

Central Pine Barrens Joint Planning and Policy Commission

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Commission Meeting Summary (FINAL) for April 22, 1998 (Approved 5/13/98) Suffolk County Pine Barrens Trail Information Center, Long Island Expressway Exit 70 North, Manorville, 2:00 pm

Commission members present: Mr. Proios (for Suffolk County), Mr. Villella (for Riverhead), Mr. Shea (for Southampton) and Mr. Cowen (for New York State).

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

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

Administrative

! Public comments

Summary: The first speaker was Mr. Walter Olsen, representing Civil Property Rights Associates. His first comment was regarding the physical blockage of a portion of the dead end road adjacent to the north side of the Long Island Expressway at Exit 71, on the east side of Edwards Avenue, an issue which was discussed at prior Commission meetings. Since then, the Commission staff has attempted to determine the origin of the blockage, about which Mr. Olsen had originally received reports from a property owner who claimed that his road access to his property is obstructed. Mr. Olsen objected to a letter from Brookhaven Town in which a paragraph notes that access would be restored if the property is developed. He stated that he felt that such a response is unacceptable.

His second comment was an observation that, since the adoption of the Pine Barrens Plan, the town supervisors have been absent from most of the Commission meetings. He specifically noted that he felt that Mr. Shea, representing the Southampton Supervisor, was environmentally astute but did not necessarily have a balanced perspective. Mr. Olsen stated that the

supervisors should attend. Mr. Corwin then noted that Supervisor Villella has attended every Commission meeting since his election, and Mr. Olsen acknowledged that and complimented Mr. Villella.

The second speaker was Ms. Katherine Foster Screven, a property owner and resident of Manorville. Ms. Screven stated that she owns property in the core area on First Street, and that she believed that her land has been taken. Mr. Proios asked whether she had considered the Pine Barrens Credit Program, and she said that she did not want credits.

- ! Draft meeting summary for 4/1/98: distribution for review and approval at 5/13/98 meeting.
Summary: Mr. Corwin distributed this item for consideration at the next meeting.
- ! Commission - Suffolk County Water Authority 1998-99 contract: requested change; approval (original draft distributed at 4/1 meeting)
Summary: Ms. Roth distributed the attached draft version of the 1998-99 Fiscal Year agreement between the Commission and the Suffolk County Water Authority (SCWA). She explained that this version differs from the prior draft in that it contains indemnification language requested by the SCWA. She also noted that the indemnification clause is identical to that contained in the Commission's agreement with the Suffolk County Treasurer's Office for the administration of the Clearinghouse funds.

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

Pine Barrens Credit Program

- ! Riverhead receiving area appraisal: status of work
Summary: Mr. Milazzo reported that a fully executed contract now exists with Given Associates, and that the appraisal work has begun.
- ! Gene's Four Season Landscaping / Middle Island / Letter of Interpretation (LOI) application: clarification of road definition (from 4/21 Clearinghouse meeting)
Summary: Mr. Milazzo summarized this LOI application for a set of parcels on the north side of East Bartlett Road in Middle Island in Brookhaven Town. The Clearinghouse Board referred this to the Commission for guidance on the definition of a road pursuant to Chapter 6 of the Plan. The application involves one flag lot parcel with access from East Bartlett Road, and a separate parcel owned by the same applicant which takes its physical access from the flag lot parcel's driveway.

The question is whether that interior parcel should be treated as having roadfront access as per Chapter 6's provisions for purposes of credit allocation. Mr.

Corwin read Section 6.7.6.6 of the Plan. Mr. Grecco offered the opinion that any ambiguity should be construed in favor of the property owner, according to standard rules of construction. He also stated that the Clearinghouse had tie votes when trying to resolve this issue, and criticized Southampton Town for its absence at the last Clearinghouse meeting and other meetings. He stated that alternate representatives are needed for the Clearinghouse Board in order to avoid tie votes.

Mr. Cowen observed that the Commission's work to date has dealt with those roads which are public, improved roads, and that the Commission should be consistent. **A motion was then made by Mr. Cowen and seconded by Mr. Shea to (1) treat the current Letter of Interpretation parcels consistent with past Commission practice, and therefore deem the interior parcel in question as not being a roadfront parcel, and (2) to interpret Section 6.7.6.6 of the Central Pine Barrens Comprehensive Land Use Plan, Volume 1, as referring to parcels on a public, improved road. The motion was approved by a 4-0 vote.**

- ! Appointment of alternates to PB Credit Clearinghouse Board of Advisors (not on the original agenda)

Summary: **A motion was then made by Mr. Proios and seconded by Mr. Vilella to urge each ex officio member of the Commission to appoint an alternate member to the Pine Barrens Credit Clearinghouse Board of Advisors. The motion was approved by a 4-0 vote.**

- ! Brookhaven small lot owner offer: revision (from 4/21 Clearinghouse meeting)
Summary: Mr. Milazzo reported that 137 responses have been received to the Clearinghouse's offer to purchase credits from those Brookhaven core property owners whose property holdings total to one credit or less, and that 17 of these respondents now have signed contracts with the Clearinghouse.

Mr. Milazzo and Mr. Grecco also reported that the Clearinghouse wants to be flexible with the small lot owners, and will consider accepting responses which are received after the 4/30/98 response deadline. They further explained that there may be situations where an individual has a contract with the Clearinghouse to sell their credits, but then receive a higher offer from a third party. The Clearinghouse would like to permit those original contracts to be broken if the property owner notifies the Clearinghouse in writing.

Mr. Grecco reported that the Suffolk County Health Department is either currently requiring, or considering requiring, the redemption of Pine Barrens Credits for certain waivers that the Department issues. Mr. Proios noted that this would have to be considered in the light of the 1995 Generic Environmental Impact Statement for the Central Pine Barrens Plan, which analyzed credit transfer within specific hydrogeologic zones.

Mr. Grecco then explained that the Clearinghouse would like to expand the

current small lot credit purchase offer to include the owners of individual parcels which are entitled to one credit or less, rather than the current offer to those individuals whose aggregate holdings are entitled to one credit or less.

Mr. Cowen and Mr. Spitz raised the question of how many parcels and credits would be involved if such a change were made, and what the overall impacts would be upon the credit program. It was agreed that the pertinent numbers would be obtained for the Commission to examine at its 5/13/98 meeting, which will permit the Commission to discuss this proposal again prior to the Clearinghouse's next meeting on 6/1/98.

- ! Varanelli / Manorville: new credit appeal; schedule discussion

Summary: Mr. Corwin distributed the attached materials, including a letter from Mr. Andrew Varanelli, the owner of property in the Manorville-Eastport area, appealing the credit allocation in his Letter of Interpretation. It was agreed that a discussion of this appeal will be held at the 5/13/98 Commission meeting.

At this point, Mr. Proios temporarily adjourned the meeting so that Commission members and attendees could travel to Hot Water Street and County Road 111 for the joint State and County press conference announcing the acquisition of 1100 acres of core property. The meeting was adjourned from approximately 3:00 pm through 3:30 pm. Capt. Conklin arrived when the meeting resumed. Also at this point, Mr. Frank Foster, a property owner in the audience, requested the members of the Commission to identify themselves, and they did so.

Plan implementation

- ! Protected Lands Council: status of regional management plan work

Summary: Mr. Corwin reported that the Protected Lands Council is about to begin addressing the policy questions and related gaps in the overall core area public lands management plan which their plan subcommittee has produced. The Council will start this at their 5/5/98 meeting.

Mr. Corwin also reported that the Council has contributed to the Global ReLeaf tree planting program with a field day at the Rocky Point Natural Resources Management Area. The Global ReLeaf program, operated by the national, not-for-profit American Forests in Washington, DC, has provided a three year grant to the Suffolk County Community College's Eastern Campus for this purpose. Mr. Corwin distributed the attached news clip and upcoming planting schedule.

- ! Law Enforcement Council: status of all terrain vehicle law; status of joint helicopter training work with Wildfire Task Force

- ! Wildfire Task Force: status of work

Summary: Capt. Conklin reported that the vehicle removal program will soon resume, and that 12 vehicles have been examined in anticipation of their possible airlifting, with more to be inspected. The schedule is partly dependent upon the NY Army National Guard's schedule.

Capt. Conklin also reported that the Law Enforcement Council and the Wildfire Task Force are jointly setting up a combined air and ground firefighting training program. Part of this program will be a familiarization of each agency with the other groups' roles (e.g., having the aviators work on the ground at times, putting the chiefs into the helicopters during training).

He also noted that a memorandum of understanding (MOU) regarding the use of State resources such as the National Guard is being worked out among the affected State agencies, coordinated through the State Emergency Management Office. The MOU would, for example, specifically detail the protocol for requesting the use of helicopter water drops on wildfires. He noted that the scheduled water bucket training session at Wildwood Lake on 4/16/98 had to be postponed due to fog.

It was also noted that the Wildfire Task Force has completed a new draft of the fire management plan, and that draft is being distributed to the fire chiefs and fire districts in Suffolk County for comments. A set of meetings with those individuals to discuss the draft plan is being set up.

Capt. Conklin noted that the member organizations of the Council are completing their review of the proposed restoration of the Suffolk County all terrain vehicle (ATV) law drafted by the County Attorney's office. Their comments and suggested changes will be forwarded to the County Executive. Capt. Conklin commented that restoration of the ATV track which was illegally bulldozed in Robert Cushman Murphy County Park will soon begin.

Finally, he reported that the Rocky Point Natural Resources Management Area and David Sarnoff Preserve prescribed burns are scheduled to be undertaken during the first two weeks of May.

Capt. Conklin left at this point.

- ! Suffolk County land acquisition program: discussion and possible resolution of support *(materials previously mailed)*

Summary: Mr. Proios summarized the attached resolutions regarding the Suffolk County land acquisition and protection programs which were passed this morning by the County Legislature's Parks Committee, and will now go to the full Legislature. Introductory Resolution (IR) 1331 expedites the process for acquiring small lots within the core area; IR 1334 authorizes The Nature Conservancy to assist the County in the small lot acquisition program; IR 1336 authorizes the Peconic Land Trust to assist the County with its land acquisition and protection programs; and IR 1387 authorizes the acquisition of properties within certain Suffolk County Tax Map Districts and Sections.

A motion was then made by Mr. Cowen and seconded by Mr. Shea to urge the County Legislature to approve, and the Suffolk County Executive to sign, the aforementioned County legislative resolutions. During a brief discussion, Ms. Roth noted that the Commission's transfer of development

rights program also assists in this overall protection effort for the core area. The motion was then approved by a 4-0 vote.

Core Preservation Area

- ! Suffolk County Community College / Eastport: report of counsel on development status of sewage treatment plant upgrade
Summary: Ms. Roth distributed and discussed the attached letter from Nelson, Pope & Voorhis regarding the sewage treatment facilities at the Suffolk Community College's Eastern Campus. The College's current plan is to install a new septic tank and leaching field in a new location, to replace the existing sewage treatment plant. The existing plant has had trouble meeting its permitted output parameters, due to a lower input flow than its design requires.

A discussion ensued regarding the development or nondevelopment status of the proposed action, the question of whether the proposed new action would actually mitigate the current environmental problem or simply change the applicable parameters since the new plant would be subject to different restrictions, the possibility of increasing the flow into the current plant by diverting some of the excess flow currently going into the Riverhead sewage treatment plant into the College facility instead, and the desirability of obtaining additional information before the Commission determines the development status of the proposed action.

It was agreed that Ms. Roth will contact Nelson, Pope & Voorhis for additional information regarding the current proposal, while the Commission staff will invite a representative of the College to attend the next Commission meeting on 5/13/98 to discuss alternatives to the current proposal.

Compatible Growth Area

- ! Medford Apartments / Medford / site plan / CGA hardship: request for postponement of today's hearing to 5/13/98
*Summary: Mr. Corwin explained that the attached request has been received from Mr. Sanderman, representing the applicant, to postpone today's scheduled public hearing until the 5/13/98 Commission meeting. **A motion was then made by Mr. Shea and seconded by Mr. Villella to accept the postponement request and to reschedule the Medford Apartments hearing for the 5/13/98 Commission meeting, at 4:00 pm. The motion was approved by a 4-0 vote.***

Administrative

- ! Public comments
Summary: The first speaker was Mr. Walter Olsen, representing Civil Property

Rights Associates. He stated that he felt that the College should address every alternative to solving their sewage treatment problem, and not just select the cheapest approach. He reported that he has been repeatedly asked in the past to explore alternatives on his projects, and that the College should do the same. He specifically included the possibility of the College having a contract with Riverhead Town to accept some of their sewage overflow.

The second speaker was Mr. Henry Dittmer, also representing Civil Property Rights Associates. Mr. Dittmer stated that, prior to the approval of the Central Pine Barrens Plan, he and Mr. Olsen had spoken with then Riverhead Supervisor Stark regarding the single and separate parcels in the core, their allocation of credits and the value of those credits. Mr. Dittmer then stated that his organization would be willing to drop their current lawsuit against the Commission under certain conditions. Ms. Roth responded that any discussion of a settlement of the suit should be conducted through the respective attorneys.

Public hearing: Scheduled for 4:00 pm

- ! Medford Apartments / Medford / site plan / CGA hardship: request for postponement
Summary: A separate stenographic transcript exists for this. The hearing was postponed until 5/13/98.

The meeting ended at approximately 4:54 pm.

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. Draft 1998-99 Commission SCWA contract (undated; 5 pages)
4. Credit appeal letter from Mr. Varanelli and associated materials (4/13/98; 4 pages)
5. News clip and schedule for the Global ReLeaf program (4/20/98; 4 pages)
6. County Legislature resolutions re land programs (various dates; 21 pages)
7. Letter from Nelson, Pope & Voorhis re SC Community College (3/13/98; 2 pages)
8. Hearing postponement request from Mr. Sanderman (4/21/98; 1 page)