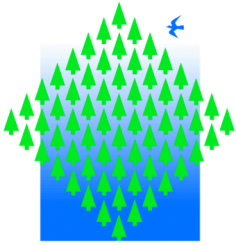


**Commission Meeting Summary (FINAL) for  
Wednesday, September 24, 2003 (Approved 11/19/03)  
Riverhead Town Hall  
Howell Avenue and East Main Street, Riverhead  
2:00 pm**



**CENTRAL  
PINE  
BARRENS**  
JOINT  
PLANNING  
&  
POLICY  
COMMISSION

Robert J. Gaffney  
*Chair*

Patrick A. Heaney  
*Member*

Robert F. Kozakiewicz  
*Member*

John Jay LaValle  
*Member*

Peter A. Scully  
*Member*

Commission members present: Mr. Proios (for Suffolk County), Mr. Scully (for New York State), Ms. Prusinowski and Ms. Compitello (for Brookhaven), Mr. Hanley (for Riverhead), and Mr. Murphree (for Southampton).

Others present: Staff counsel was Mr. Milazzo. Other counsel included Mr. Rigano (of Certilman Balin at the time noted) and Mr. Spiegel (of the NY State Attorney General's Office). Staff members from the Commission included Mr. Corwin, Ms. Trezza, Ms. Jakobsen, Ms. Carter, Mr. Randolph, Ms. Longo, Mr. Born (from the Commission), Mr. Pavacic (from the NYS Department of Environmental Conservation (NYS DEC)), and Capt. Otterstedt (from the NYS Environmental Conservation Police). Additional attendees are shown on the attached sign-in sheet.

The meeting was called to order at approximately 2:08 pm by Mr. Proios, with a four member quorum consisting of Mr. Proios, Mr. Hanley, Ms. Compitello and Ms. Prusinowski (both for Brookhaven Town), and Mr. Scully.

#### **Public Comment**

Summary: Mr. Amper stated that clearing and maintenance work has occurred at Gabreski Airport, and that it was reported to the Society to be part of the maintenance of the airport lighting system. A brief discussion ensued regarding the amount of clearing, the lack of any prior notice to the Commission, and the location of the airport partly within the Compatible Growth Area and partly within the Core Preservation Area. It was agreed that Mr. Proios will speak with the airport manager regarding this work.

#### **Administrative**

! Minutes for 8/20/03: review; approval

Summary: The following changes were made to the draft 8/20/03 meeting minutes: (1) under "Wildfire and Incident Management Academy", the first sentence should read: "Mr. Corwin reviewed the prior Commission meeting deliberations regarding the hiring of an independent auditor to review the Academy's finances as handled by the bookkeeper which the Academy Board will hire."; (2) under "Gazza / Flanders", in the second paragraph, the word "certified" should be changed to "approved"; and (3) under "Calverton Shooting Range", in the second paragraph, the motion should read, in part, "A motion was then made by Mr. Shea and seconded by Ms. Compitello to agree to continue the Commission's review of this project until the 10/15/03 Commission meeting." **A motion was then made by Mr. Scully and seconded by Ms. Compitello to approve the 9/24/03 meeting minutes with these changes. The motion was approved by a 4-0 vote.**

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- ! Personal services agreement: possible agreement with Capt. (Ret.) Robert Conklin to assist stewardship councils  
*Summary:* Mr. Corwin explained that it would be very useful to the work of both the Law Enforcement Council and the Wildfire Task Force to have Captain Robert Conklin (retired from the NYS Forest Rangers, and a former member of both the Law Enforcement Council and the Wildfire Task Force) retained under a personal services agreement. He stated that Capt. Conklin's expertise in obtaining grants, as well as planning and conducting prescribed fires and a prescribed fire program, would be vital to the success of both of those endeavors. He noted that the State ethics law places restrictions on the employment activities of retired State employees, and suggested that the Commission authorize a written inquiry on this matter to the State Ethics Commission. **A motion was then made by Mr. Scully and seconded by Ms. Prusinowski to send an inquiry to the State Ethics Commission requesting an opinion from that body regarding the potential hiring of Capt. (Ret.) Robert Conklin as a contractor to the Commission to assist with these areas of work. The motion was approved by a 4-0 vote.**

### **Pine Barrens Credit (PBC) Program**

- ! Riverhead Credit purchase offer: status  
*Summary:* Mr. Randolph reported that a small number of responses have been received for this offer, and those responses are being processed.
- ! Miscellaneous PBC items (not on the original agenda)  
*Summary:* Mr. Randolph distributed a draft copy of the text for the 8/20/03 Commission resolution on the Gazza / Flanders Credit appeal decision. A brief discussion occurred and several text changes were made.

*Mr. Randolph also noted that a Letter of Interpretation application has been received for the Camp Wauwepex Boy Scout property in Wading River in Riverhead Town, and that the initial allocation is being determined at this time.*

### **Plan Implementation and Related Activities**

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

- ! Law Enforcement Council: overview of current activities and issues (Capt. Richard Otterstedt, NYS EnCon Police and LEC Chair)  
*Summary:* Capt. Otterstedt, Law Enforcement Council Chair, reviewed the structure and history of the Council; some of its past field projects (e.g., the work with the NY Army National Guard); recent personnel changes in some of the member agencies (e.g., the SC District Attorney's Environmental Crimes Unit, the retirement of Capt. Conklin and the assignment of the new Forest Ranger Captain, Timothy Byrnes); the Council's gratitude to Lorraine Trezza of the Commission staff who is leaving the Commission and has supported the Council since its inception; and recent all terrain vehicle enforcement actions, equipment losses, impoundments, and summonses. Mr. Proios raised the issue of centralizing conviction records so as to be able to identify repeat offenders across different courts. Capt. Otterstedt addressed this issue by describing some of the work already undertaken by Council members to identify the feasibility of this goal.

*The discussion also touched upon dumping offenses; the status of the pending transfer of*

*Hot Water Street and Toppings Path from Brookhaven Town to Suffolk County jurisdiction; the production of public service announcements for the Council by the Suffolk County Police Academy; a possible pending public benefit payment from a recent criminal investigation by the State DEC that could result in funds for the Council (e.g., for equipment) if approved by the Albany DEC Office; the passage of State legislation endorsed by the Council to make Riverhead Fire Marshals peace officers (now awaiting the Governor's signing); and public events at which the Council was or will be represented (i.e., Lynbrook Expo 2003 and the National Hunting and Fishing Day in Ridge).*

- ! 2003 (Oct. 3) Pine Barrens Research Forum: overview  
*Summary: Mr. Corwin distributed and briefly described the attached program for the Eighth Annual Pine Barrens Research Forum, to be held on 10/3/03 at Brookhaven National Laboratory, cosponsored by the Commission, the Brookhaven National Laboratory, and the Long Island Groundwater Research Institute of the State University of NY at Stony Brook.*
  
- ! Wildfire Task Force - NY Wildfire and Incident Management Academy: revised Policies and Procedures; review and approval  
*Summary: Ms. Longo went over the attached draft revision of the Interim Policies and Procedures for the NY Wildfire and Incident Management Academy, which include the changes made at the 8/20/03 Commission meeting. After a brief discussion with changes suggested by Mr. Milazzo, **a motion was made by Mr. Scully and seconded by Mr. Hanley to approve the Policies and Procedures as final with the changes suggested today. The motion was approved by a 5-0 vote.***

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

- ! Mittachione c/o Cramer / Ridge (Brookhaven; 200-294-4-22)  
*Summary: **A motion was made by Ms. Prusinowski and seconded by Mr. Scully to postpone a decision on this appeal at the request of the applicant to the November 2003 Commission meeting. The motion was approved by a 5-0 vote.***
  
- ! Wendelken c/o Nicolazzi / Ridge (Brookhaven; 200-351-3-15 and 16) (decision deadline is 10/3/03; today is last meeting before then)  
*Summary: A separate stenographic transcript exists for this item.*

#### **Compatible Growth Area (CGA)**

- ! Penatello Land Division / Medford (Brookhaven; 200-606-3-11) / hardship (decision deadline is 12/26/03)  
*Summary: A separate stenographic transcript exists for this item. Following the close of the hearing, it was decided that the comment period on this matter will be open until the October 2003 Commission meeting.*

#### **Core Preservation Area**

- ! Verizon - Gazza / Eastport (Southampton; 900-213-1-71) / communications tower: determination of jurisdiction  
*Summary: Ms. Carter distributed the attached determination of jurisdiction request from Mr. Joseph Gazza for the construction of a 99 foot communications monopole tower and*

attached antennas on a 0.34 acre parcel (900-213-1-71) on the north side of Moriches Riverhead Road (CR 51), opposite the intersection of CR 51 and Speonk Riverhead Road, in the Eastport area of Southampton Town. She also distributed the attached aerial photograph of the site produced by the Commission staff.

Ms. Carter reviewed the Commission's actions in prior determinations of jurisdictions for such projects, including the 7/12/00 determination for the Omnipoint tower and the 7/24/02 Crown Communications tower. In both of those cases, the Commission determined that it does have jurisdiction. She also reviewed the Commission's prior determination of nonjurisdiction for projects involving the collocation of new antennas on existing towers.

Ms. Carter then recommended that the Commission find that it does have jurisdiction over the current project of Mr. Gazza, and that the Commission find that ECL Section 57-0107(13)(ii) does not apply to new tower construction.

Mr. Murphree stated that the site is zoned Open Space Conservation (OSC), and that a special exception and site plan is required by Southampton Town for towers in that zone.

Mr. Gazza then spoke about the site, and made an argument that the work of Verizon and the Suffolk County Water Authority is similar, and that the Verizon project should be a public utility and exempt from the pine barrens law.

The Commission members agreed that Mr. Gazza's project is subject to the Commission's jurisdiction.

**The following item is partly within the CGA:**

- ! Huntington Ready Mix Sand Mining / Speonk (Southampton; 900-276-3-1, 2) / NYS DEC permit: lead agency coordination; jurisdictional determination

Summary: Ms. Longo described the materials that the Commission has received for this site from the NYS Department of Environmental Conservation (DEC), which involves the renewal and expansion of an existing mining permit for a site that is partly in the Core and partly within a Critical Resource Area of the Compatible Growth Area. Mr. Scully then indicated that the applicant has indicated to the DEC that he may revise the permit renewal application to seek a simple renewal.

Mr. Proios asked if there were other mining projects within the pine barrens, and Mr. Murphree stated that Mr. Shea of Southampton Town has prepared a report for the Town summarizing mining sites within the Town. Mr. Amper of the LI Pine Barrens Society stated that the pine barrens law states that no State agency may issue a permit which violates ECL 57. A discussion then followed regarding whether the renewal of a mining or other type of permit would be considered "development" under ECL 57.

**Compatible Growth Area (CGA)**

- ! Compatible Growth Area development standards: recent cases and conformance issues with contiguous open space standard

Summary: Ms. Carter explained that one of the Plan's CGA development standards, 5.3.3.6.2, which requires the preservation of unfragmented open space, has not been adhered to by several new subdivisions that have been proposed. In addition, numerous calls have been received at both the Brookhaven Town Planning and Pine Barrens Commission Offices from homeowners in subdivisions within the CGA requesting relief

from restrictions on clearing that are placed on the individual lots within subdivisions, or reporting such clearing on other parcels within the neighborhood.

A discussion ensued regarding the current protocols for preserving a minimum area of open space within a subdivision; the distribution of that open space requirement on a parcel by parcel basis within a subdivision; the difficulty of enforcing the clearing restrictions in that situation; the alternatives that could be used in subdivision layout to avoid that issue; and the possibility that CGA hardships would be required for individual parcels to legally exceed the clearing restriction of a given parcel. It was agreed that the Commission staff will instruct individuals inquiring about relief to file for a CGA hardship.

- ! Brookhaven Walk, formerly Brookhaven Town Center / Yaphank (Brookhaven) / regional shopping center / Development of Regional Significance: receipt of Supplemental DEIS (hearing held 10/17/01; ECL 57 decision deadline is 10/15/03)  
Summary: Ms. Jakobsen reviewed the materials contained in the SDEIS for this project, and the changes from its original form. The original project called for 1.043 million square feet, and now calls for approximately 850,000 square feet of retail space. She noted that comments are due to the Town on 10/17/03, and that a Town hearing will be held on 10/6/03 at 2 pm. She also noted that the project's application to the Commission will need a decision extension, since the current ECL 57 decision deadline is 10/17/03.

**The following item is partly within the Core area:**

- ! Longwood School District - Ridge Elementary School / Ridge (Brookhaven; 200-294-2-6) / post 1993 development: Notice of Violation status; NYS DEC easement violation status (from 8/20/03)  
Summary: Mr. Rigano went over the details and some of the history of the activities at this site, including the settlement proposed by the school district. A brief discussion ensued, and it was agreed to keep this on the agenda for the next meeting, pending new information on discussions with the school district. Mr. Alan Stadler of the Ridge Civic Association was present and expressed concerns about the presence of a wildlife corridor in the area as well as the appearance of flagging on the site last summer.
- ! Sachem School District / Farmingville (Brookhaven) / compliance with prior Commission determination of jurisdiction conditions: discussion (not on the original agenda)  
Summary: Mr. Corwin stated that the staff will need to meet with Mr. Proios to determine the details of any potential violation on this site with the Commission's original determination of nonjurisdiction conditions.

**Closed Advisory Session**

Summary: A motion was made by Mr. Scully and seconded by Ms. Prusinowski to enter into a closed advisory session for the purpose of receiving legal advice from counsel. The motion was approved by a 5-0 vote, and the Commission entered into closed session from approximately 4:50 pm to 5:30 pm.

**Adjournment**

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

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

1. Attendance sheet (9/24/03; 1 page)
2. Speaker sign in sheet (9/24/03; 1 page)
3. 2003 Pine Barrens Research Forum flyer (10/3/03; 2 pages)
4. Revised Policies and Procedures for Wildfire Academy (9/24/03; 7 pages)
5. Determination of jurisdiction request from Mr. Gazza for a tower (8/28/03; 10 pages)
6. Aerial photograph of the vicinity of today's Gazza request (undated; 1 page)