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**Commission Meeting Summary (FINAL)
for August 5, 1998 (Approved 8/26/98)
Commission Office; 3525 Sunrise Highway, 2nd Floor
Great River; 2:00 pm**

Commission members present: Mr. Proios (for Suffolk County), Mr. Girandola and Ms. Wiplush (for Brookhaven; Mr. Girandola voting), Mr. Villella and Ms. Filmanski (for Riverhead; Mr. Villella voting), Mr. Shea (for Southampton) and Mr. Cowen (for New York State).

Others present: General counsel was Mr. Rigano. Staff members from the Commission and other agencies included Mr. Corwin, Ms. Trezza, Ms. Plunkett, Mr. Milazzo, Ms. Jakobsen, and Mr. Rizzo (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 - NYS DEC), 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 five member quorum.

Administrative

! Public comments

Summary: The first speaker was Ms. Jill Lewis, representing the Long Island Pine Barrens Society. She read the attached one page statement from Mr. Richard Amper, Executive Director (who was not present). She also submitted the attached statistical materials which were not read aloud. The statement addresses remarks made at the 7/15/98 Commission meeting by Mr. Grecco.

The second speaker was Mr. Grecco, responding to the previous statement. He countered Mr. Amper's statistics with different counts of acres projected by the County and acres remaining in the core area to be protected, and criticized Mr. Amper's absence. Mr. Grecco noted that his figures were based upon an analysis of the core area maintained and updated by the Commission staff.

The third speaker was Mr. Walter Olsen, representing Civil Property Rights (CPR) Associates. First, he stated that he, his wife, and Mr. Henry Dittmer (also present and representing CPR Associates) were interested in the actions

of the Pine Barrens Credit Clearinghouse Board of Advisors, but that they were not informed about a recent meeting of the Clearinghouse Board. Mr. Corwin and Ms. Trezza noted that Mr. Olsen was called personally with the changes in the dates of the meetings, and Mr. Olsen said that he did not get the change.

Second, Mr. Olsen reported that the road leading to property owned by Mr. Kroll on the north side of the Long Island Expressway and east of Edwards Avenue, in Calverton in Brookhaven Town, remains blocked by a debris and dirt pile. He stated that he had seen a letter from Brookhaven Town re this, and that he found the letter unacceptable. In the discussion that followed, the Commission and staff repeated statements made at prior Commission meetings that the road was not blocked by the Commission or any agent of the Commission, and that the Commission staff had already tried to determine the origin of the blockage, and the agency responsible for that roadway. It was noted that the Town Highway Department could be contacted re this.

The fourth speaker was Mr. Cowen, who reported that NYS DEC staff have estimated that the combined acquisitions of the County and State since the enactment of the pine barrens law account for approximately 58 to 60% of the private, undeveloped, and unprotected land which was in existence at the time that the law passed.

Pine Barrens Credit Program

! Proposed third Brookhaven reverse auction of credits: discussion

Summary: Mr. Milazzo reported that the Board of Advisors is considering a third reverse auction for Brookhaven Town credits, and he then explained the overall reverse auction process. Mr. Grecco explained that the Board wished to facilitate the meeting of credit sellers and buyers through this auction, and would like the approval to move forward with this.

Mr. Girandola then inquired about the number of developers who are interested, and Mr. Grecco explained that there were two in June, 1998. A discussion followed regarding there could or should be guidelines for the sale of the credits, the question of the legal ability of the Commission to set guidelines for their sale, whether there should be a cap on the number of credits sold, the likelihood of one private individual buying up all or most of the available credits and thus influencing the credit market, and the responsibility of the Clearinghouse in administering the program. Mr. Grecco stated that the Board has a responsibility to the taxpayers to protect the core land and stimulate the credit market, and Mr. Girandola replied that his responsibility was to protect the Towns.

A motion was then made by Mr. Cowen and seconded by Mr. Shea to approve a third reverse auction of Pine Barrens Credits for Brookhaven Town. A discussion followed regarding the role of the Clearinghouse, the purpose of a reverse auction, and whether a monopoly on credits is being created that would dampen the market for credits in Brookhaven. Mr.

Girandola then described a possible worst case scenario in this latter regard. It was then noted that a similar argument could be made about someone buying up all the vacant land in a town, and then influencing the real estate market.

Mr. Girandola then asked where the list of potential purchasers of credits would come from, and Mr. Milazzo explained that it would be derived from the Brookhaven Planning Department's logs of recent development applicants, business telephone directory listings, and other public sources. Mr. Grecco suggested that an extensive public relations effort be performed to reach as many potential credit purchasers as possible. The motion was then approved by a 5-0 vote.

! Status of the program (not on the original agenda)

Summary: Mr. Milazzo reported the following statistics for the credit program: In Brookhaven Town, 150 parcels totaling 104.58 acres have been protected, with 80.41 PBCs issued. In Riverhead Town, 5 parcels totaling 36.36 acres have been protected, with 56.17 PBCs issued. In Southampton Town, 52 parcels totaling 36.63 acres have been protected, with 12.3 PBCs issued. Overall, 207 parcels totaling 177.57 acres have been protected, with 148.88 PBCs issued.

Mr. Proios asked if these have been mapped, and Ms. Plunkett said that they had. She noted that the map on display at the meeting showed the location of the protected parcels.

Mr. Milazzo noted that the Clearinghouse currently owns 1.6 PBCs from Brookhaven Town. Mr. Proios then signed easements for additional parcels with a total of 0.4 PBC. Mr. Milazzo then noted that the next meeting of the Clearinghouse is scheduled for 9/10/98 at 8:00 am at the Commission office.

Mr. Proios asked if the tax map numbers of the parcels protected by easements could be made available to the County's Management Information Services department, and it was agreed that they could.

! Fichter / Ridge / credit appeal: discussion and decision (8/10/98 decision deadline; carried over from 7/15)

Summary: Mr. Corwin distributed the attached continuation title search which was received for the parcels involved in the Fichter appeal from the 7/15/98 Commission meeting. ***A motion was then made by Mr. Cowen and seconded by Mr. Shea to allocate one full Pine Barrens Credit to each of the three Fichter appeal parcels, based upon their proximity to an improved public road and to utilities. The motion was approved by a 5-0 vote.***

Administrative

! Draft summaries for 5/13 and 7/15: review, approval

Summary: The following change was suggested to the 5/13/98 meeting summary: under "Brookhaven small lot owner offer", the final paragraph's last sentence should read: "Further discussion was then held until later today." **A motion was then made by Mr. Shea and seconded by Mr. Vilella to approve the summary of the 5/13/98 Commission meeting with this change. The motion was approved by a 5-0 vote.**

The following change was suggested to the 7/15/98 meeting summary: under "Marando Nursery Expansion", the last two sentences should read: "In particular, he noted that the Commission filed a brief opposing the granting of standing for the Long Island Pine Barrens Society, one of the plaintiffs. Mr. Cowen then stated that he was opposed to the filing of that brief." **A motion was then made by Mr. Cowen and seconded by Mr. Vilella to approve the summary of the 7/15/98 Commission meeting with this change. The motion was approved by a 5-0 vote.**

Plan Implementation

- ! Wildfire Task Force: plan status
- ! New York Wildfire and Incident Management Academy: status; resolution authorizing a separate account for Academy finances

Summary: Ms. Jakobsen reported that the revised Draft Fire Management Plan has been mailed out to the Wildfire Task Force members and other interested parties. The Task Force will meet next on 8/13/98 at 7:30 pm at the Eastport Fire Department. The Plan is likely to be officially approved by the Task Force at that time, then forwarded to the Commission for review, acceptance, and processing under the State Environmental Quality Review Act.

Capt. Conklin then reported that work is beginning on the fire protection assessment portion of the Draft Fire Management Plan. He also reported that the Air-Ground Firefighting Coordination Committee, which includes members of both the Wildfire Task Force and the Law Enforcement Council, is putting together a manual for the use of aerial firefighting resources. The Committee is also sponsoring a Helicopter Firefighting Awareness Seminar, to be held on 8/12/98 at the Suffolk County Fire Training Academy in Yaphank. The class will be held twice that day, and attendees may register for either the 1:00 to 4:00 pm session, or the 7:00 pm to 11:00 pm session.

He also reported that approximately 150 acres burned last week in the Rocky Point and Middle Island areas, and that included approximately 17 individual fires, with approximately 10 departments responding. NYS DEC crews were used for mop-up operations.

Capt. Conklin then noted that the NYS Wildfire and Incident Management Academy will be held at the Brookhaven National Laboratory from 10/27/98 through 11/2/98, and will be cosponsored by several organizations. Capt. Conklin reported that he gave a presentation to the Northeast Fire Compact, an

organization of the state and federal fire officials from the northeastern United State, yesterday and that the Compact members gave their support to the proposal. He reported that the instructors are now being lined up for the scheduled courses.

Mr. Corwin then distributed the attached draft brochure for the Academy, and explained that the Suffolk County Water Authority (SCWA) finance staff has requested a resolution from the Commission authorizing the SCWA to establish a separate account to track the finances of the Academy. He explained that the goal is to have the Academy be self-financing. **A motion was then made by Mr. Cowen and seconded by Mr. Villella to authorize the SCWA finance staff to set up such an account for Academy finances. The motion was approved by a 5-0 vote.**

Pine Barrens Credit Program

- ! Fichter / Ridge / credit appeal: discussion and decision (8/10/98 decision deadline; carried over from 7/15)
Summary: Mr. Milazzo read the attached letter from Ms. Doris Fichter to Mr. Dominic Nicolazzi into the meeting record. The letter states her desire to sell her credits now, as well as her reason for the sale.

Plan Implementation

- ! State legislation for payments in lieu of taxes: bill distribution
Summary: Ms. Plunkett distributed the attached state legislative bill (Senate bill 1308, Assembly bill 2069) regarding state tax aid payments to selected taxing districts regarding Central Pine Barrens land. The bill has both Senate and Assembly sponsors. The bill will continue in Committee when the Legislature convenes in 1999. This distribution is a follow-up to a prior Commission meeting at which copies were requested by the Commission.

Mr. Proios then asked about the possibility of changing the criteria for payments to fire districts under the Rural Fire Protection Grants program, since the program currently uses the population of townships, rather than fire districts, as the basis for determining eligibility. Capt. Conklin noted that this program is not based upon state law, but rather upon a federal program, which establishes the thresholds.

Mr. Cowen then noted that he has looked into the conditions which currently trigger state payments in lieu of taxes when state land acquisitions take property off a tax roll. The Real Property Tax Law Section 545 states that payment eligibility is determined on a "per occurrence" basis; that is, an individual acquisition must meet the minimum threshold in order to trigger state payments.

- ! Update of tax map and other computerized geographic data among agencies:

discussion (not on the original agenda)

Summary: Mr. Proios reported that he had received a request from the Suffolk County Police Department to receive information promptly from the Towns regarding new subdivisions, so that the new house numbers can be entered into the Enhanced 911 system. A brief discussion ensued regarding this, and the work that Brookhaven Town has already begun.

- ! Law Enforcement Council: ATV law update; 8/19 dedication of Southaven Law Enforcement Center

Summary: Capt. Conklin and Ms. Plunkett described the attached Suffolk County legislative proposal regarding regulation of the use of all terrain vehicles. A public hearing is scheduled for this on 8/11/98 at the Suffolk County Legislature's Riverhead auditorium. They also reported that the next draft of the Law Enforcement Handbook is under production, and will be reviewed by the Council at its August meeting.

Mr. Girandola then raised the question of what is the definition of public lands as used in the law, and the question of whether Brookhaven Town could, at some future time, allow such vehicle use on any of its property. Mr. Cowen raised the issue of whether the provisions of the draft law were in conflict with state laws regarding handicapped access via all terrain vehicles. Ms. Plunkett then read a portion of the State Vehicle and Traffic Law regarding the ability of municipalities to designate lands for ATV use. It was agreed that the Town and State staffs would review the proposed law to ensure the ability to do so if necessary.

- ! Paumanok Path - East Hampton Inaugural Oct 17,18,24,25: cosponsorship of first day's walks

Summary: Mr. Corwin explained that East Hampton Town and the East Hampton Trails Preservation Society are sponsoring two weekends (four days) of inaugural walks on the East Hampton portion of the Paumanok Path. They have invited the Commission to cosponsor the first day's walks, which begin just west of the Southampton-East Hampton town line. Mr. Corwin distributed the attached draft press release and description, noted that sponsorship did not involve contributions of money, and reported that the event was fully insured.

He then noted that the Commission has endorsed the completion of the Paumanok Path in Section 7.5.2.15 of the Central Pine Barrens Plan, and that the three towns on the Commission all host a portion of the Path. He also observed that the Law Enforcement Council contributed directly to the Path's completion in East Hampton through the Ogden's Brook Bridge building materials airlift, and that the Protected Lands Council and Law Enforcement Council removed several abandoned vehicles from the Hither Woods portion of the Path. Finally, he noted that the first day's walks would be appropriate to sponsor, since they start in Southampton, a Commission member.

A motion was then made by Mr. Cowen and seconded by Mr. Shea to have the Commission cosponsor the 10/17/98 Paumanok Path East Hampton Inaugural Walks. The motion was approved by a 5-0 vote.

Capt. Conklin left at approximately this time.

Core Preservation Area

- ! Michaelangelo's / Manorville / site plan: discussion of possible violation (from 7/15)
Summary: Mr. Rigano recommended that this discussion be held for a closed session, and that was agreed.

- ! Triolo / Ridge / land division: discussion (hearing held 7/15/98)
Summary: Ms. Plunkett noted that the transcript of the 7/15/98 hearing for this application for a core hardship (for a 2.5 acre parcel on Sally Lane in Ridge in Brookhaven Town) stated that coordination under the State Environmental Quality Review Act (SEQRA) was needed. She noted that the Commission had previously indicated that this would be handled as an uncoordinated review under SEQRA.

It was then noted that this property was originally lost for nonpayment of taxes in 1992, and that the already improved property was placed up for auction by the County three times since then. It was purchased by the current owner in May 1997, with the deed actually conveyed on 3/4/98. It was noted that the property was placed up for auction because it was improved property.

A motion was then made by Mr. Cowen and seconded by Mr. Villella to deny the Triolo / Ridge core hardship application, based upon the contents of the hearing record and the failure of the application to pass the self-induced hardship test of the pine barrens statute. At this point, Mr. Rigano recommended that the Commission also issue a negative declaration under SEQRA for this application, and that the negative declaration be in a separate resolution. It was then agreed to table the current resolution.

A separate motion was made by Mr. Cowen and seconded by Mr. Shea to issue a negative declaration under SEQRA for this application. The motion was approved by a 4-0-1 vote, with the abstaining vote cast by Mr. Girandola.

The original motion to deny the hardship application was then considered. That motion was also approved by a 4-0-1 vote, with the abstaining vote cast by Mr. Girandola.

- ! Waltel / Manorville / single lot: determination of jurisdiction
Summary: Ms. Plunkett distributed the attached two letters and Brookhaven Town correspondence from the Waltels, requesting permission to place a home on their property on North Street, in Manorville in Brookhaven Town. The property consists of 10.28 acres zoned A-5 Residential, and was created as a result of a 1988 subdivision approved by Brookhaven Town (see attached approval). Ms. Plunkett noted that the parcel does meet current zoning, and

recommended that it be treated as nondevelopment.

A brief discussion ensued regarding the clearing restrictions in the 1988 subdivision approval, the fact that the property was in agriculture at that time, and the question of whether the Planning Board was aware of the state of the property when those restrictions were imposed. It was agreed that the matter would be referred to counsel for an opinion at the 8/26/98 Commission meeting.

Mr. Grecco left at approximately this point.

Closed Session

Summary: A motion was made by Mr. Proios and seconded by Mr. Shea to enter into a closed session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote. The Commission then entered into closed session from approximately 3:55 pm to 5:23 pm.

Compatible Growth Area

! Manorville Nursery Expansion / Manorville: litigation

Summary: Mr. Rigano noted that he will file revised papers in this matter regarding the issue of standing of the Long Island Pine Barrens Society.

Ms. Wiplush left at this time, but a five member quorum remained. Mr. Villella and Ms. Filmanski left during the first of the following hearings, and a four member quorum then remained.

Core Preservation Area

! Michaelangelo's / Manorville / site plan: core hardship public hearing (*decision deadline to be determined*)

Summary: A separate stenographic transcript exists for this hearing. Immediately after the hearing (but not contained within the hearing transcript), a motion was made by Mr. Cowen and seconded by Mr. Shea to approve the Michaelangelo's application with the condition that a stipulation agreement be prepared to satisfy the violation of NY Environmental Conservation Law Article 57 specifying that the applicant pay \$2000.00 and also restore the northern portion of the site with native plants. The motion was approved by a 4-0 vote.

Compatible Growth Area (CGA)

! Walter / Miller Place / land division: CGA hardship public hearing (*11/11/98 decision deadline*)

Summary: A separate stenographic transcript exists for this hearing. Immediately after the hearing (but not contained within the hearing transcript), a motion was made by Mr. Cowen and seconded by Mr. Girandola to grant the Frederick Walter land division CGA hardship application. The motion was approved by a 4-0 vote.

! LI Fisherman / Yaphank / site plan: CGA hardship public hearing (11/20/98 decision deadline)

Summary: A separate stenographic transcript exists for this hearing.

The hearings ended at approximately 6:43 pm, and the meeting adjourned at that time.

Attachments (in order of discussion):

1. Attendance list (1 page)
2. Speaker list (1 page)
3. LI Pine Barrens Society statement on county land acquisition (undated; 9 pages)
4. Continuation title search for Fichter parcels (7/22/98; 1 page)
5. Draft brochure for Wildfire and Incident Management Academy (7/27/98; 5 pages)
6. Letter from Ms. Fichter to Mr. Nicolazzi re credits (undated; 1 page)
7. State legislative bill re payments in lieu of taxes (1/21/97; 4 pages)
8. County legislative resolution re all terrain vehicles (undated; 3 pages)
9. Draft press release for East Hampton Paumanok Path inaugural (7/25/98; 5 pages)
10. Letters re Waltel property (7/27/98, 7/30/98, and 10/3/88; 7 pages total)