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 3:20 pm to 3:54 pm.**

Core Preservation Area

- ! Firemen's Park - Firefighters' Museum / Ridge (Brookhaven): continuation

Summary: **A motion was made by Mr. Cowen and seconded by Mr. Murphree to schedule a hearing on the Brookhaven Volunteer Fire Fighters Museum project for the 6/12/02 Commission meeting at 3:00 pm, in anticipation of receiving an application for this project. A brief discussion ensued regarding whether the application would be filed by the Town or the Museum. The motion was then approved by a 3-0-1 vote, with the abstaining vote cast by Ms. Wiplush. Mr. Proios then noted that the Commission will need an accurate depiction of the project site, although it was agreed that the Museum does not necessarily have to produce a formal, engineer approved site plan. It was agreed that the submittal must have sufficient detail**

to enable the Commission to review the project.

A discussion then occurred regarding the amount of detail that would be required; the preparation of the application and the associated drawings; the provisions of the pine barrens law regarding extraordinary hardships; who will prepare the application; the work done at the site already; the additional work that is anticipated at the site; the distribution of copies of the application to the Commission and other interested individuals; and whether any work can be done at this time.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / gasoline station and convenience store site plan and zone change / hardship: extension request (hearing held 11/7/01; decision deadline is today)
Summary: Ms. Carter summarized the history of this application, and reported that the Commission has received the attached letter from Mr. DeNicola, representing the project sponsor, requesting a delay in the Commission's decision deadline from the current 5/22/02 date to the latest Commission meeting date in July 2002. She explained that the applicant is preparing a Draft Environmental Impact Statement (DEIS). **A motion was made by Mr. Cowen and seconded by Mr. Murphree to agree to this extension to the 7/24/02 Commission meeting. The motion was approved by a 4-0 vote.**

- ! Sprint / Manorville (Brookhaven) / panel antenna installation: determination of jurisdiction; site visit results (from 4/10 meeting)
Summary: Mr. Rizzo summarized this project's prior review by the Commission; explained that it consists of the addition of an antenna and a base equipment cabinet to an existing LI Power Authority pole; showed the site plan submitted with the request; and circulated photographs of the site taken during the field visit. **A motion was made by Ms. Wiplush and seconded by Mr. Cowen to find that the Sprint / Manorville project is not within the jurisdiction of the Commission due to its consistency with the LI Pine Barrens Protection Act, that there is no new tower, and that no clearing is required. The Commission specifically cited Section 57-0107(13)(vi). Mr. Rigano suggested that the the letter and diagrams from Sprint for this project be attached to this resolution of the Commission. The motion was approved by a 4-0 vote.**

- ! New electric utility poles: discussion (not on the original agenda)
Summary: Mr. Proios noted that new and larger electric poles have been appearing on rights of way in Suffolk County. A discussion ensued regarding their height; what agency would be charged with reviewing them; the relationship between NY ECL Article 57 and the NY State Public Service Commission law; the provisions of the pine barrens law that refer to consistency with the goals and objectives of that statute; and the impacts of power plants with respect to additional poles and lines.

- ! Gazza / Westhampton (Southampton) / four projects combined:
Home residence office site plan / hardship (hearing held 9/5/01)
Core boundary change request (hearing held 4/25/01)
Agricultural clearing site plans / 7 hardships (hearings held 9/5/01)
Agricultural building site plan / hardship (hearing held 9/13/00):
Draft EIS production (pos dec 12/19/01; DEIS scope finalized 4/10)
Summary: A brief discussion occurred regarding the applicant's desire to get cost estimates first for the DEIS, and the SEQRA regulations' requirement that the applicant decide whether he wishes to produce an EIS. After a brief discussion, it was agreed that

the Commission staff will request the applicant to first decide whether he wants to produce the EIS or have the Commission do the work.

The following two projects are partly within the CGA:

- ! Islander East Pipeline / Brookhaven: status (*intervenor status; no application*)
Summary: Ms. Jakobsen reported that the Commission's comments have been submitted to the Federal Energy Regulatory Commission (FERC), and that copies are available. Mr. Rigano then reported that the NYS DEC recently sent a letter stating that the required state water quality certification for this project will likely be denied unless the application is modified to contain only directional drilling under the Carmans River.

- ! Iroquois Pipeline / Brookhaven: status (*intervenor status; no application*)
Summary: Ms. Carter distributed the attached FERC questionnaire and Iroquois responses. A discussion followed regarding the statistics within there regarding the land area to be cleared within the Core Preservation and Compatible Growth Areas; the responses to FERC's question regarding whether Iroquois will analyze the cumulative impacts of their project combined with those of the previously filed Islander East project, and Iroquois' response that they cannot do that analysis; the lack of a DEIS on this project; the Iroquois statement that only one eastern Long Island pipeline will be constructed; and the use of biocides in water testing and their discharge.

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction by Commission: extension request (*jurisdiction asserted 5/16/01; decision deadline is 6/1/02; no application received*)
Summary: Ms. Jakobsen noted that the Commission has received the attached letter from Mr. Arnesen, representing this project's sponsor, requesting a delay in the Commission's decision deadline from the current 6/1/02 date to 8/30/02. A discussion occurred regarding the assertion of jurisdiction process; the provisions of the Pine Barrens Plan regarding assertions of jurisdiction; and Mr. Rigano's discussions with the project sponsors' representatives.

A motion was then made by Mr. Cowen and seconded by Mr. Murphree to agree to this extension. Mr. Amper of the LI Pine Barrens Society then commented that several such projects are pending within the CGA. He also commented upon the lack of a provision in the Plan to rescind assertions of jurisdiction; the reductions in the number of units that have occurred; whether a downzoning is considered "development" under the pine barrens law; whether the Commission is interested in looking at the pattern of downzonings that are occurring or that are proposed; whether that pattern is compatible with the Generic EIS that was produced for the Plan; the cumulative impact of Planned Retirement Community rezonings; the four PRC rezonings in the area of this project; and whether the Plan's standards and guidelines that apply to such a project are based upon the original or new zoning category. The motion was then approved by a 4-0 vote.

- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: extension request (*hearing held 10/17/01; decision deadline is today*)
Summary: Ms. Jakobsen reported that the Commission has received the attached letter from Mr. Voorhis, representing this project's sponsor, requesting a delay in the

Commission's decision deadline from the current 5/22/02 date to the latest Commission meeting date in July 2002. **A motion was made by Mr. Cowen and seconded by Mr. Murphree to agree to this extension to the 7/24/02 Commission meeting. The motion was approved by a 4-0 vote.**

- ! Spring Meadow / Wading River (Brookhaven) / residential subdivision / Assertion of Jurisdiction: status (*jurisdiction asserted 3/20; hearing held 5/8; decision deadline is 7/18; no application received*)
Summary: Ms. Carter distributed copies of the attached Spring Meadow resolutions recently received from Brookhaven Town regarding this project, which were requested at the last Commission meeting. Mr. Rigano then suggested that he and the Commission staff be prepared at the next Commission meeting to review this project and the Commission's processing of it to date, with a decision to be made by the Commission at the next meeting after that.

Mr. Rigano also reported that he spoke with this project's representative, and was told by him that the land which was formerly part of this project, and which is now owned by Suffolk County, was donated. The applicant has also requested that the Commission designate specific standards and guidelines which apply to this assertion of jurisdiction. A discussion ensued regarding that topic, as well as the acreage totals for this project. **A motion was then made by Mr. Murphree and seconded by Mr. Cowen to amend the 3/20/02 assertion of jurisdiction to reflect that the following Plan standards and guidelines in Chapter 5 will be applied to the Spring Meadow project: 5.3.3.1, 5.3.3.4, 5.3.3.5, 5.3.3.6, and 5.3.3.9. The motion was approved by a 3-0-1 vote, with the abstaining vote cast by Ms. Compitello.**

Closed Advisory Session

Summary: **A motion was made by Mr. Cowen and seconded by Mr. Murphree 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 5:11 pm to 5:42 pm.**

Adjournment

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

Attachments (in order of discussion):

1. Attendance sheets (5/22/02; 2 pages)
2. Speaker sign in sheet (5/22/02; 1 page)
3. Letter from Mr. DeMaio re the SCC sewage treatment plant work (5/25/02; 2 pages)
4. Letters from KeySpan re LIE gas main work (5/10/02; 4 pages)
5. Draft Commission meeting schedule (undated; 1 page)
6. Summary of 5/16/02 Field Visit to Fireman's Park (undated; 2 pages)
7. Letter from Mr. Voorhis re decision extension for Amerada Hess (5/21/02; 1 page)
8. Letter from Ms. Nocco re Sprint project (5/15/02; 1 page)
9. Iroquois responses to FERC Information Requests (4/23/02; 10 pages)
10. Letter from Mr. Arnesen re decision extension for Eastport Senior Living (5/14/02; 1 page)
11. Letter from Mr. Voorhis re decision extension for Brookhaven Town Center (5/16/02; 1 page)
12. Chain of title for Spring Meadow property (5/21/02; 4 pages)
13. Spring Meadow resolutions from Brookhaven Town (5/17/02; 8 pages)

**Commission Meeting Summary (FINAL)
for Wednesday, June 12, 2002 (Approved 7/10/02)
Suffolk County Park Police & Pine Barrens Center,
Southaven County Park, Victory Ave, Yaphank; 2:00 pm**



**CENTRAL
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COMMISSION

Commission members present: Mr. Proios (for Suffolk County), Ms. Compitello (for Brookhaven), Mr. MacLellan (for Riverhead), Mr. Murphree (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Rizzo and Mr. Randolph (from the Commission), and Mr. Spitz (from the NYS Department of Environmental Conservation). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:10 pm by Mr. Proios, with a five member quorum.

Robert J. Gaffney
Chair

Ray E. Cowen
Member

Patrick A. Heaney
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

Public Comment

Summary: The first speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He stated that the Society wishes to review the application for the Firefighters Museum, but that no application was submitted before today's meeting.

The second speaker was Ms. Lorraine Dittko, representing the Manorville - East Moriches Civic Association. She distributed the attached materials regarding several proposed Planned Retirement Community (PRC) projects in the Manorville and East Moriches region, some of which are in the Compatible Growth Area (CGA).

She stated that there are seven PRC projects, including rezonings from other categories, planned for that region, all within approximately five miles of each other. She read the descriptions of these from the attached list, and also referred to that portion of the attachment which describes the recent lifting of a restriction on a PRC project in Port Jefferson (elsewhere in Brookhaven Town) which originally required that residents be of age 55 or older.

A discussion ensued regarding the resident age restriction in projects such as these; the factors that the 1995 generic environmental impact statement (GEIS) for the Pine Barrens Plan examined; the fact that the 1995 analysis looked at the impact of Pine Barrens Credit transfers, rather than the impacts of rezonings such as these; and whether the clearing standards contained within the Plan that apply to CGA sites that are rezoned should be those standards pertaining to the original zoning district or to the new zoning district. It was agreed that the Commission staff will look at the list of PRC projects provided today to determine which are within the CGA and what conditions the Town has imposed on those which have been approved.

A further discussion followed regarding whether these projects have performed, or should perform, a cumulative impact analysis or whether

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they have individually shown that they are compatible with the 1995 Pine Barrens Plan GEIS. The discussion then touched upon the Commission's policy regarding the application of clearing standards to CGA projects which are redeeming Pine Barrens Credits; whether that policy provides any guidance for determining a clearing standard policy for CGA rezonings; and the legal status of CGA projects which have not looked at their compatibility with the 1995 Pine Barrens Plan GEIS.

Plan Implementation

! Advisory Committee memo re enforcement: information item

Summary: Mr. Corwin distributed the attached correspondence from the Chair and Vice Chair of the Pine Barrens Advisory Committee recommending a chapter amendment to the pine barrens law for enforcement and penalties for violations of the law. Their recommendation is based upon their telephone discussions with a majority of the Committee.

Mr. Murphree stated that Southampton Town does not have a position on this law at this time, and that he will need to speak with the Supervisor and the Town Attorney. Mr. Proios noted that the County Executive is in favor of such an amendment. Ms. Compitello noted that while it may be unnecessary to amend the pine barrens law, Brookhaven Town does recognize that there may be a need for larger penalties, possibly in the Environmental Conservation Law (ECL), for violations of the pine barrens act. Ms. Compitello also stated that, while she still needed to discuss this with the Town Board, she believed that based upon past discussions the Town would not necessarily oppose the amendment but would just want it to be clear on its face that the amendment was not intended to override the Town's jurisdiction in this regard. Mr. Proios observed that there is no downside to amending the law, and that only Articles 8 (the State Environmental Quality Review Act) and 57 (the pine barrens law) of the NYS ECL do not have specific penalty provisions.

Mr. MacLellan stated that the enforcement of the pine barrens law was to be placed with the Towns, and that the proposed amendment would take away Towns' rights in this area. Mr. Proios noted that the Commission has pursued enforcement actions several times, and that nothing is being taken away. Mr. Amper stated that he does not recall anyone suggesting that the Towns were to have discretion regarding enforcement in the core area.

Mr. Proios then asked Mr. Rigano to distribute the attached draft of a resolution of support by the Commission for the proposed amendment. The discussion that followed focused upon possible changes to the language of the proposed statutory amendment to address the concerns expressed by the Town representatives; the ability of the Towns to increase penalties for clearing within the core area without proper permits; and the question of who performs enforcement when a Town violates the pine barrens provisions. No action was taken on the attached draft support resolution.

! Protected Lands Council: status of ecological analysis (Bill Patterson, TNC)

Summary: Mr. Patterson, representing the Long Island Chapter of The Nature Conservancy as well as the Protected Lands Council, reported on the Council's almost completed analysis of the ecological habitats within the Central Pine Barrens. He distributed and explained the attached spreadsheet summarizing a portion of the work completed to date which was accomplished under a Conservancy methodology. He explained some of the components of the methodology, including the concepts of

“ecological targets” (of which five were defined for the Central Pine Barrens); “stresses”, “threats”, and “strategies”. He explained that the results are now being placed into a text format by the Council and a Technical Subcommittee. He noted that the largest threat identified by this work is the invasion of nonnative species of plants. Mr. Corwin noted that the Council plans on providing a fuller presentation of their methodology and results in the summer. Mr. Proios asked what factors enable the invasive species to take hold, and Mr. Patterson noted that disturbance and fragmentation are significant ones.

! LI Weed Management Area initiative: introduction (Bill Patterson, TNC)

Summary: Mr. Patterson then spoke about the Conservancy’s sponsorship of Weed Management Areas (WMAs) around the country in partnership with numerous public and private organizations, as well as the local attempts to establish a Weed Management Area for the combined Nassau and Suffolk County portion of Long Island. He cited the example of purple loosestrife, and displayed a potted sample which was purchased locally, as a significant threat to many areas of Long Island. He noted that millions of dollars have been spent on attempts to remove or control this plant which spreads by several seed dispersal mechanisms.

He reviewed the set of informally cooperating organizations, including the Commission staff, which have been discussing the feasibility of establishing the Long Island WMA, and distributed the attached project summary. He noted that the group is attempting to draft a Memorandum of Understanding that all the involved organizations can officially sign, and suggested that the Commission may wish to consider this when it is refined. He noted that the Conservancy is seeking funding from grants to hire a full time coordinator for the proposed LI WMA.

A discussion ensued regarding the setting of criteria for determining native versus nonnative species; a federal Executive Order that exists regarding the use of native plants on federal lands; whether any local governments in the western U.S. have adopted ordinances regarding native and nonnative plants and the existence of “noxious weed” laws in some areas of the western U.S.; the work of the private, nonprofit Invasive Plant Council of NY State; and efforts by various parties to work with the nursery industry on new policies for controlling invasives. Mr. Murphree noted that such work needs to be done on a local, grass roots level, and cited the work of Southampton Town to promote the use of native plants within the Town, such as on highways. Mr. Cowen asked about the seriousness of the phragmites reed as an invasive, and Mr. Patterson replied that it was probably in the top twenty of problem plants.

Core Preservation Area

! Crown Communications / Westhampton (Southampton) / monopole site plan: discussion (materials distributed 12/19/01; from 2/6 meeting)

Summary: Ms. Jacqueline Phillips Murray, an attorney representing Crown Communications, and Mr. Cliff Winter, representing the NYS Department of Transportation (NYS DOT), were present for this discussion. Ms. Murray described the proposed 100 foot monopole which Crown Communications proposes to construct and maintain on the NYS DOT property at the northeast corner of Sunrise Highway and County Road 31, in the Westhampton area of Southampton Town. She summarized the prior discussions with the Commission regarding this project; stated that the NYS Police wish to use the antenna for their communications; stated that this is a State program; and that she is requesting a determination of nonjurisdiction based upon the public utility exemption in the pine barrens law.

Mr. Cowen then observed that the Commission has not yet approved such a facility within the core area. Mr. Murphree asked about the use of the pole by private companies, and Ms. Murray explained that the agreement between Crown and the State agencies is intended to promote colocation, cited a 1993 NYS Court of Appeals case regarding the status of wireless service providers as public utilities, and stated that she believes that this project is exempt pursuant to the NY ECL 57-0107(13)(vi). Mr. Cowen observed that the letter from the State Police reads to him as an expression equivalent to "if you build it, we will use it".

Mr. Rigano then commented upon some of the case law regarding wireless services and facilities; explained that local land use regulations cannot prohibit such facilities completely, and that the Commission has so far only issued determinations of nonjurisdiction for communications towers or poles on sites within the CGA. He posed the question of whether a 100 foot pole is compatible with the goals and objectives of the pine barrens statute; noted that the project sponsor could apply for a core hardship exemption; noted that an EIS may be required; and noted that the Commission has encouraged other, similar projects to locate within the CGA.

Mr. Proios asked about alternate sites, and Ms. Murray noted that the sites are selected along the corridors which the agencies monitor. She noted that Crown is an agent of the State, and that the State will own the facility. Mr. Rigano suggested that the Commission needs information to evaluate whether the project is consistent with the goals and objectives of the statute. Mr. Amper observed that he does not think that State agencies have deliberately targeted the core area, and that some communication is needed with them. Mr. Cowen stated that he has not seen a document stating that the State Police need this pole at this location now to solve a public health and safety problem. Mr. Corwin asked whether there are other sites for similar projects under this Crown-NYS agreement that are within the Central Pine Barrens.

It was agreed that Mr. Rigano will speak with the State Police counsel and the NYS DOT counsel re this matter.

! LI Shooting Range / Firemen's Park / Ridge (Brookhaven): status (from 5/22)

Summary: Ms. Compitello reported that a legal complaint was served on the LI Shooting Range operator this past Monday, and that the complaint seeks the same remedies that were discussed at the last Commission meeting. She also stated that a letter is being sent from Brookhaven Town to the NYS Attorney General explaining that a legal action has been commenced in this matter and asking the Attorney general to join the Town in that action. She also noted that the Town intends to form an advisory committee for this site.

She then summarized some of the specific remedies that the new action seeks: the revegetation of approximately 11 to 15 acres; the extension of the existing lead recovery system; compliance with NYS DEC and Suffolk County Health Department requirements regarding lead; insurance; procurement of certificates of occupancy or certificates of existing use; and unspecified damages. She also noted that the complaint reserves the right to seek the termination of the current franchise agreement for the site.

A motion was then made by Mr. Proios and seconded by Mr. Cowen to request that the NYS Attorney General investigate the matter of clearing in Firemen's Park with respect to the LI Shooting Range. In the ensuing discussion, it was noted that this resolution would be in support of Brookhaven Town's current legal action. It was also noted that the Town's complaint does not address the cleared area off the

Town property. Ms. Compitello stated that the Town had already notified State Parks that the Town would revegetate. The discussion then touched upon the contents of the Town's complaint. A second motion was then made by Mr. MacLellan and seconded by Mr. Cowen to table the pending resolution temporarily. The motion to table the pending resolution was approved by a 5-0 vote.

Administrative

- ! Rescheduling start time for 7/10/02 meeting (*not on the original agenda*)

Core Preservation Area

- ! Marshall / Middle Island (Brookhaven) / single family home / hardship: new application; schedule hearing
Summary: Mr. Randolph distributed the attached new core area hardship application from Mr. Harold Marshall for the construction of a single family home on Suffolk County Tax Map parcel 200-481-2-1.1. This 3.9 acre site is located on East Bartlett Road in Middle Island, Brookhaven Town, and is zoned A5 Residence. **A motion was made by Mr. Proios and seconded by Mr. Murphree to (1) reschedule the 7/10/02 Commission meeting start time from 2:00 pm to 12:30 pm, and (2) to schedule a hearing on this new application for that meeting at 2:00 pm. The motion was approved by a 5-0 vote.**

- ! LI Shooting Range / Firemen's Park / Ridge (Brookhaven): continued
Summary: Mr. Amper asked if the shooting range operator will be required to remove what he has constructed improperly. Ms. Compitello stated that he will need to obtain all approvals. Mr. Amper then questioned the reason for reserving the right in the legal action to terminate activities at the range when the Town already has that right. Ms. Compitello responded that she just wanted it to be clear that the Town was not waiving any of its rights in this regard.

- ! Trocchio (Lots 600-146-1-10.5 and 10.11) / Manorville (Brookhaven) / single family home / hardship: new; set hearing

- ! Trocchio (Lot 600-146-1-8) / Manorville (Brookhaven) / lot split, two single family homes / hardship: new; set hearing

Summary: Ms. Jakobsen distributed the attached two new core area hardship applications from the same applicant. Both project sites are located on the south side of Wading River Manor Road, west of Line Road in Manorville.

One site is a 7.6 acre parcel (SCTM number 600-146-1-8) zoned Natural Resource Protection, on which the proposed action involves splitting of the lot into two lots, with one single family home to be constructed on each. The second site consists of two parcels (SCTM numbers 600-146-1-10.11 and 10.15) with a total area of 2.5 acres, zoned Natural Resource Protection, upon which one single family home is being proposed.

A motion was made by Mr. Proios and seconded by Mr. Murphree to schedule a hearing on both of these application for the 7/10/02 meeting at 2:30 pm. The motion was approved by a 5-0 vote.

- ! Gazza / Westhampton (Southampton) / four projects combined:
Home residence office site plan / hardship (*hearing held 9/5/01*)
Core boundary change request (*hearing held 4/25/01*)
Agricultural clearing site plans / 7 hardships (*hearings held 9/5/01*)
Agricultural building site plan / hardship (*hearing held 9/13/00*):
Draft EIS production (*from 5/22; pos dec 2/19/01; DEIS scope 4/10*)
Summary: Ms. Jakobsen reported that a letter has been sent to Mr. Gazza requesting

that he state whether he wants the Commission to prepare the GEIS for these projects, or do that himself. She also reported that Mr. Gazza was in the Commission office earlier today and that he stated then that he has not yet responded to that letter because he is looking at the possibility of withdrawing one of the applications in favor of a new project at that site. The new project would be the possible Verizon communications tower that he discussed with at a recent Commission meeting. Mr. Rigano said that he will speak with Mr. Gazza.

The following project is partly within the CGA:

! Islander East Pipeline / Brookhaven: update (*intervenor; no application*)

Summary: Ms. Jakobsen reported that the Federal Energy Regulatory Commission (FERC) is requiring Islander East to consult with the Commission regarding invasive species management, and that the sponsor will send to the Commission revised plans for the directional drilling in forested areas. A meeting with the stakeholders is planned once the sponsor's invasive species management plan is written.

Mr. Rigano reported that the revised estimates for the forested areas to be cleared under the current directional drilling proposal are 1 acre in the core area and 28 acres in the CGA. He noted that this is down substantially from prior estimates, but stated that he felt that this is still significant, especially for the CGA. He also noted that there has not been any discussion by the sponsor of the purchase or redemption of Pine Barrens Credits for the proposed clearing in the CGA. A brief discussion followed regarding this topic. Ms. Jakobsen then distributed the attached executive order by Connecticut Governor John Rowland requiring a study of pending large scale gas or electric transmission projects.

! LI Shooting Range / Firemen's Park / Ridge (Brookhaven): continued

Summary: Possible changes were discussed to the prior motion regarding this site and the involvement of the Attorney General. It was agreed that the prior motion will be amended as follows. **A motion was made by Mr. Proios and seconded by Mr. Cowen (1) to request that the NYS Attorney General investigate the matter of clearing and development in Firemen's Park, hamlet of Ridge, Town of Brookhaven with respect to the Long Island Shooting Range, and (2) to note that the Commission understands that the Town of Brookhaven has made a request (see attached copy) to the Attorney General with respect to this matter and that the Commission urges the Attorney General to consider both of these requests. The motion was approved by a 5-0 vote.**

Administrative

! Meeting summary for 5/22: review, approval

Summary: It was agreed that this matter will be held until the next Commission meeting.

! Contract renewal with SC Water Authority: review, approval

Summary: Mr. Rigano distributed the attached draft contract between the Commission and the Suffolk County Water Authority for the 2002-03 state fiscal year, and summarized the content. **A motion was then made by Mr. Cowen and seconded by Mr. Proios to approve the contract and to authorize the Commission Chair or his designated representative to sign it on behalf of the Commission. The motion was approved by a 5-0 vote.**

Compatible Growth Area (CGA)

- ! Spring Meadow / Wading River (Brookhaven) / residential subdivision / Assertion of Jurisdiction: status (from 5/22; jurisdiction asserted 3/20; hearing held 5/8; decision deadline is 7/18; no application received)
Summary: Mr. Rigano summarized the history of this residential subdivision project on the south side of NYS Route 25A in Wading River, Brookhaven Town: the decision deadline is currently 7/18/02; several standards and guidelines from the Plan have been designated by the Commission for review of this project; the current version of this proposal involves the creation of 75 lots on 59 acres, which will cause the project to exceed the current zoning; the original version of the project was on a larger 189 acre site (which includes the current 59 acres); that 130 acres of the original 189 acres were purchased by Suffolk County for \$4,500,000; that he has been through Suffolk County Real Estate's file on this site and there is no indication that there was any donation of any of the land to Suffolk County; that an EIS was produced for the original 189 acre site; that a Final Supplemental EIS (FSEIS) was accepted by Brookhaven Town for the project in January 2002; that a 1992 preliminary approval was granted by the Town for the original 189 acre proposal and that expired six months later; that a new Draft EIS was produced and a new approval granted in 1998 for a version of the project involving 165 lots on 189 acres; that 130 of the acres were purchased by Suffolk County in 2001; that the Commission received the FSEIS for the current 59 acre version of the project in February 2002; that the Commission staff then concluded that the 59 acre version of the project does not meet the Plan standards, including the clearing standards, and forwarded a letter to the Town to that effect; and that the Commission then asserted jurisdiction over the project in March 2002.

He also noted that there is currently litigation pending between the sponsor and the Town; that the Commission will have to adopt a findings statement prior to issuing a decision; that he has a May 2002 letter from the sponsor's attorney rejecting the Commission's assertion of jurisdiction based upon the 1992 approval which the sponsor believes places the project outside the Commission's jurisdiction; that the SEQR process is in an advanced stage; and that the FSEIS claims that the project is in compliance with the standards. A brief discussion then occurred regarding the significance of the Town's acceptance of the FSEIS and the Commission's options at this time.

Closed Advisory Session

Summary: **A motion was made by Mr. MacLellan and seconded by Mr. Cowen 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 4:53 pm to 5:18 pm.**

Core Preservation Area

- ! Brookhaven Town Volunteer Fire Fighters' Museum / Firemen's Park / Ridge (Brookhaven): public hearing
Summary: A separate stenographic transcript exists for this item.

Adjournment

Summary: The meeting was adjourned immediately following the closed session at approximately 6:44 pm without a formal adjournment resolution.

Attachments (in order of discussion):

1. Attendance sheet (6/12/02; 2 pages)
2. Speaker sign in sheet (6/12/02; 1 page)
3. Proposed PRCs in the Manorville - East Moriches Area (6/11/02; 4 pages)
4. Memo from Mr. Jones re proposed enforcement legislation (6/7/02; 2 pages)
5. Draft resolution re proposed enforcement legislation (undated; 1 page)
6. Summary of Active Threats (from PLC ecological analysis) (6/11/02; 1 page)
7. Establishment of a LI Weed Management Area Project Summary (undated; 4 pages)
8. Hardship application letter from Ms. Moje for Mr. Marshall (5/15/02; 2 pages)
9. Hardship application letters and attachment from Mr. Trocchio (5/22/02; 3 pages)
10. Connecticut Gov. Rowland Executive Order and attachments (4/12/02; 10 pages)
11. Letter from Supervisor LaValle to Attorney General Spitzer (6/11/02; 3 pages)



**Commission Meeting Summary (FINAL)
for Wednesday, July 10, 2002 (Approved 7/24/02)
Commission Office,
3525 Sunrise Highway, 2nd Floor, Great River
12:30 pm**

Commission members present: Mr. Proios (for Suffolk County), Mr. LaValle, Ms. Prusinowski and Ms. Compitello (for Brookhaven), Mr. MacLellan (for Riverhead), and Mr. Murphree (for Southampton at the point shown).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Rizzo and Mr. Randolph (from the Commission), and Mr. Spitz (from the NYS Department of Environmental Conservation). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 12:40 pm by Mr. Proios, without a quorum initially present. Initially, Mr. Proios, Mr. LaValle (and Ms. Prusinowski and Ms. Compitello), and Mr. MacLellan were present.

Robert J. Gaffney
Chair

Ray E. Cowen
Member

Patrick A. Heaney
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

Public Comment

Summary: Ms. Debra Kuhlmann, a resident of Middle Island representing herself, began to offer comments on the Marshall hardship application on today's agenda, and described the ownership of some of the properties adjacent to the Marshall property. Mr. Proios explained that there would be a stenographer present later in the meeting for that hearing, and Ms. Kuhlmann decided to wait until that time in order to have her comments included in the formal hearing transcript.

Administrative

! Meeting summary for 5/22: changes

Summary: The following changes were made to the draft 5/22/02 meeting summary: (1) under "Commission members present", the phrase "; Ms. Compitello voting" should be deleted; (2) under "Firemen's Park - LI Shooting Range", the first sentence should read: "Ms. Compitello reported that active negotiations had been occurring between the Town and the shooting range operator, but that no resolution had yet been reached and the Town would have to take this matter to the next step."; and (3) the phrase "Fireman's Museum" should be replaced with "Fire Fighters Museum" wherever it appears.

A vote could not be done at this time..

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Pine Barrens Credit Program

! Program status

Summary: Mr. Rizzo reported that the Clearinghouse met on 7/1/02, and that the offer to purchase Credits from landowners in Southampton Town was discussed. The offer will specifically focus upon those

parcels with one Credit or less, and the purchase offer will be \$12,000 per Credit. He also reported that a staff member from the Suffolk County Department of Health Services attended the Clearinghouse meeting and spoke about the Health Department's policy of accepting Pine Barrens Credits in all Suffolk County Towns, provided that the Town Boards of both the sending and receiving Towns agree to the transaction. Mr. Rizzo noted that the next Clearinghouse meeting will be on 9/1/02 at the Commission office.

A discussion then ensued regarding the issuance of another letter to all private property owners in the pine barrens core area to make them aware of the Credit program's willingness to purchase Credits from them. The discussion also touched upon the specifics of the contract between the Commission and the NYS DEC for the initial Clearinghouse funding, and when that money would need to be returned to the NYS DEC's Natural Resources Damages Fund.

Core Preservation Area

- ! Crown Communications / Westhampton (Southampton) / monopole site plan: jurisdiction decision (*materials distributed 12/19/01; from 6/12*)

Summary: Ms. Jacqueline Phillips Murray, an attorney representing Crown Communications, and Mr. Philip Healy, a staff member with the NYS Department of Transportation (NYS DOT), were present at today's meeting. Ms. Murray reviewed some of the history of her interaction with the Commission regarding this request for a determination of nonjurisdiction for a 100 foot monopole communications tower at the NYS DOT maintenance yard located at the northeast corner of NYS Route 27 and County Road 31, in Westhampton in Southampton Town.

She noted that she has sent the attached letter as a follow up to the Commission's 6/12/02 meeting, and described its content. She discussed the condition of the NYS DOT site, and showed several photographs of it. She stated that the proposed monopole would occupy approximately 0.38 acres of the larger site, that the project would not have any measurable impact upon the ecology or hydrology of the area, and that it is consistent with the goals and objectives of the pine barrens act.

Mr. Proios noted that the area is in the dwarf pine plains portion of the Central Pine Barrens, and that the size of the pole would be significant in this area of very small trees. He asked whether the Long Island Power Authority would be eligible to become a signatory to the state agreement that Crown Communications is authorized to implement, and the discussion then turned to the list of current signatories. They include, in part, the Office of General Services, the NYS DEC, the State Emergency Management Office, the Office of Mental Health, and the NYS DOT. The question of whether there are existing towers in the area was then raised. Mr. Spitz noted that the viewshed issue is important here, and that the possibility of alternative locations for the proposed antennas should be examined. Ms. Phillips Murray asked how alternatives are related to the Commission's nonjurisdiction decision.

A discussion then followed regarding the incompleteness of the State Environmental Quality Review Act (SEQRA) procedures for this action; the lack of a determination of significance under SEQRA; whether coordination is required; the desire of the Commission to see additional documentation regarding the SEQRA status of this proposal; the applicability of the public utility exemption in the pine barrens law; whether review of alternatives is required; whether visual effects must be examined; the insufficient height of the existing utility pole on the NYS DOT site for the proposed

equipment; the question as to the sufficiency of the attached 5/22/02 NYS Police letter regarding the necessity of this proposal as formulated; whether there is any alternative to this project at this site; the technical requirements of the equipment to be utilized; the uses of the proposed tower by various parties; whether the whip antenna noted in the NYS Police letter can be placed elsewhere; the differences between Crown Communications' concerns and those of the Commission; whether the Commission is contacting other state agencies regarding the issues posed by this project at this site; and the follow ups to be performed from today's discussion.

- ! LI Shooting Range / Firemen's Park, Ridge (Brookhaven): status (from 6/12)
Summary: Ms. Compitello noted that the LI Shooting Range has until 7/16/02 to respond to the legal papers recently filed by the Town. Mr. Rigano reported that the Attorney General's Office has assigned an individual to look at the issues regarding the LI Shooting Range, and that he has spoken with that person.

Administrative

- ! Meeting summary for 6/12: changes
Summary: The following changes were made to the draft 6/12/02 meeting summary: (1) under "Advisory Committee memo re enforcement", in the second paragraph, the following new sentence should be inserted after the third sentence: "Ms. Compitello also stated that, while she still needed to discuss this with the Town Board, she believed that based upon past discussions the Town would not necessarily oppose the amendment but would just want it to be clear on its face that the amendment was not intended to override the Town's jurisdiction in this regard."; (2) under the first section entitled "LI Shooting Range / Firemen's Park", in the second paragraph, the last sentence should read as follows: "She also noted that the complaint reserves the right to seek the termination of the current franchise agreement for the site."; (3) under the same section, in the third paragraph, the following new sentence should be inserted after the third sentence: "Ms. Compitello stated that the Town had already notified State Parks that the Town would revegetate."; and (4) under the second section entitled "LI Shooting Range / Firemen's Park", a new last sentence should be inserted as follows: " Ms. Compitello responded that she just wanted it to be clear that the Town was not waiving any of its rights in this regard."

A vote could not be done at this time.

Core Preservation Area

- ! Baiata Commercial Site Plan / Manorville (Brookhaven): determination of jurisdiction
Summary: Mr. Rizzo reported that the Commission has received a request for a determination of jurisdiction for a proposed commercial, convenience store site plan for a site on the east side of Raynor Road, south of North Street, and adjacent to the Suffolk County Pine Trail Nature Preserve, in Manorville. He distributed the attached tax map showing the location of the proposal. He explained that the site was also the subject of a 1998 letter from Ms. Plunkett of the Commission staff for a different project (a retail fruit stand) on this property. Brookhaven Town requested that the project sponsor obtain a determination from the Commission for this project, and would not accept the prior letter since the current project is different.

In the discussion that followed, it was noted that the 1998 project proposal would have been built within the footprint of a preexisting foundation determined at that time to still be on the site. It was agreed that the current project sponsor will need to file a core hardship application with the Commission.

- ! Gazza / Westhampton (Southampton) / four projects combined:
 - Home residence office site plan / hardship (*hearing held 9/5/01*)
 - Core boundary change request (*hearing held 4/25/01*)
 - Agricultural clearing site plans / 7 hardships (*hearings held 9/5/01*)
 - Agricultural building site plan / hardship (*hearing held 9/13/00*):
 - Draft EIS production (*from 6/12; pos dec 2/19/01; DEIS scope 4/10*)
 - Summary: *Mr. Rigano reported that he has spoken with Mr. Gazza regarding Mr. Gazza's prior discussion with the Commission about possibly changing the project proposal for one of these sites. Specifically, Mr. Gazza had suggested that a communications monopole tower might be a use he would entertain for one of the parcels currently slated for agricultural clearing. Mr. Rigano stated that he explained to Mr. Gazza that the monopole might be a difficult project to approve. Mr. Rigano reported that Mr. Gazza is going to continue with his current set of projects and will be speaking with the Commission staff regarding them.*

The following project is partly within the Compatible Growth Area:

- ! Islander East Pipeline / Brookhaven: update (*Commission is an intervenor with FERC; not an application*)
 - Summary: *Ms. Jakobsen reported that the Commission has received an invitation to an Islander East sponsored meeting on 7/24/02 to discuss their plan to address the issues of invasive plants and restoration of disturbed lands. She noted that there is currently a draft plan. Mr. Proios stated that the Commission staff should attend to see what the issues are, and that was agreed.*

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction: new correspondence (*jurisdiction asserted 5/16/01; decision deadline is 8/30; no application received*)
 - Summary: *Ms. Jakobsen distributed the attached correspondence from Nelson, Pope and Voorhis, representatives of this project. The letter provides further descriptions of the proposed project, information on its compliance with the Pine Barrens Plan's provisions, and other information. It was noted that this project has a decision deadline of 8/30/02, and the 7/24/02 Commission meeting is currently the last meeting before that deadline.*

Plan Implementation

- ! Wildfire Task Force / NY Wildfire and Incident Management Academy: draft policies and procedures (*not on the original agenda*)
 - Summary: *Mr. Rigano briefly described the origin of the NY Wildfire and Incident Management Academy, its success in attracting students from across the nation, and the need for written policies and procedures to govern its operation. He distributed draft copies of a proposed set of policies and procedures for review by the Commission prior to the next meeting. He noted that the Commission should consider adopting policies and procedures for the Academy at its next meeting in order to be prepared for the upcoming Academy this fall.*

Mr. Proios then discussed the Academy and its efforts getting Long Island firefighters to enroll in the Academy with those firefighters who were in attendance today. Several indicated that they were unaware of the Academy, and Ms. Jakobsen provided them with written materials on it.

Mr. Murphree arrived during the following hearings, and a four member quorum was then present for the remainder of the meeting.

Core Preservation Area

- ! Marshall / Middle Island (Brookhaven) / single family home / hardship (*materials distributed 6/12*)
 - ! Trocchio (Lot 600-146-1-8) / Manorville (Riverhead) / lot split, two single family homes / hardship (*materials distributed 6/12*)
 - ! Trocchio (Lots 600-146-1-10.5 and 10.11) / Manorville (Riverhead) / single family home / hardship (*materials distributed 6/12*)
- Summary: *Separate stenographic transcripts exist for these hearings.*

Closed Advisory Session

Summary: **A motion was made by Mr. Murphree and seconded by Mr. Proios 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 3:47 pm to 4:03 pm.**

Core Preservation Area

- ! Brookhaven Town Volunteer Fire Fighters Museum / Firemen's Park, Ridge (Brookhaven): discussion; possible decision (*hearing held 6/12*)
Summary: *Mr. Randolph described the components of this project, including, in part, the 50 foot by 90 foot maintenance building, the gazebo, the 9/11 memorial (previously determined to be nondevelopment by the Commission), the training area, the lavatory installations and their associated tanks, the playground additions, the camping area (including the camping pads in the oval area), the parking lot and its access road shown on the blueprint, the SEQRA status, the need for Suffolk County Department of Health approval for the holding tanks. A brief discussion ensued regarding the SEQRA status of the project, and specifically whether it is a Type I action.*

Mr. Amper of the LI Pine Barrens Society noted that the parking lot and access road was not in the original version of the project, and asked when the Commission learned of it. Mr. Randolph noted that the revised plan was submitted earlier this week. A discussion then ensued regarding the new aspects of the proposal, and prior reviews by the Commission for the Museum and training site. Ms. Compitello explained that, while the parking lot was in the plan, it was not intended to be part of the application at this time, but due to the fact that less than one half acre of clearing would be required to provide for this parking that would be used by handicapped people and elderly veterans, the Town was asking that the parking lot be considered at this time. The discussion also touched upon the LI Pine Barrens Society's concerns that this decision should be delayed until their Board has had a chance to review the revised proposal; the Town's request to the Museum sponsors to identify everything that they wanted for the site at one time; the desire of the Town to avoid having to come back later and discuss a new aspect of the

project when that could be avoided by documenting everything now; the estimated amount of clearing for the parking lot and the access road; the question of minimum relief; the intent of the facility; whether the decision should be delayed to the next meeting; the attached letter from the LI Pine Barrens Society which was distributed by Mr. Amper; and Supervisor LaValle's offer to stipulate that there will be no further clearing at Firemen's Park as part of a decision. It was agreed that a vote will be taken today on the Museum plan as amended in the most recent documentation received by the Commission, including the parking lot and the access road. Mr. Amper of the LI Pine Barrens Society noted that the Society believes that minimum relief was already afforded to the Town on this site.

A motion was then made by Mr. LaValle and seconded by Mr. MacLellan to issue a negative declaration under SEQRA for this project. The motion was approved by a 4-0 vote.

A second motion was then made by Mr. MacLellan and seconded by Mr. Murphree to approve the core hardship permit for the Fire Fighters Museum project as amended through today, including the parking lot and the access road, and including as part of the decision the formal adoption of Supervisor LaValle's offer that there will be no further clearing at the Town's Firemen's Park property, which includes both the Fire Fighters Museum and training facility and the LI Shooting Range facility. The motion was approved by a 4-0 vote.

Mr. LaValle left during the following item, but a four member quorum remained.

Compatible Growth Area (CGA)

- ! Spring Meadow / Wading River (Brookhaven) / residential subdivision / Assertion of Jurisdiction: decision (from 6/12; jurisdiction asserted 3/20; hearing held 5/8; decision deadline is 7/18; no application received)
Summary: Mr. Rigano summarized the history of this project in the Wading River area of Brookhaven Town, including the following events and facts: the Commission asserted jurisdiction in March 2002 over this CGA project, and a decision is due from the Commission today; the Commission's vote is on whether the project complies with the standards and guidelines specified by the Commission; the hearing by the Commission on this project was held on 6/8/02 and the project sponsor did not appear; the sponsor's attorney sent a letter stating that they are not submitting to the Commission's jurisdiction; the project currently consists of 75 single family homes on 59 acres in an A Residence 1 zoning category; an earlier version of the project was on a larger 189 acre parcel (which includes the current 59 acres); 130 of the 189 original acres were purchased by Suffolk County for \$4.5 million in February 2001; this is a Type 1 project under SEQRA and the Town is the lead agency; a Final Supplemental EIS (FSEIS) was issued in January 2002 and received by the Commission in February 2002; upon receipt and review of the FSEIS, the Commission staff sent a letter to the Town stating that the project may not be in compliance with the CGA standards; and the Town has not yet issued a findings statement.

Mr. Rigano then distributed the attached copy of a portion of the map for the proposed project showing some of the sections into which it was divided, and he discussed those sections, noting that the current project is proposed for the original Section 1 consisting of 59 acres.

Mr. Rigano then stated that the key issue for the Commission is the clearing standard applied to this project, specifically noting that the standard allows for a maximum of 53% of the site to be cleared while the project proposes that 100% of the site be cleared. He also noted that the County has purchased Sections 2 and 3 of the original proposal. He then discussed the fact that he saw no indications in the records of the Suffolk County Real Estate Department that the land acquired by the County was anything other than a normal, full purchase.

Mr. Rigano also noted that the project sponsor has sued the Brookhaven Town Planning Board seeking a decision. He also distributed the attached 2/13/01 letter from the Brookhaven Town Attorney, and the 4/30/92 letter from the Town Planning Board. Mr. Rigano noted that if there were an approval issued prior to 1993 which meets the grandfathering provisions of the pine barrens law, then the project would be excluded from the Commission's jurisdiction, but that there is not. He noted that the project described in the 1992 Planning Board letter is not the same project as the current one and that the current proposal does not meet the Town's current zoning. Mr. Rigano also distributed the attached draft findings statement and the Commissioners reviewed it. A discussion ensued regarding the assertion of jurisdiction provisions of the law and the Plan, the decision deadline; and the provisions regarding default permits.

A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to (1) adopt the attached findings statement pursuant to SEQRA, and (2) deny the CGA permit for the Spring Meadows project based upon the findings statement. The motion was approved by a 3-0-1 vote, with the abstaining vote cast by Ms. Compitello. A discussion then occurred regarding whether this project could be reexamined in the future.

Administrative

- ! Meeting summaries for 5/22, 6/12 as amended: approval
Summary: **A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to approve the 5/22/02 and 6/12/02 meeting summaries with the changes noted earlier. The motion was approved by a 4-0 vote.**

Plan Implementation

- ! Amendments to NY ECL Article 57 re enforcement: discussion (*not on the original agenda*)
Summary: A discussion ensued regarding the possibility that the State Legislature may go back into session, and whether the recently proposed amendment to the pine barrens law regarding enforcement would be addressed at that time. Ms. Compitello noted that Brookhaven Town does not necessarily oppose such an amendment, but that the Town wants any such amendment to make it clear that the provisions stated there are in addition to the Town's existing authority. The discussion touched upon the previous language of the amendment; a proposed modification to that language that would explicitly state that the Town's existing authority remains intact; and the need of law enforcement officers in the field to be able to cite a specific section of a law when issuing tickets.

Adjournment

Summary: **A motion was made by Mr. MacLellan and seconded by Mr. Murphree to**

adjourn the meeting. The motion was approved by a 4-0 vote, and the meeting ended at approximately 5:42 pm.

Attachments (in order of discussion):

1. Attendance sheet (7/10/02; 2 pages)
2. Speaker sign in sheet (7/10/02; 1 page)
3. Letter from Ms. Murray re Crown Communications project (6/25/02; 3 pages)
4. Letter from Mr. White of NYS Police re whip antenna (5/22/02; 1 page)
5. Tax map for area of Baiata site plan jurisdictional inquiry (undated; 1 page)
6. Letter and attachments from Mr. Arnesen re Eastport Senior Living (7/10/02; 11 pages)
7. Letter from Mr. Amper of LI Pine Barrens Society re Firemen's Park (7/10/02; 1 page)
8. Portion of Spring Meadow map showing sections of the project (undated; 1 page)
9. Letter from Ms. Eaderesto of Brookhaven Law Dept. re Spring Meadow (2/13/01; 1 page)
10. Letter from Ms. Bethel of Brookhaven Planning Board re Spring Meadow (4/30/92; 2 pages)
11. Draft Commission findings statement for Spring Meadow project (undated; 12 pages)

**Commission Meeting Summary (FINAL) for
Wednesday, July 24, 2002 (Approved 9/4/02)
Brookhaven Town Hall, Building 4, 3233 Route 112, Medford
2:00 pm**



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

Commission members present: Mr. Proios (for Suffolk County), Ms. Compitello (for Brookhaven), Mr. MacLellan (for Riverhead), Mr. Murphree and Mr. Shea (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Rizzo and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), and Capt. Conklin (from the NYS Forest Rangers, Vice Chair of the Wildfire Task Force, and member of the Law Enforcement Council). Additional attendees are shown on the attached sign-in sheet.

Robert J. Gaffney
Chair

The meeting was called to order at approximately 2:10 pm by Mr. Proios, with a five member quorum.

Ray E. Cowen
Member

Public Comment

Patrick A. Heaney
Member

Summary: The single speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He stated that he has spoken with the Pine Barrens Society Board members regarding the Firemen's Park hardship issued by the Commission. He stated that they are concerned with the issuance of a core hardship permit to a government agency, and that there is a need to make it clear why that is a unique situation. He also stated that the Society Board is concerned with the clearing for the new parking area, and that he has spoken with the Town Supervisor re this. Mr. Amper reported that the placement of any additional parking along the roadway in lieu of clearing would go a long way to ease the Society's concerns.

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

Mr. Amper also reported that he has encouraged the Commission and the other relevant government agencies to speak with each other about the pine barrens act and it's application to the placement of cell towers. He also stated that minimum relief is not applicable to government agencies, and that they are participants in the pine barrens work.

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Administrative

! Meeting summary for 7/10: review, approval

Summary: The following changes were suggested to the 7/10/02 summary: (1) under "Crown Communications", the fourth paragraph's first sentence should read, in part, "the insufficient height of the existing telephone pole ..."; (2) under "Brookhaven Town Volunteer Fire Fighters Museum", the second paragraph should have the following sentence inserted after the existing third sentence: "Ms. Compitello explained that, while the parking lot was in the plan, it was not intended to be part of the application at this time, but due to the fact that less than one half acre of clearing would be required to provide for this parking that would be used

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by handicapped people and elderly veterans, the Town was asking that the parking lot be considered at this time.”; (3) under the same section, the final paragraph’s mention of Mr. Amper’s comments should be moved up to a point before the description of the Commission’s motion; and (4) under “Spring Meadow”, the first paragraph’s date for the Spring Meadow FSEIS issuance should read “January 2002” and the date for the receipt of that document by the Commission should read “February 2002”.

A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to approve the 7/10/02 meeting summary with these changes. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Mr. Cowen. It was agreed that the final version of these minutes will be sent to the Commission members.

Pine Barrens Credit Program

- ! Gazza / Westhampton (Southampton; 900-238-3-17) / credit appeal: set hearing
- ! Gazza / Westhampton (Southampton; 900-240-1-34) / credit appeal: set hearing
- ! Sidrane / Westhampton (Southampton; 900-248-1-128) / credit appeal: set hearing
Summary: Mr. Rizzo reported that three new appeals have been received. It was determined that the two Gazza appeal letters could be handled by staff action, and that the Sidrane appeal letter has not yet been received.

Administrative

- ! Meeting schedule change (not on the original agenda)
Summary: A motion was made by Mr. Cowen and seconded by Mr. MacLellan to cancel the previously scheduled 9/11/02 Commission meeting, and to schedule a new Commission meeting for 9/4/02 at 2:00 pm. The motion was approved by a 5-0 vote.

Pine Barrens Credit Program

- ! Sidrane / Westhampton (Southampton; 900-248-1-128) / credit appeal: set hearing
Summary: A motion was made by Mr. Cowen and seconded by Mr. MacLellan to schedule a hearing on the Sidrane Credit appeal for 3:00 pm at the 9/4/02 Commission meeting, pending receipt of a formal appeal letter from Mr. Sidrane. The motion was approved by a 5-0 vote.

Plan Implementation

- ! Wildfire Task Force / NY Wildfire and Incident Management Academy: draft policies and procedures; review and possible adoption (from 7/10)
Summary: Mr. Rigano distributed the attached version of the proposed policies and procedures for the NY Wildfire and Incident Management Academy. He explained that he, along with Mr. Proios and Mr. Cowen, met with the Board of the Academy, reviewed the draft, and made several changes. Ms. Compitello went through several changes that she would suggest, and they were noted by Mr. Rigano. A discussion ensued regarding the approval of the version today with the changes discussed as an official but interim version to enable the Academy staff to function in accordance with them, and having the Commission adopt a final version of the policies and procedures at its next meeting. A

motion was made by Mr. Cowen and seconded by Mr. MacLellan to adopt the Interim Policies and Procedures for the NY Wildfire and Incident Management Academy. The motion was approved by a 5-0 vote. Mr. Rigano will distribute an updated version of today's handout to the Commissioners and other interested parties.

Mr. Conklin reported that the 2002 Academy brochures have been printed courtesy of the SC Department of Fire, Rescue and Emergency Services and the SC Print Shop; that there are 23 classes scheduled; that the S130/S190 combined course will be offered to SC volunteer firemen free of charge; and described some of the specific courses to be offered.

- ! Wildfire Task Force: updates on current fire conditions (*not on the original agenda*)
Summary: Capt. Conklin reported that there have been several recent wildfires, with the largest to date being approximately 125 acres. He noted that NY State has sent wildfire crews to both Oregon and Colorado, and may send a third crew west next week. Region 1 is losing two rangers and gaining new ranger graduates as well.

- ! Application of Clearing Standards to zone changes: discussion (from 6/12)
Summary: Mr. Rigano summarized this issue which was discussed at prior meetings. A further discussion ensued regarding which zoning category's clearing standard in the Pine Barrens Plan should be applied to projects in the Compatible Growth Area which require a change of zone. Ms. Compitello noted that the Brookhaven Town Code has a specific provision in it which specifies that changes of zone to a commercial zoning district shall utilize the commercial clearing standard, and that this provision was in the set of Town Code changes which the Commission reviewed and approved after the adoption of the 1995 Pine Barrens Plan. Mr. Rigano stated that he will fax a draft resolution for the Commission to consider at its next meeting which will specify the clearing standard to apply in the CGA.

Core Preservation Area

- ! Crown Communications / Westhampton (Southampton) / monopole site plan: jurisdiction inquiry (*materials distributed 12/19/01; from 7/10*)
Summary: Mr. Clifford Winter of the NYS Department of Transportation, and Ms. Jacqueline Phillips - Murray, an attorney representing Crown Communications, were present today. Mr. Rizzo distributed the attached 7/22/02 letter from Mr. Callahan of the NYS Police Headquarters in Albany. The letter discusses the radio coverage that the State Police Troop L officers currently have, and what they would have with the proposed tower. The attached 7/23/02 letter from Mr. Sambuca of the NYS DOT to Mr. Reidell of Crown Communication was also distributed.

Ms. Murray commented upon the radio propagation diagrams attached to the first letter. NYS DOT has requested comments upon the project from the Commission within ten days. Mr. Rigano reported that he has spoken with the NYS Police staff in Albany, and with the NYS DOT staff in Albany. He reported that they were aware of ECL Article 57.

The discussion also touched upon whether there is a contractor currently occupying the NYS DOT site; the poor condition of the site as noted by Mr. Cowen; and the question of alternatives to the proposed project. **A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to determine that the proposed communications tower requires a core hardship permit application. The motion was approved by a 5-0 vote.** Mr. Cowen then noted that there are privately owned alternative sites in the

immediate vicinity of the proposed project site.

Closed Advisory Session

Summary: A motion was made by Mr. Murphree and seconded by Mr. MacLellan 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 3:41 pm to 4:10 pm.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / site plan, zone change / hardship: DEIS status (hearing held 11/7/01; decision due today)
Summary: Ms. Carter reported the receipt of the attached 7/16/02 letter from Mr. Voorhis requesting an extension of the Commission's decision deadline until the last Commission meeting in September 2002. A motion was made by Mr. Cowen and seconded by Mr. MacLellan to accept and approve the decision deadline extension request until the 9/4/02 Commission meeting. The motion was approved by a 5-0 vote.

Ms. Jakobsen distributed the attached draft comments prepared by the Commission staff on the Draft EIS for this project for review by the Commission. Mr. Voorhis, representing the project sponsor, was present and noted that the Draft EIS was submitted on 5/28/02, that the 45 day review period has elapsed, and that he would like to receive the Commission's comments in order to respond to them..

- ! Marshall / Middle Island (Brookhaven) / single family home / hardship: status; close of comment period (hearing held 7/10)
Summary: Mr. Randolph summarized this previously discussed application for a core hardship on a 3.9 acre parcel zoned A5 residence west of Cathedral Pines County Park. Mr. Rigano reported that he has spoken with the applicant and urged him to consider applying for Credits for this property, and that the applicant was interested in that possibility.

- ! Baiata Commercial Site Plan / Manorville (Brookhaven) / new hardship: set hearing (from 7/10)
Summary: Mr. Rizzo reported that the Commission has received a core hardship application for this site on the east side of Raynor Road, south of North Street, and adjacent to the Suffolk County Pine Trail Nature Preserve, in Manorville. This project was discussed at the last Commission meeting, and it was determined at that meeting that a core hardship application should be filed.

A motion was made by Mr. Murphree and seconded by Mr. Cowen to schedule a hearing on this application for 3:00 pm at the 9/4/02 Commission meeting. The motion was approved by a 5-0 vote.

- ! Trocchio (Lot 600-146-1-8) / Manorville (Riverhead) / lot split, two homes / hardship: status; close of comment period (hearing held 7/10)
Summary: Ms. Jakobsen reported that the Commission received the amended survey for this property requested at the hearing on this project, which now shows the existing tree line on the property. The applicant was present today and answered several questions regarding the photographs taken by the Commission staff at the site.

A motion was then made by Mr. Murphree and seconded by Mr. MacLellan to issue a negative declaration on this project. The motion was approved by a 5-0 vote.

A second motion was made by Mr. Murphree and seconded by Ms. Compitello to approve this core hardship application request as per the document entitled "Land Division of Trocchio" as submitted and dated 4/17/02 and 7/15/02. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Mr. Cowen.

- ! Trocchio (Lots 600-146-1-10.5 and 10.11) / Manorville (Riverhead) / one home / hardship: status; close of comment period (*hearing held 7/10*)
Summary: Ms. Jakobsen summarized this application for a single family home. The proposal does not meet Town zoning. An application is pending with the NYS DEC for a Wild, Scenic and Recreational Rivers permit. A discussion ensued regarding the current use of the property, the roadway, the adjacency to a state regulated wetland, economic issues, and the applicability of the Pine Barrens Credit program. **A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to deny the application. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Mr. Cowen.**

- ! Wildwood Park / Northampton (Southampton) / Southampton Town park project: determination of jurisdiction
Summary: Mr. Shea distributed the attached request for a determination of nonjurisdiction for this proposed municipal park project to be located in a previously disturbed and cleared area on the west side on Wildwood Lake, on a parcel owned by the Town, on the east side of County Road 63. He described the specific intent and components of the proposed project, including the parking area, the bathing area, the current condition of the site, the ownership of the parcels affected, the easement with the owners of the adjacent bowling alley, the bathroom facilities, and the revegetation activities. He also described the consistency of the project with the pine barrens law. The following discussion touched upon all of these aspects, including the increase in use of the site that the project would invite.

It was agreed that the project requires a hardship application, and that the Town has provided sufficient materials to permit this to be converted to a core hardship application and allow a hearing to be scheduled. Mr. Shea agreed to that, and a motion was made by Mr. Cowen and seconded by Mr. MacLellan to schedule a hearing on this application for the 9/4/02 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction: extension request (*jurisdiction asserted 5/16/01; current decision deadline is 8/30 (today is last meeting before then); no application submitted; no hearing held*)
Summary: Ms. Jakobsen distributed the attached 7/23/02 letter from Mr. Voorhis requesting an extension of the Commission's decision deadline until the last Commission meeting in September 2002. She also noted that the Town has issued a negative declaration for this project along with a Part 3 Environmental Assessment Form, and that the Town has approved the project with a list of conditions. One of those conditions is that the project receive either an approval or a determination of nonjurisdiction from the Commission.

Mr. David Sloane, the attorney representing the project sponsor, was present and spoke

about the original specifications of this project when the assertion of jurisdiction was issued by the Commission; the revision of the project from 298 to 204 units; the requirements of the Town approval that 40% of the site remain in natural vegetation; and the offer by his client to purchase and preserve approximately 8 acres of naturally vegetated land across County Road 51 from the main project site in order to increase the project's compliance with the clearing requirements. Mr. Chic Voorhis, representing the project sponsor, was also present and spoke about the conceptual site plan for the project, and specifically discussed the use of Pine barrens Credits and the incorporation of the proposed 8 acre donation to the Town, and the effect that these items would have upon the clearing compliance calculations.

A discussion ensued regarding the provision of the Town Code under incentive zoning addressing the use of Pine Barrens Credits in PRC projects. The provision requires that a minimum of one PBC be redeemed for every three PRC units that are proposed in excess of the project site's underlying, original zoning district. The discussion also touched upon the fact that the Commission does not equate the redemption of Credits with the right to clear vegetation. The differences between the use of Credits for additional density, and the preservation of land within a project site in order to meet the applicable clearing requirements were discussed as well.

A motion was then made by Mr. Murphree and seconded by Mr. Cowen to accept and approve the decision deadline extension request until the 9/4/02 Commission meeting. The motion was approved by a 5-0 vote. A second motion was made by Mr. Cowen and seconded by Mr. Murphree to schedule a hearing on the Eastport Senior Living application for the 9/4/02 Commission meeting at 1:00 pm. That motion was approved by a 5-0 vote.

Administrative

- ! Meeting schedule change (not on the original agenda)
Summary: A motion was made by Mr. MacLellan and seconded by Ms. Compitello to change the start time for the 9/4/02 Commission meeting to 12 noon. The motion was approved by a 5-0 vote.

Compatible Growth Area (CGA)

- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: extension request (hearing held 10/17/01; current deadline is today)
Summary: Ms. Jakobsen distributed the attached 7/16/02 letter from Mr. Voorhis requesting an extension of the Commission's decision deadline until the last Commission meeting in September 2002. A brief discussion ensued regarding the specific extension date, then a motion was made by Mr. Cowen and seconded by Ms. Compitello to accept and approve the decision deadline extension request until the 10/23/02 Commission meeting. The motion was approved by a 5-0 vote.

Core Preservation Area

- ! Crown Communications / Westhampton (Southampton) / monopole site plan: jurisdiction inquiry (materials distributed 12/19/01; from 7/10)

Summary: The attached 7/22/02 letter from Mr. Santoli of the NYS DOT Region 10 (Hauppauge) Office was distributed. The letter states that the NYS DOT is the lead agency, serves as a cover letter to several items including an Environmental Assessment Form, and states that the Commission has ten days to provide comments. It was agreed that the Commission staff will write and dispute the lead agency statement in this correspondence.

! Gazza / Westhampton (Southampton) / four projects combined:

Home residence office site plan / hardship (hearing held 9/5/01)

Core boundary change request (hearing held 4/25/01)

Agricultural clearing site plans / 7 hardships (hearings held 9/5/01)

Agricultural building site plan / hardship (hearing held 9/13/00):

Draft EIS production (from 6/12; pos dec 2/19/01; DEIS scope 4/10; not on original agenda)

Summary: Ms. Jakobsen reported that Mr. Gazza sent a letter stating that he cannot decide whether the DEIS should be done by the Commission or himself since he does not know the cost involved. He would like the Commission to get an estimate for the work.

Closed Advisory Session

Summary: **A motion was made by Mr. Murphree and seconded by MacLellan 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 6:07 pm to 6:30 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 (7/24/02; 2 pages)
2. Speaker sign in sheet (7/24/02; 1 page)
3. Draft Academy policies and procedures (7/24/02; 12 pages)
4. Letter from Mr. Callahan of NYS Police re communications tower (7/22/02; 4 pages)
5. Letter from Mr. Sambuca of NYS DOT to Crown Communications (7/23/02; 1 page)
6. Decision extension request for the Hess application (7/16/02; 1 page)
7. Draft Commission staff comments on the Hess Draft EIS (7/22/02; 3 pages)
8. Letter from Southampton Town re Wildwood Park project (7/24/02; 3 pages)
9. Tax map for Wildwood Park project area (undated; 1 page)
10. Decision extension request for the Eastport Senior Living application (7/23/02; 1 page)
11. Decision extension request for the Brookhaven Town Center application (7/16/02; 1 page)
12. Letter from Mr. Santoli of NYS DOT re communications tower (7/22/02; 2 pages)

Commission Meeting Summary (FINAL)
for Wednesday, September 4, 2002 (Approved 10/23/02)
Commission Office, 3525 Sunrise Highway, 2nd Floor, Great River
12:00 noon



Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski and Ms. Compitello (for Brookhaven), Mr. MacLellan (for Riverhead), Mr. Murphree and Mr. Shea (for Southampton; at the times noted) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), and Capt. Conklin (from the NYS Forest Rangers, Vice Chair of the Wildfire Task Force, and member of the Law Enforcement Council). Additional attendees are shown on the attached sign-in sheet.

Robert J. Gaffney
Chair

Ray E. Cowen
Member

Patrick A. Heaney
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 12:23 pm by Mr. Proios, with a five member quorum present consisting of Mr. Proios, Mr. Cowen, Ms. Compitello, Mr. MacLellan, and Mr. Murphree.

Public Comment

Summary: The first speaker was Mr. Douglas Dittko, representing the Manorville - East Moriches Civic Association. He began to read a statement regarding the Eastport Senior Living development proposal on today's agenda, but then decided to wait for the formal public hearing later in the meeting.

The second speaker was Mr. Joseph Gazza, representing himself. He discussed his parcels along County Road 31 in Westhampton; showed a map of the area, including the Suffolk County Gabreski Airport; described a recent Southampton Press article regarding the County's program for leasing portions of the industrial Planned Development District within the CGA portion of Gabreski Airport; stated that he was rejected by the County's Airport Lease Screening Committee, while other applicants have been accepted; stated that he has offered various options to the Committee, some of which involve transfers of development rights from his Core area parcels on the opposite side of CR 31; and reported on some of his conversation with members of the Committee. Mr. Murphree then noted that Southampton Town has requested to be a part of the screening process, but has not been invited by the County to participate.

Mr. Gazza stated that he cannot compete with the County for tenants, in light of the support services that the County offers its tenants. He asked if the Commission would be willing to provide a letter of support for transferring his development projects to the County site in lieu of developing them on the Core (west) side of CR 31, and a discussion ensued regarding that request. It was agreed that the possibility of such a letter would be considered at the next Commission meeting.

The third speaker was Mr. Richard Amper, representing the Long Island

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0587

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Pine Barrens Society. He spoke about the Islander East Pipeline project, specifically the proposed lateral extension from the main line to the site of the proposed Calverton energy plant (which is not part of this project). He noted that the Federal Energy Regulatory Commission (FERC) staff is now recommending that this possible lateral be located along NYS Route 25, rather than NYS Route 25A as originally proposed. The new proposed route would require additional clearing of Core area land over the Route 25 proposal. He asked that the Commission oppose the new proposal. He also discussed the proposed crossing of the Carmans River.

After a brief discussion, **a motion was made by Mr. MacLellan and seconded by Mr. Murphree to send a letter to FERC objecting to the proposed NYS Route 25 lateral route, and supporting the original NYS Route 25A lateral route, and noting that additional comments on the project will follow. The motion was approved by a 5-0 vote.**

Administrative

- ! Meeting summary for 7/24: review, approval (faxed)

Summary: The following change was suggested to the draft 7/24/02 meeting summary: under "Trocchio / lot split", the third paragraph's motion should state that the abstaining vote was cast by Mr. Cowen, rather than Ms. Compitello.

A motion was made by Mr. Cowen and seconded by Mr. Proios to approve the summary of the 7/24/02 Commission meeting with this change. The motion was approved by a 5-0 vote.

Pine Barrens Credit Program

- ! Program status

Summary: Mr. Corwin reported that Mr. Rizzo has left the Suffolk County Water Authority for new employment, and will no longer be a staff person for the Clearinghouse and the Credit program. Mr. Corwin stated that Ms. Carter and Mr. Randolph were taking over the work for the Credit program, and were in the process of sorting out the immediate tasks for the program and addressing them. He also noted that the Clearinghouse meeting originally scheduled for 9/10/02 is being rescheduled due to a meeting conflict.

Plan Implementation

- ! Law Enforcement Council: retirement of Mr. Hynes; recommendation of Council for Capt. Richard Otterstedt as Chair and Mr. Stephen Laton as Vice Chair, confirmation by Commission; appointment as officers (correspondence faxed)

Summary: Capt. Conklin reported that Mr. Lawrence Hynes, the Security Director for the Suffolk County Parks Department and the Chair of the Pine Barrens Law Enforcement Council, has retired as of the end of August 2002. He noted that the Council, at its August meeting, has recommended that the current Vice Chair of the Council, Capt. Richard Otterstedt of the NYS Environmental Conservation Police, become the new Chair, and that the new Security Director for Suffolk County Parks, Mr. Stephen Laton, become the new Vice Chair. Mr. Corwin distributed the attached memo from himself to the Commission regarding the various personnel changes in the staff and the various councils, including this change. He also distributed the attached resignation letter from

Mr. Hynes to the Law Enforcement Council.

Mr. Corwin recommended that the Commission confirm the Council's recommendations for its Chair and Vice Chair; update its officers list to remove Mr. Hynes as an Assistant Secretary of the Commission; retain and reaffirm Capt. Otterstedt as an Assistant Secretary; and appoint Mr. Laton as an Assistant Secretary. **A motion was made by Mr. Cowen and seconded by Mr. MacLellan to confirm Capt. Otterstedt and Mr. Laton as the new Chair and Vice Chair, respectively, of the Law Enforcement Council, to appoint them as Assistant Secretaries of the Commission, and to remove Mr. Hynes as an Assistant Secretary of the Commission. The motion was approved by a 5-0 vote.**

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction: public hearing (*jurisdiction asserted 5/16/01; decision deadline is today*)
Summary: A separate stenographic transcript exists for this item.

Core Preservation Area

Mr. Shea was present for the following hearings.

- ! Southampton Town Wildwood Park / Northampton (Southampton) / hardship: public hearing (*from 7/24; decision deadline is 11/21*)
Summary: A separate stenographic transcript exists for this item.
- ! Baiata Commercial Site Plan / Manorville (Brookhaven) / hardship: public hearing (*from 7/24; decision deadline is 11/16*)
Summary: A separate stenographic transcript exists for this item.
- ! Southampton Town Wildwood Park / Northampton (Southampton) / hardship: discussion
Summary: **A motion was made by Mr. MacLellan and seconded by Ms. Compitello to issue a negative declaration for this project. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Mr. Murphree.**

A motion was then made by Mr. MacLellan and seconded by Ms. Compitello to approve this compelling public need hardship (1) with the stipulation that the parking lot drainage and surface design be deferred to the NY State Department of Environmental Conservation, and (2) with reference to the hearing record. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Mr. Murphree.

Mr. Shea left at this time.

- ! Baiata Commercial Site Plan / Manorville (Brookhaven) / hardship: discussion
Summary: The applicant's representative, Mr. William Jaeger, was present for the hearing and the following discussion. A discussion ensued regarding this project, the hearing testimony, and the absence of testimony regarding the application's conformance with the hardship requirements of the pine barrens law.

A motion was made by Mr. Cowen and seconded by Mr. Murphree to issue a

negative declaration for this project. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Ms. Compitello.

A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to disapprove this hardship application based upon the hearing record. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Ms. Compitello.

Mr. Jaeger then asked whether the 1999 letter from Ms. Plunkett of the Commission staff regarding a prior proposal for this site still applies, and it was agreed that it did.

Plan Implementation

Mr. Urevich, Co-Vice Chair of the Wildfire Task Force and Treasurer of the Wildfire Academy, was present for the following item.

- ! Wildfire Task Force: Confirmation of Academy Treasurer designees, appointment as officers; request for credit card authorization (*Mr. Urevich, Academy Treasurer; prior correspondence items faxed*)

Summary: Mr. Corwin distributed and summarized the attached, previously faxed memo from Mr. Urevich to the Commission regarding his request on behalf of the Academy (1) to obtain an American Express Corporate Card for Academy business, and (2) to have the Commission confirm Mr. Urevich's appointments of Ms. Irene Ostapow and Ms. Janet Longo of the NYS DEC Region 1 Office as Academy Treasurer's representatives, pursuant to the recently adopted Interim Policies and Procedures for the Wildfire Academy.

Mr. Urevich also summarized these topics; discussed the types of transactions for which the proposed card would be used; the procedures that are currently being followed by the Academy staff; the condition that four cards be issued on the proposed account, one each to himself, his two representatives, and the Academy Coordinator, Mr. Charles Hamilton; and answered several questions about the Academy finances.

A motion was made by Mr. Cowen and seconded by Mr. Murphree to (1) confirm Mr. Urevich's appointments of Ms. Ostapow and Ms. Longo as Academy Treasurer's representatives, (2) to appoint Mr. Urevich as a Treasurer of the Commission, and (3) to appoint Ms. Ostapow and Ms. Longo as Assistant Treasurers of the Commission. The motion was approved by a 5-0 vote.

A motion was then made by Mr. Cowen and seconded by Mr. Murphree to authorize the application for, and the usage of, an American Express Corporate Card, for Academy business by Mr. Urevich, Ms. Ostapow, Ms. Longo, and Mr. Hamilton. The motion was approved by a 5-0 vote.

- ! Clearing standard for zone change parcels: draft resolution (*from 7/24; faxed*)
Summary: Mr. Rigano distributed a draft resolution regarding the application of the clearing standards to parcels in the CGA which are the subject of a rezoning proposal. It was agreed that comments would be forwarded to Mr. Rigano for incorporation into a new version to be distributed for consideration at the next meeting.

Ms. Carter of the Commission staff was present for the remainder of the meeting.

Core Preservation Area

! Amerada Hess / Manorville (Brookhaven) / site plan, zone change / hardship: DEIS status; request for decision extension (*hearing held 11/7/01; current decision deadline is today*)
Summary: Ms. Jakobsen reported that the attached request for an extension of the Commission's decision deadline to the last meeting in October 2002 has been received. **A motion was then made by Mr. Cowen and seconded by Mr. Murphree to approve and accept the decision deadline extension to the 10/23/02 Commission meeting date. The motion was approved by a 5-0 vote.** A brief discussion then ensued regarding providing the applicant's representative with comments on the DEIS, and it was agreed that the staff can forward comments prior to the next Commission meeting.

! Marshall / Middle Island (Brookhaven) / single family home / hardship: decision (*hearing held 7/10; from 7/24; decision due 9/28 - today is last meeting before then*)
Summary: A discussion ensued regarding this proposed single family home project, the lack of any need to further review this project under the State Environmental Quality Review Act; the zoning of the parcel, which is A5 residence; the possibility of a Pine Barrens Credit application and appeal for this property; the number of Credits that might be awarded to this property; and the number of homes that the Town might permit on it. Mr. Walter Olsen, representing the Civil Property Rights Associates, observed that people are not used to the core hardship process, and that this may cause them to come to a hearing unprepared.

A further discussion followed regarding the site's characteristics and its suitability for building. **A motion was made by Mr. Proios and seconded by Mr. MacLellan to extend the Commission's decision deadline for this application to 10/2/02 with the consent of the applicant's representative which was obtained at the meeting via telephone. The motion was approved by a 5-0 vote.**

! Gazza / Westhampton (Southampton) / four projects combined:
Home residence office site plan / hardship (*hearing held 9/5/01*)
Core boundary change request (*hearing held 4/25/01*)
Agricultural clearing site plans / 7 hardships (*hearings held 9/5/01*)
Agricultural building site plan / hardship (*hearing held 9/13/00*):
Draft GEIS Request for Proposals (*pos dec 2/19/01; scoping 4/10/02*)
Summary: Ms. Jakobsen reported that Mr. Gazza has sent a letter stating that he will not prepare the Draft Generis Environmental Impact Statement for these projects. It was agreed that the Commission staff will prepare a Request For Proposals for preparation of the DGEIS by private firms, with the oversight of counsel.

A discussion ensued regarding the one parcel among those involved in these projects for which Mr. Gazza has informally suggested that a communications tower might be a possibility; the prior approval on that parcel by the Commission for a prior commercial water extraction well; and the lack of any application to the Commission for a tower on that parcel. It was agreed that the tower will be considered as an alternative in the DGEIS. **A motion was made by Mr. Murphree and seconded by Mr. Cowen to authorize the issuance of a Request For Proposals for the production of the DGEIS for these projects. The motion was approved by a 5-0 vote.**

The following item is partly within the CGA:

! Islander East Pipeline / Brookhaven, Riverhead: receipt of Final EIS
Summary: Ms. Jakobsen reported that FERC staff explained to her that intervenors may comment on the FEIS at any time, but that comments should be received within 30 days

of the FEIS issuance in order to be on the record. It was agreed that the Commission comments will be prepared within approximately the next week.

The following item is partly within the CGA:

- ! Iroquois Pipeline / Brookhaven, Riverhead: receipt of Draft EIS (comment deadline is 10/18)
Summary: Ms. Carter reported that the Draft Environmental Impact Statement for this project has been received, and that comments are due to the Federal Energy Regulatory Commission by 10/18/02.

Closed Advisory Session

Summary: A motion was made by Mr. MacLellan and seconded by Mr. Murphree 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 6:24 pm to 7:22 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 (9/4/02; 2 pages)
2. Speaker sign in sheet (9/24/02; 1 page)
3. Memo from Mr. Corwin re personnel changes (8/12/02; 2 pages)
4. Letter from Mr. Hynes re retirement and Law Enforcement Council (8/7/02; 2 pages)
5. Memo from Mr. Urevich re Wildfire Academy finance matters (8/9/02; 1 page)
6. Letter from Mr. Voorhis re Hess decision extension and DEIS review (9/3/02; 1 page)

Commission Meeting Summary (FINAL)
for Wednesday, October 2, 2002 (Approved 10/23/02)
Riverhead Town Hall; 200 Howell Ave; Riverhead
2:00 pm



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

Robert J. Gaffney
Chair

Ray E. Cowen
Member

Patrick A. Heaney
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

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Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski and Ms. Compitello (for Brookhaven), Mr. MacLellan (for Riverhead), Supervisor Heaney and Mr. Shea (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, and Ms. Carter (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), Brookhaven Planning Commissioner Dan Gulizio, Southampton Town Attorney's Office staff member Ms. Kimberly Judd, and Suffolk County Water Authority Chief Executive Officer and Advisory Committee Chair Mr. Stephen Jones. Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:10 pm by Mr. Proios, with a five member quorum present.

Public Comment

Summary: The first speaker was Mr. Doug Dittko, representing the Manorville - East Moriches Civic Association (MEMCA). He stated that the proposed Eastport Senior Living project is in the wrong area; that it is a case of spot zoning; and that MEMCA has collected signatures on petitions opposing the project (which he submitted and are attached here). He also submitted the attached editorial from The Press of Manorville and the Moriches.

The second speaker was Mr. Peter Rudin, President of the Manorville - East Moriches Civic Association. He stated that the proposed Eastport Senior Living project is a high density increase from the current one acre zoning; that the accompanying sewage treatment plant would be in a watershed area; that this is not the type of growth that citizens envision for the area; that this project will be a precedent; and that the Commission should disapprove the project.

The third speaker was Mr. Alan Stadler of the Ridge Civic Association. He stated that there is potential clearing proposed for the Ridge Elementary School property (part of the Longwood School District) in Ridge; that the property is flagged; that the site is adjacent to the County's Pine Trail Nature Preserve and the NYS DEC Ridge property; that the corridor is a game corridor; that it is his understanding that the site will be used for the construction of six soccer fields for the Longwood Youth Sports Association; and that he is requesting that the Commission investigate this matter to see that the proponents are abiding by applicable rules.

Administrative

! Meeting summary for 9/4: review, approval (faxed)

Summary: It was agreed that this will be held until the next meeting.

Pine Barrens Credit Program

! Program status

Summary: Mr. Corwin noted that a conservation easement for a parcel in the Pine Barrens Credit program is ready for Mr. Proios' signature today, and it was agreed that he will sign that later. Mr. Corwin also reported that Mr. Randolph of the Commission staff has assumed the bulk of the Credit program daily work that Mr. Rizzo formerly did, with Mr. Randolph receiving assistance from the other Commission staff with site specific reports and administrative tasks.

Plan Implementation

! Advisory Committee: results of 9/25 meeting (Stephen Jones, Chair)

Summary: Mr. Jones, CEO of the Suffolk County Water Authority and the Chair of the Central Pine Barrens Advisory Committee was present today and reported on the discussions that the Committee held at its 9/25/02 meeting. Mr. Richard Amper of the LI Pine Barrens Society and Vice Chair of the Advisory Committee was also present for today's discussion.

Mr. Jones reported that the Committee discussed several topics, including the proposed enforcement amendments to NY ECL Article 57; the natural gas pipeline projects partly within the pine barrens that are pending before the Federal Energy Regulatory Commission (FERC); the purpose of the Committee's work; the current and recent zone change proposals in the Compatible Growth Area (CGA); and the question of how the Committee members should communicate (i.e., in person or by other means) in the future.

With respect to the enforcement legislation, the Committee discussed various specific language changes to the text of the bill from the last State legislative session regarding the monetary penalties and the conditions under which they would apply, whether the penalties would be cumulative, what actions would start or stop the penalties, the possibility of language that reaffirms the Towns' authority in enforcing the pine barrens law, and the role of the NY State Attorney General in enforcement. Mr. Heaney asked about the disposition of any fines that might be levied and collected, and Mr. Jones stated that the Committee has looked only at the deterrent aspect of the penalties. Mr. Heaney stated that he believes that any fines should stay within the jurisdiction in which they are collected, and that they should be used for purposes such as protecting drinking water and preserving habitat.

With respect to the pending pipeline proposals, the Committee discussed the eastward branch, or "Calverton lateral" portion of the Islander East Pipeline, and passed a resolution to recommend that the Commission support the original, NYS Route 25A route for that lateral branch, as opposed to the NYS Route 25 path for that same lateral for which the FERC staff has recently expressed support. A brief discussion ensued regarding the specific version of the NYS Route 25A lateral (i.e., the utility corridor on the north side of Route 25A or the path along the south side of Route 25A) which the Committee supported. Mr. Jones explained that the Committee had not distinguished between those two versions of the Route 25A proposal. Mr. Jones also noted that the Committee has further recommended to the Commission that, if there is to be more than one pipeline in the same area, every effort should be made to minimize the disturbance and avoid duplicate clearing.

With respect to the purpose of the Committee, Mr. Jones reported that there were two points of view on the Committee, one that the Committee should only advise the Commission and the other that other parties should be communicated with as well.

With respect to the CGA zone changes, Mr. Jones noted that some of the Committee members felt that this issue is simply not addressed in the pine barrens law or the Plan, while others felt that this goes to the heart of the purpose for having a plan for the pine barrens. He reported that topics discussed by the Committee include requiring that Pine Barrens Credits be redeemed when zone changes are granted; that the environmental reviews conducted at the inception of the Plan need to be updated; that the current growth patterns are not compact or smart growth compatible; and that the role of the Suffolk County Planning Commission could be strengthened by a County law change to give it more authority over zone changes in the pine barrens.

With respect to communications among the Committee members, Mr. Jones reported that the Committee has agreed to continue meeting in person. He also noted that the Committee may form a subcommittee to study zoning changes.

Mr. Amper then commented briefly upon these items, and noted that it might be useful to have the Commission staff look at the zone changes granted or proposed to date. He also asked whether there is a process for the Towns to notify the Commission when a zone change is contemplated.

The discussion then turned to the enforcement legislation, including the purpose of the legislation, the need to allow violators of the pine barrens law a chance to address problems, the question of daily fines, which existing agencies could enforce the pine barrens law, the question of a base level fine, how to determine whether a violator has made, or is making, an attempt to rectify violations, the approach used in enforcing other sections of the ECL, and a past violation in Southampton Town that was addressed by the Town and the Commission.

Mr. Jones left at this point.

Closed Advisory Session

Summary: A motion was made by Mr. Heaney and seconded by Mr. Cowen to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 2:51 pm to 3:33 pm.

Supervisor Heaney and Ms. Judd left after the advisory session. A five member quorum remained.

Compatible Growth Area (CGA)

! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction: decision (*jurisdiction asserted 5/16/01; hearing held 9/4/02; decision deadline is today*)

Summary: Mr. David Sloane, an attorney representing the project sponsor, was present for this discussion. He agreed to an extension of the Commission's decision deadline for this project, and a motion was then made by Mr. Shea and seconded by Mr. MacLellan to agree to the extension of the Commission's decision deadline for the Eastport Senior Living project to 10/23/02. The motion was approved by a 5-0 vote.

Core Preservation Area

- ! Long Island Live Steamers / Southaven County park, Yaphank (Brookhaven) / recreational train track: determination of jurisdiction

Summary: Ms. Jakobsen noted that the Commission has received a letter from the Suffolk County Parks Department on behalf of a current, private, not for profit organization which is a licensee at Southaven County Park in Yaphank. The organization is the Long Island Live Steamers, a recreational group which operates a scale model, working railroad in the park. She noted that this a determination of jurisdiction for a proposal to replace portions of the existing facility, including portions of the train track, and to extend the facility into a previously unused portion of the license area in the park.

Mr. Nicholas Gibbons, an environmental analyst with SC Parks, was present for today's discussion along with Mr. Robert Lindemann, a representative of the LI Live Steamers. Mr. Gibbons explained that the operation is on the west side of the park; that it has been there for approximately 30 years; and that, in 2001, an area approximately 7 or 8 acres in size was defined in a license agreement between the organization and the Parks Department. The attached materials were distributed and discussed. Mr. Gibbons described the proposed switching station, the train car storage area, the sample photos from another scale model train location (not Southaven Park), the route that the track expansion would take, the need to remove approximately 25 mature trees for the expansion, and the proposed work schedule.

Mr. Lindemann then described the "high line" portion of the current and proposed track layout; the origin of the facility under then Parks Commissioner Charles Dominy and the access from Gerard Road in approximately 1975; the construction of the original "high line" from untreated materials and its deterioration over time; the need for changing the track alignment; safety issues and other operational problems that currently exist; the fact that the "main line" of the layout is the principal attraction; the increase from approximately 800 feet of "high line" track presently to approximately 1400 feet; and the not for profit nature of the organization.

A long discussion ensued regarding, in part, the construction details; safety issues; levels of both current and projected usage; what the expected increase in visitors might be; and the educational aspects of the facility.

- ! Menechino / Calverton (Riverhead) / determination of jurisdiction: discussion

Summary: Ms. Jakobsen distributed the attached materials regarding this proposed project involving the construction of a shed for several horses on SCTM parcel 600-148-2-8 in the Calverton area of Riverhead Town. Ms. Alicia Menechino was present for the discussion. The proposed lean to would be on a 5.3 acre lot in an area zoned Natural Resource Protection which currently has an existing house. After a brief discussion, it was agreed that the project does not constitute development under the pine barrens law.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / site plan, zone change / hardship: DEIS review status (hearing held 11/7/01; decision deadline is 10/23/02)

Summary: Ms. Carter distributed the revised Draft Environmental Impact Statement (DEIS) for this project, noted that it was determined to be complete, that copies have been sent to involved agencies, and that comments on it are due by 10/28/02. A discussion ensued regarding the pine barrens decision deadline, the SEQRA steps that are next, and the scheduling of a public hearing on the DEIS.

Core Preservation Area and Administrative

- ! Amerada Hess / Manorville (Brookhaven) / site plan, zone change / hardship: DEIS review status (*hearing held 11/7/01; decision deadline is 10/23/02*)

Summary: A motion was made by Mr. Cowen and seconded by Mr. Proios to (1) cancel the previously scheduled Commission meeting on 11/13/02; (2) to schedule a Commission meeting on 11/20/02 at 4:00 pm at a location to be determined by Commission staff; and (3) to schedule a public hearing on the Hess Draft EIS for 7:00 pm at the 11/20/02 Commission meeting. The motion was approved by a 5-0 vote.

Core Preservation Area

- ! Marshall / Middle Island (Brookhaven) / single family home / hardship: decision (*hearing held 7/10; from 9/4; decision deadline is today*)

Summary: Today's discussion touched upon the aspects of this project covered at the last meeting, including the current Letter of Interpretation application for this parcel which is currently pending through the Pine Barrens Credit program. A motion was then made by Mr. Proios and seconded by Mr. MacLellan to approve the Marshall / Middle Island core hardship application with the conditions (1) that the development must be located in the southeast corner of the parcel, and (2) that the project comply with all appropriate Town conditions for clearing. The motion was approved by a 3-0-2 vote, with the abstaining votes cast by Mr. Cowen and Ms. Compitello.

Plan Implementation

- ! Clearing standard for zone change parcels: draft resolution (*from 9/4*)

Summary: A brief discussion occurred regarding this previously discussed and distributed draft resolution regarding the application of the Pine Barrens Plan clearing standard to CGA parcels with a proposed zone change. Mr. Shea stated that he felt that the topic should be addressed on a site by site basis. It was agreed to hold this matter until the next meeting.

Administrative

- ! Discussion of next meeting's agenda (*not on the original agenda*)

Summary: A brief discussion occurred regarding the possible topics for the next Commission meeting. It was agreed that the agenda will include the proposed enforcement legislation.

Closed Advisory Session

Summary: A motion was made by Mr. Cowen and seconded by Mr. MacLellan 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 5:20 pm to 6:00 pm.

Core Preservation Area

- ! Long Island Live Steamers / Southaven County park, Yaphank (Brookhaven) / recreational train track: determination of jurisdiction

Summary: A motion was made by Mr. Proios and seconded by Ms. Compitello to deem the LI Live Steamers project to not be development under the pine barrens

law, and to note that the use is an existing recreational activity. A discussion ensued regarding the details of the project site and its history. It was noted as part of the motion that the activity has been there for approximately thirty years; that there is a need to upgrade the facility for the sake of public safety; that the project will involve the elimination of standing water; that the proposed expansion is limited and involves less than 0.1 acre of clearing; that the expansion is approximately 6 feet by 700 feet in size; and that there will be no material increase in the intensity of use. The motion was approved by a 3-1-1 vote, with the dissenting vote cast by Mr. Cowen, and the abstaining vote cast by Mr. Shea.

Adjournment

Summary: The meeting was then adjourned at approximately 6:23 pm without a formal adjournment resolution.

Attachments (in order of discussion):

1. Attendance sheet (10/2/02; 2 pages)
2. Speaker sign in sheet (10/2/02; 1 page)
3. Petition regarding the Eastport Senior Living project (undated; 3 pages)
4. Press of Manorville and the Moriches editorial re Eastport Senior Living (9/20/02; 1 pages)
5. LI Live Steamers materials (undated; 14 pages)
6. Menechino determination of jurisdiction materials (9/16/02; 4 pages)

Commission Meeting Summary (FINAL)
for Wednesday, October 23, 2002 (Approved 12/11/02)
Brookhaven Town Hall, Building 4; 3233 Route 112; Medford
2:00 pm



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

Robert J. Gaffney
Chair

Ray E. Cowen
Member

Patrick A. Heaney
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

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Commission members present: Mr. Cowen (for New York State), Supervisor LaValle and Ms. Compitello (for Brookhaven), Mr. MacLellan (for Riverhead), Mr. Murphree (for Southampton) and Ms. Kohn (for Suffolk County), .

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), Mr. Gulizio (Commissioner, Brookhaven Planning, Environment and Development), Ms. Wilutis (Brookhaven Town Attorney), Mr. Hoffman (from the Brookhaven Supervisor's Office), and Commissioner Gordon (from the Suffolk County Parks Department and Co-Chair of the Protected Lands Council, at the time indicated). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:10 pm by Mr. Cowen, with a five member quorum.

Public Comment

Summary: The first speaker was Ms. Lorraine Dittko, representing the Manorville - East Moriches Civic Association. She submitted the attached materials re the Eastport Senior Living project and site, including photographs, a written commentary on the project and its environmental impacts, and portions of the Environmental Assessment Form for the project with comments added. She read from the written commentary, and questioned the project's analysis of geology, water resources, groundwater discharge and depth; waster water projected per unit; the nitrogen discharge simulation and its parameters; and the pet waste nitrogen analysis. She also stated that she believes that there will be an impact to Little Seatuck Creek, and she noted that a rare bird has been sighted in the vicinity of the creek.

The second speaker was Mr. Elliot Susser, representing himself. He also distributed the attached 10/23/02 letter from Ms. Lauren Storms and Mr. Robert Stiles with comments on the Eastport Senior Living project. He also submitted the attached materials regarding the recent sighting of a Black Tailed Godwit, a rare bird for this part of the country in the Little Seatuck Creek area. He stated that other species of birds have been sighted as well; that Seatuck Pond is brimming with wildlife; that there are numerous species of fauna there; that the area is a breeding area; and that Seatuck Creek is part of an estuary.

The third speaker was Ms. Jackie Zagon, representing herself. She spoke about the Eastport Senior Living project. She stated that she is not opposed to senior citizens; that the Eastport residents live in a place of beauty with birds and animals, and that the area is an example of what Long island was like when it was first settled; that the sewage from the project will negatively affect the area, the waters and wildlife

breeding; that she drinks the groundwater from the pine barrens area; that the project will result in visual pollution and the loss of birds; and that such residential complexes can be built elsewhere.

The fourth speaker was Mr. Richard Amper, of the Long island Pine Barrens Society, who submitted the attached letter and photographs from Mr. Alan Stadler of the Ridge Civic Association regarding the proposed plans for athletic fields on the Ridge Elementary School property.

Administrative

- ! Meeting summaries for 9/4, 10/2: review, approval (faxed)

Summary: A motion was made by Mr. MacLellan and seconded by Mr. Murphree to approve the minutes of the 9/4/02 Commission meeting as drafted. The motion was approved by a 5-0 vote.

A motion was made by Mr. MacLellan and seconded by Supervisor LaValle to approve the minutes of the 10/2/02 Commission meeting as drafted. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Mr. Murphree.

Pine Barrens Credit Program

- ! Program status (*not on the original agenda*)
- ! Gazza / SCTM 900-167-2-8,9 (Flanders); 900-240-1-34 (Westhampton); 900-213-1-71 (Eastport); and 900-327-2-2 (Eastport): schedule hearings

Summary: Mr. Randolph reported that the Clearinghouse is looking to conduct purchase offers for Credits, and that a solicitation for Credits from two of Southampton's school districts is being looked at for a private party, Mr. James Zizzi. He also reported that four new Credit appeals have been received for the parcels noted above. A motion was made by Mr. MacLellan and seconded by Mr. Murphree to schedule public hearings on these four appeals at 3:30 pm on 12/11/02. The motion was approved by a 5-0 vote.

Plan Implementation

- ! Clearing standard for zone change parcels: draft resolution (*from 10/2; draft resolution previously distributed by counsel*)
Summary: Mr. Corwin noted that this previously distributed proposed resolution would interpret the Plan's clearing standard as it applies to parcels in the CGA undergoing a change of zone. It was agreed that the Town representatives would prefer additional time to review it, and it will be held until the next meeting.
- ! Enforcement legislation: discussion (*from 10/2*)
Summary: Mr. Corwin and Mr. Rigano reviewed this topic. A brief discussion ensued, in which the Town representatives noted that the three Towns are working on making their town codes consistent with respect to violations.
- ! Wildfire Task Force / Wildfire and Incident Management Academy: status
Summary: Mr. Corwin briefly summarized the dates and activities of the 2002 Academy. A brief discussion followed regarding the current drought situation, the participation of

local fire departments in the Wildfire Task Force's work, and the upgrade of the Wertheim National Wildlife Refuge fire weather station to a satellite based system.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / site plan, zone change / hardship: DEIS status; decision extension (*hardship hearing held 11/7/01; current ECL 57 decision deadline is today; DEIS hearing is scheduled for 11/20*)
Summary: Ms. Carter reported that the comment period on the Draft Environmental Impact Statement for this project currently ends on 12/2/02, and noted that the hearing is currently set for 11/20/02. After a brief discussion, a motion was made by Mr. MacLellan and seconded by Supervisor LaValle to accept and agree to the applicant's request for an extension of the decision deadline until such time as the SEQRA process is complete and a findings statement is produced by the Commission. The motion was approved by a 5-0 vote.

- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / new hardship application
Summary: Ms. Jakobsen reported that a new Core area hardship (attached) has been received for this site, which is zoned J-2 Business. The site is currently before the Town for a violation. The new application is for a 2,707 square foot masonry addition, a walk in cooler, parking, and landscaping. Ms. Compitello briefly reviewed the status of the Town's legal action on this site. It was noted that the proposed settlement between the Town and the owner involves a fine and revegetation, and that the current hardship application to the Commission is being made pursuant to that proposed settlement.

A discussion ensued regarding the current application, the past history of the site, the placement of the new proposed uses with respect to the prior plans and stipulation for the site, and the holding of a hearing on the new application. A motion was made by Mr. MacLellan and seconded by Mr. Murphree to schedule a hearing on this application on 12/11/02 at 3:30 pm. The motion was approved by a 5-0 vote.

- ! Gazza / Westhampton: correspondence
Summary: Mr. Gazza has requested that the Commission forward a letter to the County's Gabreski Airport leasing committee, as discussed at a prior Commission meeting, supporting Mr. Gazza's proposal to transfer some of his Core area property's development rights in the airport vicinity to the development portion of the airport. It was agreed that such a letter would not be appropriate, and that Mr. Rigano will send a letter to that effect to Mr. Gazza.

The following project is partly within the CGA:

- ! Iroquois Pipeline / Brookhaven: Draft EIS status; new comment deadline
Summary: Ms. Carter reported that a Draft EIS has been received for this pipeline project; that the Federal Energy Regulatory Commission (FERC) has forwarded a notice that the project sponsor has requested that FERC defer consideration of its application; that the new comment deadline is 1/31/03; and that a required status report by Iroquois to FERC will be used by FERC to determine the future processing of the application. A discussion ensued regarding whether two pipelines could be built along the proposed route.

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction: decision (*jurisdiction asserted 5/16/01; hearing held 9/4/02; decision deadline is today*)
Summary: *Mr. Davis Sloane, an attorney representing this project's sponsor, was present and spoke about the project. He noted that Nelson, Pope & Voorhis, the consulting firm handling this project, has provided a response to the Commission's assertion of jurisdiction, and stated that the project complies with the standards and guidelines in the Plan; mentioned the use of Pine Barrens Credits in the project; discussed the applicable clearing allowances and the conditions imposed by the Town Board; noted the reduction in the number of units included since the original jurisdictional assertion; and requested that the Commission make a determination of nonjurisdiction.*

A discussion followed regarding the incentive zoning provisions of the Town Code, and their utility in determining the number of Pine Barrens Credits that would be needed by this project. Mr. Rigano noted that an advisory session would be useful in order to permit him to offer the Commission legal advice on this project.

- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: decision extension request (*hearing held 10/17/01; decision deadline is today*)
Summary: *Ms. Jakobsen reported that a request has been received from the project's representative to extend the Commission's decision deadline to the last Commission meeting in November 2002, which would be 11/20/02. She noted that we are waiting for the Final EIS, and that it has been sent to the Town but not yet accepted. **A motion was made by Mr. MacLellan and seconded by Supervisor LaValle to accept and agree to the decision extension to 11/20/02. The motion was approved by a 5-0 vote.***

- ! Flowerwood Development Corp. / Yaphank (Brookhaven) / industrial site plan: new hardship application; schedule hearing
Summary: *Ms. Jakobsen reported that a new CGA hardship has been received for an industrial subdivision on Suffolk County Tax Map parcels 200-584-1-4.31 and 4.32 for two industrial buildings on 6.53 acres. The project requires a CGA hardship since the clearing limits are not being adhered to. The decision deadline is 2/5/03. **A motion was made by Mr. MacLellan and seconded by Mr. Murphree to schedule a hearing on this application for 12/11/02 at 3:30 pm. The motion was approved by a 5-0 vote.***

Closed Advisory Session

Summary: ***A motion was made by Mr. Murphree and seconded by Mr. MacLellan 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 3:11 pm to 3:51 pm.***

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / planned retirement community / Assertion of Jurisdiction: decision (*continuation*)
Summary: *Mr. Rigano summarized the 10/15/02 Town Board resolution regarding this project; the requirement for 15 Pine Barrens Credits to be redeemed pursuant to the requirements of Section 85-451 of the Town Code which pertains to Incentive Zoning; the provisions of Chapter 6 of Volume 1 of the Pine Barrens Plan which encourages the adoption of incentive zoning provisions; and the adoption by Brookhaven Town of such*

provisions. He noted that the Commission should consider withdrawing the assertion of jurisdiction for this project based upon the change in the project's description and the Credit redemption just discussed.

A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to withdraw the Eastport Senior Living assertion of jurisdiction, and to send a letter to the Town based upon a change in circumstances for the project, specifically the application of Section 85-451 of the Town Code and the Town Board resolution on this project dated 10/15/02. A brief discussion ensued. The motion was then approved by a 5-0 vote.

Supervisor LaValle, Mr. Gulizio, and Ms. Wilutis left at this point. A five member quorum remained. Commissioner Gordon of the Suffolk County Department of Parks, Co-Chair of the Protected Lands Council, arrived at this point.

Plan Implementation

- ! Protected Lands Council: presentation of regional "5S" ecological analysis (*material partly faxed*)
Summary: Mr. Corwin and Suffolk County Parks Commissioner Gordon summarized the recently completed effort by the Protected Lands Council to produce an ecological analysis of the major threats ("stresses") to the long term ecological health of the Central Pine Barrens, and the proposed strategies to address them. Mr. Randolph of the Commission staff and Mr. William Patterson of The Nature Conservancy then provided a detailed presentation of both the methodology used by the Council and the results. The attached summary document was distributed and discussed during the presentation.

Commissioner Gordon left at this point.

Core Preservation Area

- ! Marshall / Middle Island (Brookhaven) / single family home / hardship: final wording of approval resolution (*not on the original agenda; hearing held 7/10; hardship approved 10/2*)
Summary: A brief discussion occurred regarding the final written wording of the 10/2/02 resolution by the Commission on this project.
- ! Southampton Town Wildwood Park / Northampton (Southampton) / hardship: final wording of approval resolution (*not on the original agenda; hearing held and hardship approved 9/4*)
Summary: A brief discussion occurred regarding the final written wording of the 9/4/02 resolution by the Commission on this project.

Adjournment

Summary: A motion was made by Mr. Cowen and seconded by Mr. MacLellan to adjourn. The motion was approved by a 5-0 vote, and the meeting ended at approximately 3:53 pm.

Attachments (in order of discussion):

1. Attendance sheet (10/23/02; 2 pages)

2. Speaker sign in sheet (10/23/02; 1 page)
3. Materials from Manorville - East Moriches Civic Association (10/22/02; 12 pages)
4. Letter from Ms. Storms and Mr. Stiles re Eastport Senior Living (10/23/02; 2 pages)
5. Materials from Mr. Susser re Eastport Senior Living (10/23/02; 9 pages)
6. Letter and photographs from Mr. Stadler re Ridge Elementary School (10/21/02; 6 pages)
7. Michaelangelo's Restaurant core hardship application (10/10/02; 21 pages)
8. Guiding Principles for Management and Stewardship draft by PLC (10/17/02; 48 pages)

Commission Meeting Summary (FINAL)
for Wednesday, November 20, 2002 (Approved 12/11/02)
Brookhaven Town Hall, Building 4; 3233 Route 112; Medford
4:00 pm



Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski and Ms. Compitello (for Brookhaven), Mr. MacLellan (for Riverhead), Mr. Murphree (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter and Mr. Randolph (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), and Ms. Wilutis (Brookhaven Town Attorney). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 4:08 pm by Mr. Proios, with a five member quorum.

Robert J. Gaffney
Chair

Ray E. Cowen
Member

Patrick A. Heaney
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

Public Comment

Summary: The only speaker was Mr. Alan Stadler, representing the Ridge Civic Association. He spoke about the Ridge Elementary School, a part of the Longwood School District. The elementary school is located on the east side of Ridge Road, on the south side of the Suffolk County Pine Trail Nature Preserve, and on the north side of the NYS DEC Ridge Conservation Area. He stated that he believes that the school is considering the construction of soccer fields for the Longwood Youth Sports Association; that he wonders if this is permitted in this area of the pine barrens; that he is unsure if the property in question is within the Compatible Growth or Core Areas; that he wants to know if the Commission has to be notified first; that he wonders whether the school district understands whether they need Commission review; and what the clearing restrictions are for this area.

Administrative

- ! Meeting schedule for January through June: review, approval (faxed)
Summary: A brief discussion occurred regarding the possibility of trying to meet once per month starting in 2003, rather than the current schedule of once every three weeks. It was also noted that a fixed day of each month could be selected. It was agreed that the third Wednesday of each month would be tried, and that the initial dates for 2003 will be 1/15 (in place of the currently scheduled 1/8 date); 2/19; 3/19; 4/16; 5/21; 6/18; and 7/16. **A motion was made by Mr. MacLellan and seconded by Ms. Prusinowski to schedule Commission meetings for these days in 2003, and to cancel the previously scheduled 1/8/03 meeting. The motion was approved by a 5-0 vote.** A revised schedule will be sent out as soon as the locations are determined.

- ! Introduction of new Brookhaven Town Attorney (not on the original agenda)
Summary: Ms. Karen Wilutis was introduced to the Commission members as the new Brookhaven Town Attorney.

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Plan Implementation

- ! Enforcement legislation: discussion (from 10/23)
Summary: It was noted that the three Towns are working on revising their town codes to be uniform with respect to penalties for violations of pine barrens restrictions, and that they will soon be comparing their efforts for consistency.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / site plan, zone change / hardship: DEIS hearing; request by applicant for postponement or extension (hardship hearing held 11/7/01; current ECL 57 decision deadline is open)
Summary: Ms. Carter reported that the Commission has received a letter from Mr. Eugene DiNicola, the attorney for the sponsor, requesting that the public hearing on this project's Draft Environmental Impact Statement, which is scheduled for this evening at 7:00 pm, be continued to a future meeting. A discussion ensued regarding the reason for the request; what the project sponsor will present on the continuation date; the current SEQRA comment deadline of 12/2/02 based upon the public hearing being held tonight; and Mr. Rigano's report that the project sponsor's attorney has assured him that the project sponsor is not changing the project.

A motion was then made by Mr. Cowen and seconded by Mr. Murphree to continue tonight's hearing to 3:00 pm on 1/15/03, and to set the date of 1/25/03 as the new comment deadline. The motion was approved by a 5-0 vote. A brief discussion then occurred regarding the possibility of appointing a hearing officer to conduct tonight's portion of the hearing, and Mr. Proios volunteered to serve in that capacity. **A motion was then made by Mr. Cowen and seconded by Mr. Murphree to appoint Mr. Proios as the hearing officer for tonight's hearing. The motion was approved by a 5-0 vote.**

Compatible Growth Area (CGA)

The following item may be partly within the Core area:

- ! Longwood Central School District, Ridge Elementary School: status; correspondence from Ridge Civic Association (from 10/23 meeting)
Summary: Mr. Corwin distributed the attached letter from Ms. Christine Sosik of the Ridge Civic Association regarding the planned project at the Ridge Elementary School. Mr. Corwin went over the prior Commission discussions of this issue, including Mr. Stadler's comments to the Commission at prior meetings; the letter which Mr. Rigano sent to the school on behalf of the Commission regarding the Commission's jurisdiction; the resulting request from the Longwood School District for a map of the pine barrens area, which was sent; and the need to determine what properties are involved and their location within the CGA and the Core area. It was agreed that a follow up contact will be made with the school district.
- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: decision extension request (hearing held 10/17/01; decision deadline is today)
Summary: Ms. Jakobsen reported that the attached request was received from Mr. Charles Voorhis of Nelson, Pope & Voorhis requesting an extension of the Commission's

decision deadline for the Brookhaven Town Center project until the last meeting date in January 2003. **A motion was made by Mr. MacLellan and seconded by Mr. Cowen to agree to the extension and to set the new decision deadline date as 1/15/03. The motion was approved by a 5-0 vote.**

- ! Brookhaven National Laboratory groundwater remediation program (not on the original agenda)

Summary: Mr. Proios noted that he has received calls from Laboratory staff regarding the efforts of the Laboratory to reach an agreement with the owners of a private parcel located to the south of the Laboratory site for the purpose of the Laboratory staff accessing it for groundwater remediation activities. A brief discussion ensued regarding the Commission's prior discussion of this effort with respect to the effect that any current clearing for groundwater remediation would have upon any future development activities for that parcel.

Closed Advisory Session

Summary: **A motion was made by Mr. MacLellan and seconded by Mr. Murphree 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 5:46 pm.**

Adjournment until Public Hearing

Summary: The regular meeting was adjourned at this time.

The following hearing began at 7:00 pm, with Mr. Proios serving as the hearing officer; no other members were present.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / site plan, zone change / hardship: DEIS hearing (hardship hearing held 11/7/01; current ECL 57 decision deadline is open)

Summary: A separate stenographic transcript exists for this item. This hearing will be continued at the 1/15/03 Commission meeting at 3:00 pm. The hearing was adjourned at approximately 7:07 pm.

Attachments (in order of discussion):

1. Attendance sheet (date; 1 page)
2. Speaker sign in sheet (date; 1 page)
3. Letter from Mr. DeNicola re Hess application (11/13/02; 1 page)
4. Letter from Ms. Sosik of Ridge Civic Association re school property (11/1/02; 2 pages)
5. Letter from Mr. Voorhis of re Brookhaven Town Center (11/15/02; 1 page)

Commission Meeting Summary (FINAL)
for Wednesday, December 11, 2002 (Approved 1/15/03)
Riverhead Town Hall,
200 Howell Avenue (at East Main Street), Riverhead
2:00 pm



Robert J. Gaffney
Chair

Ray E. Cowen
Member

Patrick A. Heaney
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

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Commission members present: Mr. Cowen (for New York State); Ms. Kohn (for Suffolk County), Ms. Prusinowski and Ms. Compitello (for Brookhaven), Mr. Hanley and Mr. MacLellan (for Riverhead at the times indicated), and Mr. Murphree (for Southampton).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter and Mr. Randolph (from the Commission), and Mr. Spitz (from the NYS Department of Environmental Conservation). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:40 pm by Mr. Cowen, with a five member quorum consisting of Mr. Cowen, Ms. Kohn, Ms. Compitello, Mr. Hanley, and Mr. Murphree.

Public Comment

Summary: The only speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He recounted some of the past discussions of the Advisory Committee regarding the enforcement amendments to the pine barrens law which were proposed during the last state legislative session. He also spoke about the Towns' efforts to adopt new enforcement provisions. He stated that citizens are speaking with state legislators; noted that the Society has looked at the State Pollutant Discharge Elimination System enforcement provisions for a model for pine barrens enforcement issues and distributed the attached letter; and stated that the enforcement legislation is a priority for the Society and that it is time to agree on how to proceed.

Administrative

! Meeting minutes for 10/23 and 11/20: review; approval (faxed)

Summary: The following changes were suggested to the draft 10/23/02 summary: (1) under "Michaelangelo's Restaurant", the second sentence should read: "The site is currently before the Town for a violation."; (2) under "Eastport Senior Living", the two references to "Section 85-41" of the Town Code should both read "Section 85-451". **A motion was then made by Ms. Kohn and seconded by Mr. Hanley to approve the 10/23/02 minutes with these changes. The motion was approved by a 5-0 vote.**

It was agreed that the 11/20/02 summary would be held until later in the meeting.

Core Preservation Area

Ms. Prusinowski arrived during the following item.

- ! Hawkins, Webb & Jaeger representing uncertain owner / Manorville (Brookhaven) / residential structure / new hardship: ownership question; schedule hearing

Summary: Ms. Carter reported that a new core area hardship application was received for this site on the east side of Raynor Road, south of North Street, in Manorville. The application is now complete. She noted that there is some confusion in the materials submitted to date regarding the ownership of this site. She distributed the attached summary of the various information received by the Commission regarding that.

A discussion followed regarding whether this project constitutes development under the pine barrens law, the scheduling of a hearing on the application, and what additional materials should be requested from the applicant. **A motion was made by Mr. Cowen and seconded by Mr. Hanley to schedule a public hearing on this new application for the 2/19/03 Commission meeting at 3:30 pm. The motion was approved by a 5-0 vote.** It was then agreed that a letter will be sent to the project sponsor's representative requesting definitive information as to who owns the property in question.

- ! Mittachione / Ridge (Brookhaven) / residential subdivision / new hardship: ownership question; schedule hearing

Summary: Ms. Carter reported that a new core area hardship application was received for this proposed two lot subdivision on the east side of William Floyd Parkway, north of Middle Country Road, in Ridge. She noted that the application is complete. She also noted that the application included an owner's statement which was modified to refer to a trust, and that the question of ownership would need to be further explored. **A motion was then made by Mr. Cowen and seconded by Mr. Hanley to schedule a public hearing on this application for the 2/19/03 Commission meeting at 3:30 pm. The motion was approved by a 5-0 vote.**

Mr. Hanley left, and Mr. MacLellan arrived, during the following item. A five member quorum remained.

- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / site plan / hardship: hearing
- Summary:* Ms. Jakobsen reported that a fax was received from Mr. Tanenberg, the attorney representing this project's sponsor, requesting that today's hearing on this project be adjourned to the 2/19/03 Commission meeting, due to today's unavailability of an expert witness that he wishes to have speak, and also requesting that the decision deadline for this application be extended to 30 days following the 2/19/03 date.

A discussion ensued regarding the Commission's practices and policies for adjourning previously scheduled hearings, and ended with an agreement that Mr. Rigano will draft a written policy on this subject in general for consideration at the next Commission meeting.

It was then agreed that the hearing later today on the Michaelangelo's Restaurant application will be opened, and then continued at the 2/19/03 Commission meeting. **A motion was then made by Mr. Murphree and seconded by Mr. MacLellan to accept the decision deadline extension request for the Michaelangelo's Restaurant application to the 3/19/03 Commission meeting. The motion was approved by a 5-0 vote.**

Compatible Growth Area (CGA)

The following item is partly in the CGA and partly outside the Central Pine Barrens:

- ! Brookhaven Calabro Airport / Shirley (Brookhaven) / improvements: lead agency coordination draft response
Summary: Ms. Carter reported that the Commission received a lead agency coordination request from Brookhaven Town for a project at Calabro Airport in Shirley, for a proposal to clear approximately 58 acres and prune 23 acres at the end of the runway. The Town has determined that this is a Type 1 action and has forwarded an Environmental Assessment Form Part 3. After a discussion regarding the portions of the project which are in the CGA, and the details of the proposal, it was agreed that a standard staff response to the lead agency coordination would be forwarded.

- ! Flowerwood Development Corp. / Yaphank (Brookhaven) / industrial site plan / hardship
Summary: A separate stenographic transcript exists for this hearing.

Core Preservation Area

- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / site plan / hardship: hearing
Summary: A separate stenographic transcript exists for this hearing.

Pine Barrens Credit Program

- ! Gazza / SCTM 900-167-2-8,9 (Flanders) / Credit appeal: hearing
- ! Gazza / SCTM 900-240-1-34 (Westhampton) / Credit appeal: hearing
- ! Gazza / SCTM 900-213-1-71 (Eastport) / Credit appeal: hearing
- ! Gazza / SCTM 900-327-2-2 (Eastport) / Credit appeal: hearing
Summary: A separate stenographic transcript exists for this hearing.

Administrative

- ! Meeting minutes for 11/20: review; approval (*faxed*)
Summary: A motion was made by Mr. Murphree and seconded by Mr. MacLellan to approve the 11/20/02 meeting summary as drafted. The motion was approved by a 5-0 vote.

Compatible Growth Area (CGA)

The following item is partly within the CGA and partly outside the Central Pine Barrens:

- ! Naftal Associates / various areas (Brookhaven) / stipulation of settlement in litigation with Town: lead agency coordination
Summary: Ms. Carter reported that a lead agency coordination letter has been received from Brookhaven Town for the implementation of a court stipulation involving land use proposals for several parcels. The litigation was the result of a zone change by the Town that was challenged. Three of the six parcels involved in the stipulation are in the CGA; the remainder are outside the Central Pine Barrens. Ms. Carter noted that the land use proposal for one of the three CGA parcels (approximately 100 acres) is for a 290 unit residential development. After a brief discussion, it was agreed that a standard staff response would be forwarded to the Town.
- ! Longwood Central School District, Ridge Elementary School: status (*not on the original*)

agenda)

Summary: It was noted that there has been no discussion with the school district officials regarding what plans may be under consideration for the Ridge Elementary School property.

Closed Advisory Session

Summary: **A motion was made by Mr. Murphree and seconded by Mr. MacLellan 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 5:27 pm to 5:51 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 (12/11/02; 1 page)
2. Speaker sign in sheet (12/11/02; 1 page)
3. Letter from Mr. Amper re enforcement legislation (12/11/02; 1 page)
4. Spreadsheet re ownership data for Hawkins, Webb & Jaeger application (undated; 1 page)