



**Commission Meeting Summary (FINAL)
for Wednesday, January 10, 2001 (Approved 2/21/01)
Commission Office
3525 Sunrise Highway, 2nd Floor, Great River, NY
2:00 pm**

Commission members present: Mr. Proios (for Suffolk County), Mr. Girandola (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. 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

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 2:20 pm by Mr. Proios, without a quorum; Only three members were initially present: M. Proios, Mr. Girandola, and Mr. Murphree.

Administrative

! Announcement by Mr. Proios

Summary: Mr. Proios reported that Mr. Kermit Graf, Director of the Cornell Cooperative Extension of Suffolk County, has passed away. Mr. Proios briefly noted some of the activities in which Mr. Graf was involved.

Public Comment

Summary: There were no speakers.

Administrative

! Summary of 11/29, 12/20 meetings: review, approval

Summary: The following change to the 11/29/00 Commission meeting summary was suggested. Under "Coram Firehouse", the second paragraph's third sentence should read as follows: "A discussion ensued regarding the amount of clearing of the existing trees that would be undertaken, and the applicability of the "nondevelopment" definition to this project."

In the 12/20/00 meeting summary, Mr. Spitz' name should be deleted from the list of attendees.

No vote was held yet since a quorum was not yet present.

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

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

Pine Barrens Credit Program

! Program status

Summary: Mr. Rizzo distributed the attached summary chart of activity for the Pine Barrens Credit Program through 1/1/01, and noted the changes in these numbers during the 2000 calendar year.

Specifically, he noted the following: 18 parcels were protected by easements during 2000, representing approximately 30 acres; 17.42 Credits were generated in 2000; and 3.8 Credits were redeemed.

He also noted that the next Clearinghouse Board meeting will be held on 1/30/01 at 3:30 pm at the Brookhaven Town Hall, Building 4, in Medford.

Plan Implementation

! US Dept. of Energy and Brookhaven Lab / Upton Ecological and Research Reserve: Commission membership on Technical Advisory Group; representation

Summary: Mr. Corwin distributed the attached letter from Dr. John Marburger, the Director of the Brookhaven National Laboratory, requesting that the Commission appoint a representative for the Technical Advisory Group which will assist the Laboratory in the development of a Natural Resources Management Plan for the Upton Ecological and Research Reserve. A discussion followed regarding the possible extent to which this committee might be developing a management plan for the entire Laboratory site, rather than simply the new Reserve area, and the possible conflicts between what such a plan might say versus the State pine barrens act or Pine Barrens Plan provisions. It was agreed that the Commission staff would attend the committee meetings and would keep the Commission updated as to the extent and substance of the committee's work.

Mr. MacLellan arrived during the following discussion, and a four member quorum was present for the rest of the meeting.

Core Preservation Area

! Lakeside Manorville Hotel / Manorville (Brookhaven) / rezoning and commercial buildings / hardship: correspondence (*hearing held 9/13; **decision deadline is 1/31***)

Summary: Ms. Carter distributed the attached letter from the consultant on this project explaining that the applicant is considering a modification of the project, and agreeing to an extension of the Commission's decision deadline for the current application to 3/16/01. She also distributed the attached letter from one of the project sponsors requesting that the Commission temporarily refrain from making a State Environmental Quality review Act (SEQRA) determination on this

project, stating that the sponsors are considering a change in the project, and requesting the opportunity to reappear before the Commission in order to make a new presentation.

A motion was made by Mr. Murphree and seconded by Mr. MacLellan to agree to an extension of the decision deadline on this project to 3/16/01. The motion was approved by a 4-0 vote.

Administrative

- ! Summary of 11/29, 12/20 meetings: review, approval
Summary: The previously suggested changes to the two meetings' minutes were described to Mr. MacLellan. **A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to approve the summaries of the 11/29/00 and 12/20/00 Commission meetings with the changes noted above. The motion was approved by a 4-0 vote.**

Core Preservation Area

- ! Gazza / Westhampton (Southampton) / agricultural building / hardship: status (hearing held 9/13; **decision deadline is 1/15**)
Summary: Mr. Gazza, the applicant for this project, was present for this item. Ms. Plunkett distributed the attached revised staff report for this project, along with the attached Environmental Assessment Form Parts 2 and 3. She summarized the details of this proposal for a 5,400 square foot building on a 109,568 square foot parcel, zoned CR-200, on the west side of County Road 31, in Westhampton, Southampton Town. Aerial photographs were distributed. The discussion that followed touched upon the dwarf pine barrens vegetation of the property; whether the proposed use is a permitted use under the Southampton Town Code; the existence of clearing on the parcel and the Town's investigation of whether that clearing violated the Town Code regarding the Core area; the need to look at the cumulative impacts of the proposed action under SEQRA; the Commission staff's recommendation that this action receive a positive SEQRA declaration; the applicant's contention that this project is a Type 2 action under SEQRA and is "nondevelopment" under the State pine barrens law; the application of the Town's Western Generic Environmental Impact Statement to this site; the reviews and approvals that are, or might be, needed from the Planning Board, the Zoning Board of Appeals, and the Building Department for this project; the possibility of having a Draft Environmental Impact Statement produced to examine the impacts of the proposal; the possibility of one or more land swaps between this applicant and Suffolk County for land in the Compatible Growth Area; and the need for the Commission to act in accordance with both the SEQRA law and the State pine barrens law.

A motion was then made by Mr. Girandola and seconded by Mr. Murphree

to find that the proposed action is an unlisted action under the State Environmental Quality review Act, and to issue a positive declaration for the proposal. The motion was approved by a 4-0 vote. It was then suggested that the applicant submit a draft scoping outline for this project.

Compatible Growth Area

! Keyspan / gas main / Riverhead: discussion (new item)

Summary: Mr. Adam Yablonsky of Keyspan Energy was present for this item. Mr. Rigano reported that he was contacted by Keyspan Energy re this project along Nugent Drive in the area of the Brookhaven - Southampton town line in general, and the Riverhead County Center in particular, since the last Commission meeting. He reported that he spoke with Keyspan's staff and counsel, as well as the Commission staff, and has examined the project site in conjunction with the Commission and Keyspan staff. He then spoke with three of the five Pine Barrens Commissioners by phone to discuss his observations and recommendations, and they agreed that the project was "nondevelopment" under the State pine barrens law.

He also noted that Keyspan was very cooperative and was willing to stop the project if it had been determined that a Commission permit was needed. He also noted that Keyspan staff will be meeting with the Commission staff in the near future to review the upcoming major construction projects in the pine barrens.

! North Brookhaven Health and Social Services Center / Coram (Brookhaven): SEQR coordination status

Summary: Ms. Carter recommended a coordinated review due to the multiple agencies involved. Mr. Proios distributed the attached letter from the Suffolk County Health department re this project. A discussion occurred regarding the type of review to undertake pursuant to SEQRA. It was agreed that the Commission would not seek lead agency status for this project's review.

Plan Implementation

! Proposed Amendments to the Central Pine Barrens Plan, Volume I, Chapter 9: Core Roadfront, Residential Parcel Exemption List: public hearing

Summary: A separate stenographic transcript exists for this. A copy of the hearing notice and Plan amendment is attached here.

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Pine Barrens Credit Program summary as of 1/1/01 (1/1/01; 1 page)
4. Letter from Dr. Marburger re Upton Reserve Advisory Group (12/18/00; 2 pages)
5. Letter from Ms. Elkowitz re Lakeside Manor Hotel application (1/9/01; 1 page)

6. Letter from Mr. Mancini regarding Lakeside Manor application (11/13/00; 1 page)
7. Staff report and EAF Parts 2 and 3 re Gazza application (1/10/01; 12 pages)
8. Letter from SC Health re North Brookhaven Health Center (1/3/01; 1 page)
9. Plan amendment hearing notice and text (12/27/00; 7 pages)

Commission Meeting Summary (FINAL)
for Wednesday, January 31, 2001 (Approved 2/21/01)
Brookhaven Town Hall,
3233 Route 112, Bldg 4, Medford, NY
2:00 pm



Robert J. Gaffney
Chair

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

Commission members present: Mr. Proios (for Suffolk County), Mr. Girandola and Ms. Wiplush (for Brookhaven; Mr. Girandola voting), Mr. Murphree (for Southampton at the point indicated) 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. Plunkett, Ms. Carter and Mr. Rizzo (from the Commission), Mr. Spitz (from the NYS Department of Environmental Conservation), Capt. Conklin (at the times indicated; from the NYS Forest Rangers, Vice Chair of the Wildfire Task Force, and member of the Law Enforcement Council), Riverhead Fire Marshal Bruce Johnson and Southampton Fire Marshal Cheryl Kraft (at the times indicated; from the Wildfire task Force and the Law Enforcement Council). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:15 pm by Mr. Proios, without a quorum initially present. Only Suffolk County, New York State and Brookhaven Town representatives were initially present.

Plan Implementation

- ! Wildfire Task Force: 2000 Wildfire and Incident Management Academy: final report (Capt. Robert Conklin)
Summary: Capt. Conklin summarized the activities of the 2000 NY Wildfire and Incident Management Academy sponsored by the Wildfire Task Force and affiliated organizations in October-November 2000 at Brookhaven National Laboratory. He also distributed copies of the final report of the Academy for 2000 (not attached here due to its length), and discussed some of the changes and preparations for the 2001 Academy. There was a brief discussion of the demographics of the 500+ student registrations for the 2000 Academy, and of the degree of involvement of the local volunteer firefighters in the classes and the Academy.

- ! Proposed Amendments to the Plan, Vol. 1, Chap. 9: Core Roadfront Residential Parcel Exemption List: discussion of comments received (public hearing held 1/10)
Summary: Ms. Plunkett explained that the deadline for receipt of comments on the proposed changes to this list is 2/14/01. She

P.O. Box 587
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0587

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also distributed the attached letter from Mr. Joseph Gazza on the list, with two other letters attached to it. He noted in his letter that he is the owner of an industrially zoned Core area parcel in Westhampton, and wants to know why his parcel is not included within the proposed additions to the list. His letter also notes that the existing roadfront list includes nonresidentially zoned parcels in the Town of Riverhead, and he attached correspondence with the Riverhead Town Attorney's Office re those parcels to his letter.

Also present at today's meeting was a person who identified herself as a Core area property owner in Manorville (her name was not noted). She asked how she could have her parcel placed on the roadfront list. She was asked about the identification of the parcel, and she said that she would go to the Town offices down the hall to obtain the tax map number. She then left the meeting to do that.

Core Preservation Area

- ! Schuler / Ridge (Brookhaven) / single family lot: determination of jurisdiction
Summary: Ms. Plunkett distributed the attached affidavit and materials received from Ms. Patricia Schuler re Suffolk County Tax Map parcel 200-407-1-10.1, in the vicinity of the intersection of Ruth Lane and Eagle Drive in Ridge, Brookhaven Town, which she owns. Her correspondence states that she would like to rehabilitate the existing dwelling (shown in the attached photographs) into a three bedroom home.

It was noted in the discussion that follows that the property is on the proposed list of additions to the Brookhaven Town portion of the Core area residential roadfront exemption list, and that the Brookhaven Town staff have not yet examined this request or the attached materials. It was agreed that the Brookhaven Town staff would examine the status of the parcel and dwelling under the Town laws and regulations.

Mr. Murphree (representing Southampton Town) arrived at this point, and a four member quorum was present for the rest of the meeting.

Compatible Growth Area (CGA)

- ! Keyspan Energy / LI Expressway right of way (Brookhaven) / gas main project: determination of jurisdiction
Summary: Ms. Plunkett distributed the attached correspondence from Keyspan Energy re the installation of a 26" gas main along the Long Island Expressway from Yaphank to Manorville. She explained that the NYS Department of Transportation (NYS DOT) is permitting Keyspan to install the gas main along the Long Island Expressway (LIE) right of way, but only at the edge of the right of way, in order to provide for the possible future construction of the LIE service roads. As a consequence, the gas main installation will require the clearing of an

approximately 30 foot swath of woods along the south side of the LIE. This will initially be within the Compatible Growth Area, but later would require clearing within the Core Preservation Area (specifically, when the project reaches the easterly side of County Road 111 in Manorville).

A discussion ensued regarding: how to avoid segmenting the review and evaluation of this project; addressing the future concerns of the Core area clearing now as well as the more immediate CGA clearing; possible alternatives, including the existing electricity transmission corridor east of Exit 69; the possibility of speaking with the NYS DOT now regarding their plans for service road construction; the need for a utility project such as this to be consistent with the goals and objectives of the statute in order to be deemed "nondevelopment"; and the possibility of getting both Keyspan and the NYS DOT in the same room to discuss this project. It was agreed that Commissioner Cowen will call the NYS DOT to invite them to attend the 3/14/01 Commission meeting to discuss some of these matters.

Public Comment

Summary: The first speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He responded to Mr. Allan Grecco's recent comments regarding the County's land acquisition program. Mr. Amper remarked that he did not think that the 382 acres which the County purchased in the pine barrens last year was a good record; that the County has not expressed any interest in undertaking a land exchange with Mr. Joseph Gazza for portions of the pine barrens Core in Westhampton; that the County officials have misunderstood the indemnification provision of the State pine barrens law; that the Plan goal of 75% acquisition protection and 25% transfer of development rights program protection was only a goal; and that 3700 acres remain to be acquired or protected.

He also noted that the Governor's budget for the Environmental Protection Fund is not encouraging, and that the Commission should urge it's enhancement. Mr. Proios then spoke briefly about the County's land protection efforts.

A discussion followed regarding the ability of the County to borrow under the current land acquisition program; the number of acres to be protected; the number of acres that might be difficult to acquire due to title defects or unwilling sellers; the past strong record of support by the Governor for pine barrens land acquisition; and the higher price of land on Long Island versus the rest of the State.

The second speaker was Mr. Henry Dittmer, representing the Civil Property Rights Associates. He asked how many small property owners have been contacted, and stated that he has never received a letter with an offer to buy his property. A brief discussion then ensued regarding the County's past efforts to contact small lot owners.

Administrative

- ! SCWA-Commission 2001-02 agreement: review, approval
*Summary: The attached contract between the Suffolk County Water Authority (SCWA) and the Commission for the 2001-02 State fiscal year has been reviewed by Commission counsel and recommended for approval. **A motion was then made by Mr. Cowen and seconded by Mr. Murphree to approve the attached agreement and to authorize the Commission Chair or his designated representative to sign it on behalf of the Commission. The motion was approved by a 4-0 vote.***

- ! NYS DEC-Commission contract: new standard attachments to recently approved contract amendments: review, approval (counsel)
Summary: Mr. Rigano advised the Commission members to hold any action on this until he has provided legal advice in a closed session.

Plan Implementation

- ! Wildfire Task Force Public Education Committee: recommendation for award of wildfire video production contract: discussion; possible approval (*Fire Marshal Bruce Johnson*)
Summary: Fire Marshal Johnson, the Chair of the Wildfire task Force's Public Education Committee, presented the attached recommendation for the award of a contract for the production of a wildfire public education video. The contract recommendation is the result of the Request For Proposals (RFP) process that the Commission initiated last year.

The Committee reviewed the three responses that were received, and rejected one for being far too expensive (i.e., in the range of \$200,000). The remaining two responding businesses were then interviewed by the Committee and Commission staff, sample videos were requested and examined, and the Committee chose to recommend an approximately \$16,000 bid from Production By Design of Farmingville, and rejected an approximately \$30,000 bid from Black Sheep Television of Westhampton.

The three Committee members present each spoke about different aspects of the video project, including the professional nature of the recommended company; the need to accommodate weather and other unpredictable variables during the production period; the possible audiences for the video; and the matching grant for up to \$10,000 for which Capt. Conklin applied for this project to the U.S. Forest Service.

A motion was then made by Mr. Cowen and seconded by Mr. Murphree to approve the awarding of a contract to Production By Design for this project and to authorize the development of a contract between the Commission and that company. The motion was approved by a 4-0 vote.

Capt. Conklin and Fire Marshals Johnson and Kraft left at this point.

Pine Barrens Credit Program

- ! Gazza / Westhampton (Southampton) / new credit appeal
- ! Harmer / Manorville (Brookhaven) / new credit appeal

Summary: Mr. Rizzo distributed the two new attached Pine Barrens Credit allocation appeals that have been recently received, one for Suffolk County Tax Map (SCTM) parcel 900-241-1-32 by Mr. Joseph Gazza, and the other for SCTM parcels 200-356-4-4.2 and 200-413-2-2 by Mr. Frank Harmer.

A motion was made by Mr. Cowen and seconded by Mr. Murphree to schedule a public hearing for each of these appeals for the 3/14/01 Commission meeting at 3:00 pm. The motion was approved by a 4-0 vote.

Core Preservation Area

- ! Gazza / Westhampton (Southampton) / agricultural building / hardship: status of EIS scoping (SEQR positive declaration issued 1/10)

Summary: Ms. Plunkett distributed and discussed the attached draft scoping outline from Mr. Gazza (the applicant); a staff version of the same; correspondence from Mr. Gazza to several people re a collection of 10 parcels (including the subject parcel of this application) that the Gazza family owns along the west side of County Road 31 in Westhampton; and some of the replies that he has received (all attached). Mr. Proios commented briefly on the County's correspondence. Ms. Plunkett asked the Commission members to contact her with any comments upon the draft scoping outline.

- ! Gazza / Westhampton (Southampton) / site plan: determination of jurisdiction (new request and site)

Summary: Ms. Plunkett distributed the attached letters from Mr. Joseph Gazza to various people regarding the possible use of one of his Westhampton properties for a State Police barracks. In the discussion which followed, it was noted that the Commission would need to see more details about this project in order to determine whether this project is "development" under the State pine barrens law, and questioned whether the State Police have expressed any interest in the project.

Compatible Growth Area (CGA)

- ! North Brookhaven Health and Social Services Center / Coram (Brookhaven): public hearing

Summary: A separate stenographic transcript exists for this.

Closed Advisory Session

Summary: A motion was made by Mr. Girandola 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 5:57 pm to 6:30 pm.

Adjournment

Summary: The meeting was then adjourned immediately, without a formal resolution of adjournment.

Attachments (in order of discussion):

1. Attendance list (2 pages)
2. Speaker list (1 page)
3. Letter with two attached letter from J. Gazza re Core roadfront list (1/25/01; 3 pages)
4. Schuler affidavit and attached materials re existing home (1/25/01; 6 pages)
5. Keyspan Energy correspondence re gas main (1/19/01; 6 pages)
6. 2001-02 agreement between Commission and the SCWA (undated; 6 pages)
7. Recommendation for video contract and supporting documents (1/31/01; 13 pages)
8. Credit allocation appeal from Mr. Joseph Gazza (1/25/01; 1 page)
9. Credit allocation appeal from Mr. Frank Harmer (1/20/01; 1 page)
10. Mr. Gazza's draft scoping outline for the Westhampton site (1/16/01; 3 pages)
11. Commission staff scoping outline for the Gazza site (1/31/01; 3 pages)
12. Mr. Gazza's letter re family holdings and responses received (1/31/01; 7 pages)
13. Letter and attachments re proposed police station (1/31/01; 5 pages)

**Commission Meeting Summary (FINAL)
for Wednesday, February 21, 2001 (Approved 3/14/01)
Brookhaven Town Hall,
3233 Route 112, Bldg 4, Medford, NY
2:00 pm**



Commission members present: Mr. Proios (for Suffolk County), Ms. Wiplush (for Brookhaven), Mr. Hanley (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, and Ms. Carter (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

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 2:11 pm by Mr. Proios, without a quorum initially present. Initially, Mr. Proios, Ms. Wiplush and Mr. Murphree were present.

Public Comment

Summary: There were no speakers.

Administrative

- ! Summaries of 1/10, 1/31 meetings: review, approval
Summary: There were no corrections to these minutes at this time. No vote was held since a quorum was not yet present.

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

- ! NYS DEC-Commission contract: new standard attachments to recently approved contract amendments: review, approval (counsel)
Summary: Mr. Corwin distributed the attached revision of the new Appendices A and B to be approved by the Commission as an addition to the already approved agreement between the NYS Department of Environmental Conservation (NYS DEC) and the Commission for the 1998-99 and 1999-2000 State fiscal years for reimbursement of administrative expenses. He explained that Ms. Doris Roth, Commission counsel, spoke with Ms. Meta Murray, NYS DEC counsel in the finance office in Albany, regarding the changes shown with respect to ownership of

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

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equipment purchased with those funds, and Ms. Roth also spoke with Mr. William Preston of the same office re the percentage values inserted into Appendix B, page 3.

A motion was made by Ms. Wiplush and seconded by Mr. Murphree to approve these revised appendices for the stated agreement between the NYS DEC and the Commission. The motion was approved by a 4-0 vote.

! Summaries of 1/10, 1/31 meetings: review, approval

Summary: A motion was made by Mr. Murphree and seconded by Mr. Hanley to approve the summary of the 1/10/01 Commission meeting as drafted. The motion was approved by a 4-0 vote.

A motion was made by Mr. Murphree and seconded by Ms. Wiplush to approve the summary of the 1/31/01 Commission meeting as drafted. The motion was approved by a 4-0 vote.

Compatible Growth Area (CGA)

! Keyspan Energy / LI Expressway right of way (Brookhaven) / gas main project: determination of jurisdiction; discussion with Keyspan personnel (*continued from 1/31*)

Summary: Mr. Corwin and Mr. Rigano summarized the discussions that have been held to date with members of the Keyspan staff re this gas main installation project along the south side of the Long Island Expressway in Brookhaven Town. The proposed project would extend from a point west of Exit 68 to a point west of Exit 69 as described in a January 19, 2001 letter from Keyspan. Mr. Steve Dalton of Keyspan Energy was present, along with several members of the Keyspan Environmental Engineering, Legal, and Construction staffs. Mr. Daryl Kost of the NYS Department of Transportation (NYS DOT) was also present for this item.

Mr. Dalton introduced the Keyspan staff. He then explained that two phases of the overall project have been completed to date, both of which are outside of the Central Pine Barrens. He noted that after the phase described in the January 19, 2001 letter, three future phases of the work are within the Central Pine Barrens: one will extend from Weeks Road to Ryerson Avenue (west of the Long Island Expressway's (LIE) Exit 70, and entirely within the Compatible Growth Area); a second phase will extend from Ryerson Avenue (approximately Exit 70 of the LIE) to Nugent Drive (within the Core Preservation Area) and a third phase would extend from Nugent Drive to a point west of the Riverhead County Center (along Nugent Drive and within Southampton Town; also within the Core Area).

Mr. Dalton noted that his staff has reexamined their estimates of liner footage since they last spoke with the Commission staff, and that the current estimate of

the CGA portion of the work in Manorville is approximately 6,400 feet instead of the original 8,400 foot estimate. Mr. John Stavrakas, Keyspan staff member, was present and noted that following construction on this project is finished, a 10 foot wide access corridor would be kept cleared for purposes of maintenance access to the gas main. He also stated that the project is needed to satisfy the current demand of Keyspan customers; that the project is not for speculation purposes; that 4 to 5 months are required for construction; that Keyspan needs to have this project completed before next winter; and that this project is not designed to serve any of the new private power generation facilities that have been proposed for Brookhaven Town.

Mr. Proios expressed concern regarding the cumulative impacts of this overall project. A discussion ensued regarding the question of who would supply gas to the various private power plants being proposed for this area of Long Island; the fact that these plants are being proposed for sites to the west of this gas main project; and the question of whether Keyspan will be looking for alternative routes for the final phases of this overall project which might be available without creating additional clearings.

Mr. Rigano observed that the figures provided by Keyspan staff for the clearing that would be required for the phase between Exit 70 and Nugent Drive would be approximately 15 acres within the Core. Mr. Stavrakas noted that this project is designed for 15 to 20 years of growth.

A discussion ensued regarding the difference between the proposed route and the possible alternative of using existing electric transmission corridors for a portion of the gas main routing; the location of the gas main with respect to the LIE roadway, and the existing and possible future service roads; the locations of the existing utilities along the LIE; the maintenance and safety issues associated with having the gas main at various points in the LIE right of way; the applicability of the nondevelopment provisions of the State pine barrens law to this project; the search for alternative routes; the applicability of the hardship exemption provisions of the pine barrens law and Plan; the possibility of Keyspan filing an application while the Commission makes a determination of jurisdiction on this project; and the sequencing of applications, hearings, and decisions that the Commission normally follows. It was agreed that this project will be on the Commission's next agenda on 3/14/01.

Plan Implementation

- ! Proposed Amendments to the Plan, Vol. 1, Chap. 9: Core Roadfront Residential Parcel Exemption List: comments received; discussion; vote (*public hearing held 1/10*)

Summary: Mr. Corwin distributed the attached description of the proposed Plan amendments along with the written comments received through the 2/14/01 comment deadline. He also summarized several points regarding the parcels in Riverhead Town which are already on the list, and which a written comment from

the Long Island Pine Barrens Society and The Nature Conservancy suggested be removed from the existing roadfront list.

A discussion ensued regarding the status of three of these parcels under the residential subdivision exemption (different from the Core roadfront list) of the pine barrens law; the zoning of these parcels, which Mr. Hanley reported is NRP (Natural Resources Protection); which parcels are already developed; whether a flag lot with access off a road should be considered to be "roadfront"; whether some of the lots actually front upon a private or public road; the location of some of the lots within a forested area along the Peconic River; whether the Core roadfront list should be updated by deletions as well as insertions if conditions warrant; and whether the lack of specific comments on other parcels proposed for addition to the list implies an endorsement of those other parcels.

*Mr. Corwin distributed the attached negative declaration for the proposed Plan amendments. **A motion was made by Ms. Wiplush and seconded by Mr. Murphree to adopt the attached negative declaration for the proposed Plan amendments. The motion was approved by a 4-0 vote.***

A motion was then made by Mr. Murphree and seconded by Mr. Hanley to recommend the list of parcels in the Plan amendments to the State Legislature for adoption. The motion was approved by a 4-0 vote.

A motion was then made by Mr. Murphree and seconded by Mr. Hanley to adopt and approve the proposed Plan amendments. The motion was approved by a 4-0 vote.

Core Preservation Area

- ! Schuler / Ridge (Brookhaven) / single family lot: determination of jurisdiction; report from Brookhaven Town (*continued from 1/31; materials distributed*)
Summary: Ms. Wiplush reported that the Brookhaven Planning Department examined this parcel and visited the site. She stated that the Town staff has recommended that the request to rehabilitate the existing bungalow or cottage type of dwelling into a 3 bedroom house not be deemed as "nondevelopment", and that the project should require a Core hardship permit from the Commission. It was also noted that this lot is part of the just adopted Plan amendment which recommend an expansion of the Core roadfront residential exemption list, and the proposed project would not require a Commission permit if the State Legislature endorses the proposed list additions. That was agreed, and the Commission staff will forward the property owner a letter stating these items.

- ! Lakeside Manorville Hotel office building / Manorville (Brookhaven) / site plan: acceptance of withdrawal
*Summary: Ms. Carter distributed the attached withdrawal letter from the project sponsors. **A motion was made by Mr. Hanley and seconded by Mr.***

Murphree to accept the withdrawal of this Core hardship application. The motion was approved by a 4-0 vote.

- ! Lakeside Manorville Hotel day care facility / Manorville (Brookhaven) / site plan: new application; scheduling of public hearing (*materials to be distributed*)

Summary: Ms. Carter explained that a new application has been received for this site at the southeast corner of the Long Island Expressway and County Road 111 in Manorville in Brookhaven.

The new project consists of a 9,900 square foot day care facility, which would not require a change of zone. She noted that this may be an unlisted action under the State Environmental Quality review Act, and that the amount of clearing is greatly reduced from the previous development proposal for this site. Ms. Wiplush noted that the new project would require a special permit from the Town's Planning Board.

It was also noted that there is no statement in the application regarding the remainder of the parcel. The applicant is also requesting that the CGA development standards be applied to this project, even though it is in the Core area. A brief discussion followed regarding the Commission seeking lead agency status, and coordinating with other agencies. It was agreed that the Commission staff would perform a coordinated review.

A motion was then made by Mr. Murphree and seconded by Ms. Wiplush to schedule a public hearing on this project at the 4/4/01 Commission meeting at 4:00 pm. The motion was approved by a 4-0 vote. A second motion was then made by Mr. Murphree and seconded by Ms. Wiplush to amend the previous motion by changing the time of that hearing to 3:30 pm. That amending motion was approved by a 4-0 vote.

Compatible Growth Area (CGA)

- ! North Brookhaven Health and Social Services Center / Coram (Brookhaven): status of SEQR coordination; possible SEQR determination

Summary: Ms. Carter distributed and discussed the attached revised staff report on this proposed addition to an existing office building on NYS Route 112, south of NYS Route 25A, in Coram in Brookhaven Town. The discussions which followed touched upon the fact that a parking variance may be required from Brookhaven Town, that the project no longer requires a variance from the fertilizer dependent vegetation standard of the Pine Barrens Plan, and that there remains a need for a hardship exemption from the clearing standard. There was a brief discussion of the recommended conditions of approval contained within the staff report.

A motion was then made by Mr. Murphree and seconded by Ms. Wiplush to issue a negative declaration under the State Environmental Quality Review

Act for this project. The motion was approved by a 4-0 vote.

A motion was then made by Mr. Proios and seconded by Mr. Hanley to approve the CGA hardship exemption for this project pursuant to ECL 57-0123(3)(b) subject to the conditions contained within the staff report and subject to the project receiving all necessary approvals from other agencies. The motion was approved by a 4-0 vote.

Closed Advisory Session

Summary: **A motion was made by Mr. Hanley 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. The Commission held off actually entering into a closed session until after the following public comments.**

Public Comment

Summary: *Mr. Walter Olsen, representing Civil Property Rights Associates, stated that Keyspan should have known some time ago that they were planning this project and should have been speaking with the Commission earlier. He stated that he hoped that the Commission would hold Keyspan to the same standard to which others are held.*

Closed Advisory Session

Summary: *The Commission entered into closed session from approximately 4:19 pm to 4:54 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 (1 page)
2. Speaker list (1 page)
3. Revisions to appendices of NYS DEC-Commission agreement (2/21/01; 13 pages)
4. Core roadfront residential exemption list and comment letters (2/21/01; 13 pages)
5. Core roadfront Plan amendment negative declaration (2/21/01; 1 page)
6. Letter from Mr. Mishkin withdrawing original Lakeside application (1/29/01; 1 page)
7. Letter from Mr. Mishkin with new Lakeside application (1/29/01; 13 pages)
8. Staff report re North Brookhaven Health & Social Service Center (2/21/01; 3 pages)



**Commission Meeting Summary (FINAL)
for Wednesday, March 14, 2001 (Approved 4/4/01)
Riverhead Town Hall,
200 Howell Avenue (at East Main Street), Riverhead, NY
2:00 pm**

Commission members present: Ms. Wiplush (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. Plunkett, 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

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

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

Public Comment

Summary: The first speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He stated that work by utilities within the pine barrens was anticipated when the pine barrens statute was written; that projects should not be segmented when they are reviewed; that the Pine Barrens Society is often troubled by the Commission's "nondevelopment" determinations; that the nondevelopment provisions of the law require that utility projects still be consistent with the goals and objectives of the act in order to be nondevelopment; that the current Keyspan proposal will require clearing; and that the Society's preferred treatment of such projects is that an application for a compelling public need hardship be filed. He also distributed the attached letter from himself to Sen. Charles Schumer regarding the restrictions that may be imposed by the federal government on such projects within a federally funded interstate roadway corridor.

Mr. Amper asked the Commission to take a hard look at this proposal by Keyspan and to minimize the impacts that the project would have. He also stated that the project is better handled through the compelling public need hardship provision; that the environment should be put first; and that the question of how something like this project should be done ought to be answered before a decision is made whether to do it at all.

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

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

The second speaker was Mr. Mulcahy, representing Keyspan Energy. He stated that there are certain exemptions in the pine barrens law that are intended for utilities. He also stated that Keyspan will respect the Commission's decision.

Administrative

- ! Summaries of 2/21 meeting: review, approval

Summary: *The following change was suggested to the 2/21 summary: under "Keyspan Energy", the first two paragraphs were edited to now read as follows:*

"Mr. Corwin and Mr. Rigano summarized the discussions that have been held to date with members of the Keyspan staff re this gas main installation project along the south side of the Long Island Expressway in Brookhaven Town. The proposed project would extend from a point west of Exit 68 to a point west of Exit 69 as described in a January 19, 2001 letter from Keyspan. Mr. Steve Dalton of Keyspan Energy was present, along with several members of the Keyspan Environmental Engineering, Legal, and Construction staffs. Mr. Daryl Kost of the NYS Department of Transportation (NYS DOT) was also present for this item.

Mr. Dalton introduced the Keyspan staff. He then explained that two phases of the overall project have been completed to date, both of which are outside of the Central Pine Barrens. He noted that after the phase described in the January 19, 2001 letter, three future phases of the work are within the Central Pine Barrens: one will extend from Weeks Road to Ryerson Avenue (west of the Long Island Expressway's (LIE) Exit 70, and entirely within the Compatible Growth Area); a second phase will extend from Ryerson Avenue (approximately Exit 70 of the LIE) to Nugent Drive (within the Core Preservation Area) and a third phase would extend from Nugent Drive to a point west of the Riverhead County Center (along Nugent Drive and within Southampton Town; also within the Core Area)."

A motion was made by Mr. MacLellan and seconded by Mr. Murphree to approve the summary of the 2/21/01 Commission meeting with the changes noted above. The motion was approved by a 4-0 vote.

Plan Implementation

- ! Wildfire Task Force Public Education Committee: draft contract for wildfire public education video production

Summary: *Mr. Corwin explained that the attached contract has been agreed upon by both Commission counsel and Production By Design. He also explained that the contract, which is for \$16,360, also provides for any additional amounts that may be needed would require a supplemental agreement to this contract.*

He noted that the most likely cause of such additional monies would be due to weather related delays in the filming of prescribed burns, since a burn could be canceled or postponed up to the last minute, even though personnel, including the contractor's filming crew, have already been brought to the scene and costs have been consequently incurred. The original Commission authorization permits up to \$20,000 to be expended for this project, and it was agreed that a supplemental agreement will be drafted for the next Commission meeting which would permit the expenditure of the additional money up to \$20,000 through authorization by the Executive Director. This would permit a burn scheduled to be filmed one day to be filmed on the next appropriate day without returning to the Commission in between.

A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to approve the attached contract for production of the wildfire education video, and to authorize the Commission Chair or his designated representative to sign the contract on behalf of the Commission. The motion was approved by a 4-0 vote.

Core Preservation Area

- ! Morgan / Ridge (Brookhaven) / single family residence / hardship: new application; set hearing

*Summary: Ms. Plunkett distributed the attached new core hardship application for a single family home on Sally Lane in Ridge in Brookhaven Town (Suffolk County Tax Map 200-382-3-19. She noted that this is an area where other similar applications have been approved previously. **A motion was made by Mr. MacLellan and seconded by Mr. Murphree to schedule a public hearing on the Morgan / Ridge core hardship application for the 4/4/01 Commission meeting at 3:30 pm. The motion was approved by a 4-0 vote.***

Compatible Growth Area (CGA)

- ! Keyspan Energy / LI Expressway right of way (Brookhaven) / gas main project: determination of jurisdiction (continued from 2/21)

*Summary: Mr. Rigano distributed and summarized the attached draft resolution on the determination of jurisdiction request for the proposed Keyspan Energy gas main. **A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to approve the draft resolution which determines that the project is not within the Commission's jurisdiction. A discussion ensued regarding the fact that all of the work will be within the Long Island Expressway right of way, and the provisions within the pine barrens law regarding utilities and roadways. The motion was then approved by a 4-0 vote.***

Mr. Amper then asked whether the Commission could require that the project be

done as close to the highway roadbed as possible, and how the project comports with the Compatible Growth Area standards. Mr. Cowen commented that the Commission will see this project when it reaches the core area, since the determination of nonjurisdiction is only for the CGA portion of the project. Ms. Green of The Nature Conservancy asked how a determination of ecological impacts was made. Mr. Murphree noted that the project as reviewed by the Commission uses a 30 foot wide corridor, and that any extra clearing would be a matter for the Commission. Mr. Amper asked if there was any documentation regarding the assertion that there was no ecological impacts. Mr. Amper asked if there had been any staff report, or whether outside ecological expertise had been sought. He stated that the Commission's position appears to be that there is no impact since the project is adjacent to the Long Island Expressway. Mr. Rigano stated that there is tremendous expertise on the Commission.

Pine Barrens Credit Program

- ! Frank Harmer / Manorville (Brookhaven) / credit appeal: public hearing
 - ! Joseph Gazza / Westhampton (Southampton) / credit appeal: public hearing
- Summary: A separate stenographic transcript exists for these items.

Public Comment

Summary: The speaker at this time was Mr. Joseph Gazza, representing himself. He stated that he owns a Light Industrial zoned parcel along County Road 31 in Westhampton in Southampton Town that he had requested be placed on the core roadfront residential exemption list, which was the subject of the Plan amendment which the Commission recently approved. He asked why the current parcels on the original list contain nonresidentially zoned parcels in Riverhead, and his parcel is not on the list of new additions.

Adjournment

Summary: The meeting ended at approximately 4:07 pm, without a formal adjournment resolution.

Attachments (in order of discussion):

1. Attendance list (2 pages)
2. Speaker list (1 page)
3. Letter from Mr. Amper to Sen. Schumer (3/2/01; 2 pages)
4. Contract with Production By Design for wildfire video (undated; 8 pages)
5. Core hardship request from Mr. Morgan (2/20/01; 4 pages)
6. Resolution regarding Keyspan project with attachments (3/14/01; 10 pages)



**Commission Meeting Summary (FINAL)
for Wednesday, April 4, 2001 (Approved 4/25/01)
Commission Office,
3525 Sunrise Highway, 2nd Floor, Great River, NY
2:00 pm**

Commission members present: Mr. Proios (for Suffolk County), 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. Plunkett, Ms. Carter, Mr. Rizzo, 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.

Robert J. Gaffney
Chair

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

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

Public Comment

Summary: The first speaker was Mr. Richard Amper of the Long Island Pine Barrens Society. He stated that the Commission should be determining solutions to the questions raised by the current Keyspan gas main project along the Long Island Expressway (LIE) before the project physically reaches the Core area boundary.

He stated that he has requested Senators Schumer and Clinton, and Congressman Grucci to assist with determining the Federal Highway Administration's (FHA) involvement in this work, and has asked Governor Pataki to assist with the NYS Department of Transportation's (DOT) involvement in this project. He stated that, if DOT will rule out the possibility of a service road along the portion of the LIE, then the FHA may defer to an environmentally sensitive area consideration.

Mr. Amper stated that the Commission's prior work with the Long Island Power Authority along the Sunrise Highway with respect to their new underground electric cable was a great accomplishment. He then remarked that the area near and east of Exit 68 of the LIE is less populated than other areas. A discussion then ensued regarding DOT's amenability to dropping plans for a service road there; the lessening of population growth; and the Pine Barrens Society's outreach to the local NYS DOT office. Mr. Amper stated that it cannot hurt to try. Mr.

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

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

Henry Dittmer, representing Civil Property Rights Associates, stated that he thought that abandoning plans for a future service road may cut off access to some parcels.

Mr. Proios stated that it could not hurt to have a meeting. Mr. Cowen noted that abandoning plans for a service road would be a major decision for the NYS DOT. It was then agreed that a meeting would be set up among NYS DOT, SC Planning Department, FHA, and the Commission. A discussion followed regarding the topics to be covered and the lag time needed to plan for the gas main project in the vicinity of the Core area.

Mr. Dittmer then spoke briefly regarding a lawsuit that he filed against NYS DOT in the State Court of Claims regarding condemnation of a strip of his land along the Sunrise Highway. Mr. Walter Olsen, also representing Civil property Rights Associates, stated that he felt that Keyspan will come forward at the last minute, and that they should be able to plan further ahead. Mr. Gazza then asked about the recently installed electric power line and the capacity of it.

Administrative

- ! Summary of 3/14 meeting: review, approval
Summary: **A motion was made by Mr. Cowen and seconded by Mr. MacLellan to approve the summary of the 3/14/01 Commission meeting as drafted. The motion was approved by a 4-0 vote.**

Plan Implementation

- ! Law Enforcement Council: pending peace officer bill (*not on the original agenda*)
Summary: Mr. Proios commented that he would like to have the Commission see any correspondence from the Councils before it is sent to public officials, and specifically referenced a recent support resolution passed by the Law Enforcement Council for the proposed change to the peace officer provisions of state law. It was agreed that would be done.

Pine Barrens Credit (PBC) Program

- ! Current status (*not on the original agenda*)
Summary: Mr. Rizzo noted that the next meeting of the Clearinghouse is scheduled for 4/24/01 at 1:00 pm at the Brookhaven Town Hall, Building 4, in Medford. He also distributed the attached summary of the PBC Program through 4/1/01, and noted that the program has passed the 100 credit redemption level, with a total of 106.10 Credits having been redeemed across all three towns.
- ! Joseph Gazza / Westhampton (Southampton) / credit appeal: decision (*public*)

hearing held 3/14; **decision deadline is 4/4)**

Summary: Mr. Rizzo summarized this Credit appeal, explaining that Mr. Gazza is appealing his original allocation of 0.18 Credit for a 1.15 acre parcel. The parcel, 900-241-1-32, is adjacent to both the unbuilt North Service Road of the Sunrise Highway, and the unpaved dirt road known as Middle Line Highway, which runs eastbound from Speonk Riverhead Road into the pine barrens region west of the intersection of County Roads 31 and 104. The public hearing was held on 3/14/01, and today is the decision deadline for the Credit appeal.

An extensive discussion followed regarding the developability of the parcel, under both the Southampton Town code and the Suffolk County Health Department regulations; whether the parcels adjacency to either or both of the two roadways - one a dirt road and the other an unbuilt service road shown on the tax maps - was significant enough to affect the parcel's credit allocation; the distance from Speonk Riverhead Road along the dirt road to the parcel, which was measured on a map as being approximately two miles; the ability of a vehicle to physically travel on the dirt road to reach the parcel; Mr. Gazza's assertion that he did, in fact, drive to the parcel in a vehicle; the discrepancy in the parcel's area between the tax maps and the parcel's survey; the width of the parcel and the effect of that width on the developability of the parcel, including, for example, the ability of a development on the parcel to meet the side yard and setback distances in the Town code; the necessity for any special permits from the Town in order to develop the parcel; whether Mr. Gazza can demonstrate that such a special permit is obtainable; and the applicability of the Commission's prior decision on the Alberto and Sipala credit appeal to the current appeal, and the differences between those two appeals.

Mr. Gazza stated that the parcel fronts on Middle Line Highway; that there is no overlap with another parcel; that the parcel has clean title with title insurance; that the County would have purchased it if it could; that the parcel was split by Sunrise Highway; and that he has driven on the dirt road. Further discussion then followed regarding access to Middle Line Highway; the width of the parcel, which was estimated at approximately 32 feet; and the date of the deed, which is 1987. Mr. Cowen noted that the Sipala and Alberto appeal was different in that some of the several parcels owned by those appellants had road frontage on a public road and others were a short distance from such a road.

A motion was then made by Mr. Proios and seconded by Mr. Cowen to award a total of 1.00 Pine Barrens Credit to Mr. Gazza for this parcel, with the Commission's determination based upon information presented at the 3/14/01 hearing. The Commission's determination is based upon the following findings: (1) The parcel has motor vehicle access by a dirt road that is currently in place, and a proposed service road on the north side of Sunrise Highway would access the property. (2) The construction of a single family house on this parcel would be in compliance with Article 6 of the Suffolk County Sanitary Code since the parcel is more than one acre in size. (3) The Town of Southampton may issue an approval for the

construction of a single family dwelling on the parcel based upon the possible issuance of necessary variances or other Town requirements. The motion was approved by a 4-0 vote.

Plan Implementation

- ! Wildfire Task Force Public Education Committee: supplemental contract for wildfire video production; review and approval

Summary: Mr. Corwin distributed the attached draft supplemental agreement between the Commission and Production By Design, the company which was recently awarded the contract to produce a wildfire education video. He explained that the supplemental agreement would enable him to authorize additional expenditures above the original award amount up to a maximum of \$20,000. This would be important, for example, in the event that there were several delays due to weather in the outdoors filming of a prescribed fire.

A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to approve the supplemental agreement and to authorize the Commission Chair or his designated representative to sign the agreement on behalf of the Commission. The motion was approved by a 4-0 vote.

Core Preservation Area

- ! Gazza / Westhampton (Southampton) / core boundary change request
Summary: Ms. Plunkett summarized this attached request from Mr. Gazza for a core boundary change approximately 179 feet west of County Road 31, beginning from its intersection with Sunrise Highway south to its intersection with Stewart Avenue in Westhampton in Southampton Town. The Commission's power to review this is noted in Environmental Conservation Law (ECL) Section 57-0109 (informal copy attached). Previously, the Commission has held a public hearing for core boundary changes.

A motion to hold a public hearing will be considered after the discussion of the next agenda item.

- ! Gazza / Westhampton (Southampton) / site plan: new hardship application; set hearing
Summary: Ms. Plunkett explained that Mr. Gazza, by materials received 3/15/01 (see attachments), is requesting a core hardship exemption for parcel previously know as SCTM 900-311-1-23 and currently merged with parcel previously known as SCTM 900-311-1-8.4, as per SC Clerk Liber D00012107, Page 816, dated 3/15/01. The parcels are adjacent and located on the west side of County Road 31, south of Stewart Avenue, in Westhampton, in the Town of Southampton. The current application is for a 936 square foot industrial building on a parcel

now totaling 22,137 square feet, and the new building would be accessory to an existing 2,945 square feet building in an LI-40 zoning district.

She also noted the relevant history related to this application:

- The parcel known as lot 8.4, totaling 17,145 square feet, received a hardship exemption from the Commission in October 1996 (known as the George Mathys core area permit)
- Mr. Gazza filed a core hardship exemption for the parcel known as lot 23, totaling 4,992 square feet, on 4/4/99. Mr. Gazza withdrew that application on 6/30/99. Mr. Gazza purchased this site after the passing of the Act. On 8/30/99 he requested a core boundary change to exclude said parcel from the core. This petition was denied after a public hearing held on 11/10/99 on grounds that the request did not fall within the Commission's' discretionary powers under ECL 57.

Staff believes that based on new information provided by Mr. Gazza (parcels are now merged), the Commission could hear the new application by setting a hearing date. Mr. Gazza noted during the discussion that he has a Suffolk County Health Department approved map.

- ! Gazza / Westhampton (Southampton) / core boundary change request
- ! Gazza / Westhampton (Southampton) / site plan: new hardship application; set hearing
Summary: **A motion was made by Mr. MacLellan and seconded by Mr. Murphree to schedule public hearings on both of these applications at the 4/25/01 Commission meeting at 3:30 pm. The motion was approved by a 4-0 vote.**
- ! Gazza / Westhampton (Southampton) / agricultural building site plan: status of SEQR scoping outline; correspondence from applicant
Summary: *This pending application for a non-residential building in the CR-200 residential zone, located on the west side of County Road 31, in Westhampton, in the Town of Southampton was summarized by Ms. Plunkett. The Commission issued a positive declaration on 1/10/01, and a draft scoping document was prepared and issued on 2/9/01. No comments have been received on the draft scoping document, so the Commission staff will prepare a final scope as per 617.8(f). Additionally, on 3/14/01, Mr. Gazza has submitted the attached letter regarding the subject site. No action is required at this time.*
- ! Gazza / Westhampton (Southampton) / correspondence
Summary: *Mr. Corwin distributed the two attached correspondence items from Mr. Gazza regarding his properties in general. No discussion was held.*
- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / site plan: request for SEQR lead agency
Summary: *Ms. Plunkett distributed the attached memo from Ms. Diane Mazarakis of the Brookhaven Department of Planning, Environment and Development regarding the pending site plan application for Michaelangelo's*

Restaurant on the east side of County Road 111 in Manorville. The memo requests that the Commission become the lead agency for the review of this project.

Ms. Plunkett noted that this site was previously in violation of the pine barrens law for performing development work without a Commission permit, and that a settlement was reached before any Commission approval was granted. She also noted that no application has been submitted to the Commission for the new project which is the subject of the Brookhaven Town memo. The new project consists of a 2,900 square foot addition to the existing restaurant. A brief discussion ensued regarding the procedure for following through on violation reports in general, and the possibility of seeking an amendment to the pine barrens law that would prohibit the issuance of approvals when a violation of the law remains unresolved. It was then agreed that the Commission would respond to the Town's memo and ask the Town for records of violations at the site and their status.

- ! Lakeside Manorville Hotel day care facility / Manorville (Brookhaven) / site plan
Summary: Ms. Carter noted briefly that the Commission has previously asked for the assistance of the Suffolk County Planning Department in the review of an earlier application to the Commission for this site. After a brief discussion, it was agreed that there is currently no need to make a similar request at this time.
- ! Suffolk Community College / Eastport (Southampton): correspondence re new projects
Summary: Ms. Plunkett distributed the attached letter from the Suffolk Community College re their Eastern Campus (south of Riverhead in Southampton Town) and two proposed projects: the placement of three trailers to serve as facilities for a bookstore and storage, and the proposed installation of an energy conservation project that would include, among other aspects, the construction of a wind turbine tower.

Mr. Richard Amper of the Long Island Pine Barrens Society commented that the College should be requested by the County Executive's Office to give the Commission a complete description of all the projects which they are planning. After a brief discussion, it was agreed that the College staff will be invited to come to the next Commission meeting to discuss their upcoming and planned projects.

Plan Implementation

- ! Pine Barrens Advisory Committee: correspondence item from their 3/13 meeting
Summary: Mr. Corwin distributed the attached letter from Mr. Stephen Jones of the Suffolk County Water Authority (SCWA), who is also the Chair of the Central Pine Barrens Advisory Committee, along with the attached letter from Mr. Michael LoGrande (also of the SCWA) regarding his resignation as Chair of the Advisory Committee and the attached unofficial excerpt from ECL 57-0121(13)

regarding the five year review of the Pine Barrens Plan. After a brief discussion regarding the focus of the hearing, it was agreed that the Commission would set a date at its next meeting for such a public hearing.

Mr. Cowen left at this point, and only three Commission members remained.

Core Preservation Area

- ! Morgan / Ridge (Brookhaven) / single family residence / hardship: public hearing
- ! Lakeside Manorville Hotel day care facility / Manorville (Brookhaven) / site plan: public hearing

Summary: *A separate stenographic transcript exists for these items.*

Closed Advisory Session

Summary: *A closed advisory session was held for the purpose of receiving legal advice from counsel from approximately 5:30 pm to 6:13 pm. The meeting immediately adjourned at that time.*

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. PBC Program summary as of 4/1/01 (4/1/01; 1 page)
4. Draft supplemental agreement with Production By Design (undated; 1 page)
5. Letter from Mr. Gazza requesting core boundary change (3/7/01; 1 page)
6. Unofficial copy of ECL Section 57-0109 (undated; 1 page)
7. Letter from Mr. Gazza requesting hardship for merged property (3/16/01; 25 pages)
8. Additional letter from Mr. Gazza re merged property (3/13/01; 2 pages)
9. Letter from Mr. Gazza re his properties (3/19/01; 5 pages)
10. Letter from Mr. Gazza re his properties and taxes (4/4/01; 4 pages)
11. Memo from Ms. Mazarakis re Michaelangelo's Restaurant (3/30/01; 1 page)
12. Letter from Mr. Cooper of the Suffolk Community College (3/30/01; 8 pages)
13. Letter from Mr. Jones re the Pine Barrens Plan review process (3/26/01; 1 page)
14. Letter from Mr. LoGrande re his resignation as Chair of the Advisory Committee (3/27/01; 1 page)
15. Unofficial excerpt of ECL 57-0121(13) re five year Plan review (undated; 1 page)



**Commission Meeting Summary (FINAL)
for Wednesday, April 25, 2001 (Approved 6/6/01)
Riverhead Town Hall,
200 Howell Avenue (at East Main Street); Riverhead, NY
2:00 pm**

Commission members present: Mr. Proios (for Suffolk County), Ms. Wiplush (for Brookhaven), Mr. MacLellan (for Riverhead) 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. Plunkett, Ms. Jakobsen, and Ms. Carter (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

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 2:12 pm by Mr. Proios, with a four member quorum initially present consisting of Mr. Proios, Ms. Wiplush, Mr. MacLellan, and Mr. Cowen.

Public Comment

Summary: The only speaker was Mr. Richard Amper, representing the Long Island Pine Barrens Society. He spoke about three topics. First, he reported that the Suffolk County Legislature will consider tomorrow a home rule message to the New York State Legislature supporting the State legislation being introduced by Senator LaValle which will explicitly authorize Suffolk County to borrow via bonding for land purchases under the County's Drinking Water Protection Program. Mr. Amper noted that this will enable the County to buy available tracts of land in a timely fashion with available funds from the issuance of bonds. He requested that the Commission consider a letter of support for this bill.

Second, he noted that President Bush's proposed federal budget has reduced the amount of money that would be made available for cleaning up the tritium leak from the now closed research reactor at the Brookhaven National Laboratory. He distributed the attached newspaper article which describes the reduction in cleanup funds by 16.5% for the next fiscal year, and the concern that the speedier cleanup process announced last year might be endangered by this cutback. Mr. Amper also distributed the attached copy of a letter from the Laboratory's Community Advisory Council to Representative Grucci protesting this cutback, and asked the Commission to consider a similar letter to the Long Island Congressional delegation.

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

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

Third, he distributed the attached list of the Pine Barrens Society's priority acquisition properties that are included in its recently announced "Enough is Enough" campaign. He explained that the parcels on the list have been discussed with real estate officials, and that several are ecologically important.

Mr. Murphree arrived at this time and a five member quorum was present from this point.

Administrative

- ! Summary of 4/4 meeting: review, approval

*Summary: The following change was suggested to the draft 4/4/01 Commission meeting summary: under "Gazza / Westhampton / core boundary change request", the second paragraph's first sentence should be deleted. **A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to approve the summary of the 4/4/01 Commission meeting with that change. The motion was approved by a 5-0 vote.***

- ! Public officials and employment practices liability policy renewal: approval; signature
*Summary: Mr. Corwin distributed the attached renewal application for the above noted insurance policy. He explained that the renewal must be approved by the Commission, and signed by the Chair or his representative. **A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to approve the renewal of this policy and to authorize the Chair or his designated representative to sign the renewal application on behalf of the Commission. The motion was approved by a 5-0 vote, and Mr. Proios then signed the application.***

Plan Implementation

- ! Five year Plan review: scheduling of public hearing to solicit comments (*continued from 4/4 meeting*)

Summary: Mr. Corwin distributed the attached unofficial excerpt from the NY Environmental Conservation Law Section 57-0121(13) regarding the requirement that the Commission review the Pine Barrens Plan at least once every five years. He spoke briefly regarding the two previous amendments that have been made to the Plan in 1996 and 2001, and noted that the Plan is due for a five year review and the accompanying public hearing.

*A brief discussion ensued regarding the upcoming Commission meeting schedule and an appropriate place to hold the hearing. **A motion was then made by Mr. Cowen and seconded by Mr. Murphree (1) to switch the locations of the 6/6/01 and 6/27/01 Commission meetings, and (2) to hold a public hearing to solicit public comment upon the effectiveness of the implementation of the Pine Barrens Plan at 7:00 pm on 6/6/01 at the Riverhead Town Hall (the new location for the regular Commission meeting***

earlier that day). The motion was approved by a 5-0 vote.

- ! Legislation approving update of Core roadfront parcel exemption list: bill numbers and letters of support

Summary: Ms. Plunkett distributed the attached copy of the pending State legislative bill (S.3797, A.7534). This bill would approve the Commission's 2/21/01 Plan amendment to augment the list of parcels in the Core area on which the construction of a single family home and customary accessory uses would be exempt from the Commission's jurisdiction. She also distributed the attached two draft letters to the Chairs of the Senate and Assembly Environmental Conservation Committees in support of that legislation. A brief discussion followed regarding the exact wording that Mr. Proios would like to see in the letters. It was agreed that the Commission staff will correct the letters and have Mr. Proios sign them.

Core Preservation Area

- ! Morgan / Ridge (Brookhaven) / single family residence / hardship: site visit; staff report (hearing held 4/4; decision deadline is 6/20)

Summary: Ms. Plunkett distributed the attached staff report, original application letter, and accompanying materials regarding the application by Mr. William Morgan for the construction of one single family home. The parcel involved is Suffolk County Tax Map number 200-382-3-19, is 1 acre, is zoned A1 Residence, and is located on the east side of Sally Lane, west of William Floyd Parkway, in Ridge in Brookhaven Town. The Commission held a public hearing for this on 4/4/01, and the decision deadline is 6/20/01.

She corrected the hearing record comments from 4/4/01 regarding exactly which of the adjacent parcels to the subject parcel are undeveloped, and she reviewed the Commission's prior permits in this neighborhood, which total four in number. She also noted that a 3 lot subdivision of a lot containing an existing home was denied in this area. She noted that the Commission could approve the current application, and that the construction of a single family home is a Type 2 action under the State Environmental Quality Review Act (SEQRA) regulations. A brief discussion then occurred regarding the street from which the new home should take access.

A motion was then made by Ms. Wiplush and seconded by Mr. Cowen to approve the Morgan / Ridge single family home Core Preservation Area hardship permit with the recommendation the new home take access from Sally Lane, and with the statement that the granting of this permit is consistent with the goals and objectives of the pine barrens act, and that it is consistent with the staff report and the hearing record. A discussion ensued regarding the amount of clearing that should be permitted, and the principle of granting the minimum relief necessary. It was agreed that the clearing on this property shall be limited to 50%, and that limit was made a

condition of this resolution. The motion was then approved by a 5-0 vote.

- ! Suffolk Community College / Eastport (Southampton): visit by College staff to discuss new projects *(continued from 4/4 meeting)*

Summary: *Ms. Plunkett explained that there are representatives from the Suffolk Community College here today to discuss the recent correspondence from the College regarding two new proposed projects at the Eastern Campus in the Eastport area of Southampton Town. She noted that the two newest projects are the installation of a wind turbine electricity generation system, including a wind turbine tower, and the installation of three storage trailers in the cleared areas for use as a temporary bookstore (one trailer) and for storage (2 units). Present at today's meeting were Mr. Paul Cooper of the College's Main Campus in Selden, and Mr. William Connors, Jr. from the Eastern Campus.*

Mr. Proios noted that the Commission has become concerned due to the number of projects at the Eastern Campus which the College has forwarded to the Commission which have not been part of the College's master plan which the Commission was originally given the chance to review.

Mr. Cooper then noted that the two new projects recently described to the Commission via letter are not included within the College's master plan, and described the purposes of the three storage trailers and the wind turbine project. He noted that the trailer intended for use as a bookstore is supposed to be a temporary facility pending the completion of new, permanent instructional buildings at the Eastern Campus. It was also noted that the wind turbine project would be funded by a grant from the Long Island Power Authority.

Mr. Cooper also spoke about the College's sewage treatment plant, explaining that the old plant is being rebuilt. This rebuilding is necessary because the Eastern Campus' current waste generation levels were too low (i.e., the original plant was sized for a larger facility) to be properly treated to meet water quality standards. He also stated that the College's master plan update is now available, and distributed copies of an excerpt of that update at today's meeting.

Mr. Proios then commented that he felt that there is a lack of agricultural college training available on Long Island, especially now that the State University College at Farmingdale is no longer an agricultural college. He noted that there is no statewide effort to provide this education, and that, for Suffolk County, it is important to have some source of this type of training in the midst of the agricultural areas.

Mr. Cooper then explained the Long Island Power Authority grant conditions for the wind turbine generation project, and stated that the College must look at permit issues for that project. Mr. Proios then commented that he felt that the largest issue with the wind turbine project would be the permit process for the necessary tower. A brief discussion then followed regarding the tower height, estimated at 80 feet; previous wind turbine demonstration projects, the precedent that might be set with this work; and the permanency of the project

once its demonstration purposes have been achieved.

- ! Fireman's Park / Ridge (Brookhaven) / site plan: facility work at fire training area; determination of jurisdiction

Summary: Mr. Vincent Donnelly from Nelson, Pope & Voorhis, consultants to Brookhaven Town, and Ms. Gladys Gentile, an attorney with the Brookhaven Town Attorney's Office, were present today and spoke regarding this project being undertaken by Brookhaven Town. Ms. Jakobsen introduced this project, and distributed the attached letter from Mr. Philip Malicki of Nelson, Pope & Voorhis. The project involves the construction of a one story cinderblock rest room facility and a paved access path in a partially developed area of the park which is currently used for volunteer firefighter training activities.

Ms. Gentile spoke about, and discussions ensued regarding, the public improvement aspect of the project, the location of it within a public park; the expected improvement in groundwater quality that is expected since there is currently no immediately accessible rest room facility for this area; the role of this facility in supporting firefighters; the location of existing rest room facilities within Fireman's Park and the distances to them from the firefighter training area; and the observation that this project will not result in an increase in discharges to groundwater. A detailed discussion also occurred regarding the details of the site plan which was available at the meeting.

At the close of the discussions, the Commission members agreed that the proposed rest room facility as described today does not constitute "development" as defined by the pine barrens law. The Commission noted specifically that the project falls within Environmental Conservation Law Section 57-0107(13)(i), and that it is directly related to support of the firefighter training activities. It was agreed that the Commission staff will forward a letter to the project sponsors conveying this determination.

- ! Gazza / Westhampton (Southampton) / core boundary change request (*materials distributed at 4/4 meeting*)

Summary: A separate stenographic transcript exists for this.

- ! Gazza / Westhampton (Southampton) / site plan / hardship (*materials distributed at 4/4 meeting*)

Summary: A separate stenographic transcript exists for this.

Mr. Proios left at the close of the hearings, and a four member quorum was present for the remainder of the meeting.

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 4-0 vote, and the Commission entered into closed session from approximately 5:07 pm to 6:10 pm.***

Adjournment

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

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Brookhaven Lab CAC Letter cleanup funds (4/24/01; 1 page)
4. Newspaper article re BNL cleanup funds (4/19/01; 1 page)
5. Pine Barrens Priorities list from LI Pine Barrens Society (undated; 1 page)
6. Public officials policy renewal application (undated; 7 pages)
7. Unofficial excerpt from ECL 57-0121(13) re Plan review (undated; 1 page)
8. State legislation re amending core area residential exemption list (3/22/01; 1 page)
9. Draft support letters from Commission re core exemption bill (4/25/01; 2 pages)
10. Morgan core hardship materials (miscellaneous dates; 7 pages)
11. Suffolk Community College Master Plan Update excerpt (4/23/01; 10 pages)
12. Letter from Mr. Malicki re Fireman's Park restroom facility (3/30/01; 2 pages)

Commission Meeting Summary (FINAL)
for Wednesday, May 16, 2001 (Approved 6/6/01)
Suffolk County Park Police and Pine Barrens Center,
Southaven County Park, Victory Avenue; Yaphank, NY
2:00 pm



Commission members present: Mr. Proios (for Suffolk County), Mr. Girandola and Ms. Wiplush (for Brookhaven; Mr. Girandola voting), 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. Jakobsen, and Ms. Carter (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

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 2:22 pm by Mr. Proios, and it began without a quorum. Initially, Mr. Proios, Mr. Girandola, Ms. Wiplush (both for Brookhaven), and Mr. Murphree were present, representing three of the Commission members.

Public Comment

Summary: There were no speakers at this time.

Pine Barrens Credit Program

! Program status.

Summary: Mr. Corwin noted that the next Clearinghouse Board meeting will be held on 5/22/01 at 1:00 pm at the Brookhaven Town Hall, Building 4.

He also distributed the attached Pine Barrens Credit Program activity summary for 5/1/01, and briefly discussed the statistics there.

Plan Implementation

! 6/6/01 Public hearing re 5 year review of Plan implementation: reminder

Summary: Mr. Corwin reminded everyone present that the required five year review of the effectiveness of the implementation of the Pine Barrens Plan is scheduled for 6/6/01 at 7:00 pm at the Riverhead Town Hall. He urged the Commission members to be present for the hearing, and noted

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

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

that a mailing will be sent out in approximately the next week.

Core Preservation Area

- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship: status of Draft Environmental Impact Statement (EIS) work; request from project sponsor (hearing held 9/13/00)
Summary: Mr. Corwin reviewed this project along with the dates and milestones applicable to it. He explained that the applicant has requested assistance from the Commission in the preparation of the required Draft EIS.

Mr. Gazza described the particulars of this project, and referred to the Central Pine Barrens Generic EIS that was completed in 1995 by the Commission. Mr. Gazza argued that the Commission's document was impressive, and that it appeared to cover all of the points that the Commission recently required him to address for this particular project. Mr. Gazza explained that he continues to believe that his project is exempt due to its agricultural aspect, and that he also believes that it is a Type 2 action under the State Environmental Quality Review Act (SEQRA). He noted that the Commission does not share those opinions, however. He posed the question of whether any additional analysis that he might do for this project would provide additional information above what the Commission has already compiled in the 1995 GEIS.

Mr. Gazza then asked about the possibility of having the Commission prepare the Draft EIS for his project, and then charging him a fee as per the SEQRA regulations. He stated that he has spoken with a consultant who said he would charge a minimum of \$5,000. Mr. Gazza stated that he would rather have the Commission prepare the Draft EIS.

Mr. Proios suggested that two pertinent questions are whether the document that the Commission prepared in 1995 has the information necessary to produce the Draft EIS for Mr. Gazza's project, and whether the Commission staff can do the work. A discussion then ensued regarding the SEQRA regulations' provision that the cost to the applicant would be one half of 1% of the project cost.

Mr. Gazza then read excerpts from a 1983 Southampton Town document regarding the Town's facts and plans for the vicinity of his current project, and a brief discussion ensued regarding what document that was and whether the Town's policies have evolved from that time. Mr. Gazza also raised the question of the Southampton Town Building Inspector's determination that his proposed project was not an agricultural one. Mr. Gazza also raised the question of whether his proposed project is an agricultural activity under the pine barrens law, and the Commission reiterated its earlier determination that it was not an agricultural activity.

It was then agreed that Mr. Gazza would place his current request to have the Commission prepare the Draft EIS into writing, and the Commission will review

it.

Mr. MacLellan arrived at this point, and a four member quorum was present for the remainder of the meeting.

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / subdivision and site plan: determination of Development of Regional Significance status (*materials to be distributed*)

Summary: Ms. Jakobsen distributed the attached letter from Mr. Voorhis of Nelson, Pope and Voorhis regarding the proposed Eastport Senior Living residential project on the north side of Sunrise Highway, west of County Road 51, in Eastport in Brookhaven Town. The letter describes the project as including the construction of 298 Planned Retirement Community residential units within 149 individual duplex structures. The letter further states that the writer believes that the project does not constitute a Development of Regional Significance (DRS) as per the Central Pine Barrens Comprehensive Land Use Plan.

Ms. Jakobsen noted that it is not clear whether the project is a phased development. Mr. Girandola reported that this project involves a zone change, that the Brookhaven Town Board held a public hearing on it last week, and that no decision has been made. He also noted that an adjacent project to this residential one involves a zone change as well; that adjacent zone change is located on part of one of the tax parcels involved in the Eastport Senior Living project. Mr. Girandola stated that the Brookhaven representatives will abstain from any Commission vote on the Eastport Senior Living project. Finally, he observed that the Commission should provide any comments to the Town soon, since the Town Board will be considering this project at one of their upcoming meetings.

Discussion then turned towards each of the criteria within the Plan for determining whether a project is a DRS. A discussion ensued regarding the criteria which refers to changes in levels of traffic service, and it was agreed that there was no traffic data available on this proposal, and that the traffic criteria was not addressed in the letter received by the Commission. Discussion also occurred regarding whether Pine Barrens Credits would or could be used for this project; the number of residential units proposed versus the 300 unit quantity specified in the DRS criteria in the Plan; the change of zone, the presence of the adjoining development; the standards and guidelines in the Plan that would apply if the project were a DRS; the best way to respond to the letter (i.e., to respond only to what was specifically asked or to note the presence of the traffic criteria and state that the Commission does not have the information needed to evaluate that criteria); and the possibility of calling the project up for Commission review independent of whether it is determined to be a DRS.

After considerable discussion, a motion was made by Mr. Proios and seconded by Mr. MacLellan to assert Commission jurisdiction over the Eastport Senior Living development project. A discussion then ensued over the reasons for asserting jurisdiction; the Plan provisions for the review of projects which are called up for review in this manner; the applicability of both the Plan standards and guidelines for development to projects which are called up; the change of zone involved; and the best manner in which to respond to the letter. The motion was then approved by a 3-0-1 vote, with the abstaining vote cast by Mr. Girandola. It was agreed that Commission counsel will look into several issues regarding this project.

Core Preservation Area

- ! Lakeside Manorville Hotel day care facility / Manorville (Brookhaven) / site plan: decision deadline extension approval (*current deadline is 6/6/01; materials to be distributed*)

*Summary: Ms. Carter distributed the attached letter from Ms. Theresa Elkowitz of Fruedenthal & Elkowitz Consulting Group on behalf of the Lakeside Manorville Hotel day care facility project. The letter states the applicants agreement to an extension of the Commission's decision deadline to 7/23/01 because the traffic study needed for the project is not yet complete. **A motion was made by Mr. MacLellan and seconded by Mr. Murphree to accept and approve the delay in the Commission's decision deadline on this project to 7/23/01. The motion was approved by a 4-0 vote.***

The following item is also partly within the CGA:

- ! Islander East Pipeline Company / Brookhaven Town / gas main: jurisdictional discussion (*no application at this time*)

Summary: Mr. Corwin distributed the attached newspaper article re this project. Mr. Rigano explained that he received a call from the sponsors of this gas pipeline project (which include Duke Energy and KeySpan Energy) to discuss it with respect to the pine barrens law. He explained that the project would include a gas pipeline under Long Island Sound which would come ashore at Shoreham; proceed south along the William Floyd Parkway to the Long Island Expressway (LIE), and proceed east to Calverton. He also noted that there may be preemption of the Commission's jurisdiction by the Federal Energy Regulatory Commission (FERC).

Mr. Girandola then observed that significant clearing could occur in some areas (approximately 75 feet); and that parts of the route would go through undeveloped public lands. He noted that one destination of the pipeline would be the American National Petroleum terminal on Sills Road near Exit 66 of the LIE. He stated that portions of the planned route go through Town owned open space. A discussion then followed regarding the FERC and its jurisdiction; the planned routing through public open space; and the jurisdictional issues that are

involved. Mr. Richard Amper of the Long Island Pine Barrens Society suggested that the Commission make a counter proposal for an alternate route. It was then agreed that the Commission would invite the project representatives to attend an upcoming Commission meeting.

Compatible Growth Area (CGA)

- ! Graystone Estates / Manorville (Brookhaven) / subdivision / new hardship: scheduling of hearing (*materials to be distributed*)
Summary: Ms. Jakobsen distributed the attached CGA hardship application and supporting materials for this 19.17 acre subdivision in an A2 Residence zone on Hot Water Street in Manorville in Brookhaven Town. She explained that this project is a 10 lot subdivision which will utilize two Pine Barrens Credits, and that the project will exceed the clearing standard since it proposes clearing 40% of the area instead of 35%. **A motion was made by Mr. Murphree and seconded by Mr. MacLellan to schedule a public hearing on this application at the 6/27/01 Commission meeting at 4:00 pm. The motion was approved by a 4-0 vote.**

Administrative

- ! Confirmation of the upcoming Commission meeting schedule and the date for the Plan review hearing
Summary: Mr. Proios stated that the 6/6/01 Commission meeting (at 2:00 pm) and the 6/6/01 Plan review public hearing (at 7:00 pm) will be held at the Riverhead Town Hall; the 6/27/01 Commission meeting will be held at the Commission Office at 2:00 pm; and the 7/18/01 Commission meeting will be held at the Park Police Headquarters at Southaven County Park in Yaphank at 2:00 pm.

Public Comment

Summary: There were no speakers at this time.

Closed Advisory Session

Summary: **A motion was made by Mr. MacLellan and seconded by Ms. Wiplush to enter into a closed advisory session for the purpose of discussing the Dittmer litigation and for receiving legal advice from counsel this and other legal issues. The motion was approved by a 4-0 vote, and the Commission entered into closed session from approximately 4:20 pm to 5:20 pm.**

Adjournment

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

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Pine Barrens Credit Program summary as of 5/1/01 (5/1/01; 1 page)
4. Letter from Mr. Voorhis re Eastport Senior Living project (4/27/01; 2 pages)
5. Letter from Ms. Elkowitz re Lakeside day care facility project (5/16/01; 1 page)
6. News article re the Islander East pipeline project (5/10/01; 1 page)
7. CGA hardship application for Graystone Estates (4/9/01; 25 pages)



**Commission Meeting Summary (FINAL)
for Wednesday, June 6, 2001 (Approved 6/27/01)
Riverhead Town Hall,
200 Howell Avenue (at East Main Street), Riverhead, NY
2:00 pm meeting; 7:00 pm hearing**

Commission members present: Mr. Proios (for Suffolk County), Ms. Wiplush (for Brookhaven), Mr. MacLellan (for Riverhead at the time noted), 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. 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

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 2:13 pm by Mr. Proios, with a four member quorum consisting of Mr. Proios, Ms. Wiplush, Mr. Murphree and Mr. Cowen.

Public Comment

Summary: The only speaker was Mr. Richard Amper of the Long Island Pine Barrens Society who spoke briefly regarding the scheduling of this evening's hearing and the dinner break prior to it.

Administrative

! Summary of 4/25 and 5/16 meetings: review, approval
Summary: **A motion was made by Mr. Cowen and seconded by Mr. Murphree to approve the summary of the 4/25/01 Commission meeting as drafted. The motion was approved by a 4-0 vote.**

Another motion was then made by Mr. Cowen and seconded by Mr. Proios to approve the summary of the 5/16/01 Commission meeting as drafted. The motion was approved by a 4-0 vote.

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

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

Pine Barrens Credit Program

! Results of 5/22/01 Clearinghouse meeting
Summary: Mr. Rizzo distributed and discussed the attached

Pine Barrens Credit Program activity summary as of 6/1/01. He noted that over 100 Credits have been redeemed, and that over 300 acres have been protected by easements.

He also reported that the next Clearinghouse Board meeting will be held on 7/10/01 at 9:30 am at the Commission Office in Great River.

Mr. Rizzo explained that the Clearinghouse has received requests from private individuals to purchase Credits from the supply of Credit which the Clearinghouse owns. Specifically, there are requests to purchase 22.66 Brookhaven Credits at \$40,000 per Credit, and 6 Riverhead Credits at \$18,000 per Credit.

He further explained the Clearinghouse will be trying to purchase an additional 25 Brookhaven Credits from private owners, and has decided to spend up to \$1 million of its funds for that purpose. A brief discussion followed regarding the possibility of purchasing Credits in the other two Towns. It was noted that the Clearinghouse currently has a remaining supply of Riverhead Credits.

Plan Implementation

- ! Wildfire Task Force / NY Wildfire and Incident Management Academy: request for credit card authorization

Summary: Mr. Corwin and Ms. Jakobsen explained that there is a need for occasional use of a credit card for the Academy expenses, especially for the purchasing of airline tickets for instructors (where fare changes are too rapid for issuance of a purchase order in time to obtain time limited rates) and for unanticipated purchases during the actual operation of the Academy (which cannot be obtained from vendors with whom the Academy has established a store account).

*During the brief discussion which followed, it was noted that a credit card is preferable to a debit card in this situation, since credit cards are more secure; that the cards would be issued to specific individuals associated with the finance section of the Academy; and that the issuance of credit cards is an established practice in government agencies. **A motion was then made by Mr. Cowen and seconded by Mr. Murphree to approve the issuance of credit cards for the NY Wildfire and Incident Management Academy staff subject to the standard rules of the Suffolk County Water Authority. The motion was approved by a 3-0-1 vote, with the abstaining vote cast by Ms. Wiplush.***

- ! NYS legislation re SC Drinking Water Protection Program bonding authority (A07435 / S3872A): status; suggested support letter

Summary: Mr. Corwin distributed the attached copy of New York legislative bill number S3872A / A07435, which provides that the additional sales and compensating use tax for the Suffolk County Drinking Water Protection Program may be used to pay certain debt service on monies borrowed by Suffolk County

through bonds. This legislation was discussed at a prior Commission meeting. He explained that this legislation is intended to clarify the legal ability of Suffolk County to do this, and reported that the bill has passed both houses of the Legislature, and is currently awaiting transfer to the Governor's desk. He suggested that a Commission endorsement of this legislation would be appropriate since this legislation could bolster Suffolk County's land acquisition program. After a brief discussion, **a motion was made by Mr. Proios and seconded by Mr. Cowen to endorse this legislation and request the Governor to sign it into law. The motion was approved by a 4-0 vote.**

Core Preservation Area

- ! Amerada Hess Corp. / Manorville (Brookhaven) / site plan: request to amend previously permitted "Clancy Street Food Court"
Summary: Ms. Plunkett distributed the attached letter from Mr. Kevin Papasian of Fay, Spofford & Thorndike of NY regarding a request to modify a Core Preservation Area permit issued by the Commission on 11/8/95 to Suffolk County Tax Map parcel number 200-462-2-5.1. This permit was for a project then known as the Clancy Street Food Court, located at the southeast corner of the Long Island Expressway and County Road 111 in Manorville. That permit was never exercised. The current request from Mr. Papasian is for a permit modification that would allow a gasoline station and convenience store on the site, with an accompanying change of zone from the current J2 Business to a split zone of both J2 and J5 Business.

Present for today's discussion were Mr. Papasian and Mr. Eugene DiNicola, an attorney representing the Amerada Hess Corporation. Mr. DiNicola displayed a site plan for the proposed use. He discussed the need for the rezoning of the parcel into a split J2 and J5 designation, explaining that the Town Code only permits a service station and a 1,200 square foot convenience store in the J5 zone, while a larger convenience store as proposed requires a J2 zone. He also explained that the site plan being displayed today is for a 2,840 square foot building, but that the Hess Corporation may wish to expand that to a 3,514 square foot building.

A lengthy discussion ensued regarding the split zoning proposal; whether there would need to be a lot split to accommodate that zoning change; the need for a parking variance from the Town; and the difference between the sizes of the buildings noted above and the actual surface area that would be developed (i.e., the 2,480 square foot building would require 5,630 square feet of "total development", and the 3,514 square foot building would require 6,664 square feet of "total development").

Mr. Cowen stated that he believed that the proposed use would require a new Core area permit application. Mr. Rigano observed that the proposed use would be a more intense use than that for which the current permit provides, and that, since the Commission is required by the pine barrens law to grant the minimum

relief necessary, a more intense use than the current permit would be hard to justify. He also noted that the pine barrens law is intended to protect groundwater as one of its goals, and that the new proposal calls for underground storage tanks for fuel. After a brief discussion regarding the minimum relief requirement of the law, it was noted that the new proposal would be more intense than the currently permitted use in two respects: the square footage of developed area involved would be greater, and there would be buried fuel tanks.

It was also noted that the new proposal would require a reconsideration of the State Environmental Quality Review Act requirements and that the Commission would be required to seek lead agency status for the new proposal. It was also noted that an application has been filed with Brookhaven Town for the new use, but that no application has been filed with the Suffolk County Department of Health Services.

Mr. MacLellan arrived during the following discussion, and a five member quorum was present at that point.

! **Islander East Pipeline Company / Brookhaven Town / gas main: discussion with project representatives (no application)**

Summary: Mr. Rigano explained that he had received a call from the sponsors of this natural gas pipeline project, and after speaking and meeting with them, suggested that they should speak with the Commission regarding this cross-Long Island Sound project. The project generally involves the construction of a 40 mile gas pipeline from the North Haven area of Connecticut, across Long Island Sound, to Shoreham, and then south, with branches extending both east and west to proposed electric power plants or gas distribution sites. The project is a joint effort of Duke Energy and KeySpan Energy, and is subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC).

Present for the meeting were Mr. Kevin Law, an attorney with Nixon Peabody who is representing Islander East; Mr. Kevin Gallagher, Project Manager with Islander East; Mr. Joseph Reinemann, Environmental Project Manager with Islander East, and Mr. Edward Harney and Mr. Mark Grossman of Islander East.

Mr. Gallagher spoke regarding the partnership that comprises the company; the preparation that they are doing for their FERC application; the need that they saw for additional natural gas supplies on Long Island; their recent "Open Season" in which potential large consumers of their product responded to their proposal; their ownership of the pipeline but not the product itself; their projections of the capacity of the pipeline at 280 to 300 million cubic feet per day; the relationship of this pipeline to Connecticut markets; the pressure under which the pipeline operates (750 to 900 pounds of pressure); and the route that they are currently planning on Long Island.

The Islander East personnel then described the placement of the pipeline under Long Island Sound, and the typical construction methods that they planned to

utilize on land. Specifically, a pipeline project like this (for 24 inch mains) would require a right of way approximately 75 feet wide, with the post construction cleared width kept at approximately 50 feet. They noted that the placement of the pipe within the right of way is typically slightly off center (e.g., 20 feet on one side and 30 feet on the other within the 50 foot cleared corridor). They described the fact that they generally would obtain permits for placement of the pipeline along highways, and that easements would be obtained for placement through other lands. They noted that abandonment provisions are required by FERC.

Mr. Reinemann described the route that is currently planned, including the branches to sites such as the proposed plant at the Riverhead Calverton facility. They are planning to file their application with FERC in the next couple of weeks, and will provide a synopsis to the Commission. The planned schedule was also described, and they noted that their target date for operation is late in 2003.

A brief discussion was held regarding the FERC permitting process, the public participation provisions, the role of intervener in the FERC process and how that is different from simply providing public comments. Mr. Law then spoke briefly regarding the Natural Gas Act; the preemption of local land use requirements once a permit or certificate is issued by FERC; the role of other federal agencies in the review process (such as the U.S. Fish and Wildlife Service, the Army Corps of Engineers, etc.); and the willingness of the project sponsors to try to comply with all state requirements and to obtain state permits.

- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship: EIS status; sponsor request (hearing held 9/13/00)
Summary: Ms. Plunkett distributed and discussed the attached staff summary of this application's milestones to date and recommendations for responding to Mr. Gazza's recent correspondence regarding the DEIS for this project. Mr. Gazza was not present for today's discussion. The discussion then touched upon several topics: the inability of the 1995 Generic Environmental Impact Statement that the Commission completed for the Plan to answer the questions that a site specific EIS for this project requires; the fact that this is an unlisted action; the expertise that is required to prepare a DEIS for this site and the fact that the staff does not have that expertise in house; the fact that the project might satisfy the criteria in NYCRR 617.5(c)(7) to qualify as a Type II action if the proposal is altered; the SEQRA determination on this project; the dwarf pine area; whether the Commission wants to allow the project to proceed; the clearing violation on the property; the lack of an application to the Town Planning Board; and the jurisdiction of the Town Zoning Board of Appeals.

Counsel suggested that the Commission explore what steps may be required to take over the DEIS production, and that was agreed. A letter will be sent to the applicant, and the Commission staff will contact consultants to determine a price range.

- ! Gazza / Westhampton (Southampton) / industrial building site plan / hardship: status (hearing held 4/25/01; decision deadline 7/12/01)

Summary: A brief discussion was held regarding this application for a new building on a lot which was created as the result of merging two previous lots, one of which was purchased after the effective date of the pine barrens act. The latter lot also contains a building which was constructed under a permit issued previously by the Commission to George Mathys. That lot with the Mathys building was subsequently purchased by Mr. Gazza after the passing of the pine barrens act. It was agreed that Commission counsel will speak with Mr. Gazza regarding this proposal.

! KeySpan Energy / Westhampton (Southampton Town) / gas main along CR 31: new project notification

Summary: Ms. Plunkett distributed and discussed the attached letter from Mr. Adam Yablonsky of KeySpan with a project notification form for a gas main to be installed along County Road 31 from Rogers Avenue to the Gabreski Airport entrance at Stewart Avenue. The project is planned to start next week for completion by mid July, and will not involve the removal of any trees where it will be installed along the shoulder of the road.

While it was agreed that this project does not appear to require as much scrutiny as other utility projects have required, the Commissioners felt strongly that much greater advance notice needs to be provided by KeySpan in order to permit the staff sufficient time to examine the plans and possibly the site. Mr. Rigano suggested that a paid monitor could be hired. It was then agreed that a strong letter will be sent from counsel to KeySpan expressing the Commission's concerns about the timeliness of their proposals and, specifically, the fact that for this project KeySpan is proceeding at its own risk.

Public Comment

Summary: The only speaker at this time was Mr. Walter Olsen, President of Civil Property Rights Associates. He spoke regarding the Islander East Pipeline project discussed earlier today. He said that it was reminiscent of the Commission's presentation to property owners at the Shoreham Wading River High School in the first year of the Commission's existence. Mr. Olsen said that he thought that the looks on the Commission and staff members faces in response to today's presentation were similar to those of the property owners at that early meeting. Mr. Olsen said that the Commission must feel helpless just as the property owners did earlier. He said that the permit holders will do what they want once they have the pipeline permit.

Mr. Olsen also said that he thought that the biggest concern regarding the Islander East Pipeline project is the need for natural gas about which the project sponsors spoke. Specifically, he questioned whether the project would be satisfying the needs of the East End, or whether the gas would be diverted to the western part of Long Island. He stated that he would have less of a problem with the project if the sponsors could demonstrate the need for the gas.

Closed Advisory Session

Summary: A motion was made by Mr. MacLellan 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 5-0 vote, and the Commission entered into closed session from approximately 5:00 pm to 5:34 pm.

The meeting was then adjourned until the 7:00 pm scheduled public hearing. Ms. Wiplush left at this time, and was replaced at the public hearing by Ms. Brenda Filmanski, who informally represented Brookhaven Town.

Plan Implementation

! Five year review of the effectiveness of the implementation of the Pine Barrens Plan: public hearing

Summary: A separate stenographic transcript exists for this.

Attachments (in order of discussion):

1. Attendance list (2 pages)
2. Speaker list (1 page)
3. Easement Protected Lands and Pine Barrens Credits as of 6/1/01 (6/1/01; 1 page)
4. Legislative bill S3872A / A07435 (5/22/01; 2 pages)
5. Letter from Mr. Papasian re proposed Hess service station (5/15/01; 1 page)
6. Commission resolution re Clancy Street Food Court application (11/8/95; 2 pages)
7. Islander East Pipeline project materials (miscellaneous dates; 7 pages)
8. Summary of Gazza Agricultural building application (6/6/01; 13 pages)
9. Letter and project notification from KeySpan (6/4/01; 2 pages)



**Commission Meeting Summary (FINAL)
for Wednesday, June 27, 2001 (Approved 8/8/01)
Commission Office
3525 Sunrise Highway, 2nd Floor; Great River, NY
2:00 pm**

Commission members present: Mr. Proios and Mr. Sklar (for Suffolk County; Mr. Proios voting), Mr. Girandola and Ms. Wiplush (for Brookhaven; Mr. Girandola voting), 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. Plunkett, Ms. Jakobsen, 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

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 2:28 pm by Mr. Proios, with three members (no quorum) initially present representing Suffolk County, Brookhaven, Riverhead and New York State.

Public Comment

Summary: There were no speakers.

Administrative

! Summary of 6/6 meeting: review, approval

Summary: There were no changes suggested at this time. No vote was taken without a quorum present.

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

! Commission schedule for rest of 2001: review, approval

Summary: Ms. Trezza distributed the attached draft meeting schedule for the remainder of 2001 and the first meeting of 2002. **A motion was made by Mr. Murphree and seconded by Mr. Girandola to approve the meeting schedule as drafted. The motion was approved by a 4-0 vote.**

! Summary of 6/6 meeting: review, approval

Summary: **A motion was made by Mr. Cowen and seconded by Mr. Murphree to approve the summary of the 6/6/01 Commission meeting as drafted. The motion was approved by a 4-0 vote.**

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

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

Pine Barrens Credit Program

- ! Alberto and Sipala / Manorville (Brookhaven) / easement: possible need for aerial photograph documentation

Summary: This project involves six parcels in the A Residence 5 zoning district, and they contain a total of 3.52 acres (Suffolk County Tax Map parcels 200-562-3-3, 4, 5, 6, 14, and 17). The appeal resulted in a final allocation of 3.52 Pine Barrens Credits (PBCs). Mr. Rizzo explained that the owners have applied for a Pine Barrens Credit Certificate, and that they are at the point of drafting a conservation easement. He distributed the attached aerial photograph of the 12 parcels, and discussed the need for an accurate baseline documentation of current field conditions. These include, for example, the current active nursery and the portions which are wooded. He noted the past use of an aerial photograph for documenting baseline conditions for the Long Island Country Club application.

Mr. Dominic Nicolazzi, the owners' representative, was present and noted that, in the Long Island Country Club situation, there were structures present, whereas there are no structures here. Mr. Murphree asked if there had been any clearing since 1999 (the date of the attached photograph), and Mr. Nicolazzi said that no clearing has occurred. After a brief discussion regarding the surrounding land ownership and the status of the paper streets in this area, it was agreed that the attached aerial photograph would be used as baseline documentation for this site, in conjunction with an affidavit from the owners regarding the specific conditions on the site.

Plan Implementation

- ! Core area residential exemption ("roadfront") bill: status

Summary: Ms. Plunkett reported that this legislation (Senate bill 3797, Assembly bill 7354) has passed both houses, and now will be considered by the Governor for signing. This legislation would approve the statutory change to the pine barrens law that was recommended by the Commission in its Plan amendments earlier this year.

- ! State bill re peace officer status for certain federal officers (not on the original agenda)

Summary: Mr. Proios reported that he has spoken with a staff member in Sen. Owen Johnson's office re this legislation, which would grant New York State peace officer status to certain federal officers in the National Park Service and the U.S. Fish and Wildlife Service.

Core Preservation Area

- ! State bill re bonding and the use of Environmental Facilities Corporation loans to

purchase land (not on the original agenda)

Summary: Mr. Proios briefly mentioned legislation re this topic. No discussion was held.

Core Preservation Area

- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship: EIS status (hearing held 9/13/00)

Summary: Ms. Plunkett explained that she has requested quotations from three environmental consulting firms for the cost of preparing an Draft Environmental Impact Statement (DEIS) for this proposed building on a 2.8 acre parcel (Suffolk County Tax Map 900-285-2-29.2) on the west side of County Road 31 in Westhampton. The project site is a 109,568 square foot parcel, zoned CR-200. This is pursuant to Mr. Gazza's request that the Commission, and not himself, prepare the required DEIS. The project consists of the construction of a 5,460 square foot building for agricultural use. The Commission has previously issued a positive declaration under the State Environmental Quality Review Act (SEQRA). She noted that the requested quotations have not yet been received.

Mr. Gazza was present and stated that he has provided a cost estimate for the building's construction costs of \$67,779, but that estimate does not include the other site work that the project will require.

- ! Gazza / Westhampton (Southampton) / industrial building site plan / hardship: status (hearing held 4/25/01; decision due 7/12/01)

Summary: Ms. Jakobsen summarized this project on the west side of County Road 31, in Westhampton, located on SCTM parcels 900-311-1-8.4 and 23 (which have merged; the new parcel number is not yet available.) The project consists of the addition of a 936 square foot building on one portion of the new lot; the other portion contains an existing 2,945 square foot building, which was permitted by a 1996 core hardship permit issued to the former owner of that portion of the lot. She explained that the decision deadline is 7/12/01.

Mr. Rigano explained that the old lot without the building (where the current proposed building would go) is adjacent to the built site, and that it was acquired after the pine barrens act. He noted that Mr. Gazza has argued that this proposal is similar to the former ProCorm hardship application which the Commission granted to another lot in the vicinity of this application.

Mr. Gazza was present and spoke about the subject lot being approximately 50 feet by 100 feet in size; that it is surrounded by buildings and a road; and showed the Commission both the Southampton Town approved site plan for this lot as well as a Natural Resources Conservation Service aerial photograph of this area. He argued that Southampton Town's site plan approval is proof that there will be minimal environmental impact from this project, and noted that he has received Suffolk County Health Department approval for his plans as well. He noted that the site plan also saves some of the roadside vegetation, and that

his costs to date for this development effort have been approximately \$4,000.

He then stated that he thought that people might ask about the question of a self created hardship in this situation, and cited aspects of a civil case that he and the NYS DEC were involved with regarding a parcel outside the pine barrens. He stated that there have not been any offers to purchase this lot, and that he should not be deprived of all uses of it. He stated that he has exhausted the set of uses for this lot under both the zoning code and the Pine Barrens Plan; that using the one Pine Barrens Credit to which he is entitled for this lot is difficult due to receiving constraints; and that he has not received any offers to purchase the credit that he could receive. Mr. Gazza also noted that these two parcels have been merged, and that the proposal here is similar to the ProCorm hardship application with respect to the date of purchase of the property.

Mr. Murphree then raised the question of the value of this parcel in relation to the larger core area as it is surrounded by development and a road. **A motion was then made by Mr. Murphree and seconded by Mr. Girandola to approve this hardship application subject to conditions. In the discussion that ensued, it was noted that this is a unique situation; that the project has all other approvals; that it is surrounded by developed industrial property and asphalt roads on all sides; that there are no rare species on the site; that it is an accessory use to the existing building on the merged lot; and that the condition of no additional clearing pursuant to the Town approved site plan shall be imposed. The motion was approved with that condition by a 3-0-1 vote, with the abstention cast by Mr. Cowen.**

- ! Gazza / Westhampton (Southampton) / core boundary change request: status; possible decision (hearing held 4/25/01)

Summary: It was agreed that this item will be taken up at a future meeting, after Mr. Gazza has had an opportunity to discuss the County's plans for Gabreski Airport with the appropriate County officials, and the specific possibility of transferring some development to that site from the west side of County Road 31.

- ! Forster - Screven / Manorville (Brookhaven) / residence / new application: set hearing

Summary: Ms. Jakobsen summarized this application to build a single family residence on a 2 acre part of a larger 3.48 acre site zoned A5 Residence located on the north side of North Street, west of Wading River Road, in Manorville. (SCTM numbers 200-460-1-6.1 and 6.2, merged into lot 6.3). She also noted that this lot is on the proposed list of additions to the core area residential exemption list in the February 2001 Plan amendments. State legislation to approve those additions has passed both houses of the NYS Legislature, and that bill is awaiting consideration by the Governor at present. She recommended that a hearing be scheduled for this application now, and that it could be canceled if that legislation is signed before the hearing. **A motion was made by Mr. Proios and seconded by Mr. Cowen to schedule a hearing**

on this core hardship application for the 7/18/01 Commission meeting at 4:00 pm. The motion was approved by a 4-0 vote.

Plan Implementation

- ! Core area residential exemption ("roadfront") bill: status
Summary: Mr. Corwin noted that the legislation referred to in the preceding discussion (Senate bill 3797, Assembly bill 7354) will be considered by the Governor soon, and suggested that a support resolution be forwarded to the Governor's office. **A motion was then made by Mr. Murphree and seconded by Mr. Girandola to send a letter to the Governor's Office encouraging him to sign this legislation. The motion was approved by a 4-0 vote.**

Core Preservation Area

- ! IGHL / Manorville (Brookhaven) / subdivision / new application: set hearing (materials to be distributed)
Summary: Mr. Rizzo distributed and discussed the attached materials regarding this new core hardship application for a residential building on SCTM parcel number 200-460-1-27, located on the east side of Wading River Road, north of North Street, near the LI Expressway Exit 69, in Manorville. The applicant is Independent Group Home Living, Inc., a not for profit organization that is applying for the permit with the permission of the Estate of Ivy Virginia Gaffga, the owner. Mr. Rizzo noted that this parcel is not on the core area residential exemption list.

A motion was made by Mr. Girandola and seconded by Mr. Cowen to schedule a public hearing on this application for the 8/8/01 Commission meeting at 4:00 pm. The motion was approved by a 4-0 vote. A brief discussion ensued regarding the State mental hygiene law, and the possible definition of such a group home facility as a single family residence under that law. The discussion also touched upon the possible applicability of the compelling public need provisions of the pine barrens law.

- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / possible violation: status
Summary: Ms. Jakobsen explained that Brookhaven Town sent a coordination letter in March 2001 to the Commission regarding the lead agency designation for this property's site plan. The site is located on the northeast side of County Road 111, south of the LI Expressway, in Manorville. She explained that no application has been filed with the Commission for this project.

A discussion ensued regarding the work that has been done already on the site; the permit that was previously issued by the Commission for this site and whether the new work is covered by that permit, and the steps that the site plan needs to go through with the Town.

Mr. Rigano reported that he has spoken with the project's consultant, and told him that an application should be filed with the Commission. A discussion then occurred regarding the clearing that has taken place; documentation of that clearing; the lead agency designation for that project; and the possibility of looking at whether there have been any violations of the pine barrens law. It was agreed that a meeting should be held between the Commission and the Town regarding these issues.

- ! **Islander East Pipeline Company / Brookhaven / gas main: Federal application status (follow up from 6/6 meeting)**

***Summary:** Mr. Proios briefly mentioned the pipeline construction projects that have been proposed recently within Suffolk County. Ms. Jakobsen reported that the Islander East Pipeline Company filed an application on 6/15/01 with the Federal Energy Regulatory Commission (FERC) for this project. It is proposed to run from Shoreham south to the LI Expressway, and west to Yaphank (where two energy facilities are proposed by other companies), and which would also contain a branch from the Shoreham area east and south to the Calverton area to a third, independent energy facility. The FERC docket number is CP01-384-000. She explained that the Commission will be receiving a copy of the application.*

A discussion ensued regarding the Commission's participation in the FERC review process as either a commentor or an intervenor, with a request for intervenor status having a filing deadline of 7/13/01. It was noted that the commentor status would not place a party's remarks into the project record, while the intervenor status would provide legal standing, place an intervenor on the "service list" to which other intervenor's comments are sent, and obligate a party to distribute their filings to all other intervenors.

A motion was then made by Mr. Cowen and seconded by Mr. Girandola to file for intervenor status with FERC for the Islander East Pipeline project. A brief discussion then occurred regarding whether there was any sort of "intervenors' fund" under the FERC process, as well as the NY State Public Service Commission (PSC) process for reviews of projects over which it has jurisdiction. The motion was approved by a 4-0 vote.

- ! **KeySpan Energy / Brookhaven and Southampton / gas main along LI Expressway: 6/15 meeting results (from 3/14 meeting)**

***Summary:** Ms. Plunkett reported that Mr. Rigano, Mr. Corwin, and she recently met with staff from KeySpan, the NYS Department of Transportation, the Federal Highway Administration, KeySpan contractors, the LI Pine Barrens Society, and the Nature Conservancy to discuss the plans which KeySpan has for the completion of its natural gas pipeline construction along the LI Expressway from Yaphank to Manorville and Riverhead. This meeting was held as discussed at a prior Commission meeting.*

She reported that KeySpan has begun the CGA portion of the work, but that KeySpan has no detailed plans for the portion of the project that is proposed for

the core area (from Exit 70 eastward). She also noted that the meeting discussion indicated that the Federal Highway Administration may have some latitude regarding the details of exactly which portions of the highway right of way could be used for the placement of a pipeline. Mr. Rigano reported that he explained to the project sponsors at that meeting that the portion of the project that is intended for the core area will need a Commission permit.

- ! KeySpan Energy / Westhampton (Southampton) / gas main along CR 31: project status *(follow up from 6/6 meeting)*
Summary: *Ms. Plunkett distributed the attached letter from Mr. Rigano to KeySpan regarding their gas pipeline project along County Road 31 in the vicinity of Gabreski Airport in Westhampton. The letter states that a longer advance notice is needed by the Commission than has been provided in the recent past in order to permit the Commission and its staff to properly evaluate new projects prior to their proposed construction date. Ms. Plunkett reported that this project has since been completed and that it was done in a manner consistent with the Commission's interpretation of the pine barrens statute nondevelopment provisions.*

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / assertion of jurisdiction: status *(follow up from 5/16 meeting)*
Summary: *Ms. Jakobsen reported that, since the Commission's 5/16/01 assertion of jurisdiction over this approximately 75 acre Planned Retirement Community project (SCTM numbers 200-563-4-3; 200-593-3-2, 3, 4, 5, 6; and 200-594-1-1, 2, 3, 4; north side of Sunrise Highway, east side of County Road 51), she has forwarded a letter to the project sponsors regarding their need to file an application with the Commission as a result of that action. No response was received, so a second letter was sent.*

When she spoke with the project consultant, he stated that he has not received authorization from the project sponsors to file such an application. She also noted that there is a 9/13/01 decision deadline for the Commission on this project.

- ! Graystone Estates / Manorville (Brookhaven) / hardship: hearing
Summary: *A separate stenographic transcript exists for the public hearing portion of this item. The project is a residential subdivision utilizing Pine Barrens Credits (SCTM number 200-509-7-1.2; north side of Hot Water Street, west of Halsey Manor Road, east of Chapman Boulevard), which does not meet the CGA clearance standards.*

Following the close of the public hearing, a discussion ensued regarding the design changes (e.g., side yards) that might be needed for this project to meet the 53%/47% clearance standard; the problems that might cause with defensible spaces and accessory structures; the Commission's desire to encourage the use

of Pine Barrens Credits; and the need to apply the clearance standard from the Pine Barrens Plan which corresponds to the actual lot sizes which result from the use of Credits (rather than the lot size associated with the basic zoning category of the parcel). It was agreed that a resolution should be drafted for the next Commission meeting that will state this interpretation of the Plan.

Core Preservation Area

! Hot Water Street and Toppings Path / Manorville (Brookhaven): possible ownership change (not on the original agenda)

Summary: Mr. Girandola reported that Brookhaven Town will consider turning over ownership of these two roads to Suffolk County in the near future. He noted that the Town is working with Suffolk County Parks Commissioner Peter Scully on this matter.

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

Closed Advisory Session

Summary: A motion was made by Mr. Cowen and seconded by Mr. Girandola 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 4:53 pm to 5:30 pm.

Adjournment

Summary: The meeting was adjourned immediately following the advisory session. There was no adjournment resolution.

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Draft Commission meeting schedule (undated; 1 page)
4. Alberto and Sipala LOI Appeals aerial photograph (8/21/00; 1 page)
5. Screven core hardship application and supporting materials (6/13/01; 33 pages)
6. IGHL / Gaffga core application materials (6/12/01 and 6/26/01; 9 pages)
7. Letter from Mr. Rigano to KeySpan regarding gas main (6/8/01; 2 pages)

Commission Meeting Summary (FINAL)
for Wednesday, July 18, 2001 (Approved 8/8/01)
Suffolk County Park Police and Pine Barrens Center
Southaven County Park, Yaphank, NY; 2:00 pm



Commission members present: Mr. Proios (for Suffolk County), Ms. Wiplush (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. 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

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 2:18 pm by Mr. Proios, with three members (no quorum) initially present: Mr. Proios, Ms. Wiplush, and Mr. Cowen.

Closed Advisory Session

Summary: The Commission members present entered into a closed advisory session for the purpose of receiving legal advice from counsel from approximately 2:18 pm to 2:48 pm.

Mr. Murphree arrived during the preceding item, and a four person quorum was then present.

Public Comment

Summary: There were no speakers.

Pine Barrens Credit Program

! Results of 7/10/01 Clearinghouse meeting

Summary: Mr. Rizzo reported that the Brookhaven Pine Barrens Credit purchase offer mailing to all of the Brookhaven Town Credit and Letter of Interpretation holders is being sent out, and the recipients have until 7/30/01 at 12 noon to respond. He briefly described the next phase of the Credit purchase offer, which will be sent to all other core property owners in Brookhaven.

He noted that the next meeting of the Clearinghouse Board will be on 8/28/01 at 9:00 am at the Commission office.

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

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

Plan Implementation

- ! Five year review of Plan (not on the original agenda)
Summary: Mr. Corwin noted that the 6/6/01 hearing transcript was received, as well as several written comments following the hearing. Copies have been mailed to the Commission members, however the transcript has several factual errors and the stenographer is correcting those errors now.
- ! Status of core residential exemption legislation (not on the original agenda)
Summary: Mr. Corwin reported that this legislation - Senate bill 3797, Assembly bill 7534 - has passed both houses of the NY State Legislature, and is awaiting forwarding to the Governor's office.

Core Preservation Area

- ! Lakeside Manorville Day Care Facility / Manorville (Brookhaven) / hardship: status; possible decision (hearing held 4/4/01; decision due 7/23/01)
Summary: Mr. Proios commented briefly upon some of the impacts of this project, and specifically mentioned the traffic impact. Ms. Teresa Elkowitz, consultant for this project, was present and read a letter that was received from the Suffolk County Department of Public Works, which she previously forwarded to the Commission, stating, in part, that left turns from the proposed project site onto County Route 111 should be prohibited. She also remarked that the Brookhaven Town Master Plan proposes the vicinity of this project as a commercial area.

Mr. Proios commented that the Commission would like to have a written report from counsel. Mr. Rigano asked if the applicant would consent to an extension of the current deadline, and Ms. Elkowitz replied that the applicant does not consent to an extension. She also challenged the Commission to find any significant environmental impacts, and said that the Commission must comply with the State Environmental Quality Review Act (SEQRA) requirements.

- ! Red Maple Road / Ridge (Brookhaven) / land division: determination of jurisdiction (materials to be distributed)
Summary: Ms. Plunkett distributed the attached letter and materials from Ms. Christine Nicholl regarding a 2.7 acre parcel zoned A-1 Residence on the east side of Red Maple Road, south of NYS Route 25, in Ridge in Brookhaven Town, Suffolk County Tax Map (SCTM) 200-351-2-13. The parcel was subdivided into 2 lots in 1988, however this subdivision was never filed in the County Clerk's Office.

The project had been previously reviewed by the Commission (in 2000) and determined to be nondevelopment. Since that review, this project has been brought before the Town's Zoning Board of Appeals because the two parcels do not meet the frontage requirements for the current zoning, although they do meet

the lot area requirements. Ms. Nicholl was present at today's meeting and outlined the history of the site. The question is whether the core area residential nondevelopment exemption still applies to this parcel. The matter was referred to Counsel for discussion at the next Commission meeting.

- ! Islander East Pipeline Company / Brookhaven / gas main: intervenor application status (from 6/27/01 meeting); comments on Environmental Assessment (due 8/30/01)

Summary: Ms. Jakobsen reported that the Commission's request for intervenor status was filed on 7/12/01 by counsel (see attached copy). Mr. Richard Amper, representing the LI Pine Barrens Society, noted that the Society has also filed for intervenor status. Ms. Jakobsen explained that the Commission has received a Notice of Intent to Prepare an Environmental Assessment (EA) which was issued by the Federal Energy Regulatory Commission (FERC), and that comments for inclusion in the EA must be received by FERC by 8/3/01.

A brief discussion followed regarding the logistics of being an intervenor; the authoring of comments for the EA submittal; Ms. Wiplush's report that Brookhaven Town has also filed for intervenor status; and the possibility that Riverhead and Suffolk County may do so as well. It was agreed that the Commission staff will set up a meeting with interested individuals and counsel to prepare the EA comments for the Commission.

- ! Iroquois Gas Transmission Company / Eastern LI Pipeline Project / Brookhaven / gas main: correspondence (materials to be distributed)

Summary: Ms. Jakobsen reported that ENSR International, a consulting firm, is preparing a study of possible corridors for the Iroquois Gas Transmission Company Pipeline project, and that a letter to that effect was received by the Commission (see copy attached with map). The project involves a 24 inch gas pipeline, and two routes are being considered to reach a proposed power plant in Brookhaven Town. The routes appear to be identical to those being proposed for the Islander East Pipeline.

The discussion that followed focused upon the feasibility of two pipelines being proposed for the same location; the existence of a FERC process for resolving such a conflict; and the commission's preference that the project representatives meet with Commission staff if necessary, rather than with the Commission.

- ! BJ Heavy Equipment Company / Calverton (Riverhead) / change of lot lines: information item (materials to be distributed)

Summary: Mr. Rizzo distributed and discussed the attached materials, including a time line of correspondence with the project sponsor; a letter from Mr. Bruce Kaplan, attorney for the sponsor, with attachments, and a tax map of the site. The parcels involved are SCTM parcels 600-141-1-2.1 and 2.3. Mr. Rizzo explained that the project consists of the swapping of two acres between two separate tax parcels (owned separately by two distinct owners) by altering the tax parcel boundaries between them. The purpose of the map alteration is to rectify a mistake made in 1985, when a building was mistakenly constructed by

one party partly upon the property of the other owner. The question for the Commission is whether this action constitutes development.

After a brief discussion, it was agreed that the project does not constitute development pursuant to the pine barrens law. The Commission staff will convey this determination to the project sponsor.

- ! *Gazza / Westhampton (Southampton) / miscellaneous parcels: status (not on the original agenda)*

Summary: Mr. Gazza remarked that he spoke with the staff of the Suffolk County Office of Economic Development, and that he will be meeting with Ms. Alice Amrhein of that office soon regarding the status of the County's CGA property within the Suffolk County Gabreski Airport, and its availability for receiving development from the west side of County Road 31.

- ! *Gazza / Westhampton (Southampton) / agricultural building site plan / hardship: EIS status (hearing held 9/13/00)*

Summary: Ms. Plunkett distributed and discussed the attached materials regarding the Gazza items on today's agenda. With respect to the building site plan for SCTM 900-285-2-29.2, located on the west side of County Road 31, on the south side of Sunrise Highway, in Westhampton, she noted that three responses have been received (attached) from potential consultants for preparing a Draft Environmental Impact Statement (DEIS) for this project. Teresa Elkowitz of Freudenthal & Elkowitz declined due to a possible conflict; Richard Warren of Interscience Research Associates was not interested; and Charles Voorhis of Nelson, Pope and Voorhis expressed an interest in doing the work, and specifically estimated that the project would cost approximately \$22,000.

A discussion followed regarding possible options for the Commission at this point in the State Environmental Quality Review Act (SEQRA) process. Mr. Gazza noted that he has filed a site plan application with the Southampton Town Planning Board, and a discussion followed regarding his appeal of the Town Building Inspector's determination regarding the status of the proposed building.

Mr. Gazza stated that he believes that this project is a permissible use in the CR-200 zoning district; stated that he has received permits for agricultural buildings on separate lots previously; and cited a specific example of another parcel that he owns in the Town. He then commented that the Town has completed a Generic EIS for the region of this parcel; that any DEIS that he produced would be found insufficient; that he prefers that the Commission pick the consultant to do the DEIS for this project; and that he believes that the project is a Type II action under the SEQRA regulations.

*Mr. Rigano recommended that the Commission proceed with the issuance of a Request for Proposals (RFP) for this project. **A motion was made by Mr. Murphree and seconded by Mr. Cowen to issue an RFP for the production of a Draft EIS for this proposal, with a 30 day period for receiving***

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

- ! Gazza / Westhampton (Southampton) / residential site plan: determination of jurisdiction (*materials to be distributed*)

Summary: Ms. Plunkett summarized this request for a determination of jurisdiction for SCTM parcel number 900-247-1-2, a 1.129 acre parcel zoned CR-200. This property, on the west side of CR 31 in Westhampton, contains a foundation and was purchased by the applicant after the passage of the pine barrens law. Initially, Mr. Gazza sought a hardship exemption to build a "home occupational residence", but is now seeking first a determination as to whether the proposed use is subject to the Commission's review, due to the foundation on the site.

Mr. Gazza explained that the foundation was originally constructed for a planned gasoline service station approximately 25 years ago when the site was industrially zoned; that the station was never completed and the owner went into bankruptcy; that it is currently occupied by a food vendor's truck without his permission; that he wishes to construct a home office building; that he feels that it is not development and cited sections of both the pine barrens law and the Town Code in support of that position; and that such a proposal is a permissible use in a CR-200 zone.

It was agreed that the jurisdictional question will be referred to counsel and placed on the 8/8/01 Commission agenda, and that a hardship hearing will be scheduled for the 9/5/01 Commission meeting in the event that it is determined to be development. **A motion was made by Mr. Cowen and seconded by Mr. MacLellan to schedule a public hearing on this application at the 9/5/01 Commission meeting at 4:00 pm. The motion was approved by a 5-0 vote.**

- ! Gazza / Westhampton (Southampton) / hardships for 7 parcels for growing beach grass: discussion; set hearings (*materials to be distributed*)
Summary: Ms. Plunkett described the seven new core area hardships filed by Mr. Gazza for seven distinct parcels along the west side of County Road 31 in Westhampton, each for the purpose of clearing a portion of each property for the growing of beach grass. Ms. Plunkett recommended that these matters be reviewed together. The SCTM parcels involved are 900-247-1-4.1; 900-285-2-30.02; 900-285-2-31.02; 900-285-2-32.02; 900-286-2-19.01; 900-286-2-22.01; and 900-286-2-37.01. **A motion was made by Mr. Cowen and seconded by Mr. Murphree to schedule public hearings for each of these seven application for the 9/5/01 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.**

- ! Lakeside Manorville Day Care Facility / Manorville (Brookhaven) / hardship: continued from earlier in today's meeting
Summary: Mr. Rigano discussed the 20 day time period under SEQRA for making a determination of significance, and noted that certain materials were not available until today. Mr. Proios asked whether the project sponsor would agree to an extension of that period and the Commission's decision deadline. Ms.

Elkowitz stated that her client would agree to an extension until 8/8/01, but would not agree to any further extensions.

Mr. Charles Mancini was present and asked whether there was anything else that the Commission needed but did not have, and Mr. Rigano said there was not. **A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to extend the decision deadline for this application to 8/8/01. The motion was approved by a 5-0 vote.**

- ! Screven / Manorville (Brookhaven) / residence / hardship: hearing
Summary: A separate stenographic transcript exists for the hearing. Following the close of the hearing, a brief discussion ensued regarding the details of this application. **A motion was then made by Mr. MacLellan and seconded by Mr. Murphree to approve the Screven Foster core hardship application with the understanding that lots 6.1 and 6.2 taken together are the same as the new lot 6.3, and with the condition that the clearing be no greater than 100 feet by 100 feet. The motion was approved by a 5-0 vote.**

- ! DeGregorio / Flanders (Southampton) / subdivision of lot with existing homes / hardship: discussion; set hearing (materials to be distributed)
Summary: Mr. Rizzo distributed and discussed the attached letter of application from Mr. Frederick Meyer on behalf of John DeGregorio for a subdivision of SCTM parcel 900-183-1-2.2, a 42.75 acre parcel, zoned CR-60 and CR-200, and located on the west side of Pleasure Drive, south of NYS Route 24, in Flanders. The project consists of the subdivision of the parcel into three residential lots, one for each of the existing dwellings. The remaining 36.8 acres would not be subdivided, but would be kept as open space. **A motion was made by Mr. Murphree and seconded by Mr. Cowen to schedule a public hearing on this application for the 8/8/01 Commission meeting at 4:00 pm. The motion was approved by a 5-0 vote.**

Compatible Growth Area (CGA)

- ! Graystone Estates / Manorville (Brookhaven) / hardship: possible decision or Plan interpretation (hearing held 6/27/01)
Summary: Ms. Jakobsen summarized this application for SCTM number 200-509-7-1.2, a residential subdivision utilizing Pine Barrens Credits and located on the north side of Hot Water Street, west of Halsey Manor Road, and east of Chapman Boulevard, in Manorville. At the previous Commission meeting, it was agreed that a draft resolution interpreting the application of the Pine Barrens Plan clearing standards to CGA subdivisions utilizing credits would be discussed.

It was agreed that the attached site specific resolution resolving this issue for Graystone Estates would be considered today, and a generic version of the resolution would be considered at the 8/8/01 Commission meeting. **A motion**

was made by Ms. Wiplush and seconded by Mr. Murphree to adopt the attached resolution resolving this issue for Graystone Estates. The motion was approved by a 5-0 vote.

- ! Brookhaven Town Center / Yaphank (Brookhaven): determination of jurisdiction (materials to be distributed)
Summary: Ms. Plunkett distributed the attached letter from Mr. Voorhis of Nelson, Pope and Voorhis regarding the Brookhaven Town Center on the northwest corner of the LI Expressway and the William Floyd Parkway in Shirley. The letter is ambiguous as to whether an application is being submitted for the project or not. It was agreed that Mr. Rigano will speak with Mr. Voorhis before the next meeting.

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, including advice regarding pending litigation. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 5:02 pm to 5:52 pm.

Adjournment

Summary: The meeting was adjourned immediately following the closed session. There was no adjournment resolution.

Attachments (in order of discussion):

1. Attendance list (2 pages)
2. Speaker list (1 page)
3. Letter and attachments re Red Maple Road parcel (1/21/00; 4 pages)
4. Letter FERC requesting Islander East intervenor status (7/12/01; 2 pages)
5. Letter from Mr. Law with Notice of Intent to prepare an EA (7/11/01; 8 pages)
6. Letter from ENSR International re Iroquois Pipeline (7/19/01; 3 pages)
7. Materials re BJ Heavy Equipment land swap (miscellaneous dates; 9 pages)
8. Summary of Gazza agenda items for today's meeting (7/8/01; 1 page)
9. Responses regarding production of a Gazza DEIS (miscellaneous dates; 13 pages)
10. Gazza core area application for a home office residence (6/12/01; 20 pages)
11. Jurisdictional determination request for home office residence (7/9/01; 8 pages)
12. Gazza core area application for SCTM 900-247-1-4.1 (6/12/01; 22 pages)
13. Gazza core area application for SCTM 900-285-2-30.2 (6/12/01; 16 pages)
14. Gazza core area application for SCTM 900-285-2-31.2 (6/12/01; 16 pages)
15. Gazza core area application for SCTM 900-285-2-32.2 (6/12/01; 16 pages)
16. Gazza core area application for SCTM 900-286-2-19.1 (6/12/01; 16 pages)
17. Gazza core area application for SCTM 900-286-2-22.1 (6/12/01; 16 pages)
18. Gazza core area application for SCTM 900-286-2-37.1 (6/12/01; 16 pages)
19. DeGregorio core hardship application via Mr. Meyer (6/14/01; 7 pages)

20. Graystone Estates resolution (7/18/01; 1 page)

21. Letter from Mr. Voorhis re Brookhaven Town Center project (6/21/01; 1 pages)



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Member

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

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

**Commission Meeting Summary (FINAL)
for Wednesday, August 8, 2001 (Approved 9/5/01)
Riverhead Town Hall
200 Howell Avenue (corner of East Main Street), Riverhead, NY
2:00 pm**

Commission members present: Ms. Kohn (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), 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.

The meeting was called to order at approximately 2:14 pm by Mr. Murphree, with a four member quorum.

Public Comment

Summary: There were no speakers.

Administrative

- ! Summaries of 6/27/01, 7/18/01 meetings: review, approval (faxed)
Summary: **A motion was made by Ms. Kohn and seconded by Mr. MacLellan to approve the summary of the 6/27/01 meeting as drafted. The motion was approved by a 4-0 vote.**

A motion was made by Ms. Kohn and seconded by Mr. MacLellan to approve the summary of the 7/18/01 meeting as drafted. The motion was approved by a 4-0 vote.

Pine Barrens Credit Program

- ! Status of overall program, Brookhaven Credit purchase offer
Summary: Mr. Rizzo noted that the next meeting of the Pine Barrens Credit Clearinghouse Board will be on 8/28/01 at 9:00 am at the Commission Office.

He then reported that some responses have been received from recipients of the recent Credit purchase offer mailing by the

Clearinghouse to owners of Credits and holders of Letters of Interpretation within Brookhaven Town. He explained that the next phase of the Credit purchase offer will be mailed to all Core area property owners within Brookhaven Town who were not included in the first phase mailing.

Plan Implementation

- ! Wildfire Task Force update *(not on the original agenda)*
Summary: *Capt. Robert Conklin reported that field conditions are increasingly dry, that the Fire Weather Committee of the Task Force will be meeting this Friday to discuss current conditions, and noted some of the recent drought index readings at the Eastport and Wertheim Refuge fire weather stations.*

He then noted that the 2001 NY Wildfire and Incident management Academy currently has over 100 student registrations; that the Public Education Committee of the Task Force is almost finishing its taping for the wildfire public awareness video, and that a possible second, longer version might be produced as well for broadcast use. Mr. MacLellan suggested that the local public access channels might be one broadcast outlet.

Capt. Conklin left at this point.

- ! Core area residential exemption ("roadfront") bill (S.3797, A.7354): status
Summary: *Mr. Corwin reported that there has been no word yet as to whether the Governor has signed this bill. No further discussion was held.*
- ! Plan interpretation re CGA clearance standard for sites using Pine Barrens Credits: draft generic resolution *(from 7/18/01 discussion of Graystone Estates)*
Summary: *Mr. Corwin distributed the attached draft resolution which was also distributed at the previous meeting, and went over the origin of this proposed resolution. Since there are two new designated representatives at today's meeting, it was agreed that this item will be held until the next meeting.*

Core Preservation Area

- ! Lakeside Manorville Day Care Facility / Manorville (Brookhaven; 200-462-2-7) / hardship: decision *(hearing held 4/4/01; from 7/18/01 meeting; decision due 8/8/01)*
Summary: *Mr. Rigano distributed and reviewed a draft version of the report on this project which the Commission had requested from him at its 7/18/01 meeting. In addition to those changes noted in the draft, several additional changes were requested by the Commission today.*

After a lengthy discussion, a motion was made by Mr. MacLellan and seconded by Ms. Kohn to adopt the version of the Lakeside day care facility report with the changes requested today (see attached copy with all

changes included). The motion was approved by a 3-0-1 vote, with the abstaining vote cast by Ms. Prusinowski for Brookhaven Town.

A second motion was made by Mr. MacLellan and seconded by Ms. Kohn to adopt the attached Environmental Assessment Form and to adopt a negative declaration under the State Environmental Quality Review Act. The motion was approved by a 3-0-1 vote, with the abstaining vote cast by Ms. Prusinowski for Brookhaven Town.

A third motion was made by Mr. MacLellan and seconded by Ms. Kohn to approve the Core hardship permit for this project with the conditions stated in the report of counsel. The motion was approved by a 3-0-1 vote, with the abstaining vote cast by Ms. Prusinowski for Brookhaven Town.

- ! Red Maple Road / Ridge (Brookhaven) / land division: determination of jurisdiction; counsel's opinion (from 7/18/01 meeting)

Summary: At the 7/18/01 Commission meeting, the Commission referred to counsel a determination of jurisdiction on this matter. The subject site is a 2.7 acre parcel zoned A-1 Residence on the east side of Red Maple Road, south of NYS Route 25, in Ridge in Brookhaven Town, Suffolk County Tax Map (SCTM) 200-351-2-13. The parcel was subdivided into 2 lots in 1988, however this subdivision was never filed in the County Clerk's Office.

The project had been previously reviewed by the Commission (in 2000) and determined to be nondevelopment. Since that review, this project went before the Zoning Board of Appeals because the two parcels do not meet the frontage requirements for the current zoning, although they do meet the lot area requirements.

With respect to the question as to whether the core area residential nondevelopment exemption still applies to this parcel, Mr. Rigano stated that he believes that the project is not within the Commission's jurisdiction. The question then arose as to whether the fact that the subdivision approval has expired affects that determination, and Mr. Rigano stated that he does not believe that changes the nonjurisdictional nature of the proposal. The Commission agreed that the project is not within its jurisdiction.

- ! Pino / Manorville (Brookhaven) / single family home / new hardship: set hearing
Summary: Ms. Jakobsen distributed the attached letter from Mr. Robert Pino, Ms/ Anna Czarnecki and Mr. Alexander Czarnecki, Jr. requesting a core hardship exemption for the construction of a single family home on the Czarnecki property which Mr. Pino wishes to purchase. The site (Tax Map 200-460-1-9) is on the East side of Wading River Road, north of North Street, in Manorville. The project site is 1 acre and is zoned A1 Residence. The site is not on the Core area residential exemption list for single family homes. The decision deadline is 11/4/01. **A motion was made by Ms. Prusinowski and seconded by Mr. MacLellan to schedule a hearing on this application for the 9/26/01**

Commission meeting at 2:00 pm. The motion was approved by a 4-0 vote.

- ! Islander East Pipeline Company / Brookhaven / gas main: Environmental Assessment comments; next steps (from 7/18/01 meeting)
Summary: The attached comments that the Commission submitted to the Federal Energy Regulatory Commission (FERC) for this gas pipeline project's federal Environmental Assessment were distributed. Ms. Jakobsen explained that staff from the Commission and Towns, plus Commission counsel met to draft the comments, and Mr. Rigano commented that the next steps in the FERC process need to be determined.

- ! Gazza / Westhampton (Southampton) / core boundary change request: status; possible decision (hearing held 4/25/01)
Summary: Mr. Corwin suggested that this item be held over to the next Commission meeting since there has not been any word as to whether Mr. Gazza and the County officials in charge of the airport have spoken regarding the possibility of transferring some of the development potential from the west side of County Road 31 to the developed portion of the airport on the east side of CR 31.

- ! Gazza / Westhampton (Southampton; 900-285-2-29.2) / agricultural building site plan / hardship: status of Request for Proposals for Draft EIS production (hearing held 9/13/00; from 7/18/01 meeting)
Summary: Ms. Plunkett briefly reviewed the history of this proposal. She noted that there are now additional parcels in the immediate vicinity of this parcel for which Mr. Gazza has filed core hardship applications. Those applications are scheduled for hearings at the next Commission meeting. She also noted that one approach to producing the Draft Environmental Impact Statement (DEIS) for the agricultural building parcel would be to have the Commission staff do the bulk of the work, and bring in specialized outside assistance as needed.

A discussion ensued regarding deadlines, the differences between the agricultural building application and the new applications for the nearby parcels, and correspondence which has been received from Southampton Town stating that there is no site plan application for the agricultural building pending before the Town.

It was concluded that a decision on the Request for Proposals would be withheld until after the hearings on the seven new applications are completed at the next meeting. The Commission believes that it may have to review all of these projects together under the State Environmental Quality Review Act.

- ! Gazza / Westhampton (Southampton) / residential site plan: determination of jurisdiction (materials distributed 7/18/01; hearing set for 9/5/01)
Summary: This site was purchased by Mr. Gazza after the pine barrens law was passed. It contains a partial foundation for a building that was never built. Mr. Rigano summarized the applicant's proposal that the new project might be nondevelopment under the pine barrens law. Mr. Rigano stated that he does not

believe that the nonjurisdictional provisions of the pine barrens act apply to this site. The Commission agreed, and the previously scheduled hearing for a future meeting will be held.

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven; 200-563-4-3; 593-3-2, 3, 4, 5, 6; 594-1-1, 2, 3, 4) / assertion of jurisdiction: status; request for decision postponement (*jurisdiction asserted 5/16/01; decision deadline 9/13/01*)
Summary: *Ms. Jakobsen distributed and discussed the attached letter requesting an extension of the Commission's 120 day review period for this project. The project involves a zone change from A1 Residence to PRC Residence for the construction of 298 residential units on 74.8 acres on the north side of Sunrise Highway, east of County Road 51, in Eastport.*

| *She described the April 2001 correspondence which the Commission received originally re this project, and the Commission's 5/16/01 decision to assert jurisdiction over this project. She noted that this assertion date started a 120 day decision period for the Commission which ends on 9/13/01, and today's letter request would extend that time to 10/17/01. **A motion was then made by Mr. MacLellan and seconded by Ms. Kohn to accept and approve the requested extension of the Commission's review period for this project to 10/17/01. The motion was approved by a 4-0 vote.***

- ! Brookhaven Town Center / Yaphank (Brookhaven): determination of jurisdiction (*from 7/18/01 meeting*)
Summary: *Mr. Rigano reported that he has placed a call to the attorney for this project in order to clarify the correspondence on this site which the Commission discussed at its 7/18/01 meeting, and that he has not yet received a reply.*

Core Preservation Area

- ! Swan Lake Golf Club / Calverton (Riverhead) (*not on the original agenda*)
Summary: *Mr. MacLellan asked whether the Commission has received any application from the Swan Lake Golf Club. Ms. Plunkett reported that an application has just been received at the Commission Office, and that the subject proposal would likely be on the next Commission meeting agenda.*
- ! IGHL / Manorville (Brookhaven; 200-460-1-27) / single family home / hardship: public hearing
- ! DeGregorio / Flanders (Southampton; 900-183-1-2.2) / subdivision of lot with existing homes / hardship: public hearing (*postponement request to be distributed*)
Summary: *A separate stenographic transcript exists for each of these agenda items.*

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 4-0 vote, and the Commission entered into closed session from approximately 3:30 pm to 3:42 pm.

Core Preservation Area

- ! Screven - Foster / Manorville (Brookhaven; 200-460-1-6.1, 6.2 renumbered as 6.3) / core hardship *(not on the original agenda)*

Summary: A motion was made by Ms. Prusinowski and seconded by Mr. MacLellan to modify the Commission's 7/18/01 core hardship permit approval to eliminate the clearing restriction stated at that time and to require instead that the clearing be in accordance with the regulations of Brookhaven Town. The motion was approved by a 4-0 vote.

Public Comment

Summary: Mr. Walter Olsen, representing Civil Property Rights Associates, asked that today's meeting record show that he commends the Commission for its action today regarding the Screven - Foster core hardship permit condition change.

Adjournment

Summary: The meeting was adjourned at approximately 5:02 pm without a formal adjournment resolution.

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Draft resolution re clearance on CGA sites using Credits (undated; 1 page)
4. Report on Lakeside day care facility project (8/8/01; 8 pages)
5. Environmental Assessment Form for Lakeside day care facility (8/8/01; 18 pages)
6. Letter from Mr. Pino and the Czarneckis re core hardship (6/16/01; 2 pages)
7. Cover letter and comments to FERC re Islander East Pipeline (8/2/01; 11 pages)
8. Letter from Mr. Arnesen re extension for Eastport Senior Living (8/6/01; 1 page)

Commission Meeting Summary (FINAL)
for Wednesday, September 5, 2001 (Approved 9/26/01)
Riverhead Town Hall
200 Howell Avenue (at East Main Street), Riverhead, NY
2:00 pm



Robert J. Gaffney
Chair

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

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

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

Commission members present: Mr. Proios and Mr. Sklar (for Suffolk County; Mr. Proios voting), Ms. Prusinowski (for Brookhaven), Mr. MacLellan (for Riverhead at the time noted), 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. 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.

The meeting was called to order at approximately 2:12 pm by Mr. Proios, with a four member quorum consisting of Mr. Proios, Ms. Prusinowski, Mr. MacLellan, and Mr. Cowen.

Public Comment

Summary: Mr. Walter Olsen, representing Civil Property Rights Associates, spoke regarding the problem of ticks in the undeveloped areas of the pine barrens. He passed around a plastic bag containing a pair of white socks, along with a magnifying glass, and said that they were heavily infested with very small ticks, and stated that this problem has been created by the preservation of so much land. He also stated that the Commission ought to be doing something about this problem; that the undeveloped areas are a hostile environment; that last year the tick problem was considerably smaller; and that there are reactions to the preservation of land. He asked whether the government agencies have explored the availability of controls for this problem, and stated that this is a public health threat.

Mr. Proios remarked that he has spoken with the DEC Commissioner regarding the problems posed by the Canada geese and deer populations, and the possibility of more active wildlife management programs. Mr. Olsen then noted that there are also problems with gypsy moths, oakworms, and defoliation of trees. Mr. Proios stated that he would bring up this issue at the next Protected lands Council meeting.

Mr. MacLellan arrived during the preceding discussion, and a five member

quorum was present for the remainder of the meeting.

Administrative

- ! Summary of 8/8 meeting: review, approval

Summary: The following change was suggested to the 8/8/01 meeting minutes: under "Islander East Pipeline Company", the first sentence should read: "The attached comments that the Commission submitted to the Federal Energy Regulatory Commission (FERC) for this gas pipeline project's federal Environmental Assessment were distributed." **A motion was made by Mr. MacLellan and seconded by Mr. Cowen to approve the 8/8/01 Commission meeting summary with that change. The motion was approved by a 5-0 vote.**

- ! Update of Commission officer designations

Summary: Mr. Corwin recommended that the Commission designate the Commission staff as Assistant Secretaries for the Commission, thereby providing the Commission staff with the same officer designation that the Chairs, Vice Chairs, Co-Chairs and Co-Vice Chairs of the Councils, Task Force, and Clearinghouse Board already have. **A motion was made by Mr. Cowen and seconded by Mr. MacLellan to designate the Commission staff as Assistant Secretaries of the Commission. The motion was approved by a 5-0 vote.**

- ! "Core Preservation Area Hardship Checklist" (resolution of 12/14/94): addition to require owner's affidavit

Summary: The attached copy of a Commission approved "Core Preservation Area Hardship Application Checklist" from 12/14/94 was distributed. Mr. Corwin explained that it was originally passed for use during the Plan development period, but that it has been generally utilized since then to assure that Core area application submittals have sufficient information.

He also noted that the staff is recommending that the attached owner's affidavit, which is not part of the Commission's 1994 checklist, be included as required Item Number 6, and that the Commission adopt the revised list as an administrative requirement for the submittal of core area applications. Ms. Carter remarked that the affidavit is based upon similar affidavits that many local municipalities require as part of applications that they receive. **A motion was then made by Mr. Cowen and seconded by Ms. Prusinowski to approve and adopt the revised Core Preservation Area Hardship Application Checklist. The motion was approved by a 5-0 vote.**

Pine Barrens Credit Program

- ! Status of overall program, Brookhaven Credit purchase offer

Summary: Mr. Rizzo reported that the next meeting of the Clearinghouse Board

is scheduled for 10/30/01 at a time and place to be arranged.

He also reported that contracts are being sent to bidders in Phase 1 (i.e., current holders of Credits or Letters of Interpretation) of the current Brookhaven Credit purchase offer by the Clearinghouse, and that the response deadline for Phase 2 (open to all other Core area Brookhaven property owners) of the same offer is tomorrow.

Plan Implementation

- ! Core area residential exemption ("roadfront") bill (S.3797, A.7354): status
Summary: Ms. Plunkett reported that there is no word yet regarding whether the bill has been signed.

- ! Plan interpretation re CGA clearance standard for sites using Pine Barrens Credits: draft resolution (draft distributed at 7/18 and 8/8 meetings)
Summary: Mr. Corwin distributed that attached draft resolution regarding the application of the Central Pine Barrens Plan's clearing standards to those subdivisions in the Compatible Growth Area which are utilizing Pine Barrens Credits. After a brief discussion, the attached draft resolution's last "Resolved" clause was changed to read "no additional special permits are required from the Commission." **A motion was then made by Ms. Prusinowski and seconded by Mr. Cowen to approve and adopt the attached draft resolution as changed. The motion was approved by a 5-0 vote.**

- ! Wildfire Task Force: addition of NY State Emergency Management Office (change to establishing resolution) and public awareness video status
Summary: Mr. Corwin distributed and discussed the attached copy of the Commission's resolution establishing the Wildfire Task Force (originally passed 11/8/95 and modified through 12/20/00). He reported that the Wildfire Task Force, at its last meeting on 8/29/01, formally recommended to the Commission that the New York State Emergency Management Office (SEMO) be added as a member agency of the Wildfire Task Force. **A motion was then made by Mr. Cowen and seconded by Ms. Prusinowski to modify the Wildfire Task Force establishment resolution to add the NY SEMO as a member. The motion was approved by a 5-0 vote.**

Ms. Jakobsen then distributed and discussed the attached memo, photographs, and work expansion proposals regarding the Wildfire Task Force Public Education Committee video proposal. She explained that the filming has been completed, and that editing is about to begin. She then noted that the original approval by the Commission for this project was for a total of \$16,360, with a provision for expanding that amount up to \$20,000 without further review by the Commission.

She explained that the Commission has received, through the efforts of Capt. Conklin of the NYS Forest Rangers, a matching funds grant from the U.S. Forest

Service. The grant provides a 50% match for Commission funds expended on the video, up to a maximum of \$10,000. Based upon this source of funding, Ms. Jakobsen explained that the Public Education Committee is seeking Commission approval to expand the amount of money to be spent on the video up to a maximum of \$27,460 (which will be reduced to \$17,460 when the \$10,000 reimbursement is received), and to use the additional funds to produce three public service announcements. They would cover high fire danger times, outdoor safety, and home fire safety along the wildland urban interface. The possibility of an expanded version of the original video would also be examined. **A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to approve the change in the amount of Commission expenditures from \$20,000 to \$27, 460 based upon the preceding discussion and the attached memo. The motion was approved by a 5-0 vote.**

Core Preservation Area

- ! Swan Lake Golf Club / Calverton (Riverhead) / site plan / new hardship: scheduling of hearing (decision date 12/1)
Summary: Ms. Jakobsen distributed a large application packet for this golf course clubhouse expansion project on the south side of Grumman Boulevard in Calverton, Riverhead Town (Suffolk County Tax Map 600-142-1-1.3; see attached cover letter from packet). She described the nature and details of the proposed site plan; explained that the application cites both the extraordinary hardship and the compelling public need portions of the pine barrens statute; stated that there is a 12/1/01 decision deadline for this, and asked whether this project review would be an uncoordinated review under the State Environmental Quality Review (SEQR) Act regulations. A discussion ensued regarding the SEQR status of this project within the Town. Since the Town has deemed this action as a Type 2 action, the Commission decided that it would perform an uncoordinated review.

Mr. Peter Danowski, attorney for the applicant was present and he spoke briefly regarding the small scale of the project within the larger 130 acres of the course, the fact that the expansion of the clubhouse would be into a parking area, and his hope that it would not require a permit from the Commission. After a brief discussion, the Commission members agreed that the project constitutes development since it is construction within the Core area and since it is similar to a previous application from another applicant for the Hampton Hills Golf Course in Southampton Town's portion of the core area. **A motion was then made by Mr. Murphree and seconded by Ms. Prusinowski to schedule a hearing on this project at the 9/26/01 Commission meeting at 2:00 pm. The motion was approved by a 5-0 vote.**

- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship (materials distributed 7/18)
- ! Gazza / Westhampton (Southampton) / agricultural clearing applications / hardships (seven separate applications) (materials distributed 7/18)

Summary: A separate stenographic transcript exists for these hearings.

- ! Gazza / Westhampton (Southampton) / core boundary change request: status of proponent's discussions with Suffolk County (hearing held 4/25)

Summary: This topic was covered by the Mr. Gazza during the preceding public hearings. At this point, Mr. Proios referred to a letter that he had with him which requested the County Attorney to provide an opinion on the types of uses which are permitted at the County Airport. There was no further discussion.

- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship: status of Request for Proposals for Draft EIS production (hearing held 9/13/00; from 7/18/01 and 8/8/01 meetings)

Summary: Ms. Plunkett explained that there is a question as to whether the Environmental Impact Statement (EIS) should cover just this site or all of the nearby agricultural clearing sites nearby for which Mr. Gazza has applications pending. A discussion ensued regarding the 10/1 deadline for responses from other agencies on the SEQR coordination for the seven agricultural clearing sites; the possibility of calling the agencies to determine their responses in time for the Commission to make a SEQRA determination on those applications at its 9/26 meeting; and determining at that time whether to combine these projects with the agricultural building EIS work. It was agreed that Mr. Rigano will meet with Mr. Gazza prior to the 9/26 Commission meeting to discuss all of Mr. Gazza's pending applications.

- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / site plan: results of site visit; application status

Summary: Ms. Jakobsen distributed and discussed the attached memo and photographs summarizing the results of the 8/9/01 site visit to the property on the east side of County Road 111, in Manorville by herself, Ms. Diane Mazarakis of the Brookhaven Town Planning Division, and Mr. Mark Lyon, consultant for the property owner. In the lengthy discussion which followed, several topics were addressed: the construction and development which has occurred on the site since the September 1998 stipulation between the Commission and the property owner in settlement of a previous violation; the pending site plan before Brookhaven Town for further construction on the site; the lack of any application to the Commission for either the new development being proposed to the Town as well as the additional development that has already occurred since the 9/98 stipulation with the Commission; specifically, the failure of the owner to adhere to the conditions of the stipulation with regard to revegetation of portions of the site; the substitution of a paved patio area for previously agreed landscaping; the paving of an area that was to be landbanked parking; an unapproved fountain area; a paved walkway leading to a parking area on a neighboring property; other construction activities; the requirement of the pine barrens law that a core permit only provide for the minimum relief necessary; and the possible resolutions of the newest violations in light of the previous violations and the original stipulation. It was agreed that Mr. Rigano will speak with the attorneys for the property owner and report back to the Commission.

- ! Islander East Pipeline Company / Brookhaven / gas main: next steps in FERC process (from 8/8 meeting)

Summary: Ms. Jakobsen reported that the Islander East Pipeline Company has written to the Federal Energy Regulatory Commission stating that it would support the production of an EIS for this project. A discussion then occurred regarding the need to monitor more closely the amount of clearing that actually occurs when a corridor like the one proposed is created, and that discussion turned specifically to the current Keyspan gas pipeline corridor that is being created alongside the Long Island Expressway in Brookhaven Town. It was agreed that the staff will look into the possibility of obtaining aerial photographs of the clearing occurring along that Keyspan corridor.

- ! DeGregorio / Flanders (Southampton) / pending hardship: SEQR coordination discussion (hearing scheduled for 9/26)

Summary: Ms. Carter and Mr. Murphree summarized the status of this residential subdivision along the west side of Pleasure Drive, In Flanders in Southampton Town. The property contains several existing residences that do not conform with the current Town laws, and the owner is seeking to subdivide the property. Mr. Murphree explained that the owner is seeking to replat the parcel with one residence per lot, and one parcel left as open space, but the latest proposal is apparently in conflict with the updated Southampton Town wetlands regulations. There is also concern that any attempt to relocate the residences to different locations on the property would cause more disturbance than leaving them where they are.

The discussion also touched upon whether Certificates of Occupancy (CO's) exist for the homes there now; whether the residences predate the Town requirement for CO's, the location of the parcel within the Town's Aquifer Protection Overlay District and the clearing restrictions associated with that overlay district; the differences between the application now before the Commission and that which is before the Town; the application of the Commission's informal policy of conducting uncoordinated SEQRA reviews on core area parcels to this application to the Commission; and the receipt of a request from the applicant to formally withdraw his application from several years ago which has remained incomplete and been held over at his request. **A motion was then made by Ms. Prusinowski and seconded by Mr. Murphree to formally accept the withdrawal of the older DeGregorio application to the Commission. The motion was approved by a 5-0 vote.** It was agreed that an uncoordinated SEQRA review of the current application to the Commission will be performed.

- ! IGHL / Manorville (Brookhaven) / subdivision / pending hardship: SEQRA status (not on the original agenda)

Summary: Ms. Carter explained that she wanted to be sure that the Commission wanted to conduct an uncoordinated review of this project. It was agreed that should be done, and that this is an unlisted action under SEQRA.

Compatible Growth Area (CGA)

- ! Brookhaven Town Center / Yaphank (Brookhaven): determination of jurisdiction (from 7/18/01 and 8/8/01 meetings)
Summary: Mr. Rigano reported that he has spoken with the applicant's representative, and that they need to do more work on their prior ambiguous submittal to the Commission. A brief discussion ensued regarding the decision date that the Commission would face if that prior submittal were to be determined to be an application.

- ! Devon Lane Land Division / Coram (Brookhaven): interpretation of clearing standard
Summary: Ms. Plunkett explained that this project involves the residential development of a split zoned parcel (Suffolk County Tax Map 200-430-2-24) along the north side of NYS Route 25 in Coram, and that it had been forwarded to the Commission for an interpretation of the CGA clearing standard.

The question arose within the Town as to how much of the northern portion of the parcel, which is zoned A2 Residence, can be cleared for a two lot subdivision, given that the southerly portion of the property, which is zoned J2 Business, is already commercially developed and was cleared in its entirety (those developments on the southerly portion of the parcel occurred prior to the pine barrens law). It was agreed that the entire parcel, including the developed site, should be considered as the project site. This means that the additional clearing that would be permitted for the new development is the difference between the allowance for the entire parcel minus that already cleared for the existing development.

Public Comment

Summary: Mr. Henry Dittmer, representing Civil Property Rights Associates, distributed two publications to the Commission Chair, one being a Summer 2001 newsletter from the property Rights Foundation of America and the other being a publication entitled The Property Owner's Experience published by the same organization.

Closed Advisory Session

Summary: A motion was made by Ms. Prusinowski 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 6:04 pm to 6:22 pm.

Adjournment

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

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Core Application Checklist and owner's affidavit (12/14/94 and undated; 3 pages)
4. Resolution re clearance standard for CGA projects using Credits (undated; 1 page)
5. Wildfire Task Force establishment resolution as amended (12/20/00; 6 pages)
6. WTF Public Education Committee video materials (misc. dates; 5 pages)
7. Cover letter from Swan Lake Golf Course application packet (8/1/01; 3 pages)
8. Memo re 8/9/01 site visit to Michaelangelo's Restaurant (undated; 2 pages)



**Commission Meeting Summary (FINAL)
for Wednesday, September 26, 2001 (Approved 10/17/01)
Commission Office
3525 Sunrise Highway, 2nd Floor, Great River, NY
12:00 noon**

Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski (for Brookhaven), Mr. Hanley (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, 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.

Robert J. Gaffney
Chair

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 12:29 pm by Mr. Proios, with a four member quorum.

Public Comment

Summary: Mr. Jack Selleck, representing the Long Island Club in Eastport, asked about the progress of the Brookhaven Pine Barrens Credit purchase offer by the Pine Barrens Credit Clearinghouse. Mr. Rizzo explained that the contracts for sales of Pine Barrens Credits have been mailed to those individuals who responded to Phase 1 of the purchase offer (i.e., those persons already holding Letters of Interpretation (LOIs) or actual Credit certificates who responded to the Phase 1 mailing). He also explained that 9/6/01 was the deadline for the recipients of the Phase 2 mailings to respond (i.e., those Brookhaven core area property owners who are not already LOI or Credit certificate holders). He noted that LOIs will be mailed to Phase 2 persons by mid October.

He also explained that the program is seeking to purchase a total of 25 Credits, with 12.5 Credits to be purchased in each phase. If less than 12.5 Credits can be purchased from the Phase 2 recipients, then the Phase 1 responses will be used to bring the total purchases to the desired 25 Credits.

Administrative

! Summary of 9/5 meeting: review, approval

Summary: **A motion was made by Mr. Hanley and seconded by Mr. Murphree to approve the 9/5/01 meeting summary as drafted. The motion was approved by a 4-0 vote.**

Plan Implementation

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

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

! Plan clearing standard interpretation

Summary: Ms. Plunkett noted that the Commission passed a resolution (see attachment) at the 9/5/01 meeting which addressed the application of the clearing standard in Figure 5-1 of the Pine Barrens Plan to those project sites where Pine Barrens Credits are being utilized. She explained that a technical question has arisen regarding the application of that resolution, and that this question affects several pending projects within Brookhaven Town.

Specifically, the question arises from the fact that the lot sizes being proposed for the pending projects fall between the discrete, exact sizes specified in Figure 5-1. When that occurs, it is unclear whether the allowable clearing percentage for the projects should be obtained by interpolating between the values in the table, or rounding up or down to the nearest lot size in the table. It was noted that this should eventually be clarified with a Plan amendment. **A motion was made by Ms. Prusinowski and seconded by Mr. Hanley to modify the 9/5/01 Commission resolution to specify that the maximum site clearance figure is to be obtained by interpolating between the clearance figures for the two surrounding lot sizes for the lot size under consideration. The motion was approved by a 4-0 vote.**

Mr. Hanley then asked about the Commission's policy regarding sites which have been partly or fully cleared prior to the pine barrens statute. Ms. Plunkett explained that the Commission has required that only additional clearing up to the maximum allowed under the Plan would then be allowed, and, in the case where the pre-existing clearing is already greater than the amount allowed under the Plan, the remaining uncleared land must be left intact.

! Wildfire Task Force video contract: authorization of Chair to sign modified agreement (follow up from 9/5)

Summary: Mr. Corwin explained that Ms. Roth has recommended that the Commission modify its 9/5/01 resolution which authorizes a change in the amount of money to be spent on the wildfire public education video to indicate that the Commission Chair or his designated representative is authorized to sign an amended agreement on behalf of the Commission. **A motion was then made by Mr. Murphree and seconded by Ms. Prusinowski to make such a change. The motion was approved by a 4-0 vote.**

Core Preservation Area

! Michaelangelo's Restaurant / Manorville (Brookhaven) / site plan: report from counsel (from 9/5)

Summary: Mr. Rigano distributed the attached Notice of Violation which has been given to the attorney representing Michaelangelo's Restaurant. He explained that the notice provides 15 days for the recipient to respond. A brief discussion then ensued regarding the Town's role in addressing the clearing violation.

! Independent Group Home Living / Manorville (Brookhaven) / group home residence / pending hardship: possible decision or extension (hearing held 8/8; decision deadline is 10/12.)

Summary: Ms. Carter reviewed this Core hardship application on which the Commission held a hearing on 8/8/01. She noted that the Commission requested additional information on the project at that time in order to enable it to review the application. She noted that no response has been received to the Commission's requests (see attached letters), that no request for an extension of the decision deadline has been received, that the decision deadline is 10/12/01, and that today is the last Commission meeting before

that date.

A discussion ensued regarding the lack of response to the Commission's request for essential information, the appropriate State Environmental Quality Review (SEQR) findings for this project, and the basis for a Commission decision. **A motion was then made by Mr. Hanley to issue a negative declaration for this application and to deny the application based upon the currently available information which shows that the project does not meet the criteria stated in the pine barrens law for the issuance of a Core hardship permit. A discussion then occurred regarding the filling out of a Part 2 Environmental Assessment Form and the SEQRA status of the application. The motion was seconded by Ms. Prusinowski and was then approved by a 4-0 vote.**

- ! Amerada Hess Corp. / Manorville (Brookhaven) / site plan: new hardship; correspondence from Town; set hearing

Summary: Ms. Plunkett reported that a Core hardship application has been received for a gas station and convenience store on a 1.67 acre site at the southeast corner of the Long Island Expressway and County Road 111 in Manorville in Brookhaven Town. The site is zoned J-2 Business, and the project proposes a partial zone change to J-5 Business in order to accommodate the gas station under the Town code. The project also proposes that the Town lift a 1985 restrictive covenant associated with the property. She noted that the Commission has raised strong issues regarding this project at a prior meeting, before it was filed as an application with the Commission, when the project sponsors spoke about it.

She also noted that the Commission has previously issued a Core hardship permit for this site for a retail food facility known as the Clancy Street Food Court. The project is an unlisted action under SEQRA. She recommended scheduling a hearing on this project. A brief discussion occurred regarding an uncoordinated review under SEQRA for this project. **A motion was made by Ms. Prusinowski and seconded by Mr. Hanley to schedule a public hearing on this application at 3:00 pm at the 10/17/01 Commission meeting. The motion was approved by a 4-0 vote.**

- ! Gazza / Westhampton (Southampton) / core boundary change request: discussion; possible decision (from 9/5; hearing held 4/25)
- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship: SEQRA status; Draft EIS production (from 9/5; hearing held 9/13/00)
- ! Gazza / Westhampton (Southampton) / clearing (for beach grass production) site plans / hardships: SEQRA determination of significance (hearing held 9/5)
- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship: close of record (hearing held 9/5)

Summary: Mr. Rigano reported that he has met with Mr. Gazza regarding these applications, and that Mr. Gazza is considering some alternatives to these current applications. He recommended that discussion on all of these items be postponed to the next meeting.

Compatible Growth Area (CGA)

- ! Brookhaven Town Center / Yaphank (Brookhaven): determination of jurisdiction (from 9/5 meeting)

Summary: Mr. Rigano reported that he has met with both Mr. Voorhis, consultant for this project, and Mr. Snead, an attorney for the project sponsor. He then reviewed the recent

history of this project and the recent correspondence from the project sponsor which contained an application but a cover letter which raised issues as to whether an application was being filed or an exemption was being claimed. He explained that if that submittal was an application, then the decision deadline would fall before the next meeting, and that the project sponsor has submitted a decision deadline extension request to 10/23/01 (attached). He further explained that the Commission could schedule a hearing now, and noted that the project would be a Development of Regional Significance (DRS) if it is treated as an application, and that DRS applications must meet both the standards and guidelines in the Plan in order to be approved.

A discussion then ensued regarding the citizen lawsuit filed over this project in the past, the decision that was rendered in that action, the status of the Brookhaven Town Center exemption in the Pine Barrens Plan, the area of the site that has been cleared, how to measure that area, and the rearranging of the Amerada Hess hearing to accommodate the hearing on this application. **A motion was then made by Ms. Prusinowski and seconded by Mr. Murphree to (1) change the Amerada Hess Core hardship hearing to 3:00 pm at the 11/17/01 Commission meeting, (2) schedule a hearing on the Brookhaven Town Center application for 3:00 pm at the 10/17/01 Commission meeting, and (3) to approve and accept the Brookhaven Town Center sponsor's request for a decision deadline extension to 10/23/01. The motion was approved by a 4-0 vote.**

- ! Eastport Senior Living / Manorville (Brookhaven): status; possible decision extension (decision deadline is 10/17)
Summary: Ms. Jakobsen reviewed this project proposal involving 298 residential units at the intersection of Sunrise Highway and County Road 51 in Eastport in Brookhaven Town; the assertion of jurisdiction by the Commission over this project; the lack of any application to the Commission at this time; the decision deadline of 10/17/01, and its calculation from the date of the assertion of jurisdiction by the Commission, and the recent receipt of a decision deadline extension request by the Commission to 12/19/01. **A motion was then made by Ms. Prusinowski and seconded by Mr. Murphree to approve and accept the decision deadline extension to 12/19/01. The motion was approved by a 4-0 vote.**

- ! Keyspan Energy gas pipeline / Yaphank to Manorville (Brookhaven): status; restoration work
Summary: Ms. Plunkett reported that the nondevelopment portion of this pipeline project (i.e., the CGA portion of the larger project) is under construction along the Long Island Expressway, and that the Commission staff and the Keyspan staff have been working together on the revegetation protocols that will also be useful for future pipeline projects. She passed around photographs of the site work, and described the area affected as being approximately 30 feet wide for approximately three miles. She noted that this width is in contrast to the original sponsor estimates of a fifty foot width.

Closed Advisory Session

Summary: **A motion was made by Ms. Prusinowski and seconded by Mr. Hanley 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 1:47 pm to 2:00 pm.**

Core Preservation Area

- ! Pino and Czarnecki / Manorville (Brookhaven) / single family home / hearing
- ! Swan Lake Golf Club / Calverton (Riverhead) / clubhouse expansion / hearing
- ! DeGregorio / Flanders (Southampton) / residential subdivision / hearing

Summary: *Separate stenographic transcripts exist for these items.*

Closed Advisory Session

Summary: ***A motion was made by Mr. Hanley and seconded by Ms. Prusinowski 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 4:30 pm to 5:45 pm.***

Adjournment

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

Attachments (in order of discussion):

1. Attendance list (2 pages)
2. Speaker list (1 page)
3. Plan excerpt and draft resolution re clearing standard and Credits (undated; 2 pages)
4. Notice of Violation issued to Michaelangelo's Restaurant (9/25/01; 1 page)
5. Correspondence regarding the IGHL application (miscellaneous dates; 3 pages)
6. Amerada Hess application and correspondence (miscellaneous dates; 22 pages)
7. Brookhaven Town Center decision extension request (9/25/01; 1 page)
8. Eastport Senior Living decision extension request (9/21/01; 1 page)

**Commission Meeting Summary (FINAL)
for Wednesday, October 17, 2001 (Approved 11/7/01)
Brookhaven Town Hall Building 4;
3233 Route 112, Medford, NY; 2:00 pm**



Robert J. Gaffney
Chair

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

Commission members present: Mr. Proios (for Suffolk County), Mr. Cowen (for New York State), Mr. Girandola (for Brookhaven), Mr. MacLellan (for Riverhead), and Mr. Shea (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. Carter and Mr. Rizzo (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.

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

Public Comment

Summary: There were no speakers.

Administrative

- ! Summary of 9/26 meeting: review, approval (to be faxed)
Summary: **A motion was made by Mr. Cowen and seconded by Mr. Girandola to approve the summary of the 9/26/01 Commission meeting as drafted. The motion was approved by a 5-0 vote.**

Pine Barrens Credit Program

- ! Brookhaven Credit purchase offer status
Summary: Mr. Rizzo noted that the next meeting of the Clearinghouse Board of Directors is scheduled for 10/30/01 at 9:30 am at the Commission Office. He reported that the contracts have been mailed out to participants in Phase 1 of the Brookhaven Credit purchase offer (Phase 1 is for those Brookhaven Core area property owners who have already applied for, and received, either Letters of Interpretation - LOIs - or actual Pine Barrens Credit Certificates). He also noted that Letters of Interpretation will be processed within the next two weeks for Phase 2 participants (which covers those Brookhaven

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

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

Core owners who have not received LOIs or Credit Certificates).

Plan Implementation

- ! Pine Barrens Research Forum: authorization to deposit Battelle Memorial Institute 2001 donation in existing Stony Brook University account
Summary: Mr. Corwin reported that a \$5000 donation has been received from Battelle Memorial Institute, one of the partners in Brookhaven Science Associates which operates the Brookhaven National Laboratory. The donation is for the furtherance of the Pine Barrens Research Forum, and is a follow up to a similar donation that Battelle made in 2000.

He explained that the Commission authorized last year's donation to be deposited into an account with the Stony Brook Foundation, a not for profit affiliate of the State University of New York at Stony Brook, and that the account withdrawals have been used to sponsor speakers at the annual Forum and encourage student research during the year. Specifically, he noted that three undergraduate or high school research awards of \$250 each, and two graduate research awards (\$750 and \$500) each have been awarded so far, totaling \$2000.

A motion was then made by Mr. Cowen and seconded by Mr. MacLellan to authorize the deposit of the 2001 Battelle Memorial Institute donation into the appropriate Stony Brook Foundation Account for use in furthering the Pine Barrens Research Forum, and to specifically authorize the Commission Chair or his designated representative. The motion was approved by a 5-0 vote, and Mr. Proios endorsed the donation check.

- ! 2001 NY Wildfire and Incident Management Academy: status
Summary: Capt. Conklin reported that there are currently 483 student registrations for this year's Academy (which runs from 10/26 through 11/4 at Brookhaven National Laboratory), that some classes are already full, and that five classes are being offered free to Suffolk County volunteer firefighters. He also noted some of the specific courses being offered, and stated that volunteer help is still needed with many of the overhead positions.

He also reported that a grant request has been submitted to the U.S. Forest Service for funding to provide 50 scholarships for Suffolk County volunteer firefighters to attend the S130/S190 introductory wildland firefighting course next year, as well as to provide for audio visual equipment for the Academy. He noted that the grant would require matching funds.

Mr. Proios asked about the breakdown of enrollment at this year's Academy, and Capt. Conklin stated that the enrollment was a mix of local and out of area students.

- ! Suffolk County Park Police: current issues (not on the original agenda)

Summary: Mr. Proios explained that there is a both a current and long term staffing shortage within the Suffolk County Park Police, and asked Mr. Corwin to summarize the recent analysis that the Suffolk County Parks Department Board of Trustees performed. Mr. Corwin briefly described the current staffing levels, projected retirements, and salary issues involved.

Core Preservation Area

- ! Swan Lake Golf Club / Calverton (Riverhead) / clubhouse expansion: possible decision (*hearing held 9/26; decision deadline is 12/1*)
Summary: Ms. Plunkett distributed additional copies of the staff report for this project which was originally distributed at the 9/26 meeting), along with a draft negative declaration. Mr. Peter Danowski, attorney for the project sponsor, stated that the applicant was withdrawing his request for a permit based upon compelling public need, and that the request is now only based upon the extraordinary hardship criteria in the statute. He also explained that his client is looking forward to starting construction soon. **A motion was then made by Mr. MacLellan and seconded by Mr. Shea to issue a negative declaration under the State Environmental Quality Review Act for the Swan Lake Golf Club expansion proposal, and to issue a Core area hardship for this project based upon the extraordinary hardship criteria, and not the compelling public need criteria, and subject to the conditions in the staff report.. The motion was approved by a 5-0 vote.**

- ! Gazza / Westhampton (Southampton) / clearing (for beach grass production) site plans / hardships: SEQRA determination of significance; decision deadline extension (*hearing held 9/5; decision deadline is 11/10*)
- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship: close of record; decision deadline extension (*hearing held 9/5; decision deadline is 11/10*)
Summary: Ms. Plunkett and Mr. Rigano each spoke on these two pending applications. They explained that Mr. Gazza has agreed to an extension of the decision deadline for each of these applications. **A motion was then made by Mr. Shea and seconded by Mr. MacLellan to accept and approve a 60 day extension of the decision deadlines for each of these projects to 1/8/02. The motion was approved by a 5-0 vote.**

- ! DeGregorio / Flanders (Southampton) / residential subdivision: possible decision (*hearing held 9/26*)
Summary: Ms. Carter distributed and discussed the attached amended staff report for this project, noted that a decision is due on the application by tomorrow, and, specifically, went through each of the staff report recommendations. A discussion ensued regarding the Southampton Town and NYS DEC regulations which apply to this project, the Commission's intent to not overlap with those regulations, and the debris that is on portions of the site and the requirements of the Town to clean this up as part of their approval process.

The recommendation list was modified during the discussion, with items 1 and 2 left intact, item 3 changed from mandatory to recommended, items 4,5, and 6 being deleted, item 7 changed from mandatory to recommended and renumbered as item 4, and items 8 and 9 being renumbered as items 5 and 6 and augmented to include other permit issuing agencies at the end of each item.

A motion was made by Mr. Shea and seconded by Mr. Girandola to issue a negative declaration for this application under the State Environmental Quality Review Act. The motion was approved by a 5-0 vote. A motion was made by Mr. Shea and seconded by Mr. Girandola to (1) grant the Core area extraordinary hardship permit for this project subject to the staff report conditions as modified during today's discussion and (2) with the explicit statement that this permit is the minimum relief for this site as required by the pine barrens statute. The motion was approved by a 5-0 vote.

Compatible Growth Area (CGA)

- ! Brookhaven Town Center / Yaphank (Brookhaven) regional shopping mall / Development of Regional Significance
Summary: A separate stenographic transcript exists for this.

Core Preservation Area

- ! Islander East Pipeline Company / Brookhaven Town: EIS status; scoping outline
Summary: This project is also partly within the Compatible Growth Area. Ms. Plunkett reported on behalf of Ms. Jakobsen that the Federal Energy Regulatory Commission (FERC) is holding a meeting today in New Haven, CT on this project which Ms. Jakobsen is attending. Mr. Richard Amper of the Long Island Pine Barrens Society stated that FERC staff had informed the Society that scoping for the Environmental Impact Statement for this project was complete, and the current issue appears to be the actual siting.

A discussion followed regarding what flexibility FERC has, or will utilize, in the selection of specific routes, including exact locations within and near roads, homes, parks, utility corridors; the perceptions that FERC or the private companies to which it issues licenses may have regarding what the "path of least resistance" of the pipeline may be; what other federal laws apply to this project; the placement of the pipeline within the William Floyd Parkway corridor; the role of the Suffolk County Department of Public Works in the siting determinations along that roadway; and the possibility that FERC may be more likely to select a path that distances itself from houses even if a new corridor is cleared within public lands nearby as a result.

- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / site plan: status report on

Notice of Violation response (from 9/26)

Summary: Mr. Rigano reported that, after he forwarded the Commission's Notice of Violation to the owner of this site, he was contacted by the owner's attorney. Mr. Rigano then summarized the sequence of events on this property, including the addition to the building without a permit; the violation of the prior stipulation with the Commission which was supposed to settle an earlier pine barrens law violation; the construction of a fountain in an area that was supposed to be revegetated; the development of a parking area on an adjacent parcel with an access path to the restaurant property; and the current application to Brookhaven Town for a new site plan on the property.

Closed Advisory Session

Summary: **A motion was made by Mr. Cowen and seconded by Mr. Shea to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 5:09 pm to 5:47 pm.**

Adjournment

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

Attachments (in order of discussion):

1. Attendance list (2 pages)
2. Speaker list (1 page)
3. DeGregorio subdivision amended staff report (10/17/01; 4 pages)

Commission Meeting Summary (FINAL)
for Wednesday, November 7, 2001 (Approved 11/28/01)
Quogue Wildlife Refuge; Old Country Road, Quogue
2:00 pm



Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski (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. 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 2:17 pm by Mr. Proios, with a four member quorum as noted above.

Vincent Cannuscio
Member

Ray E. Cowen
Member

Public Comment

Summary: *There were no speakers.*

Robert F. Kozakiewicz
Member

Administrative

! Summary of 10/17 meeting: review, approval

Summary: ***A motion was made by Mr. Cowen and seconded by Ms. Prusinowski to approve the summary of the 10/17/01 Commission meeting as drafted. The motion was approved by a 4-0 vote.***

John Jay LaValle
Member

Pine Barrens Credit Program

! 10/30 Clearinghouse Board Meeting: summary

! Brookhaven Credit purchase offer: status

Summary: *Mr. Rizzo explained that the current offer by the Pine Barrens Credit Clearinghouse Board of Advisors to purchase credits from Brookhaven core area property owners has resulted in sufficient responses that the number of credits offered now exceeds the Clearinghouse's current goal of 25 Credits. He noted that the Clearinghouse is considering purchasing more than the originally planned 12.5 Credits from the Phase 1 respondents (i.e., those owners with existing Letters of Interpretation - LOIs - or Credit Certificates). He noted that vouchers are about to be issued to the County Treasurer to*

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

Phone (631) 224-2604
Fax (631) 224-7653
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disburse Clearinghouse funds to Phase 1 respondents, and that approximately 25 to 30 Letters of Interpretation are being sent out to Phase 2 respondents (i.e., those owners contacted through the second part of the current offer who had not previously received either LOIs or Credit Certificates).

Mr. Rizzo stated that the next Clearinghouse Board meeting will be on 12/18/01 at 9:30 am at the Commission Office in Great River.

Mr. Proios reported that the Suffolk County Planning Department will ask the Towns to document the cases where the Towns have required the purchase and redemption of Pine Barrens Credit Certificates by developers as part of the Towns' development approvals. Mr. Murphree remarked that it is important to document the reasons why such requirements have not been made, if that proves to be the case. Mr. Jack Selleck, representing the Long Island Country Club, was present and asked whether the Towns have the right to waive requirements to purchase Credits as part of development approvals, and a brief discussion followed regarding the approval processes in the Towns and the role of Credits in those processes.

Plan Implementation

- ! 2001 NY Wildfire and Incident Management Academy: summary
Summary: Mr. Corwin reported that the recently completed Academy, which ran from 10/26 to 11/4, had over 400 student registrations, and that he hoped to have a more detailed set of statistics for the next Commission meeting. He distributed a news article (attached) about the 2001 Academy.

Core Preservation Area

- ! Michaelangelo's Restaurant / Manorville (Brookhaven) / site plan: status report on Notice of Violation response *(from 10/17)*
- ! Caterina Passanante / Manorville (Brookhaven) / Notice of Violation: status *(not on the original agenda)*
Summary: Mr. Rigano reported that he has spoken with the attorney for this site. Mr. Rigano also noted that he has issued on behalf of the Commission a Notice of Violation (attached) to the owner of the property adjacent to Michaelangelo's for clearing of vegetation on that site without a permit from the Commission.
- ! Gazza / Westhampton (Southampton) / clearing (for beach grass production) site plans / hardships: SEQRA determination of significance; status *(hearing held 9/5; decision deadline is 1/8)*
- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship: status *(hearing held 9/5; decision deadline is 1/8)*
Summary: Mr. Rigano stated that he had legal advice to offer the Commission regarding these items in today's closed advisory session. No further discussion was held at this time.

The following Core item is partly in the Compatible Growth Area:

! Islander East Pipeline Company / Brookhaven Town: EIS status

Summary: Ms. Jakobsen reported that she attended the Federal Energy Regulatory Commission (FERC) staff meeting on 10/17/01 in New Haven, CT, along with other public agency representatives that were invited by the FERC staff. She explained that the purpose of the meeting was to elicit input from the agency representatives present on the contents of the Environmental Impact Statement (EIS) that is being produced for this project.

She noted that there was confusion among the agency representatives who were invited because the meeting announcement stated that it was a scoping meeting for the EIS, although the FERC staff stated that the scoping was complete for this project. Ms. Jakobsen explained that the Commission's comments were previously submitted, and she distributed copies today to the Commission members (see attached).

Mr. Proios remarked that he is concerned that the total impact of all of the pipelines being proposed should be considered, and posed the question of what agency should be doing that analysis. A brief discussion ensued regarding the difficulty of tracking both FERC and NY State Public Service Commission pipeline projects, and also about the breadth of the analysis that FERC performs when it is examining only one pipeline project at a time. The specific case of the proposed Iroquois Pipeline's geographic overlap with the Islander east pipeline was noted, with the concern that the total clearing for the two projects be minimized. The discussion also touched upon the National Environmental Policy Act process that FERC follows, and whether the federal Council on Environmental Quality is involved with FERC reviewed projects.

The tracking of the clearing and construction work for the Keyspan Energy gas pipeline project along the Long Island Expressway (not a FERC project) was raised, and Ms. Plunkett explained the close cooperation that she has had with the Keyspan staff regarding clearing, construction, width of the corridor, spoil stockpiling, restoration and revegetation, and the incorporation of the Commission's experience with this project into its comments to FERC on the Islander East project.

Closed Advisory Session

Summary: A motion was made by Ms. Prusinowski 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 2:38 pm to 3:00 pm.

Core Preservation Area

! Amerada Hess / Manorville (Brookhaven) / gasoline station and convenience store site plan / hardship application

Summary: A separate stenographic transcript exists for this.

Closed Advisory Session

Summary: **A motion was made by Mr. Murphree and seconded by Ms. Prusinowski 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 4:53 pm to 5:33 pm.**

Adjournment

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

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. News article regarding 2001 Academy (11/7/01; 1 page)
4. Notice of Violation issued to Caterina Passanante (11/6/01; 1 page)
5. Commission comments to FERC re Islander East project (10/25/01; 6 pages)

Commission Meeting Summary (FINAL)
for Wednesday, November 28, 2001 (Approved 12/19/01)
Suffolk County Park Police and Pine Barrens Center,
Southaven Park, Victory Avenue, Yaphank; 2:00 pm



Commission members present: Mr. Proios (for Suffolk County), Ms. Prusinowski (for Brookhaven), 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. Plunkett, and Ms. Carter (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 1:11 pm by Mr. Proios, with a four member quorum.

Vincent Cannuscio
Member

Public Comment

Ray E. Cowen
Member

Summary: There were no speakers.

Robert F. Kozakiewicz
Member

Administrative

John Jay LaValle
Member

- ! Summary of 11/7 meeting: review, approval
Summary: **A motion was made by Ms. Prusinowski and seconded by Mr. Shea to approve the 11/7/01 Commission meeting summary as drafted. The motion was approved by a 4-0 vote.**

Plan Implementation

- ! Pine Barrens Credit Program: Credits redemptions in Town approvals of development projects (*not on the original agenda*)
Summary: Mr. Proios raised the question of whether the Towns are requiring Pine Barrens Credits as part of their development project approvals. No further discussion was held.
- ! Wildfire Task Force: Public Education Video report
Summary: Mr. Corwin explained that the filming of the video is complete, that the Public Education Committee has been working with the Production By Design staff on the editing, and that the Commissioners would be notified of an upcoming editing session to enable them to attend or send representatives.

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

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

- ! Core Preservation Area Residential Roadfront Exemption List: status of legislation
Summary: Mr. Corwin reported that the State Legislation to approve the Commission's recommendations to expand the Core Area Residential Roadfront Exemption list has become law. He distributed the attached summary of the legislation (Chapter 443 of the laws of 2001) and the Commission's February 2001 Plan amendment which contains the additions to the list.

Core Preservation Area

- ! Michaelangelo's Restaurant / Manorville (Brookhaven): violation status (issued 9/25)
- ! Passanante / Manorville (Brookhaven): violation status (issued 11/6)
Summary: Mr. Rigano reported that he met with the attorney and the consultant for Michaelangelo's, but that there has not yet been any resolution. He also noted that the Notice of Violation was sent out for the Passanante property.

Compatible Growth Area (CGA)

- ! Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance (DRS): status; possible decision extension (hearing held 10/17; decision deadline is 11/28)
*Summary: Ms. Plunkett noted that there were representatives of this project's sponsors here today, and that a written request (attached) has been received from Mr. Voorhis, a consultant for this project, for an extension of the Commission's decision deadline beyond the current 11/28/01 date. She had distributed the additional information requested by the Commission at the public hearing prior to today's meeting via mail. A brief discussion ensued regarding errors in the 11/7/01 hearing transcript for this project, as well as the extension request and the date to which the extension should be made. All members were asked to send their transcript corrections to Ms. Trezza in writing. **A motion was then made by Mr. Shea and seconded by Mr. Cowen to grant the request and, specifically, to set the new decision deadline as 1/31/02. The motion was approved by a 4-0 vote.***

An extensive discussion then followed regarding the use of the existing Dorade sewage treatment plant north of the proposed mall site for treating the mall's sanitary waste. Specifically, the discussion touched upon the current and proposed additional input flows at the Dorade plant; the compliance of the plant with its State Pollutant Discharge Elimination System permit; the lack of any current pending application to the NYS DEC for a change in the permit; the applicant's representatives statement that they have contacted the Suffolk County Department of Health Services (SC DHS) regarding proposed changes to the Dorade plant; whether the County Health Department has conveyed any information or materials to the NYS DEC; the question of whether any additional clearing is required at the Dorade site to accommodate the proposed changes to the plant, and whether that has been taken into account in the clearing information submitted by the mall sponsor in its application to the Commission;

where the application for the Dorade plant changes should be filed; the question of segmentation under the State Environmental Quality Review Act with respect to the mall application and the sewage plant upgrade; the sponsors statement that applications are pending with both the SC DHS and the Suffolk County Department of Public Works; and the applicability and currency of a groundwater impact model whose outputs are cited in the application to the Commission. Mr. Spitz stated that he thought that the DRS application pending before the Commission would include the Dorade site and ancillary land areas as part of the project site.

Core Preservation Area

The following item is within both the Core and the CGA:

- ! Iroquois Gas Pipeline / Brookhaven Town): possible intervenor filing; request for meeting by sponsor (*application likely to be filed with FERC in late November.*)
Summary: Ms. Carter reported that no application has been filed with the Federal Energy Regulatory Commission for this project as yet. She noted that potential intervenors will have 21 days following the filing of an application with FERC to request intervenor status. She also reported that the project sponsors have requested an opportunity to appear before the Commission to discuss their project.

*Following a brief discussion, the Commission decided that it will file for intervenor status once the Iroquois application is filed. **A motion was made by Mr. Cowen and seconded by Ms. Prusinowski to authorize the filing of an intervenor status request with FERC following the filing of an application by Iroquois. The motion was approved by a 4-0 vote.***

Compatible Growth Area (CGA)

- ! Eastport Senior Living / Eastport (Brookhaven) / residential site plan / Assertion of Jurisdiction: request for decision extension to 3/1/02 (*assertion made on 5/16; current decision deadline is 12/19*)
Summary: Ms. Carter reported that a letter (attached) has been received from Mr. Eric Arnesen, a representative of the project sponsor, requesting an extension of the Commission's decision deadline on this project from 12/19/01 to 3/1/02. **A motion was made by Mr. Cowen and seconded by Mr. Shea to accept and approve the new decision deadline of 3/1/02 for the Eastport Senior Living project. The motion was approved by a 4-0 vote.**

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / gasoline station and convenience store site plan / hardship (*hearing held 11/7/01; not on the original agenda*)

Summary: Ms. Plunkett noted that a SEQRA determination of significance will need to be made for this project at the next meeting, and that the traffic data requested by the Commission from the project sponsor has not yet been received.

Closed Advisory Session

Summary: **A motion was made by Mr. Shea 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 4-0 vote, and the Commission entered into closed session from approximately 3:08 pm to 3:55 pm.**

Core Preservation Area

- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship: status (*hearing held 9/5; decision deadline is 1/8/02*)
- ! Gazza / Westhampton (Southampton) / core boundary change request: status; possible decision (*hearing held 4/25; no decision deadline*)
- ! Gazza / Westhampton (Southampton) / clearing (for beach grass production) site plans / seven hardships: SEQRA determinations of significance (*hearings held 9/5; decision deadlines are all 1/8/02*)
- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship: status (*hearing held 9/13/00*)

Summary: Ms. Plunkett distributed the two attached staff reports, one for the proposed clearing of portions of seven lots for growing beach grass, and one for the proposed home occupational office. These included recommendations for SEQRA determinations of significance. Mr. Gazza was present, distributed two letters regarding the proposed beach grass projects, and spoke with the Commission regarding his projects.

He stated that he is trying to be reasonable; that he has pursued a swap with Suffolk County involving his land on the west side of County Road 31, and has had many meetings regarding this; that he has pursued acquisition of his properties with the Town, County, and State, but without success; that he has considered moving development around on the parcels; that he has pursued a hotel as one possibility; and that the growing of beach grass was a final resort. He also noted some of the questions that have arisen regarding the agricultural nature of some of his proposals, and whether they are unlisted actions under the State Environmental Quality Review Act (SEQRA) or not; that he has received a long and detailed scoping list from the Commission for one of his projects; that he has spoken with SEQRA experts; that he believes that some of his projects are Type II actions under SEQRA; that clearing is a generally acceptable principle of farming, and that he feels that is has been for centuries; and that he will has a tax bill of approximately \$9000. He asked where these projects are headed.

Mr. Shea then briefly discussed the SEQRA process that is underway, and Mr.

Proios the issues relating to the County airport property in Westhampton. It was decided that the Commission would review the staff reports and make a decision with regard to SEQRA at the next meeting.

Adjournment

Summary: A motion was made by Ms. Prusinowski and seconded by Mr. Cowen to adjourn. The motion was approved by a 4-0 vote, and the meeting ended at approximately 4:37 pm.

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Legislation and Plan amendment re the Core Exemption List (undated; 8 pages)
4. Letter requesting extension of Brookhaven Town Center decision (11/28/01; 1 page)
5. Letter requesting extension of Eastport Senior Living decision (11/20/01; 1 page)
6. Staff report re proposed clearing for beach grass growing (11/27/01; 12 pages)
7. Staff report re proposed home occupational office (11/27/01; 2 pages)
8. Letters distributed by Mr. Gazza re his projects (miscellaneous dates; 14 pages)

Commission Meeting Summary (FINAL)
for Wednesday, December 19, 2001 (Approved 1/9/02)
Commission Office
3525 Sunrise Highway, 2nd Floor; Great River, NY
12:00 noon



Commission members present: Mr. Proios (for Suffolk County), Mr. Girandola (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. Plunkett, Ms. Jakobsen, Ms. Carter, Mr. Randolph 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

Vincent Cannuscio
Member

Ray E. Cowen
Member

Robert F. Kozakiewicz
Member

John Jay LaValle
Member

The meeting was called to order at approximately 12:30 pm by Mr. Proios, with a five member quorum.

Public Comment

Summary: *There were no speakers.*

Administrative

- ! Summary of 11/28 meeting: review, approval (faxed)
Summary: **A motion was made by Mr. Cowen and seconded by Mr. Girandola to approve the summary of the 11/28/01 Commission meeting as final. The motion was approved by a 5-0 vote.**
- ! Meeting schedule for first half of 2002: review, approval (faxed)
Summary: **A motion was made by Mr. MacLellan and seconded by Mr. Cowen to approved the attached draft meeting schedule for the Commission for the first half of 2002. The motion was approved by a 5-0 vote.**

Pine Barrens Credit Program

- ! McDonnell / Manorville / Credit allocation appeal: schedule hearing
Summary: *Mr. Rizzo reported that an appeal has been received for a parcel in Manorville containing 1.08 acres and zoned A Residence 5. The original allocation was 0.18 Credit, and the appeal does not specify the desired new allocation. A motion*

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

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

was made by Mr. MacLellan and seconded by Mr. Girandola to schedule a hearing on this appeal for the 1/9/02 Commission meeting at 3:00 pm. The motion was approved by a 5-0 vote.

Core Preservation Area

- ! Amerada Hess / Manorville (Brookhaven) / gasoline station and convenience store site plan / hardship: correspondence
Summary: There were three representatives of the project sponsor present today: Mr. Chic Voorhis of Nelson, Pope & Voorhis, consultants to the sponsor; Mr. Eugene DeNicola, an attorney for Amerada Hess; and Mr. William Wolfrom of Amerada Hess. Ms. Plunkett distributed two correspondence items regarding this project: a letter from Mr. Voorhis with attachments regarding the traffic impacts of the proposed project which had been previously mailed, and a letter from Mr. Richard Amper of the Long Island Pine Barrens Society opposing the project (both are attached). She noted that a response is still expected from the NYS Office of Parks, Recreation and Historic Preservation regarding the archaeological sensitivity of this site, and that she hopes to have that by the 1/9/02 meeting.

Mr. Cowen raised the question of what agency might be requested to review the traffic data, and the need for it to be reviewed by someone with appropriate expertise. Ms. Plunkett stated that she will speak with other agencies re this. Mr. Proios asked if there would be fewer vehicles than the food court previously approved, and Mr. Voorhis said yes. Mr. Cowen asked if there would be a left turn prohibition, and Mr. Voorhis stated that he did not know. Mr. Cowen raised the issue of the design and construction of the liner and gravel portions of the proposed tank installation, and specifically asked about the process by which it would be constructed. He also asked about the means by which the design would guard against condensation setting off the spill alarms. The project representatives present responded that they would obtain the answers regarding this from the engineers.

Mr. Rigano arrived during the following item.

- ! Crown Communications / Westhampton (Southampton) / communications monopole site plan: determination of jurisdiction
Summary: There were two representatives of the project sponsor present today: Ms. Jacqueline Phillips Murray, an attorney representing Crown Communications, and Mr. Clifford Winter of the NY State Department of Transportation (NYS DOT). Mr. Rizzo distributed the attached letter from Ms. Murray requesting a determination of jurisdiction from the Commission for a proposed communications monopole. The project site is the NYS DOT facility at the northeast corner (Exit 63) of the Sunrise Highway (NYS Route 27) and County Road 31 in Westhampton.

The project involves the construction of a 100 foot monopole communications

tower on the state property, with the top spaces on the tower to be used by the NYS DOT and the NYS Police, and the remaining spaces to be available for commercial leasing. The proposed tower would be constructed and maintained by Crown Communications, pursuant to a November 1997 statewide agreement between the NYS Police (on behalf of itself and other state agencies) and Crown Communications.

Mr. Rizzo noted that the only other proposed communications monopole in the Core area that the Commission has reviewed was the one that was originally proposed for Fireman's Park in Ridge in Brookhaven Town, which the Commission determined was within its jurisdiction in July 2000.

Ms. Murray then summarized the 1997 agreement noted above, explaining that the agreement is intended to reduce the proliferation of towers on state properties by encouraging collocation of state agencies on fewer towers. She noted that the monopole would be owned by the state; that there is the potential for commercial use of portions of the pole; that it is principally intended for state use; that the top spaces would be reserved for state agencies; that she has seen this approach used elsewhere in the state; and that the State Police would use this pole.

Mr. Murphree stated that the project would require a site plan and special exception review by Southampton Town. Mr. Proios asked whether there was an overall plan for all of these towers, and Mr. Winters replied that they are being examined on a case by case basis. A discussion ensued regarding the technical aspects of the site; the potential for conflicts between public and private communications towers and networks; the NYS DOT site itself and its current status and amount of clearing; the ownership of nearby properties by the NYS DEC; the applicant's claim that it is not "development" under the pine barrens law; the potential similarity of this project to the unrelated project originally proposed for the Brookhaven Town owned Fireman' Park; the installation of cameras on this pole to observe Sunrise Highway; the installation of additional antennae for the State Police at a future date; and the SEQRA process which DOT is following for this site.

Mr. Richard Amper of the LI Pine Barrens Society commented that he felt that the NYS DOT was being indifferent to the state pine barrens act and questioned whether a state agency could circumvent the act; questioned whether this was the only place that the project could go; and stated that a state agency is facilitating private industry here.

Mr. Joseph Gazza, a local landowner, stated that he is a landowner across the street from the NYS DOT facility; that he believes that the site is now 80% cleared and was only 20% cleared several years ago; that there are soil and debris piles on the property; that he questions whether a state agency can undertake clearing when he cannot; that he wants to see the aerial photos of the NYS DOT site going back several years; that a tower on his property may not be "development"; and that he does have an application pending for a tower on

property of his located elsewhere in the Town.

Mr. Henry Dittmer of Civil Property Rights Associates asked what the proposed tower would look like and observed that he has seen towers elsewhere in the country made to appear like dead trees.

A brief discussion followed regarding the applicable case laws, and it was agreed that Ms. Murray and Mr. Rigano will speak on this matter separately, and that Ms. Murray will provide to Mr. Rigano citations of the case law that she believes is applicable.

- ! Gazza / Westhampton (Southampton) / home residence office site plan / hardship: status (hearing held 9/5/01; decision deadline is 1/8/02)*
- ! Gazza / Westhampton (Southampton) / core boundary change request: status (hearing held 4/25/01; no decision deadline)*
- ! Gazza / Westhampton (Southampton) / clearing (for beach grass production) site plans / seven hardships: status (hearings held 9/5/01; decision deadlines are all 1/8/02)*
- ! Gazza / Westhampton (Southampton) / agricultural building site plan / hardship: status (hearing held 9/13/00)*

Summary: Mr. Joseph Gazza was present at today's meeting. Ms. Plunkett distributed copies of the attached correspondence from Mr. Gazza, some of which pertains to properties of his other than the subject properties of today's discussion. In response to some of that correspondence, a discussion ensued regarding the Southampton Town Community Preservation Fund, the review by that Fund's staff of Mr. Gazza's properties, whether those parcels are on the Town's list of eligible properties, and Mr. Gazza's contacts with the Town regarding those properties.

The discussion then turned to the subject properties and applications which are before the Commission, including the nine Core area hardships and the one Core boundary change request. Ms. Plunkett distributed the attached Draft positive declaration under the State Environmental Quality Review Act (SEQRA) prepared by Commission staff. Mr. Gazza noted that there are several separate Gazza family applicants listed on the applications.

Mr. Cowen pointed out that cumulative impacts of a collection of projects such as these must be examined. Ms. Plunkett read an excerpt from the SEQRA regulations. Mr. Gazza stated that he believes that the applications for the home occupational office and the clearing for agriculture are Type 2 actions under SEQRA, and a discussion ensued regarding Type 2 and unlisted actions. Mr. Cowen pointed out that you must clear the area before pursuing agriculture.

A discussion then occurred regarding the home occupational residence; the procedures, costs and payments pertaining to the production of an environmental impact statement (EIS); the quotes which were previously obtained from commercial consulting firms for the agricultural building only; the dependence of the EIS cost upon the scoping of the EIS; the cost of the EIS

versus the total costs of the projects; the general non-monetary value of the dwarf pine barrens; the responses which Mr. Gazza has received to date from State, County, and Town agencies regarding the purchase of his properties for preservation; and the availability of installment payments as a legal tool to government for purchasing land.

Mr. Gazza presented a recent newspaper article which describes a recent proposal for a hotel and convention center at the County airport across the street from some of his properties. A brief discussion followed regarding the failed attempts to convince County officials to consider a swap of some sort with Mr. Gazza for his properties on the Core side of County Road 31 and properties in the CGA portion of the County airport.

Mr. Gazza then asked about what would happen if he withdrew seven of his current nine Core area applications before the Commission. A discussion followed regarding the amount of land that would be required to feasibly grow beach grass commercially; what would be allowed on the two northernmost properties; the previous application on one of the properties for a potable water supply well; the process for completing the generic EIS; the implications of withdrawing some of the applications upon the current SEQRA process; the need to avoid segmentation under SEQRA; Letters of Interpretation that were obtained on some of the parcels; and the need to properly define what the current overall project is.

A motion was then made by Mr. Cowen and seconded by Mr. Girandola to accept and approve the attached positive declaration under SEQRA. 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: project site definition clarification (hearing held 10/17/01; decision deadline is 1/31/02)
Summary: There was one representative of the project sponsor present today: Mr. Philip Malicki of Nelson, Pope & Voorhis, consultants to the project sponsor. A discussion ensued regarding the definition of the Brookhaven Town Center project site; how the Dorade sewage treatment plant - to which the Brookhaven Town Center will be connected - should be treated in the application to the Commission and whether it needs to be modified; how the plant is addressed in the application materials filed with Brookhaven Town; the ability of the Commission to comment upon the Town application once it is accepted by the Town; the need for updating the application before the Commission; and the need for a new Commission decision deadline extension, which is currently 1/31/02.

Mr. Malicki presented the attached letter from Mr. Voorhis of his firm stating that the Dorade plant is not part of the Brookhaven Town Center application. It was

then agreed that an extension of the decision deadline will be discussed at the next Commission meeting, and that the date might be set as 60 days after the Town issues findings on the project.

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 2:57 pm to 3:48 pm.

Adjournment

Summary: The meeting ended immediately following completion of the closed session.

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Commission meeting schedule for first half of 2002 (date; 1 page)
4. Letter and attachments re proposed Hess Station traffic impacts (12/4/01; 4 pages)
5. Letter from LI Pine Barrens Society re proposed Hess station (12/13/01; 1 page)
6. Letter from Ms. Murray re Crown Communications tower (11/15/01; 3 pages)
7. Letters and materials from Mr. Gazza (miscellaneous dates; 15 pages)
8. Positive SEQRA Declaration for Gazza applications (12/19/01; 12 pages)
9. Letter from Mr. Voorhis re Brookhaven Town Center (12/17/01; 3 pages)