

1                   CENTRAL PINE BARRENS  
2                   JOINT PLANNING AND POLICY COMMISSION  
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5                   Brookhaven Town Hall  
6                   One Independence Hill  
7                   Farmingville, New York, 11738

8                   August 19, 2015  
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11  
12                   3:30 p.m.

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14                   Public Hearing:

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16                   Before: JOHN PAVACIC, Acting Chair  
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PUBLIC HEARING  
JOINT PLANNING & POLICY COMMISSION

August 19, 2015

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1 A P P E A R A N C E S:

2 JOHN PAVACIC, Member

3 DAN McCORMICK, ESQ.  
4 Attorney, Town of Riverhead

5 JOHN MILAZZO, ESQ.  
6 Attorney, Town of Riverhead

7 ANNA E. THRONE-HOLST, Member

8 JULIE HARGRAVE,  
9 Senior Environmental Planner  
10 Central Pine Barrens

11 BRENDA PRUSINOWSKI,  
12 Representing Brookhaven Town Supervisor Edward  
13 Romaine

14 ANDREW FRELENG,  
15 Representing Suffolk County

16 SEAN WALTER, Member

17 EDWARD ROMAINE,  
18 Representing Town of Brookhaven

19 MARTIN SHEA,  
20 Representing the Southampton Town Supervisor,  
21 Anna E. Throne-Holst

1 MR. PAVACIC: My name is John Pavacic,  
2 I'm Executive Director of the Central Pine Barrens  
3 Commission. The Commission has designated me as  
4 the non-voting Acting Chair presiding over this  
5 hearing. I would just like to ask the members of  
6 the Commission to identify themselves for the  
7 record, starting to your right with Supervisor  
8 Throne-Holst.

9 MS. THRONE-HOLST: Anna Throne-Holst,  
10 member.

11 MR. SHEA: Marty Shea, representing  
12 Southampton.

13 MR. FRELENG: Andrew Freleng,  
14 representing Suffolk County.

15 MR. McCORMICK: Dan McCormick,  
16 representing the Town of Riverhead as designee for  
17 Sean Walter.

18 MR. WALTER: Sean Walter, Commissioner.

19 MR. ROMAINE: Ed Romaine, representing  
20 the Town of Brookhaven, Commission.

21 MS. PRUSINOWSKI: Brenda Prusinowski,  
22 designated Alternate Representative to Supervisor  
23 Edward Romaine.

24 MR. PAVACIC: Thank you, Members of the  
25 Commission.

1                   We have before us a public hearing  
2 today. The notice of hearing says:

3                   Pursuant to the Environmental  
4 Conservation Law Article 57-0121(10), notice is  
5 hereby given that a public hearing will be held by  
6 the Central Pine Barrens Joint Planning and Policy  
7 Commission on August 19, 2015, on the matter of the  
8 application for a core preservation area hardship  
9 exemption. The a subject of the hearing is the  
10 Kent Animal Shelter core hardship waiver  
11 application.

12                  The applicant is Pamela Green, Director,  
13 Kent Animal Shelter and the applicant's  
14 representative is Certilman Balin, attorneys.

15                  The project site location is 2259 River  
16 Road, Calverton, New York.

17                  This is a public hearing. It is a  
18 continuation of the public hearing held by the  
19 Commission on March 18, 2015, which was held open.  
20 The applicant requested a Core Preservation Area  
21 hardship permit to expand and redevelop an existing  
22 animal shelter on a 2.138 acre project site in the  
23 Residence B-40 Zoning District. The site contains  
24 8,913 square feet of existing structures. The  
25 project includes the removal of three existing

1 buildings totaling 5,323 square feet and the  
2 construction of a 9,968 square foot building. The  
3 proposed total area of the facility, including  
4 existing and proposed structures, is 13,558 square  
5 feet. The project also includes the establishment  
6 of a wetland buffer on Peconic River and  
7 construction of a new sanitary system. The project  
8 is classified as an Unlisted Action pursuant to  
9 SEQRA, and no coordinated review was performed.

10 The hearing being heard here was held on  
11 August 19, 2015 at Brookhaven Town Hall.

12 At this time I would like to ask the  
13 staff if Ms. Hargrave would please make the initial  
14 presentation to the Commission with regard to the  
15 application.

16 MS. HARGRAVE: Thank you. You received  
17 the summary of the status of the project to date,  
18 but just to briefly go over that and, then, you are  
19 going to open for public comment. The last hearing  
20 was on March 18th, that was for the extraordinary  
21 hardship application by the applicant. At that  
22 time, at the end of that hearing, the applicant  
23 requested additional time to submit supplemental  
24 information, including a brief for relief under the  
25 compelling public need provision of the Pine

Barrens Act, and that was submitted on June 17th.

The applicant submitted additional information on July 15th, and during that time they were granted extensions to submit that information. After the July 15th Commission meeting, the Commission scheduled this hearing and also the comment period -- I am sorry, the decision deadline was extended to September, which is the next meeting after this, and the applicant was in agreement with that.

So an extension of the decision deadline was to September 16th and at the end of the hearing today, we are going to receive testimony and you may want to have a time for written comments to be submitted; that's your discretion, and if you need additional time, the applicant is aware that you may need to ask for an extension to the October meeting so that at the next meeting you can discuss this hearing and any comments you receive today and after today, if you have a comment period.

Again, the project site is 2.1 acres. It's in the core preservation area. It's developed as an existing animal shelter. It is on the waterfront of the Peconic River and the applicant proposes to redevelop and extend the shelter to

1 include the removal of the 5,323 square feet of  
2 structures and retaining 3,590 square feet of  
3 existing structures and construct a new building  
4 that is 9,968 square feet, for a total area of  
5 13,558 square feet of building structure, a new  
6 parking lot, a new buffer and replacement of the  
7 sanitary system.

8 So I think that's all we have. If you  
9 have any materials that the applicant submitted in  
10 July, including updated information on the site  
11 plan and the information submitted in June was the  
12 memorandum on their compelling public need  
13 hardship.

14 MR. PAVACIC: Thank you, Julie.

17 (No response.)

18 At this time I would like to ask the  
19 applicant to make a presentation.

20 MR. GRUDER: Good afternoon, Mr. Chair,  
21 Members of the Commission, Council staff. My name  
22 is Glenn Gruder. I am a member of the law firm of  
23 Certilman Balin, I represent the applicant. I  
24 thank the Commission for its time today, especially  
25 for moving the hearing location. It's much cooler

1 and more comfortable in this room. I know the  
2 audience and members of the public appreciate that  
3 very much.

4 I was not at the hearing of March 15th.  
5 I did read the transcript many times. My  
6 understanding is that the meeting was adjourned to  
7 permit the applicant to brief the issues of  
8 "compelling public need," which is one of the  
9 factors for declaring hardship under the Pine  
10 Barrens Act as defined in ECL 57-0121, subsection  
11 10, of further subparagraph B.

12 As Ms. Hargrave stated, we did deliver  
13 that brief to the Committee in June. It was  
14 submitted to the Supervisor in July of 2015. I  
15 will not regurgitate all that was said at that  
16 hearing. It was a very lengthy hearing, and I will  
17 summarize the applicant's position. I have some  
18 other legal arguments which we believe supports  
19 this Commission granting the application.

20 We respectfully submit, based on the  
21 record before this Commission from March 18, 2015,  
22 supplemented by the aforementioned memorandum, the  
23 applicant has already satisfied the requirement of  
24 the Pine Barrens Act regarding compelling public  
25 need and, therefore, respectfully requests that

1       this Commission approve the application.

2                   This proposal to renovate and expand the  
3       Kent Animal Shelter will, in fact, serve an  
4       essential health and safety need of the  
5       municipality in the Central Pine Barrens,  
6       particularly the Town of Riverhead because, as was  
7       testified to on March 18, 2015 by the Director of  
8       the Kent Animal Shelter, Pamela Green, and by Dr.  
9       Kimpone, and as admitted by the Commission, the  
10      Town of Riverhead Animal Shelter does not treat  
11      cats. The Kent Animal Shelter is the only facility  
12      in the core and within the Town of Riverhead that  
13      spays cats and inoculates animals against rabies.

14                  The spaying of cats controls the feral  
15      cat population, which reduces the risk to humans of  
16      toxoplasmosis, particularly for pregnant women, and  
17      reduces the risk of rabies. Additionally, by  
18      controlling the feral cat population, the Kent  
19      Animal Shelter protects wild life in the Pine  
20      Barrens area, particularly wildlife birds. You  
21      combine these public health benefits, right out of  
22      the Pine Barrens Act, with the fact that the  
23      proposal includes a new sanitary system which will  
24      substantially decrease nitrogen loads to the  
25      Peconic River, new storm water drainage

1 infrastructure will further protect against runoffs  
2 into the Peconic River and protect ground water, a  
3 new redesignated buffer further protecting the  
4 river and the ground water.

5 This Commission is familiar with the  
6 site and is aware that it is adjacent to the river.  
7 It's almost an area that is entirely cleared. I  
8 don't believe there is any time bar for unloading  
9 the Pine trees on it, but it does not add to the  
10 ground water quality of the Pine Barrens. Although  
11 technically, we do admit, it is within the core  
12 area.

13 Therefore, based upon those facts, it is  
14 patently obvious that all the public benefits from  
15 this project are, in fact, consistent with the  
16 protection of the core area and the goals of the  
17 Pine Barrens Act. The proposal clearly serves the  
18 existing needs of residents and, as testified to in  
19 March, there are no feasible alternatives existing  
20 outside of the core area or no other alternatives  
21 exist within Suffolk County. We respectfully submit  
22 that if this is not a compelling public need, we  
23 don't know what is.

24 The concerns of the Pine Barrens Society  
25 expressed both on March 18, 2015 and in recent

1 articles in Newsday, and as I am sure you will hear  
2 from the Pine Barrens Society's representative in a  
3 matter of minutes, presenting precedential effect,  
4 we submit, are completely unfounded. You have  
5 before you an existing use. You have the  
6 protection of public health against disease. You  
7 have protection of the Peconic River. You have  
8 protection of ground water. You have protection of  
9 wildlife. You have no further degradation of the  
10 Pine Barrens. You improve water quality.

11 If any future applicant comes before  
12 this Commission with similar facts, we would  
13 respectfully submit that you would be bound by  
14 precedent and you should and would be bound to  
15 grant such an application, but if you let the  
16 concern of precedence be your sole factor, you  
17 completely eviscerate the review process. You  
18 can't be concerned about precedent. What you need  
19 to be concerned about is the factors in the statute  
20 and we meet those factors. Denying an application  
21 for the fear of precedential effect is otherwise  
22 deleting the statutory and regulatory standards and  
23 defeats the purpose of the review process.

24 However, there are other reasons why we  
25 respectfully request that this Commission must

1 approve this application: As the staff knows, and  
2 as I am sure the Commission knows, on May 24, 2012,  
3 the New York State Department of Environmental  
4 Conservation approved both a Fresh Water Wetlands  
5 Permit and a Wild Scenic and Recreational Rivers  
6 permit for this project. I have copies. I have  
7 highlighted them. I have handed them to Mr.  
8 Milazzo. I believe there are five or six, for the  
9 Commission members, so we can pass them around.

10 As this Commission may be aware, it is  
11 not making this comparative based on its  
12 experience. It is not easy to get a Fresh Water  
13 Wetlands permit or a Wild Scenic and Recreational  
14 Rivers permit from the New York State DEC. When  
15 you look at these permits, which were issued three  
16 years ago, when you look at the standards required  
17 to obtain these permits and you compare them to the  
18 standards of the Pine Barrens Act, I will  
19 respectfully submit that this Commission is almost  
20 bound to approve this application because it would  
21 be almost inconsistent for the New York State DEC  
22 to issue a Fresh Water Wetlands permit, and a Wild  
23 Scenic and Recreational Rivers permit, and for this  
24 Commission to deny this application.

25 I am well aware, I have read both

1       permits, there was a provision in both permits that  
2       makes the applicant liable to get all permits and  
3       we do need Pine Barrens Commission approval, but  
4       let me just read from the regulations under the  
5       Wild Scenic and Recreational Rivers Act:

6                 "Many rivers of the state, and their  
7       immediate environs, possess outstanding natural,  
8       scenic, ecological, recreational, aesthetic,  
9       mechanical, geographical ideological, fish and  
10       wildlife, historical, cultural, archeological and  
11       scientific values. Improvident development" -- and  
12       I repeat -- "Improvident development, use of these  
13       rivers and their immediate environs will deprive  
14       present and future generations of the benefit and  
15       enjoyment of these unique and valuable resources."  
16       The Peconic River is one of these rivers. It is  
17       the policy of the state as set forth in the Wild  
18       Scenic and Recreational Rivers Act.

19                 Now I am going to jump over to: "The  
20       designated rivers of the state and their immediate  
21       environs possessing the aforementioned  
22       characteristics shall be preserved in a  
23       free-flowing condition and shall be protected for  
24       the benefit and enjoyment of present and future  
25       generations." When the DEC granted this permit

1       they, therefore, determined, because they had to  
2       determine that the proposal to expand and renovate  
3       the Kent Animal Shelter was in fact provident  
4       development that protects the Peconic River and its  
5       environs. "Provident" means prudent or wise,  
6       especially regarding the future.

7               The purpose of this park is to implement  
8       the Act by establishing the statewide regulations  
9       for the management, protection, enhancement for the  
10       land use and development in river areas and all  
11       designated wild scenic recreational rivers of New  
12       York State. It talks about river areas. River  
13       areas under the regulation includes a half a mile  
14       from the river bank; so the river area for the  
15       Peconic River is the Kent Animal Shelter. So  
16       before the New York State DEC in 2012 issued the  
17       Wild Scenic and Recreational Rivers permit for the  
18       Kent Animal Shelter, it had to, in fact, consider  
19       the impact on the core area, and it granted that  
20       permit.

21               There's a lot of people here, I won't  
22       take up a lot of your time, I won't read the rest,  
23       but it's very basic. It's not easy to get a  
24       freshwater wetlands permit. The DEC reviewed it,  
25       it follows the regulations, it follows the standard

1 and it's held and met the standards.

2                   We also have a freshwater wetlands  
3 permit. The person proposing to conduct an  
4 activity to require a permit or letter of  
5 permission is described in Section 663.4D of this  
6 part, must meet the standards for permit issuance  
7 and receive a permit or letter of omission prior to  
8 commencing that activity. The burden of showing  
9 that the proposed activity will comply with the  
10 policies and provisions of the Act in this part  
11 rests entirely on the applicant. Easy, then, for  
12 permit issuance, the last sentence: "A permit,  
13 with or without provisions may be issued for a  
14 proposed activity on a wetland of any class or in a  
15 wetland adjacent area if it is determined that the  
16 activity:

17                   1) will be compatible with preservation,  
18 protection and conservation of wetlands and its  
19 benefits; and,

20                   2) would result in no more than standard  
21 degradation to a loss of any part of the wetland;  
22 and.

23                   3) would be compatible with" -- and I  
24 emphasize in quotes -- "public health and welfare."

25                   If you go to subsection F of those same,

1 regulations under the Freshwater and Wetlands Act,  
2 it says: "Interpretation of some terms used in  
3 subdivision E of this section, public health and  
4 welfare." This is very important. These concerns  
5 include, 2, consistency with related federal, state  
6 and local laws, regulations and policies.

7 One of those related federal, state and  
8 local laws, particularly the New York State law and  
9 regulations, is, in fact, the Pine Barrens Act. So  
10 before the DEC issued this Freshwater Wetlands Act,  
11 if its job is to mitigate it, it would have to have  
12 considered the issuance of that permit in relation  
13 to the consistency of the Pine Barrens Act, and it  
14 issued the permit.

15 I am going conclude, I but I have one  
16 more comment: As you know, my partner is David  
17 Sloan. Mr. Sloan passed away on June 28th of this  
18 year. As I said in the conference room related to  
19 this, David asked me to join him on this  
20 application. This application was very near and  
21 dear to David's heart. David loved animals, he  
22 loved bugs, he was a big supporter of the Kent  
23 Animal Shelter.

24 Pamela Green is here, she has her own  
25 presentation and Dr. Kimpone is here if you have

1 any questions. Obviously, there are a lot more  
2 members of the public. I don't want to tell you  
3 what order to go to, but it's probably makes some  
4 sense to have Ms. Green step up, unless you have  
5 some questions.

6 MR. PAVACIC: Do members of the  
7 Commission have any questions for Mr. Gruder?

8 MR. WALTER: Counselor, is it your  
9 desire that at the end of today that we close the  
10 public comment portion and move to the decision  
11 base.

12 MR. GRUDER: Yes. However, I am  
13 concerned, and I expressed my concerns to my  
14 client, but probably there's very little I can do  
15 about it. There are only four voting members of  
16 the Commission. It is obviously based on pure  
17 math, it's easier to get three out of five votes  
18 than it is to get three out of four votes.  
19 However, it is clear that that is subject  
20 completely to the appointment by the Governor of  
21 the State of New York.

22 I understand that the fulfillment of  
23 that seat is before the Governor now. I spoke to  
24 the Executive Chair who indicates they are  
25 considering it; he doesn't know when that

1 appointment will be made and the Act does provide  
2 that four members do constitute a quorum. My  
3 client is very, very eager to proceed and to get on  
4 with the development and the other approvals needed  
5 to complete the project.

6 MR. WALTER: Counselor, our counselor,  
7 if we are deadlocked two to two, does it fail or  
8 can we resurrect it without going to a public  
9 hearing again?

10 I guess if we knew it was going to, then  
11 we wouldn't take the vote, would be my guess.  
12 Thank you sir.

13 MR. GRUDER: Because of that, I think it  
14 would fail. I would respectfully request this  
15 though: If in fact, for whatever reason, the  
16 hearing deliberations are held over, for any  
17 reason, for public comment or any other material,  
18 and during that period the Governor does fill the  
19 position, I would respectfully request that at that  
20 point, the Governor's representative be provided  
21 with a transcript of the full record before the  
22 Commission and be bound to familiarize himself or  
23 herself with the record, and then be a voting  
24 member.

25 MR. WALTER: In other words, you are

1 asking us to close this afternoon?

2 MR. GRUDER: Maybe my client will speak  
3 and then we can defer to her and you can ask her  
4 that question.

5 MR. PAVACIC: Thank you very much, Mr.  
6 Gruder.

7 We have additional members representing  
8 the applicant.

9 MS. GREEN: Thank you so much, thank you  
10 so much to the Commission for entertaining our  
11 request. I am Pamela Green, Director of Kent  
12 Animal Shelter.

13 Whereupon,

14 PAMELA GREEN,  
15 after having been first duly sworn, was examined  
16 and testified as follows:

17 MS. GREEN: Thank you to the Commission  
18 for entertaining multiple times here our request  
19 for a permit and thank you to all the supporters  
20 who came out today. I could fill this many times  
21 over if it were in the evening.

22 In any case, that was a tough  
23 presentation to follow. Kent Animal Shelter, as  
24 has been stated, is a preexisting animal shelter.  
25 There are no other animal shelters in the Pine

1 Barrens, there will never be any other animal  
2 shelters in the Pine Barrens.

3 The shelter, it's very disheartening to  
4 learn that it has been described by Richard Amper  
5 as a "Cutie Little Doggie Operation." This has  
6 been my life's work, and since I came there 30  
7 years ago, we have rescued tens of thousands of  
8 homeless animals. There's about 130 animals there  
9 at any one time. Last year we re-homed 798  
10 animals, let's say 800 -- that's a lot of homeless  
11 animals.

12 We reach out to the Town of Brookhaven  
13 Animal Shelter and take a lot of animals from there  
14 every year and adopt them out. We lend a hand to  
15 Riverhead Animal Shelter and the Riverhead  
16 community, as far as spaying and neutering. Last  
17 year we spayed or neutered 3,998 animals. That's a  
18 lot of animals. That's a big way to control the  
19 over population of animals, especially feral cats.  
20 No one else on the North Fork, no one else on Long  
21 Island spays and neuters as many as feral cats as  
22 we do, about a thousand a year for the Town of  
23 Riverhead; can you even imagine if those cats were  
24 left to breed how many there would be in the Town  
25 of Riverhead and the surrounding communities,

1 reeking havoc with the members of the community?  
2 The wildlife, disease, it's a tremendous effort for  
3 to us do that, but it's important to us.

4 I understand that we are in the core of  
5 the Pine Barrens. Someone, 25 years ago, I am not  
6 familiar with the whole process, but in 1993 a line  
7 was drawn. River Road, I am not a good baseball  
8 player, but if I took a ball and hit it with a bat  
9 and sent it just across Riverhead Road to Kent  
10 property, it's not the Pine Barrens any more. We  
11 are just a little piece of property of the 103,000  
12 acres on the northern border of the Pine Barrens.  
13 The septic system that we have there right now is  
14 not environmentally friendly, and that's putting it  
15 mildly. The wastewater drains off into the Peconic  
16 River and the common estuary, polluting those  
17 bodies of water with nitrogen, which is a terrible  
18 problem -- just ask the Town of Riverhead with the  
19 fish kill in the back of the river.

20 It's contributing, as it is now, to  
21 pollution. Can we stop that process? Yes. We are  
22 offering an alternative to do just that. We are  
23 offering a plan to do just that. All of the  
24 wastewater would drain into a septic tank, a 4500  
25 gallon tank, 300 feet or a football field away from

1 the Peconic River. This photo -- this is the old,  
2 this is the Kent Animal Shelter. You can see the  
3 buildings in this deteriorated state. Here is the  
4 Peconic River, it's only 50 feet away from this  
5 kennel, 50 feet. There is a cesspool sitting  
6 underneath the kennel that needs remediation, we  
7 can't get to it.

8 We want to take these structures down  
9 and put up a state-of-the-art building that looks  
10 something like this (indicating); what an  
11 improvement. And with the sanitary system that  
12 addresses this sensitive area and proposes a  
13 solution to the current problems, it's beyond me to  
14 understand why the Pine Barrens Society does not  
15 want to be in favor of this project, because it  
16 seems to me also that it's their duty to help us  
17 protect the environment and that's what we are  
18 trying to do with this project.

19 The existing sanitary system does not  
20 meet the Suffolk County Health Department's  
21 standards. The new proposed sanitary system does.  
22 Some of the cesspools right now are sitting in  
23 ground water, that's not good. It's not good for  
24 the environment, it's not good for the Peconic  
25 River. The proposed sanitary system as designed

1 has been approved by the Suffolk County Health  
2 Department and the New York State DEC. The project  
3 includes permeable parking areas, a storm water  
4 drainage system and a 50-foot wide vegetated buffer  
5 along the Peconic River to stop storm-water runoff.

6 The proposed project will not set a  
7 precedent. It's a unique use. There is no other  
8 use similar to it, and there never will be and this  
9 property will never be Pine Barrens Forest, it  
10 won't. The alternative is to let Kent Animal  
11 Shelter continue to operate on the land that it's  
12 on, and in the capacity that it does, and we will  
13 because that's our mission and we have been there  
14 long before the Pine Barrens' laws.

15 So I appeal to the Commission, I appeal  
16 to the Pine Barrens Society to weigh all of these  
17 factors and to grant the permit because it's an  
18 answer to the environmental problems that the  
19 current facility is posing to the Peconic River and  
20 its estuary. It's important to the community, it's  
21 important to the animals, and it's important to the  
22 environment. This is a win-win situation. I don't  
23 understand the opposition, but we will see how it  
24 goes.

25 Thank you very much.

( Applause. )

MR. PAVACIC: Did any of the members have any questions for Ms. Green?

MR. WALTER: You might want your counselor to come up. I would like to ask something about the sanitary system. Now you are proposing that the sort of standard sanitary system in Suffolk County health is eventually a hope and that the Commissioners all move to affirm. I note it's not part of your application, but what I would like to know is would you consider, should the Commission approve this, consider putting in -- everyone calls it a nitric system or a nitric removable type of system to the past systems, would you consider amending your plans for that type of system? Because I think that if the Commission were to approve it, we would approve it with a requirement that you would put a far more expansive system in.

MR. GRUDER: Commissioner Walter, we already have approval from the Suffolk County Department of Health Services for the proposed sanitary system. It's probably never going to exceed 4500 gallons per day or substantially less than that, keeping in mind that a two-family home

1       probably generates 1500 gallons per day of  
2       treatable water. We would respectfully submit that  
3       the denitrification system probably is not  
4       warranted for this particular use. Nevertheless,  
5       if a denitrification system is acceptable to the  
6       Suffolk County Department of Health services would  
7       be approved, which would not be cost prohibitive to  
8       our client, then obviously we would consider it,  
9       but I am going to make it very clear that is an  
10      incredibly big factor for the Kent Animal Shelter.  
11      The difference in cost between a denitrification  
12      system versus a standard system is very, very  
13      large.

14                    MR. WALTER: I understand. Thank you.

15                    MR. PAVACIC: Any other questions for  
16      Ms. Green or the Commission?

17                    Do you have any other representatives  
18      for Kent?

19                    MR. GRUDER: Dr. Kimpone is here if the  
20      Commission has any technical questions. He is a  
21      licensed veterinarian to members of the public. I  
22      would ask though, I believe I am prepared to answer  
23      the other questions that Commissioner Walter  
24      proposed. I certainly don't mean to be a wiseguy.  
25      We believe this is at the discretion of the

1       Commission. We obviously want a favorable vote. A  
2       two/two vote would be not a favorable vote. It  
3       would mean the process would go on; there would be  
4       another Commission that would be part of that  
5       process. We would be open to public comment then.  
6       We will leave that to the discretion of the  
7       Commission.

8                   MS. GREEN: Just as far as the nitric  
9       system, there are a lot of questions about this. I  
10      am not any sort of -- I am not even well informed  
11      about it, but it's not known how effective this  
12      system will actually be, to my knowledge. Even if  
13      the system was approved, if it was proposed and  
14      approved by the Health Department, does that mean  
15      that Kent would get the variance and waiver? It's  
16      \$150,000 to \$200,000, to my knowledge, for the  
17      system, so it's quite costly and there are  
18      questions as to how effective it is, and if it's  
19      really going to work.

20                  I think there is one in operation right  
21      now at the Suffolk County Park state property in  
22      Islip, but I don't know that the Health Department  
23      would approve it. So there's a lot of questions  
24      about it, not that we wouldn't consider it.

25                  MR. ROMAINE: I have been in touch with

1 the Health Department, they have to approve it.  
2 The one place it is in operation, the flow isn't  
3 enough for them to come to a judgment on it. The  
4 Town of Brookhaven is looking at setting standards,  
5 particularly near water bodies, and we can't do it  
6 as of yet because the Suffolk County Health  
7 Department has not established systems that they  
8 would -- they don't have alternative systems that  
9 they definitely have approved because I was just on  
10 the phone earlier this month asking that question.

11 MR. GRUDER: We do have a lot issues  
12 because we are on the river: The depth of the  
13 water, size of the plan. My own experience, I know  
14 the denitrification system that was installed in  
15 the very large subdivision of Ridge was a disaster.  
16 So there are a lot of issues. I know they have  
17 improved it, but there are a lot of issues with the  
18 denitrification system.

19 I understand they are clean, but we  
20 would respectfully request that you should  
21 seriously consider the impacts of such a provision  
22 upon the applicant, as well as the environment.

23 Thank you.

24 MR. PAVACIC: Any other questions for  
25 the applicant from the Commission?

1                   I think we will move on to the general  
2 public. We have a list of names, folks who have  
3 asked to speak. I would just like to ask, if you  
4 could, folks, not to be repetitive. If you would  
5 just acknowledge the prior speaker if you can agree  
6 with their comments in the interest of time,  
7 because it's getting late in the day.

8                   The first speaker we have is -- and I  
9 apologize if I mispronounce your name, Ms. Regis.  
10 Whereupon,

11                   SEVI REGIS,  
12 after having been first duly sworn, was examined  
13 and testified as follows:

14                   MS. REGIS: Please forgive me, these are  
15 bifocals. Sevi Regis and I work for Good Green  
16 Shepherd, Inc.

17                   I am a third party, no affiliation with  
18 anyone here so what I say is coming from myself, so  
19 it's my own solution to a possible problem. If you  
20 today come to a draw, as you try to go over the  
21 issue and you do not have a solution that you are  
22 comfortable with, I would like to propose a third  
23 option: My option would be to, if the town could  
24 look over any parcels of land that you would have,  
25 I don't know how large the property is that the

1       shelter is on, but I think somebody said if you  
2       have another parcel of land that is not toxic, that  
3       is not a designated green area, that could actually  
4       be exchanged for the current parcel, because from  
5       what I have been able to ascertain, those buildings  
6       have to come down. There are septic problems and  
7       toxic problems already on the shelter property. It  
8       would cost the shelter more money to have to  
9       remediate that property and build on the current  
10      contested property than it would be for them to go  
11      to a clean, fresh parcel of land, possibly even a  
12      larger sized parcel of land in exchange, and put up  
13      a whole new center where they are not going to be  
14      constricted by the environmental regulations, where  
15      they can grow into more of a community service,  
16      humane service educational center with regard to  
17      animals and the wonderful work they have been doing  
18      for 35 years?

19           That's how I see it. Then what could  
20      happen, the town or the county reclaims that piece  
21      of land near the Peconic, cleans it up and makes it  
22      an environmental center and a buffer for the  
23      Peconic River. So it's a win-win for everybody.  
24      That's just one of the things that I was thinking  
25      about as a possible option.

1                   Again, I don't know if you have these  
2 kinds of parcels available, but perhaps you can  
3 look over whatever real estate you might have as a  
4 possible option if you can't come to another  
5 resolution.

6                   The last thing I wanted to say is  
7 another possibility is that the town could donate  
8 the land for, say, a period of seven or eight  
9 years, and enable the shelter to run like an annual  
10 fundraiser every year to raise enough money to  
11 possibly repay the town.

12                  MR. PAVACIC: Any questions for Ms.  
13 Regis?

14                  (No response.)

15                  Thank you very much.

16                  Next speaker is Lester Lato?  
17 Whereupon,

18                  LEONARD LATO,  
19 after having been first duly affirmed, was examined  
20 and testified as follows:

21                  MR. LATO: Good afternoon, everyone.

22                  What we really have here is not so much  
23 a modification that would change the core area  
24 here; what we really have is an improvement to the  
25 existing property, and there is no downside. I

prepared my notes and I am not even going to refer to them, because I can speak to you just in terms of common sense.

By definition, the statute, which everyone must read if one is going to follow the statute, has exemptions. The drafters of the legislation would not have put hardship exemptions in there unless the drafters knew that strict adherence to the Act would result in a hardship, and every now and again there would have to be an exemption.

I am going to change the facts a little with a hypothetical. Let's assume instead of the Kent Animal Shelter as it now exists there was a 50-year old, broken-down facility for disadvantaged or developmentally disabled children, feces in the hallway, in the street, roaches everywhere, and somebody came up with a plan and said, "You know what, the purpose of the Act to protect the Pine Barrens is to protect the water, protect the soil, protect the environment. We are going to put up a new facility in the existing area. It will improve the soil quality, it will improve the air quality; it will improve the surrounding vegetation." In my opinion, if that were the facility that we would be

1 talking about, this would be easy and the  
2 Commission vote would be unanimous.

3 As far as fear of the lawsuit, that's  
4 not going to happen, at least not one that is going  
5 to be viable. The decision by this Commission is  
6 really going to be final. Yes, somebody can bring  
7 an Article 78 proceeding in state court, they are  
8 not going to succeed very well because the only way  
9 this decision can be overturned is if this  
10 Commission acts in an arbitrary and capricious  
11 manner. I think we are all confident, whichever  
12 way this Commission rules, that is not going to  
13 happen and any attempt to scare people off with  
14 litigation is nonsense. It's not going to work.  
15 It hasn't worked before. In fact, just last year,  
16 Mr. Amper and the Commission tried it and they lost  
17 in the Appellate Division, Second Department, and  
18 that was the end of it.

19 You know, I am sure this Commission has  
20 to take a lot of votes from time to time on various  
21 areas. This is the type of vote that if you vote  
22 in favor of this shelter, it's going to make you  
23 proud one day.

24 Thank you.

25 (Applause.)

MR. PAVACIC: The next speaker is Sue Cranny Robbins.

MS. THRONE-HOLST: I unfortunately have to excuse myself. I have to be at a meeting that starts in 55 minutes and it will take me much longer to get there.

I assure the public that I will review the public hearing record. It's a matter that I take very seriously. You are in very good hands with my designee Mr. Shea here, but I will also read the transcript in detail and I thank all of you for coming out.

COURT REPORTER: State your name and address for the record.

Whereupon,

SUE CRANNY ROBBINS,  
after having been first duly sworn, was examined  
and testified as follows:

COURT REPORTER: State your name and address for the record.

MS. ROBBINS: I am here more as an individual. I have lived in Riverhead and I'm here more as a representative of the feral cat population.

I was a volunteer with the Riverhead

1       shelter, I volunteered with Saves and I volunteered  
2       with the RSVP. The Kent Animal Shelter has helped  
3       over the last 30 years with spaying and neutering  
4       the feral cats. It's very costly for me as a  
5       single person, and so on and so forth, but I think  
6       this would set a precedent for the feral cat  
7       population. She has helped us with an all day  
8       thing, just doing it all day, just feral cats and  
9       so on and so forth. It's very expensive to bring  
10      them, between -- we trap and neuter them and it's  
11      very costly to bring them to a vet, especially for  
12      females.

13                   Again, we have to keep them at the house  
14       overnight, that's the females, because it's a  
15       hysterectomy that is performed with them, and like  
16       I said, I am doing this for a long time. Riverhead  
17       promised the Police Department, because the shelter  
18       was affiliated with the Police Department, promised  
19       us a cattery at Grumman's, so on and so forth.

20                   I just feel that we need to address this  
21       feral cat population. I have watched people bring  
22       pets to the animal shelter on River Road in  
23       Riverhead. She said, "We don't take them," and  
24       they let them loose.

25                   If you do not spay female cats, you are

1 talking about 200 cats. A lot of people mean well  
2 by feeding the cats. I offered to spay them,  
3 especially the females, and they like feeding them.  
4 So in most cases, the feral cats, females, will  
5 pick between the two that are healthy and then she  
6 will abandon them, but if you keep feeding a female  
7 feral cat, they are having five or six kittens  
8 instead of one or two.

9 I am just bringing your attention to the  
10 treatment and return system. I have been doing  
11 this for a really long time. I am 65 years old.  
12 It's very, very timely and costly, but she is the  
13 only one, no one else will help us and, like I  
14 said, she has worked with cats in the region and  
15 for the saves in Greenport, again, we worked  
16 through Kent.

17 I think we need to set a precedent about  
18 this feral cat situation. We can't just keep  
19 dumping them, bringing them to the farms. I worked  
20 with a couple of the police in the Riverhead Police  
21 Department and people get charged. I'm having to  
22 die my feral cats because people catch them, they  
23 trap them and they dump them out on the farms where  
24 they could use these cats. People are overwhelmed  
25 with farm cats themselves, so I'm just speaking up

1 for the program at Kent on behalf of the feral  
2 cats. Thank you.

3 (Applause.)

4 MR. PAVACIC: Mary Ann Johnson?

5 Whereupon,

6 MARY ANN JOHNSON,  
7 after having been first duly sworn, was examined  
8 and testified as follows:

9 MS. JOHNSON: I am Mary Ann Johnson, on  
10 behalf of APRO, an affiliated organization.

11 We actually intended to come here to  
12 support the application because we thought that the  
13 shelter would be willing to employ alternative  
14 treatment. The fact that they are employing bear  
15 minimum makes Suffolk County Health Department, the  
16 employees, which are accepting cesspools -- that  
17 just isn't good enough along the banks of the  
18 Peconic River.

19 The problem is this operation has been  
20 non-compliant for the better part of 30 years. We  
21 have the Clean Water Act, we have the Safe Drinking  
22 Water Act, and they are on well water; septic and  
23 cesspools are within a certain distance from the  
24 wells and that's against federal law. So it's not  
25 about the Pine Barrens or the DEC or anything else,

1 my question is: Why was this permitted to be  
2 non-compliant for so long?

3 I think this is a wonderful operation.  
4 I think it performs a great service, but I am  
5 inclined to read and perhaps be concerned about the  
6 water. My next question is: Why are we expanding  
7 the operation with the bare minimum?

8 Look, Suffolk County has dragged its  
9 foot so long on cesspools and septic tanks that we  
10 have many water bodies listed on the 303D Impaired  
11 Water Body List. We have fish kills. We have  
12 better than half the summer where we can't swim in  
13 our beaches. They have failed us miserably. So to  
14 site them as the criteria and panacea for what is  
15 good is almost laughable. They are not good, they  
16 are bad, and I think that this is a good operation.  
17 We hopefully said to owner that we would work with  
18 them to try and raise grant money to set this up as  
19 a pilot.

20 There are pilot systems available in  
21 Suffolk County through the Department of Health and  
22 this would be a really good site to use that  
23 system, but they haven't justified why they're  
24 expanding to more than twice the present size. They  
25 haven't justified, except to say that the animals

1 carry a toxic and contagious disease. I don't know  
2 what the instance is of transmission to humans.  
3 There is an abundant lack of facts here as well,  
4 but the main problem is this is about expansion in  
5 the Pine Barrens of a clearly non-complying,  
6 polluting environment. The whole purpose of this  
7 Commission is to prevent that, and although it's  
8 taken a very long time to be here, there are means  
9 available to do that. If they want a steady  
10 operation, they need to consider those needs,  
11 otherwise we have to reluctantly suggest that the  
12 application be denied.

13                   Thank you.

14                   MR. PAVACIC: Next we have Sharon Cimiro  
15 followed by Lindsey Cimiro. I see your name up  
16 here twice. Sharon Cimiro?  
17 Whereupon,

18                   SHARON CIMIRO,  
19 after having been first duly sworn, was examined  
20 and testified as follows:

21                   MS. CIMIRO: I respect what you are  
22 saying about reiteration, but this is not  
23 reiteration, doesn't mean that she is speaking for  
24 me.

25                   We all have heard what everyone is

1 saying about the strong water drainage and I do  
2 believe what Kent is saying, that it will be a  
3 better, cleaner river to the Pine Barrens. I am a  
4 tree cutter. I cry when anybody cuts down trees.  
5 So, with that being said, I would like to give her  
6 as much backing here as possible, but I also feel  
7 there is absolutely a public need and hardship for  
8 the Kent Animal Shelter.

9                   Without getting into all of the details,  
10 it seems like most of us here love our animals. I  
11 myself adopted two pets from Kent Animal Shelter.  
12 When I tried to apply 13 years ago to adopt a dog  
13 for my special needs child, I was denied by many  
14 private rescues because she has special needs.  
15 They didn't know if she could walk, they did not  
16 want the dog to be coming back. There were several  
17 reasons given to me that I felt were  
18 discriminatory.

19                   I went to the Kent Animal Shelter. I  
20 had seen a dog on petfinder.com and they were  
21 concerned as well. She was very young and they  
22 wanted to meet with the family. Well, if there  
23 could be a videotape following us around, it would  
24 have made a better demonstration, because it really  
25 was a beautiful story. I lost that dog three years

1 ago to cancer and we were devastated.

2                   My daughter learned to walk from that  
3 dog. My daughter learned to socialize with that  
4 dog, people would approach us when they normally  
5 wouldn't want anything to do with us because she  
6 was different. It made people engage.

7                   They are very discriminatory about who  
8 they adopt to. They are very cautious, they don't  
9 want to have animals coming back. I have to tell  
10 you, I have since adopted other pets from other  
11 organizations that were very good at what they do,  
12 but Kent Animal Shelter is the only shelter that I  
13 ever adopted and obtained animals from that are  
14 parasite free, flea free, and they were already  
15 spayed. There are certain organizations that have  
16 celebrities that are donating millions of dollars  
17 every year and they are good, I am not saying they  
18 are not good at what they do, but they also don't  
19 ask me if the pet was neutered, trusting that I  
20 would neuter him.

21                   Kent doesn't work that way. They make  
22 sure that the over population is under control for  
23 those animals before those animals leave. They  
24 make sure that they are free of parasites, free of  
25 worms, they are free of fleas, they are free of

1 anything that can harm a family, environment, the  
2 neighbors. They don't take care of their animals  
3 before they are released so they can be a serious  
4 public hazard.

5 There is a need for this expansion  
6 because an agency like Kent Animal Shelter needs to  
7 be able to help board animals and help people and  
8 that's what they want to do. Unfortunately at the  
9 size they are now, they are not able to do that.  
10 They do what they can with the Brookhaven Animal  
11 Shelter. My dog originally came from Brookhaven.  
12 They relieve the tax burden of the particular  
13 taxpayers by taking some of these animals in and  
14 they want to continue to do so.

15 Pamela Green knows me. I just happen to  
16 support this group. I am a public person that  
17 happens to think they are fantastic, so I am just  
18 here to plead the case that this facility needs to  
19 grow. It needs to better the environment. It  
20 needs to better the over population. It needs to  
21 be able to take in animals and provide the  
22 healthcare they need for people who might have to  
23 give their pets up because in this economy they are  
24 losing their jobs. Their expanded facility will be  
25 able to provide the healthcare needed for animals

1 that are in need, for people who may not be able to  
2 afford a typical veterinarian facility in the area.  
3 So that is the way I feel.

4 I feel that they are essential to  
5 benefit the community, the health of the community  
6 and my Clover who we adopted from them was not only  
7 a fantastic addition to our family, and my special  
8 needs child, she also became a therapy dog that  
9 benefited many people in nursing homes and Hospice  
10 who were in their last stage, and that dog came  
11 from Kent Animal Shelter.

12 Thank you, very much.

13 (Applause.)

14 Whereupon,

15 JANET RATFER,  
16 after having been first duly sworn, was examined  
17 and testified as follows:

18 MR. PAVACIC: Todd and Janet Ratfer.

19 MR. MILAZZO: Please give your address.

20 MS. RATFER: Thank you. Our postal  
21 address is Holtsville. I live in the Town of  
22 Brookhaven and I have lived there for most of my  
23 life and I am just here as a public citizen and I  
24 have several dogs and cats.

25 Recently we were just having contact

1 with a litter of kittens. The mother was dead and  
2 they were approximately a week old and we brought  
3 them to Kent and without any kind of ado they  
4 opened their facility to the kittens and took them  
5 in immediately without any questions, no donation  
6 of any money and over the years we have had all of  
7 our animals spayed and neutered by Kent because  
8 private vets cost a lot of money, \$200 per animal,  
9 and vaccinations also.

10 I think they provide a very important  
11 public service, especially to those that have  
12 animals and a relatively low income. I actually  
13 don't really understand the big problem because if  
14 the facility is not designed right now, as far as  
15 providing -- it's a problem as far as the  
16 environment goes with their sanitation system, and  
17 they're going to be improving it, I don't know  
18 really understand. They are going to be improving,  
19 it's an improvement, what they are doing will help  
20 to preserve the environment.

21 I am also an environmentalist. I have a  
22 big pond in my backyard and streams and everything  
23 else, and I, like the other woman, am a tree hugger  
24 too. I cry when a tree has to be cut down. I am  
25 interested in preserving the environment and to me,

1 I think most people, public citizens, look at Kent  
2 as an important part of the community. I was in  
3 public school near where I live for some other  
4 reason and all down the sides of the hallway  
5 children had evidently gone to Kent on some  
6 educational tour or something, and they had all  
7 Kent, pictures of the Kent shelter. So they do  
8 provide a very valuable public service and I think  
9 the public really supports them and I just wanted  
10 to express my feelings about that.

11 Thank you.

12 (Applause.)

13 MR. PAVACIC: You are next to give  
14 testimony. Do you have anything to add other than  
15 what she said?

16 MR. RATFER: Absolutely. I would like  
17 to just present, we are talking about animals and  
18 the environment, but I would like to advise on the  
19 professionalism of the members of Kent who work  
20 there as volunteers that we have over the years  
21 made acquaintance with. I just wanted to say that  
22 every time we think about going to Kent, it's such  
23 a positive thinking and follow through, their  
24 professionalism, their dedication is obvious and  
25 heartwarming.

1                   I would like to suggest to anybody here  
2 in the audience and yourselves, Ladies and  
3 Gentlemen, if you haven't visited Kent, please do  
4 so. I think you will very happy and perhaps it  
5 might be helpful to you in your decision.

6                   Thank you very much.

7                   THE WITNESS: Lorraine Bremer.

8 Whereupon,

9                   LORRAINE BREMER,  
10 after having been first duly sworn, was examined  
11 and testified as follows:

12                   MS. BREMER: My name is Lorraine Bremer.

13                   MR. MILAZZO: Where do you live?

14                   MS. BREMER: 140 Sheffield Drive, Ridge.

15                   I have to say that at 81 years old I am  
16 considered the oldest volunteer at Kent. I am very  
17 proud to be there, it's a wonderful place. I can't  
18 begin to tell you what the people do there, from  
19 Pamela Green, all the way down to the staff, the  
20 volunteers, everyone there has such caring and  
21 concern for the animals. If you have been there  
22 then I know you have seen the condition of the  
23 buildings, which is not really good. They do need  
24 new buildings.

25                   I don't understand if putting buildings

1       in a place where they already are, why that would  
2       create a problem other than -- I don't understand  
3       that. I don't see where it would start a precedent  
4       because you are just replacing something that is  
5       already there. I really would need someone to  
6       explain it to me. I think it's a tough decision to  
7       make. I have served on boards and I know you have  
8       to make decisions that benefit everyone. I really  
9       honestly, in my heart, believe that everything they  
10      do at Kent benefits the community in every possible  
11      way.

12                   I adopted my second cat from them. I  
13        always had animals, I grew up on a farm. The way  
14        the people care and are concerned is very, very  
15        special, and I would not want to see them not be  
16        able to continue. So when you are making your  
17        decision, I know that you have to do that with your  
18        head, but sometimes you have to put a little heart  
19        into it too.

20                   Thank you.

21                   (Appplause.)

22                   MR. PAVACIC: Roy Cloughen. Please  
23        spell your name for the record, sir.

24                   MR. CLOUGHEN: Roy Cloughen, C L O U G H  
25        E N.

1 MR. PAVACIC: You're from Manorville,  
2 sir?

3 MR. CLOUGHEN: Yes, from Manorville.

4 Whereupon,

5 ROY CLOUGHEN,

6 after having been first duly sworn, was examined  
7 and testified as follows:

22 Anybody who says anything against Kent  
23 should spend a day there an see what they do and  
24 how much they mean to people. It's a valuable  
25 organization and I would love to see them continue

1 and expand.

2 Thank you.

3 (Applause.)

4 MR. PAVACIC: Pat Cloughen?

5 MS. CLOUGHEN: I agree 100 percent with  
6 my husband.

7 MR. PAVACIC: Mark Haubner.

8 Whereupon,

9 MARK HAUBNER,

10 after having been first duly sworn, was examined  
11 and testified as follows:

12 MR. HAUBNER: I am Mark Haubner. I am a  
13 volunteer for Kent. Kent is an animal shelter  
14 where it is truly a non-profit organization without  
15 an ulterior motive, acting with full regard for the  
16 area in which it operates as part of the  
17 communities it serves. It placed 30,000 dogs in  
18 four years. I got my third one there and will  
19 certainly get my next one or two there as well.

20 Kent as an organization has endured  
21 where other organizations and other agencies have  
22 not. Until recently I did not know that they had a  
23 program in place to educate young people in the Boy  
24 and Girl Scouts about caring for animals. They  
25 give BOCES a little power outlet for their

1 students. They offer work programs, computer  
2 service options for Suffolk County, Southampton and  
3 Riverhead towns.

4 This is not a condo developer looking  
5 for a 32-inch variance in protecting an  
6 environmentally depressed area. Kent is a highly  
7 visible, multi-tasking, community service provider  
8 which has painstakingly taken into account its  
9 affect upon the land on which it is situated, and  
10 which has offered remediation where requested and  
11 required.

12 The improvements being presented to the  
13 much needed facility is already intimately better  
14 as an environmentally aware alternative to the  
15 institution as it stands and it should be granted  
16 permission to rebuild its state-of-the-art  
17 adoption, training and education center.

18 Thank you for your time.

19 MR. PAVACIC: Marc Gonzalez? Is there a  
20 Mark Gonzalez in the audience?

21 Leola Gonzalez?

22 MS. GONZALEZ: Yes.

23 MR. PAVACIC: Please be sworn and give  
24 your name and address to the Reporter.

25 Whereupon,

LEOLA GONZALEZ,  
after having been first duly sworn, was examined  
and testified as follows:

MS. GONZALEZ: I am Leola Gonzalez. I live in Shirley and we have only lived out east for the last eight years. We lived in Nassau for 37, and I have had cats for 30 years.

Three years ago my last cat passed away and two neighbors told me about Kent, one of them had gotten cats, the other one several dogs. So my first impulse was to go to Kent and see what they have. On the first, very first visit, I was so impressed with the way they care for their animals, the volunteers and the staff there could tell me the name of every cat in that cattery there, and since we adopted our last cat from Kent, approximately every month we go there to visit. I bring cat food there to help them out.

In the past, I have been to places like North Shore Animal and Bideawee Home and I don't think they can begin to compare with what Kent is doing. I can only speak for the cats, I am really not a dog person so I only know about the cattery, but the volunteers are so warm and caring and the facilities are always so well kept and I would

1 never think about adopting any animal from any  
2 place other than Kent.

3 Thank you.

4 (Applause.)

5 MR. PAVACIC: The next speaker is  
6 Charles Tyrone, and I apologize if I mispronounced  
7 that. Charles Tyrone?

8 (No response.)

9 MR. PAVACIC: The next speaker, Anita  
10 Cafferty.

11 Whereupon,

12 ANITA CAFFERTY,  
13 after having been first duly sworn, was examined  
14 and testified as follows:

15 MS. CAFFERTY: My name is Anita  
16 Cafferty. I have been an advocate of the Kent  
17 Animal Shelter for over 35 years. I am also a  
18 humane educator for the SPCA down in Florida.

19 I want to offer you, I realize it's  
20 late, but I am going to give you one geometric  
21 progression as to how important Kent is to public  
22 welfare. One cat, female cat unspayed, in the  
23 course of a year will have three litters. Usually  
24 there are six kittens in each litter. If you take  
25 half of them and say from that one cat within one

1 year, you now have nine females cats, and do the  
2 geometric progression -- I am sorry, I am a retired  
3 music teacher and I only go up to four, but if you  
4 continue down the line, you will get approximately  
5 450,000 kittens that will be produced from one  
6 unspayed female. If that isn't a public welfare  
7 boom, I don't know what is.

8 Thank you very much.

9 (Applause.)

10 MR. PAVACIC: Charles Kimpone, is that  
11 person present?

12 (No response.)

13 MR. PAVACIC: The next speaker is Angela  
14 Cheoning, Smithtown Hunt, is that person present?

15 (No response.)

16 MR. PAVACIC: The next speaker is  
17 Margaret Harman.

18 (No response.)

19 MR. PAVACIC: The next speaker is Joel  
20 Harman.

21 (No response.)

22 MR. PAVACIC: Joel Harman?

23 (No response.)

24 MR. PAVACIC: John Swanson?

25 (No response.)

1 MR. PAVACIC: John G. Macri?

2 | Whereupon,

JOHN G. MACRI,

4 after having been first duly sworn, was examined  
5 and testified as follows:

6 MR. ROMAINE: Where do you live, sir?

7 MR. MACRI: New Hyde Park, New York.

8 I have come to know Kent Animal Shelter  
9 for three years and I have great respect for the  
10 work they do. My only statement here today is if  
11 you look at the existing facility as it stands  
12 today, we are talking about improvement; we are  
13 talking about making it a better facility, but not  
14 only for the environment, for the animals as well  
15 and somebody has to speak up for these animals.  
16 There is so much atrocity in this word for animals,  
17 and they do such a spectacular job, not only in  
18 adoption, but also for the environment.

19                   If you just look at this logically, you  
20 are talking about a facility that we have all  
21 admitted is in trouble, it has concerns  
22 environmentally, and you are improving it  
23 dramatically. Maybe they won't have the top of the  
24 line infiltration system, but it's going to be a  
25 dramatic improvement. So I appeal to your logic

1 and take the time and approve this.

2 Thank you.

3 (Applause.)

4 MR. PAVACIC: Deb Bauer?

5 Whereupon,

6 DEB BAUER,

7 after having been first duly sworn, was examined  
8 and testified as follows:

9 MR. PAVACIC: What hamlet do you live  
10 in?

11 MS. BAUER: I live in Ridge.

12 I didn't even realize I signed the sheet  
13 that said I would speak, but I am happy to do so.

14 I have lived out here for about 16 years  
15 and have adopted several animals through the Kent  
16 Shelter. I have also adopted animals from, like  
17 others have said, just to reiterate I believe Kent  
18 has a superior facility with respect to any other  
19 shelter I have seen.

20 I volunteered there briefly, but with  
21 eight animals I already own, I have to spend my  
22 time taking care of them. I am also an  
23 environmentalist. I am very much interested in the  
24 Pine Barrens work, in preserving them, but again, I  
25 agree with the others who have said that.

1       Expanding this shelter is a benefit for everyone  
2 and I don't think that it really poses negatives  
3 any negative effect on the environment that should  
4 stop the expansion.

5               I am just offering my support and hoping  
6 that this approval is given for this project.

7               Thank you.

8               (APPLAUSE.)

9               MR. PAVACIC: The next speaker is Naomi  
10 Rossi.

11 Whereupon,

12               NAOMI ROSSI,  
13 after having been first duly sworn, was examined  
14 and testified as follows:

15               MS. ROSSI: Thank you for having me  
16 here.

17               MR. PAVACIC: Where do you live?

18               MS. ROSSI: I live in Mount Sinai.

19               I wasn't going to speak, I had no plans  
20 unless my buttons were pushed. They were.

21               They said feral cats are an unbelievable  
22 problem, and therefore should be prepared to  
23 litigate against people who feed feral cats. It is  
24 like an army of cats out there. You could say  
25 goodbye to squirrels, to chipmunks, I had a fish

1 tank out there, that would be gone, too.

2                   People that feed these animals have  
3 absolutely no insight. They are totally lacking.  
4 The people who thought it was really nice to have  
5 them, they took the females down to the shelter to  
6 be killed. The males were okay, they could stay.

7                   The Kent Shelter I am not that familiar  
8 with, but it seems they do a really necessary job.  
9 As far as the dogs go, they are not there because  
10 they put themselves there, they are there because  
11 somebody did not do their job. Even if you die and  
12 leave the dog, it is your responsibility to make  
13 provisions for them in the case of a death. I have  
14 already done that for my dogs.

15                  I ask you to not so much lead with your  
16 heart a little but to give them a chance. These  
17 are living creatures that we are responsible for.  
18 If you look at history, man created the dog, made  
19 him what he is today.

20                  (Applause.)

21                  MR. PAVACIC: Karen Blumer.

22                  Whereupon,

23                  KAREN BLUMER,

24 after having been first duly sworn, was examined  
25 and testified as follows:

1                   MS. BLUMER: My name is Karen Blumer. I  
2 am speaking today on behalf of the Open Space  
3 Council which is a member of the Commission, the  
4 Pine Barrens Advisory Committee. We do believe that  
5 the proposed doubling of the size of this building  
6 does set a bad precedent for the future and the  
7 integrity of the Pine Barrens. However, we also  
8 believe that should you allow this facility to  
9 continue to so heavily impact the Pine Barrens'  
10 water quality, that may negatively create a much  
11 worse precedent. So we are, therefore, urging the  
12 Commission to approve this application, but only  
13 after major considerations and changes are made to  
14 the application as it appears before you, and  
15 that's especially true in the area of the  
16 wastewater treatment system and then the geological  
17 restoration.

18                   First, waste-water treatment: The  
19 currently proposed septic tank and troubled  
20 leaching pools are leaking and are unacceptable.  
21 This is virtually the same failed technology, maybe  
22 a hair better than what we have now, it's just  
23 moved back a little further. We are recommending  
24 instead that you ask the applicant to look at three  
25 different systems that we feel might be appropriate

1 and fit into a cost-benefit situation for Kent.

2                   The first one is the nitric. It is  
3 known to have a nitrogen flow that is low, two  
4 kilograms per liter. I am not sure that this would  
5 be appropriate for Kent, but I think it's  
6 worthwhile to look at. The price that someone gave  
7 today is nothing that I have heard for nitric.  
8 It's way too high.

9                   The second system is the Clevest  
10 Smeltering System, commercial size. It's a compost  
11 and water system which is close to the ground.  
12 Therefore, there are zero effluents, zero  
13 retribution, zero pharmaceuticals, zero dog waste  
14 going into the water. It has a conventional hose  
15 which uses gravity and a minuscule two ounces of  
16 water in some of the system's flow to collect  
17 waste, which is in the compost unit. The results  
18 from compost material is managed and collected  
19 either under an agreement with Clevest or by the  
20 facility itself.

21                   The Clevest system we chose because of  
22 its known track record in treating pet wastes. For  
23 example, Clevest has designed and installed their  
24 system for the INS Homeland Security facility in  
25 Laredo, Texas where there are a minimum -- it

1       routinely houses no less than 30 dogs. It has  
2       operated successfully, composting all dog waste  
3       which are systematically shoveled into the Clevest.

4               The current proposal Kent has is for a  
5       larger facility which would, in fact, enable dogs  
6       to be inside, rather than out, closer to the river,  
7       so it would be easier to collect their waste.

8               With the Clevest system you have the  
9       wastewater and the greywater being separated. The  
10       greywater is run, say, from showers and so forth.  
11       So, to that end, the greywater system that is used  
12       by Clevest is similar to that being proposed in the  
13       current application before you and that is where  
14       they discuss storm water runoff being dry well  
15       leaching galleys. Although dry wells are obviously  
16       the best manner for managing storm water, they are  
17       totally inappropriate for this site due to its  
18       closeness to the water table, and to the river.  
19       Instead, treatment of greywater wells is to be  
20       considered to be done as a component for our third  
21       suggestion, and that is John Todd's Eco-Machine.

22               John Todd, as probably some of you know,  
23       is a biologist for Massachusetts. He has been  
24       working on wastewater treatment through initiative  
25       systems where the biology of the plants actually

1 does all the work treating nutrients and waste.  
2 They customize their designs for every site and it  
3 would be customized for the ecology of the Kent  
4 Animal Shelter. It could act actually either as a  
5 polishing vehicle for the greywater in the compost,  
6 if the Clevest is decided on, or it could treat  
7 everything.

8 The Eco-Machine from Todd is operating  
9 world wide. I just toured one of the Omega  
10 Institution's facilities in Rhinebeck, New York.  
11 The system they had there was beautiful. It was  
12 small and very sustainable. Apropos of Kent,  
13 Todd's Eco design was done with the Audubon  
14 Society's Corkscrew Sanctuary in Naples, Florida.  
15 There it keeps the tropical plants, native to the  
16 site. Here, along the Peconic area, there is a  
17 huge area with wetland species available, ranging  
18 from sun carriers to wetland ferns and so forth.

19 Of particular concern though is the  
20 coast. At Corkscrew Swamp, we used the vegetating  
21 treatment and we visited and it is truly beautiful.  
22 Since Pam was talking about a state-of- the-art  
23 facility, the term is "state-of-the-art" wastewater  
24 facility, and this is one. In Corkscrew Swamp the  
25 vegetated treatment system, they found, costs

1 substantially less than the conventional systems --  
2 something very important for you to consider, to  
3 make sure that these alternatives are considered.

4 So there has been discussion about the  
5 Suffolk County Department of Health which has  
6 already given its permission for the standard  
7 system. Well, Open Space Council is a member of  
8 the Long Island Commission on Aquifer Protections,  
9 Wastewater Treatment Subcommittee. We have been  
10 working with the Health Department and it's truly  
11 in the dark ages. I have been there and they are  
12 coming into this age because of the urgent need for  
13 alternative systems such as this. This is the  
14 opportunity. You have, the power to actually ask  
15 the applicant to consider a more appropriate  
16 system. Again, we find what they are proposing to  
17 be unacceptable.

18 The other issue is the restoration of  
19 the shoreline. The current proposal by the  
20 applicant submits a planting plan to restore the  
21 bulk of the River by planting in plants. We are  
22 asking that they do not continue this proposal and  
23 instead require an approach consistent with your  
24 own currently draft amendments that promote the  
25 self-healed approach and breeds in those first

1 amendments. Restoration has had guidelines; they  
2 are required to be used as a first approach and  
3 ecologically no plant planted where feasible. We  
4 commend the Commission actually for putting that  
5 very courageous and far-seeing measure into the  
6 draft end of this to ensure essentially the terrain  
7 around the Pine Barrens.

8 To the issue of where feasible, I have  
9 looked over the Kent site. This is a perfect site  
10 for a self-sealed approach. It is very degraded  
11 and it's been over used; however, the amount of  
12 native plant materials that will be coming into  
13 that is everywhere around the site. So, besides  
14 that -- well, in the process that is going to  
15 happen, with respect to the raising of natives, it  
16 would be in and along the river bank, as discussed  
17 earlier, and with it a mix of the natives. The  
18 monetary would be front ended so that in the  
19 beginning a lot of natives would appear and would  
20 be removed physically, leaving the natives to  
21 restore the shoreline.

22 The self-seal approach will also be more  
23 effective to Kent. First, the purchase of native  
24 plants which was mentioned earlier wouldn't have to  
25 be done. Second, there are already four or five

1 consultants, including functional professionals who  
2 are here today who have already volunteered to  
3 carry out the work pro bono for the five years  
4 required. So along with monitoring itself, at  
5 least three of the professionals have volunteered  
6 to help develop self-healing restoration guidelines  
7 because for the Commission to require a healthy  
8 approach without guidelines is truly absurd. So  
9 those three professionals would help, working with  
10 the Commission staff, if the Commission orders are  
11 requested.

12 So, in closing, we see where a precedent  
13 regarding size must be weighed against the current  
14 leaching into the environment and its promise to  
15 certain measures that we are recommending to be  
16 taken by Kent, and also we would be happy to  
17 protect and preserve the hydrologic functions of  
18 the Pine Barrens. In our estimation, we find that  
19 it would impossible for the Commission, we find, to  
20 permit, for example, what amounts to redevelopment  
21 or reconstruction what amounts to new development  
22 at ATR's new wastewater treatment plant, which is  
23 now an application for at least the Town of  
24 Brookhaven -- I don't know if it's come before you  
25 yet, but it will -- to approve that kind of

1 reconstruction, it's like the reconstruction of the  
2 Kent Animal Shelter.

3 Those are the changes recommended for  
4 some of the things that we have mentioned. It  
5 offers benefits to the river so far greater than  
6 the one that exists.

7 Thank you very much.

8 MR. WALTER: Ms. Blumer, are you  
9 familiar with Lois Garrity from Riverhead?

10 MS. BLUMER: Yes.

11 MR. WALTER: She is doing something --  
12 because I want to flush this out -- she has asked  
13 the Town of Riverhead to embark on a urine  
14 collection program and so I recently wrote a letter  
15 saying that the Town of Riverhead would embark on  
16 the urine collection program and we have actually  
17 had, I call it the "test-tube toilet," they call it  
18 something else, and we are going to give them these  
19 portable toilets to collect urine to retrofit,  
20 because I think in order for this project to move  
21 forward with the reduction of nitrogen, this is  
22 key. I am in agreement the subject that the Health  
23 Department is in the dark ages on treatment, but my  
24 colleagues agree with me as well, to the left.

25 So my question is: If we get to the

1 point where we came up with the installation, I am  
2 familiar with the Quadricks toilets, I spend a lot  
3 of time in the Adirondacks. We came up with a  
4 recommendation where all the urinals and all of the  
5 toilets inside the building for the facility are  
6 Quadricks toilets and that's probably a lot cheaper  
7 than putting in a septic system, and some day even  
8 maybe we can have a collecting system -- sorry  
9 guys, we might be collecting urine if we involve  
10 those methods, but then still, for some obvious  
11 reasons, still had to use a septic system for --  
12 you are still going to have water discharge -- the  
13 County still -- they want to build this.

14 It could be 10 more years before the  
15 County, at least a couple of more years before the  
16 County Authority approves anything, but if we came  
17 up with sort of a modified approach so that we have  
18 Quadricks toilets and things like that, the urine  
19 collection system and then would still have a  
20 sanitary for certain things that we had to, would  
21 that suffice, in your opinion, as to the right way  
22 to go on this?

23 MS. BLUMER: I think you really have to  
24 look at the site itself, because the water table is  
25 so high. The urine collection might help, but the

1       urine is used for uses, for fertilizing. And so I  
2       absolutely would say that it should be one of the  
3       things considered with some of the new systems,  
4       because even though the Health Department has been  
5       reluctant to approve some of these things, they  
6       will approve a pilot under certain conditions. So  
7       they have agreed to approve leaves for a fairly  
8       large facility which may not be built, so I do  
9       think yes, that the Commission should ask the  
10      applicant to explore some of these other systems  
11      that would be far more effective than what they  
12      have benchmarked. The technology can be improved.

13                    MR. WALTER: And at cheaper a price.

14                    MR. PAVACIC: Mr. Amper?

15       Whereupon,

16                    RICHARD AMPER,  
17       after having been first duly sworn, was examined  
18       and testified as follows:

19                    MR. AMPER: I am Richard Amper,  
20       Executive Director of the Long Island Pine Barrens  
21       Society, 548 East Main Street, in Riverhead.

22                    Let's talk about what we agree about  
23       first. All of the evidence suggests that the Kent  
24       Animal Shelter is doing a great job of protecting  
25       animals. Their services are respected, they're

1 placing a lot of animals in homes, many saves for  
2 feral cats. All of the people who came here to  
3 stand up for them should be proud of themselves for  
4 standing up for an institution that they think is  
5 providing an important public service, and I agree  
6 with them. Let there be no mistake about that.  
7 The issue is not a question of whether or not Kent  
8 is providing a useful and important public service.

9                   Let's talk about the testimony we just  
10 heard. We will start with the last one first: So  
11 much of what was being said unfortunately doesn't  
12 matter.

13                   Mr. Walter, you had a conversation with  
14 Ms. Blumer about a particular type of toilet. She  
15 had gone on for a considerable period of time on  
16 how we might improve water quality if we did things  
17 in a different way, but even if we did, you all  
18 know that that is not the standard on which we  
19 grant hardship waivers in the core preservation  
20 area. We don't say that you may have a hardship if  
21 you will do a better job protecting water than you  
22 were doing in the past. It's not in the statute,  
23 and as much as I like animals, I am also concerned  
24 about water quality for people.

25                   The core preservation area is not

1 supposed to have development in it all because  
2 beneath it lies the purest supply of drinking water  
3 in the State of New York, and Long Island is  
4 inflicted by a terrible problem of water  
5 contamination. Let's talk about some of the things  
6 that have been said and see if there is anything we  
7 can agree that we can do instead of the things that  
8 we can't.

9                   It doesn't matter where the Pine Barrens  
10 boundary is drawn, it had to be drawn someplace,  
11 there is no dispute as to where it was drawn. The  
12 facility acknowledges that it doesn't meet the  
13 current Suffolk County Department of Health  
14 standards, that wastewater pollution is currently  
15 occurring in the river as a result of the facility.  
16 First of all, that does not demonstrate current  
17 environmental responsibility, but the idea that we  
18 could build another cesspool, doubling the amount  
19 of nitrogen that goes into the water, but moving it  
20 200 yards further away from the river, all of you  
21 know doesn't change the groundwater contamination  
22 problem; it makes it worse. So it don't matter.

23                   We are here not to decide what they  
24 could do or could not do. That's pointless. It is  
25 to determine whether or not it meets the standard

1 for a waiver, and I want to say something to the  
2 members of the Commission that I mean from the  
3 bottom of my heart: These people are going to be  
4 disappointed if you don't approve this waiver and I  
5 want them to know that it's not your fault if you  
6 don't.

7 (Audience interruption.)

8 MR. PAVACIC: Folks, please don't. Let  
9 him speak.

10 MR. AMPER: This is heading for a long  
11 night, so let's all be calm and patient.

12 I want to explain for the benefit of the  
13 people who came out here to support Kent why, if  
14 you disapprove this project, you are not  
15 disapproving Kent. You are not disapproving their  
16 views or dismissing their views. It's that you are  
17 obliged to follow the state law that was created  
18 long after the Fresh Water Act, long after the DEC  
19 regulations on Wild Scenic and Recreational Rivers  
20 Act, because we weren't protecting the water we  
21 drink. We have hundreds of thousands of fish  
22 washing up on our beaches. We have brown tide,  
23 gray tide, moss tide. We are closing beaches  
24 because we can't keep the water clean and the state  
25 legislation decided in 1993 to make one place

1 protective of that water to the exclusion of  
2 everything else, even from people doing important  
3 public things like taking care of our pets.

4 I am not saying that this Board should  
5 not, Ladies and Gentlemen, grant the approval, I am  
6 just saying that it cannot. It may want to do it,  
7 but the law was written in such a way that there  
8 are only two ways to get that waiver: You have to  
9 demonstrate that you don't have any beneficial use,  
10 and you can't, or you have to demonstrate not just  
11 that it's a public service, but that it creates a  
12 public health need that cannot be met anywhere else  
13 or anyplace else. You have to show that the public  
14 is in danger if it's not built in the core area of  
15 the Pine Barrens, and they can't do that.

16 So these people are stuck. They have no  
17 fault, they are finding no fault with Kent, but  
18 they are looking at the law that they swore to  
19 uphold, all of the supervisors in this town took an  
20 oath of office and it says they would swear to  
21 uphold the laws of the State of New York. They are  
22 all only sitting on this panel because the statute  
23 says that the supervisor of those three towns must.  
24 So the laws of the State of New York need to govern  
25 what they are doing. If they vote to disapprove

1 that because they have to obey the law, you can't  
2 blame them because -- I am being pushed, but they  
3 don't care about the laws.

4 I would like to speak to that because  
5 Pam Green spoke earlier and she said earlier that  
6 this is not about cute puppies; I am somehow  
7 offended by that suggestion. I don't want to get  
8 into an argument about cute puppies, but that's the  
9 argument I am getting. In the phone calls I am  
10 getting, those folks seem like they -- they feel  
11 the same way I do about this kind of facility, but  
12 they are saying, "Come on, can't we put the puppies  
13 first. Don't you care about the cute little  
14 puppies?" Those are the phone calls that I get.

15 The answer is, I can't. First, because  
16 I am more concerned about the water that Long  
17 Island is drinking. Second, because the granting  
18 of this permit would be to break the law, and I  
19 won't do it and I don't think those people should  
20 either.

21 This is described, the septic system to  
22 be installed, as state of the art -- I'm afraid  
23 not. It's not just that. Mr. Romaine was right,  
24 particularly the system that they were talking  
25 about that has been approved for use. There is

1 nothing in the law that says even if you did that,  
2 this Commission could approve the way. No, this is  
3 a big septic system. It will build twice the  
4 amount of effluent. It will take a little longer  
5 to reach the river, but indeed it will.

6 The Council of Suffolk County is  
7 committed to eliminating 350,000 septic systems  
8 because they're polluting the drinking water on the  
9 surface. Putting in another one is moving in the  
10 wrong direction. The fact that the Suffolk County  
11 Department of Health Services certifies and  
12 qualifies these, doesn't matter because they know  
13 it doesn't work. We have been using these systems  
14 for thousands of years, hundreds on Long Island,  
15 and we are suffering the biggest environmental  
16 public health crisis in the history of Long Island  
17 because putting wastewater in the ground water  
18 hurts us all. So we found one place on all of Long  
19 Island where we don't put contamination in the  
20 water and we designate it as the core preservation  
21 area of the Pine Barrens where we said: "Thou  
22 shall not build there."

23 Somebody said that this Commission has  
24 the authority to waive the strict compliance with  
25 the law and use its own judgment, and indeed it

1 does. In the compatible growth area of the Pine  
2 Barrens the people sit under here and say, "Yes,  
3 but" ... but not with the core preservation area.  
4 That discretion is gone. The core preservation  
5 area is so important to the protection of the  
6 groundwater that the Commissioners have no  
7 authority except to determine whether an applicant  
8 has beneficial use and whether the public health  
9 will be threatened if it's not this service, if it  
10 is not supplied in the core area of the Pine  
11 Barrens -- not outside, not on a piece of the  
12 Grumman property, which I have suggested to them,  
13 to the Supervisor of Riverhead, which I have  
14 suggested to the Supervisor of the Town of  
15 Brookhaven and to the Town of Southampton, let's  
16 find a place where they can do these things without  
17 doing the bad things.

18 So people came out here not particularly  
19 knowledgeable about the law, and they said: How  
20 about we don't grow, we move it. I believe,  
21 because I am harassed by Riverhead all the time  
22 about the use of the Grumman property: How about a  
23 senior center out there, it's barely used. This  
24 site is going to be used. Come on, son, give them  
25 the land that they need. Come on hand them, come

1 on and let's find a place for them. Let's not just  
2 say "no." You have to say no to the waiver, but  
3 you don't have to say no to Kent.

4 There is a solution and I don't know  
5 whether the supervisors won't do it or whether Kent  
6 won't do it. Talk about this. There's a solution  
7 to this. It isn't either/or, you can have clean  
8 water and we can have healthy pets.

9 Counsel for Kent may have spoken. The  
10 laws invoke the premise already granted by other  
11 levels of government. Those are the levels of  
12 government where I'll say it's okay with us, but  
13 the state legislature unanimously said: Those laws  
14 aren't enough, they are not protecting our rivers,  
15 our bays, they are not supplying pure drinking  
16 water for our children and our grandchildren.  
17 Those laws aren't working so we need a stronger  
18 law. We need something to say we cannot continue  
19 to use the land the way we have used it in the  
20 past. We're choking on it.

21 Yet one place we have to say that the  
22 pain stops here. We have to say this is the last  
23 place we can get pure water. There is nothing we  
24 can do there unless you can demonstrate to the  
25 members of the Commission that there is a public

1       health threat that cannot be resolved by the  
2       standard facility or building a new facility in the  
3       core preservation area, which we are all fighting  
4       to the death.

5                   The Kent Animal Shelter, does not meet  
6       the explicit requirements they would need to allow  
7       them to plan for an extraordinary hardship; that  
8       would prevent them from undertaking development --  
9       this is development -- in the core preservation  
10      area of the Pine Barrens. Legal proscriptions have  
11      been listed in front of the documents that we have  
12      supplied. At the March 18, 12015 hearing on the  
13      Kent application, it is clear that Kent could not  
14      meet the requirements and had no beneficial use of  
15      the property, absolutely no claim of extraordinary  
16      hardship. So at the insistence of a Commission  
17      member Kent changed its claim to one of compelling  
18      public need or public health and safety.

19                   The Pine Barrens Act grants little  
20      discretion to the Pine Barrens with respect to the  
21      core preservation area with regard to hardship;  
22      instead, the Act provides explicit criteria which  
23      was made in 7021, which everybody should know.

24                   Counsel for Kent simply said there would  
25      be no precedent setting for others if you grant the

1 application. If an applicant can merely win a  
2 waiver by claiming it will improve on the core  
3 preservation area, everybody will say, "We can  
4 improve on it," and maybe they can, but  
5 unfortunately there is nothing in this law that  
6 says that if you can make it better than the  
7 horrible description -- and I had no idea this much  
8 contamination was going on and that should be  
9 stopped no matter what -- but just saying "we will  
10 be able to improve on that," doesn't allow this  
11 board to grant the waiver. It's not another rule,  
12 it's the law.

13 A compelling public need under the Pine  
14 Barrens statute was altered in 2005 because there  
15 was some active specificities of what that meant,  
16 what did "compelling public need" mean? The  
17 chapter amendment promised that only a public  
18 health and safety need could justify a core  
19 preservation area, the Pine Barrens statute says  
20 explicitly public health and safety provision  
21 "applies generally only to public agencies, such as  
22 LIPA, school districts, ambulance districts and  
23 municipalities and is only granted in extraordinary  
24 circumstances demonstrating public and health  
25 safety."

1                   How do they meet that application? How  
2 is that obeying this law? This argues its program  
3 of spaying feral cats meets these requirements for  
4 an exemption based on public health and safety.  
5 That's what you should learn, that's what they do,  
6 because feral cats can infect humans with  
7 toxoplasmosis. There is not one scintilla of  
8 evidence that feral cats pose any significant  
9 incidence of toxoplasmosis anywhere in Suffolk  
10 County let alone in the Pine Barrens -- none.  
11 Toxoplasmosis is spread mostly by insufficient  
12 cooked food and feral cats affect human beings with  
13 toxoplasmosis less than domestic cats because they  
14 avoid human contact, feral cats -- and there's no  
15 evidence that these domestic cats present a  
16 significant human health threat through the spread  
17 of toxoplasmosis.

18                   The American Bird Conservatory told us  
19 that Kent spaying and neutering program, quote,  
20 "won't make a difference because the feral cat  
21 population is so high that the trap-neuter-release  
22 program can't even maintain the existing population  
23 let alone reduce them." You heard people come here  
24 and tell you about how many cats or additional cats  
25 are produced by every cat. If they spay a thousand

1       cats, if they spay 10,000 cats, it couldn't make a  
2       difference in the geometric world of feral cats,  
3       and many of those who trap additional feral cats  
4       know and understand the disease is spread by  
5       contact with their solid waste. People don't  
6       mention pregnant woman are more likely to encounter  
7       the solid waste from the domestic cat living at  
8       home than a feral cat who is running the other way.  
9       This was absolutely contrived, in my opinion, at  
10      Mr. Walter's suggestion and, sure enough, okay, we  
11      will go with public beneficial use and compelling  
12      public need. Not even good advice.

13           Even if this claim had been true, there  
14      is no showing that such spaying can only be  
15      provided in the core preservation area of the Pine  
16      Barrens. There are other the boundaries, the CGA,  
17      go there; go to PET CAL. The options are  
18      limitless. Finally, development of this core  
19      preservation area of the Pine Barrens is  
20      prohibiting in a large degree protection of the  
21      underlying groundwater, which is the purest in the  
22      State of New York. So public health and safety are  
23      much better served by ensuring the continued  
24      protection of the core preservation area of the  
25      Pine Barrens than permitting expansion of the Kent

1 Animal Shelter which is already engaged in  
2 pollution.

3 Kent's application for a core  
4 preservation area extraordinary hardship waiver was  
5 initially based upon this fallacious contention  
6 that it would have absolutely no beneficial use of  
7 the property without granting of the waiver. Kent  
8 has since added a public health claim too, at  
9 Commissioner Walter's urging. Riverhead Supervisor  
10 Sean Walter, a Commissioner who asks to sit in  
11 judgment of this application and a lawyer in  
12 private practice, interrupted the applicant's  
13 presentation in March on the no beneficial use  
14 claim. He urged the applicant to seek relief under  
15 the compelling public need, public health and  
16 safety criteria. He advised Kent's attorneys,  
17 asked leading questions of Kent's management and  
18 urged that we visit and virtually admitted that he  
19 was out of order in doing so. The transcript shows  
20 improper participation. It is available for the  
21 Commission's review.

22 I have written to Mr. Walter and the  
23 other members of the Commission, demanding that he  
24 recuse himself from voting on the core preservation  
25 area extraordinary hardship application for the

1 Kent Animal Shelter because he acted improperly and  
2 biased this Commission and prejudged the  
3 application and if he refuses to do so, we have  
4 asked Commission's counsel to require him to recuse  
5 himself.

6 In an memorandum of support of the  
7 application by Kent's counsel, they say: "The  
8 proposed development project appropriates  
9 improvements in the infrastructure and the  
10 landscaping which, in turn, improves the  
11 environmental conditions on the site and would  
12 improve the Peconic River." The wastewater system  
13 proposal merely meets the minimum standards  
14 required by government and its distance from the  
15 river only delays not prevents contamination. Kent  
16 cannot demonstrate that the relocation and  
17 upgrading of a septic system like this will result  
18 in improved water quality, not the intensity of use  
19 and the amount of effluent that goes into the  
20 system will increase it. Even if it reduces it, it  
21 doesn't meet the requirements.

22 Let's talk about the precedent: When it  
23 came to asking Kent to build a new facility outside  
24 of the core preservation area -- possibly not one  
25 that is required by the Pine Barrens Act -- it

1 would be to reduce the clear intent and the  
2 language of the law by approving the Kent  
3 application and thus opening the door for other  
4 developers to abuse the Pine Barrens Act for their  
5 purposes. That is our greatest concern. Public  
6 health and safety isn't toxoplasmosis, it's not  
7 feral cats for the CGS hardship. It doesn't qualify  
8 for a core area hardship. It provides items used  
9 for health and safety. How about a county health  
10 clinic or establish a 250 bed assisted living  
11 complex?

12 It's clear that merely because a  
13 facility claims to provide for the public health  
14 and safety, that is not a reason for the granting  
15 of a core preservation area extraordinary hardship  
16 waiver. To qualify, that service must be supplied  
17 by government or other public agencies and we  
18 believe no public health service is being offered  
19 in the application anywhere. Any qualified public  
20 health and safety need would have to show that such  
21 service cannot be provided anywhere but in the core  
22 preservation area, that's not the case. Marty  
23 knows that's not so. Andy knows that's not so.  
24 Sean knows that, Ed knows that, Anna knows that.  
25 How can you make them say they don't know something

1       they know or that they can't read something they  
2       can read?

3                   We are not asking this Commission to  
4       thumb their nose at cute little animals. Instead,  
5       we are asking for you to defend the law, protect  
6       the Island's purest water supply and disapprove the  
7       Kent application because it doesn't meet the  
8       requirements for an extraordinary hardship and its  
9       approval would create a bad precedent for future  
10      core preservation area applications. The  
11      Commission remains, but I think you're only doing  
12      Kent a negative favor by approving the hardship  
13      knowing that the matter will be ultimately  
14      litigated. However, it is not doing its legal  
15      homework and doesn't understand that in the Pine  
16      Barrens Society we are waiting so we can overturn  
17      the illegal determinations where they have  
18      occurred.

19                   The courts are not going to use the  
20      emotional arguments that have been made for the  
21      tremendous genuine caring of all of these people --  
22      it can't. It knows the law every bit as well as  
23      the members of this Commission. It will look down  
24      at the application and say: Does the applicant  
25      have any beneficial use and is it a government

1 agency that is providing for the public health and  
2 safety that can only be provided for in the core?  
3 And they're going to say "No, it does not."

4 So, please, the more important need of  
5 the facility is to keep up and providing the  
6 services they're providing. It's to find a way of  
7 their doing it legally and responsibly and where it  
8 does not compromise drinking water and service  
9 water quality on Long Island. They are all  
10 entreating you to vote a certain way. I am  
11 entreating you to solve the problem the only way it  
12 can be, and that is let us ensure that they can do  
13 this in a place that they are allowed to do it.

14 Thank you very much.

15 MR. GRUDER: Can we have a brief recess  
16 to rebut to Ms. Blumer. As the applicant, I don't  
17 know how this board generally operates, but my  
18 experience is the applicant usual gets at least a  
19 brief opportunity to rebut some of the comments in  
20 opposition, with respect to the board.

21 MR. PAVACIC: You can go ahead.

22 MR. GRUDER: Thank you very much.

23 That was 30 minutes -- I didn't time it  
24 but that was 30 minutes of -- coming from Brooklyn,  
25 what I would call "bull." (Applause.)

1                   I have the statute in front of me. On  
2 behalf of the applicant we respectfully request  
3 that Commissioner Walter stay on this Commission.  
4 If counsel wants to make any motion that's been  
5 requested of counsel, I have appeared and practiced  
6 zoning in this county for 23 years. I have  
7 appeared before this Commission, I've appeared  
8 before numerous boards throughout not only Suffolk  
9 County but Nassau County, and I have repeatedly  
10 seen members the boards who are public servants  
11 attack me. There is a reason the supervisors of  
12 those three towns are on this Commission, because  
13 those affect the public in those towns. I have  
14 read the transcript, with all due respect, I am an  
15 attorney and I didn't any problem with what Mr.  
16 Walter said at the hearing in March of 2015.

17                   Now, Mr. Amper wants you to believe that  
18 only LIPA or municipalities can come before this  
19 board and get an exception in the core area; that  
20 is false. Section 10 570121(b) states: "Any  
21 person, the state or public corporation." That is  
22 not limited to the state or a public corporation.  
23 The very first two words are "any person" in the  
24 core preservation area may apply for a hardship.  
25 So that is not limited to municipalities. That is

1 a false statement.

2 It's repeated later on in section 10B,  
3 the first two words are: "A person," then it says  
4 "the state or a public corporation shall be deemed  
5 to have established compelling public need if the  
6 applicant demonstrates, based on specific facts,  
7 one of the following:" I will discuss, I am going  
8 to read subsection 9 and subsection 2 that talks  
9 about historical redesignations, which does not  
10 apply. So twice in this statute it permits a  
11 person to come before this Commission and get an  
12 exception to the standards of the core area.

13 You do have the authority. You don't  
14 for one second be fooled by Mr. Amper's comments  
15 because you have the statutes, your counsel can  
16 give you the statutes and now I am going to read  
17 you the statutes. By the way, the phrase "public  
18 health threat" does not appear in the statute. Mr.  
19 Amper wanted to use that phrase five times, it does  
20 not appear in the statutes. Here is what the  
21 statute says, for the record:

22 "The proposed development will serve an  
23 essential health or safety need of the municipality  
24 in the Central Pine Barrens." I am going to stop.  
25 "Will serve as an essential health or safety need

1 of the municipality in the Central Pine Barrens."  
2 It doesn't say the essential health or safety needs  
3 of the core area. It says "of the municipality."  
4 Well, one of the municipalities in the Central Pine  
5 Barrens is the Town of Riverhead. We have  
6 established that this proposal by the Kent Animal  
7 Shelter will serve as an essential health or safety  
8 need, and I am not going to regurgitate all of  
9 that. That the public benefits from the proposed  
10 use are of a character that overrides the  
11 importance of the protection of the core  
12 preservation area as established in this title.

13 You have heard the public benefits. I  
14 don't mean the public benefits because of  
15 controlling the feral cat population, but also the  
16 public benefits by improving the sanitary and storm  
17 water effluents in that small, little area on the  
18 northern boundary of the core preservation area.  
19 So not only does the public benefit here override  
20 the importance of the protection of the core area,  
21 but I said in my original presentation, which I  
22 thought about a long time before I wrote it down  
23 and read it to you, the public benefits are  
24 consistent. They don't override, they're  
25 consistent with the protection of the core

1 preservation area.

2 It's been a long evening. I am going to  
3 conclude. You have heard all the testimony, but  
4 let's make one thing very, very clear, there are  
5 exceptions in the core area. The public can apply  
6 and you have the right, under these facts, to grant  
7 the hardship based on compelling public needs. On  
8 behalf of my client, we respectfully submit that we  
9 have met that burden very, very clearly and, again,  
10 we respectfully request that you grant the  
11 application.

12 Thank you.

13 (Applause.)

14 MR. PAVACIC: The decision deadline for  
15 application right now is September 16th, the date  
16 of the next Commission meeting. Given the concerns  
17 expressed here tonight, would you and your client  
18 consider extending the decision deadline to the  
19 October meeting, which is, I believe, October 31st.

20 MR. AMPER: Mr. Chairman, please, a 30-  
21 second rebuttal.

22 MR. PAVACIC: Mr. Amper, please. I just  
23 asked a question on behalf the Commission. Please,  
24 on behalf of the applicant, I would like to hear  
25 his response.

1                   MR. GRUDER: Yes.

2                   MR. PAVACIC: I guess with regards to  
3 the public hearing, do you wish to leave the  
4 hearing open for a period of time?

5                   MR. WALTER: It would be my wish that we  
6 close the public comment portion and leave it open  
7 for written comment until the September meeting,  
8 the September 16th meeting.

9                   MR. GRUDER: We agree with that.

10                  MR. PAVACIC: We usually get the  
11 transcript within three weeks.

12                  Mr. Amper, you could submit written  
13 comments at this point up until the September 16th  
14 meeting if you seek to rebut.

15                  MR. WALTER: I would like to follow that  
16 motion up with a motion to close it out on -- is it  
17 September 16th, the meeting?

18                  MR. PAVACIC: September 16th.

19                  MR. WALTER: -- the motion is to close  
20 out the public comment portion today, leave it open  
21 for written comments until September 16th, at which  
22 time all comments will be closed and the decision  
23 deadline will be whatever it is in October.

24                  MR. MILAZZO: I would just suggest that  
25 you require that the public comments be received by

1 the Commission office on Friday before the meeting.

2 That way you can get out --

3 MR. WALTER: Friday before the meeting.

4 That way we can have -- what is the Friday before  
5 the meeting?

6 MR. PAVACIC: So Friday, September 11th,  
7 would be the deadline for written comments.

8 MR. WALTER: The decision deadline is  
9 October 21st. Is there a motion?

10 I made the motion and in the interests  
11 of confirming the complete record, I want to  
12 confirm that the Town of Riverhead, the Town Board  
13 sent a resolution dated June 2, 2015, expressing  
14 that their support for this application be formally  
15 admitted as an exhibit.

16 (Applause.)

17 MR. MILAZZO: That's fine. However you  
18 want to handle that. That was an exhibit to their  
19 June 17th letter, which I have marked five  
20 exhibits, Mr. Gruder's reference to the scenic and  
21 the fresh water wetlands permit; the two letters,  
22 June 17th and July 15th; and Mr. Haubner's letter  
23 -- he's the gentleman from Aquebogue -- include  
24 those as exhibits for today's hearing, and then the  
25 Town Board resolution as exhibits.

1                   MR. WALTER: Thank you.

2                   MR. PAVACIC: I just want to clarify  
3 that the written comment period is open to the  
4 general public not just to one individual. It's  
5 open to the general public until Friday, September  
6 11th.

7                   MR. AMPER: I just want to clarify that  
8 one agreement that we have may have sounded like a  
9 disagreement: Any person may apply. You may grant  
10 the approval only on those explicit conditions  
11 which haven't been met, and I spoke for 30 minutes;  
12 those who were speaking took over an hour and a  
13 half.

14                  MR. PAVACIC: Thank you. Is there a  
15 motion?

16                  MR. WALTER: I am sorry, I was busy.  
17 The motion that I made before?

18                  MR. PAVACIC: A motion is to close the  
19 hearing testimony, to hold the hearing open for  
20 written testimony until Friday, September 11th, at  
21 the close of business that day, so that the written  
22 testimony can be considered by the Commission by  
23 their September 16th meeting, and then the decision  
24 deadline on behalf of consent to October 21st.

25                  MR. WALTER: I make that motion.

1 MR. PAVACIC: Is there a second?

2 MR. ROMAINE: I will second.

3 MR. PAVACIC: All in favor?

4 (Motion carries.)

5 Thank you.

6 We have one item left on the agenda.

7 (Time noted: 5:35 p.m.)

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## C E R T I F I C A T I O N

I, MONIQUE CABRERA, a Shorthand Reporter and Notary Public, within and for the State of New York, do hereby certify that I reported the proceedings in the within-entitled matter, on August 19, 2015, at Brookhaven Town Hall, Farmingville, New York, and that this is an accurate transcription of these proceedings.

IN WITNESS WHEREOF, I have hereunto set my  
hand this 7th day of September , 2015.

Monique Cabrera

MONIQUE CABRERA, Reporter