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

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

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

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

#### **Public Comment**

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

#### **Administrative**

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

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

#### **Pine Barrens Credit Program**

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

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

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

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

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

## **Plan Implementation**

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

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

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

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

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

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

## **Core Preservation Area**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Public Comment**

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

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

### **Closed Advisory Session**

*Summary: A motion was made by Mr. MacLellan and seconded by Mr. Proios to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 5:00 pm to 5:34 pm.*

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

### **Plan Implementation**

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

*Summary: A separate stenographic transcript exists for this.*

### **Attachments (in order of discussion):**

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