



February 2, 2012

TO: Commission Members and Designated Representatives
FROM: John W. Pavacic, Executive Director
RE: Report on the Advisory Committee Meeting held on December 15, 2011

Dear Chairman Scully, Commission Members and Designated Representatives,

Peter A. Scully
Chair

Steven Bellone
Member

Mark Lesko
Member

Anna E. Throne-Holst
Member

Sean M. Walter
Member

The Central Pine Barrens Advisory Committee (the “AC”) held a meeting on Thursday December 15, 2011 at 11:000 am at the Suffolk County Water Authority Coram Training Center located in Coram, New York to review and render recommendations on the “Parking Lot” items that were generated by the technical worksession conducted from Fall of 2010 through Fall of 2011. (Parking Lot items were those issues on which consensus was not obtained during the technical worksessions.) The AC meeting was chaired by Jeffrey Szabo with Richard Amper serving as the Vice Chair.

The following Advisory Committee Member Representatives were in attendance at the meeting:

- Civic Representative for Brookhaven Thomas Muller
- Group for the East End Jennifer Hartnagel
- Hamptons Visitors Council Herman Beck
- Long Island Board of Realtors Philip Weiden
- Long Island Builders Institute Robert Wieboldt
- Long Island Farm Bureau Joe Gergela
- Long Island Drinking Water Coalition Matthew Meng
- Long Island Greenbelt Trail Conference Thomas Casey
- Long Island Pine Barrens Society Richard Amper, Beth Motschenbacher
- Long Island Regional Planning Council Cara Longworth
- North Fork Environmental Council George Bartunek
- Open Space Council Karen Blumer
- Peconic Land Trust Dawn Liubenov
- Stony Brook University Henry Bokuniewicz
- Suffolk Alliance of Sportsmen Robert Baumann
- Suffolk County Water Authority Jeff Szabo, Carrie Gallagher
- The Nature Conservancy Kevin McDonald

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Commission staff members in attendance included John Pavacic, Executive Director; John Milazzo, Legal Counsel; Judy Jakobsen, Policy and Planning Manager and Carol Ostrowski, Secretary.

Mr. Gergela provided public comment on behalf of the Long Island Farm Bureau in which he thanked the efforts of Mr. Pavacic, Mr. Amper and Mr. McDonald related to the Carmans River Watershed Protection Plan and the Core expansion, and for the future work the Commission will be undertaking to obtain a better understanding of agriculture in the Central Pine Barrens.

The minutes from the AC's last meeting of May 12, 2010 were then approved. The Advisory Committee Members ("the Members") then proceeded to review the Draft Summary of Parking Lot Items dated December 9, 2011 after Mr. Pavacic provided a brief history of the CLUP Amendments process and the technical work sessions that were held.

Mr. Pavacic noted that the AC's comments on the Parking Lot items from its December 15, 2011 meeting would be included in a revised final Parking Lot document which will be provided to the Commission.

Review of the Draft Summary of Parking Lot Items ("the Summary") dated 12/9/11

Mr. Pavacic went through each section of the Summary, provided an overview of the suggested changes and comments obtained from the attendees at the technical work sessions and explained the rationale for each of the suggested changes. The Members voted on each of the suggested changes and in their voting indicated whether or not they agreed that the recommendation should be forwarded to the Commission for its consideration, whether or not they disagreed with the motion or could not make a recommendation on a proposed suggestion in the Summary.

The remainder of this memorandum identifies the Section of the Parking Lot Summary, whether or not the members had any discussion on that section and the Members' final action on the suggested changes in the Parking Lot Summary.

Sections on which the Members could not reach a consensus or disagreed with the suggestion are indicated by an asterisk (*) and for which the Members provided a new suggestion are indicated by the pound (#) sign:

SECTION 4.3 - DEFINITIONS (INCLUDING 4.3.1 - COMPLETE APPLICATION) & SECTION 4.5 – REVIEW PROCEDURES

AC Discussion and Comments:

The Members discussed whether or not the Commission has the ability to collect fees. It was noted NYS ECL Article 57-0119 gives the Commission power to collect fees. The Members discussed whether or not fees would be commensurate with the size of a project. It was clarified that they are voting on whether or not there should be fees and who should set them.

- The Members voted in favor of the change that would allow the Commission to implement a fee schedule for the Hardship Application process.

- The Members voted in favor of the suggested changes to determine what constitutes a complete application to be forwarded to the Commission for its consideration.

***SECTION 4.3.5.1 – INTERPRETATION OF “NONDEVELOPMENT” PROVISION 57-0107 13. (xiii)**

AC Discussion and Comments:

The Members discussed under what circumstances the subdivision of a parcel would be considered nondevelopment. The discussion of an example that would circumvent the intent of this provision was provided.

It was noted that this change can only be done by chapter amendment. LIBI stated it had an issue with this suggested change without providing further explanation.

- The Members voted in favor of the suggested changes in this section regarding the interpretation of “nondevelopment” with the Long Island Builder’s Institute (LIBI) opposed. (*)

SECTION 4.3.11 – TALL STRUCTURE

AC Discussion and Comments:

The Open Space Council (OSC) inquired as to what was the intent of including a definition for tall structures and asked if it was for aesthetic reasons. It was explained that the original intent came from proposals to erect cell towers and the Members were referred to the new Bird standard in the Chapter 5 Amendments that discusses tall structures.

- All of the Members voted in favor of referring this section to legal counsel to provide a legal interpretation of Tall Structure.

***SECTIONS: 4.4.1 - DEVELOPMENT LOCATED WITHIN THE CORE PRESERVATION AREA**

4.4.2 - NONCONFORMING DEVELOPMENT WITHIN THE CGA

4.4.3 - CGA DEVELOPMENT OVER WHICH COMMISSION ASSERTS...

4.4.4 - CGA DEVELOPMENT WITHIN CRITICAL RESOURCE AREAS

4.4.5 - DEVELOPMENTS OF REGIONAL SIGNIFICANCE

AC Discussion and Comments:

Mr. Amper of the Long Island Pine Barrens Society (LIPBS) expressed his opinion that he felt the Commission did not have the authority to add language which would exempt the Riverhead Town-owned EPCAL property from the provisions in these sections and standards.

- The Members voted in favor of advising the Commission that it was opposed to this suggested change by Riverhead Town to exempt the Town-owned EPCAL property from the standards of these sections and that the proposed language exceeds the Commission’s authority to make this change since it can only be accomplished by statute. The roll call vote indicated that LIBI was opposed to the motion and the Long Island Farm Bureau, the Long Island Regional Planning Council and the North Fork Environmental Council abstained from the vote. (*).

SECTION 4.5.3 – DEVELOPMENT LOCATED WITHIN THE CGA WHICH HAS BEEN SUBJECTED TO A PETITION BY THE COMMISSION PURSUANT TO ECL SECTION 57-0123(2) “ASSERTION DEVELOPMENT”

AC Discussion and Comment:

The Members discussed the issue of adding language to CLUP that clarifies that an assertion of jurisdiction must always be for a project which is also deemed to be development.

- All of the Members voted in favor of deferring to the Commission as to whether or not language should be added to this section to affirm that when Commission asserts jurisdiction over a project the project in question is always considered to be development.

***SECTION 4.5.5.1 – DEFINITION OF A DEVELOPMENT OF REGIONAL SIGNIFICANCE**

AC Discussion and Comment:

The Members discussed traffic and the Commission’s authority to review traffic impacts. It was noted that although traffic impacts are not specifically mentioned in ECL Article 57, there are references to transportation in the Act. The Long Island Pine Barrens Society made the recommendation that the CLUP be amended to specify that it also covers transportation issues and that the CLUP language should borrow from the statute without specific reference the intensity of use criteria that are applicable to any of the Commission’s decisions. LIBI felt that this was already incorporated into the criteria for a DRS and that the Commission should not be engaged in a review of every other review of traffic impacts that are already handled by various other agencies. The discussion included whether or not traffic impacts are

evaluated and what should be the role of the Commission in their review. The AC was unable to reach a consensus on this amendment.

- The Members voted in favor of not making a recommendation on the suggestions for this section. (*)

***SECTION 4.5.5.1 – DEFINITION OF A DEVELOPMENT OF REGIONAL SIGNIFICANCE (DRS)**

AC Discussion and Comments:

The Members discussed the proposal to add a definition for new mining to the CLUP and whether or not mining is subject to the Commission’s jurisdiction. LIBI expressed its opposition to this proposal because it felt there was sufficient oversight by the New York State Department of Environmental Conservation (NYSDEC), an adequate permitting system was in place for the life of the mine and SEQRA coordination would allow the Commission to review a mining project. In response, LIPBS expressed its concern that even if other agencies have the authority to review a particular activity, that should not mean it does not need to be reviewed by the Commission.

- The Members voted in favor of the proposed suggestion to clarify the definition of the threshold of mining activities for a DRS, with LIBI voting no and the Long Island Farm Bureau and the Long Island Regional Planning Council abstaining. (*)
- All members voted in favor of the suggestion for this section that clarifying language is needed that states a project is defined as a DRS if any of the listed thresholds and criteria are achieved and that this suggestion should be brought to the Commission for its consideration.
- All members voted in favor of the suggested changes to the PDD criteria and that they should be brought to the Commission for its consideration.

***CHAPTER 5: STANDARDS FOR LAND USE**

AC Discussion and Comments:

Mr. Gergela stated he had no problem with the discussion in this section but objected to the opinions and statements in the Parking Lot document under Section 5.3.1 that refer to agriculture as a pollution source and requested that these statements of opinion be stricken from the comments in the Parking Lot document.

There was a discussion initiated by LIBI concerning the suggestion to add a rationale at the beginning of each of the sections of the CLUP to identify and explain where CLUP standards

are more restrictive than those of other agencies and how this would be difficult to do comprehensively for each standard. It was noted that the Towns are free to apply more restrictive standards.

- All of the Members voted in favor of the general comments to add language to the beginning of Chapter 5 pertaining to the applicant being required to demonstrate compliance with the standards and other requirements.
- The AC voted in favor of not providing a recommendation to the Commission as to whether or not a rationale should be added to the CLUP which indicates when the CLUP standards are more restrictive than those of other agencies. (*)

#SECTION 5.3.1 - APPLICABILITY AND OTHER POLICIES

AC Discussion and Comments:

LIPBS stated that the Commission lacks the authority to adjust any interpretation of the agriculture “standard” and that if it was to consider changes the Commission should consult with the Long Island Farm Bureau. Mr. Pavacic clarified where and why there is a discussion in the CLUP pertaining to agriculture and horticulture and its relationship to the New York State Agricultural Law. A discussion ensued concerning the parking lot comments made regarding agriculture and progress made with best management practices that the LI Farm Bureau found objectionable, how the industry is already heavily regulated, agricultural concerns related to agricultural uses and nutrient levels, and how to include language in the CLUP that would be more satisfactory to the LI Farm Bureau.

It was decided by the Members that Mr. Gergela from the Long Island Farm Bureau and Mr. Milazzo will work together to formulate new language for the CLUP. It was noted that a better assessment of agriculture in the Pine Barrens will be performed by the Commission in the near future. It was also discussed whether anything should be said about agriculture because it is exempt. There was additional concern expressed about the parking lot comments being included in the information provided to the Commission and it was noted that this was a public document and already released. It was noted that the black italicized language in the parking lot summary is reflective of discussions that took place at the last CLUP work session on November 29, 2011 that discussed all of the parking lot items. Mr. Pavacic explained that the Commission members have requested that CLUP work session comments, recommendations and content of discussions be provided to them for their final review of all of the Amendments. He further noted that staff did not have the authority to edit out any aspect of the work session discussions.

The TNC noted that there should be some inclusion in the CLUP’s discussion of agriculture a general statement that the issue is a nutrient poor ecosystem and trying to harmonize this

with an industry that is nutrient dependent or nutrient rich. TNC offered to provide language to add to the CLUP to address this issue.(#)

- AC members tabled this section until Mr. Gergela, representing the LI Farm Bureau, develops new language as discussed which would be forwarded directly to the Commission. The AC noted it did not need to revisit this item. (#)

*** SECTION 5.3.2 STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)**

AC Discussion and Comments:

The Members discussed the suggestion to add language to the CLUP that non-site specific projects such as town hamlet studies may be required to prepare a Supplemental EIS. There was a discussion as to whether or not there was a need for this if the Commission is already involved in the Towns' SEQRA review process for Town plans. It was mentioned that if the Towns address environmental impacts in their plans and during their SEQRA process a supplemental EIS would likely not be required. It was noted that the Commission currently does provide comments on Town plans. It was also noted that the language currently proposed included the word "may" and that the suggestion was intended as a way of simplifying the Towns' SEQRA burden since the GEIS for the CLUP already addresses environmental issues for the Central Pine Barrens. As a result, in many cases only a supplemental EIS (supplement to the original Central Pine Barrens CLUP EIS) rather than a full EIS would need to be prepared by a Town. LIBI disagreed with the need for this additional document and review since the Commission is already involved in the Towns' SEQRA review process.

- The Members voted in favor of sending the proposed suggestion to the Commission for consideration, with LIBI and the Long Island Farm Bureau opposed. (*)

*** (#) SECTION 5.3.3.1.2 - SEWAGE TREATMENT PLANT DISCHARGE**

AC Discussion and Comments:

It was clarified that the AC would not be making a specific recommendation to the Commission on the comment concerning drawdown and groundwater impacts of sewage treatment plants (STPs) since this was mainly an information item for the Commission. It was also noted by Mr. Pavacic that before Commission staff spent time drafting new language or changes it was felt that the Commission should first decide whether or not it would want to even make the change.

Discussion occurred concerning STP discharges outside of the Central Pine Barrens and whether or not an amendment to ECL Article 57 should be undertaken instead of modifying

the language in the CLUP. LIBI discussed whether or not it is appropriate to develop a specific discharge level for the Central Pine Barrens in regard to an issue that is usually deferred to other regulatory agencies which have more explicit authority. An opinion was expressed by the LIPBS that the Commission and State Legislature should revisit the adequacy of current efforts to avoid STP discharges in the Core because there is ample evidence it is a problem.

- A motion was approved by the Members that the information item concerning drawdown impacts of STPs be forwarded to the Commission for its consideration, with LIBI abstaining. (*)
- A motion was approved by the Members that new language should be added to this CLUP section which states that impacts on groundwater due to STP discharges may occur when STPs are outside of the Central Pine Barrens and that this should be forwarded to the Commission for its consideration. (#)
- Mr. Amper made a motion that the Commission be asked to consider an Amendment to ECL Article 57 to deal with the matter of STP discharges in the Core. The AC approved the motion, with LIBI abstaining. (#)

(Mr. Gergela left the meeting at 12:20 pm.)

SECTION 5.3.3.1.5 - NITRATE-NITROGEN

AC Discussion and Comment:

It was noted that the text on several pages of the Parking Lot document provided information related to the origin of the 2.5 mg/l guideline and was added for informational purposes only, therefore no action by the AC was necessary.

- The AC members vote in favour that the suggestion to add language to the end of this section to clarify that the 2.5 mg/l standard does not apply to existing or background nitrate-nitrogen concentrations and only applies to proposed projects and future expansion of projects that exceed the 2.5 mg/l standard should be moved forward to the Commission for their review.

SECTION 5.3.3.3 - WELLHEAD AND GROUNDWATER PROTECTION

AC Discussion and Comment:

The AC had no comments.

- Members voted in favor of the proposal to add new language to this section that states that applicants must demonstrate that their projects comply with the standard.

***SECTION 5.3.3.3.1 - SIGNIFICANT DISCHARGES AND PUBLIC SUPPLY WELL LOCATIONS.**

AC Discussion and Comments:

There was a discussion on the availability of Source Water Assessment Program (SWAP) maps for use by the public, developers and staff for evaluating whether or not a project meets the requirements of this standard. LIBI stated that the SWAP data needs to be made publicly available to enable developers to adequately evaluate potential impacts and did not agree with concerns expressed that public release of the data would raise homeland security concerns.

- Based on the fact that the Commission does not own the SWAP data the decision was made that the AC could not make a recommendation. (*)

***SECTION 5.3.3.3.2 - PRIVATE WELL PROTECTION**

AC Discussion and Comments:

LIBI questioned why the CLUP calls for identifying wells within a 500-foot radius of a project when the Suffolk County Department of Health Services (SCDHS) only requires identification within 150 feet. It was noted that this was being researched and that the 500-foot distance appears to have been selected to be more protective.

- The majority of the Members voted in favor of the suggested changes for this section which included clarifying the language in the standard pertaining to measuring impacts related to compliance and researching the origin of the criterion which would require identifying wells within a 500 foot radius. LIBI abstained. (*)

SECTION 5.3.3.4 - WETLANDS, SURFACE WATERS AND STORMWATER RUNOFF

AC Discussion and Comments:

The AC had no comments.

- All of the Members voted in favor of the suggested additional language to this section to ensure wetlands are identified and delineated in an application and suggested language concerning stormwater pollution prevention plans be referenced therein.

***(#) SECTION 5.3.3.4.1 - NON-DISTURBANCE BUFFERS**

AC Discussion and Comments:

LIBI did not see the need for the suggested change which would add language acknowledging the ability of the Towns to require larger buffers as LIBI contended that the Towns already possess this ability. It was noted that this was more of an acknowledgement and reminder that the Towns can require this as the majority of applications are not seen by the Commission (as they comply with the CLUP Standards).

LIBI inquired as to under what circumstances the ability of a Town to require a larger buffer occurs and at what point in the project review process this occurs. LIBI also inquired as to whether or not this new provision would require a developer to go back to one agency for review if another agency requires a different buffer. It was noted that normally agencies have their setbacks and buffers published and that these requirements are well known. It was clarified that there was already an existing statement in the CLUP that stricter buffers can be permitted and the only change was the addition of language that states that a Town can also require larger buffers.

LIPBS inquired as to how successful revegetation has been historically and it was noted by Mr. Pavacic that there was a list of Commission-approved revegetation plans included in the Parking Lot document. It was clarified that another suggested change in this section was whether or not the Commission should be able to require revegetation in any existing disturbed portions of a buffer area, as part of a hardship variance approval.

LIBI initiated a discussion on the timing of the requirement to indicate compliance with a standard as suggested in the Parking lot document that states compliance is not considered complete until all final complete copies of permits are received by the Commission and whether the Commission needs to clarify that its approval is a conditional approval.

- The Members voted in favor of the suggested text change that added the ability of Towns to require larger buffers.
- The Members voted in favor of the changes to this section relating to requiring revegetation in disturbed buffer areas, with LIBI, LIPBS and OSC abstaining. (*)
- The Members reached a consensus to forward to the Commission the recommendation to add language to the CLUP that the Commission's vote of approval for a project is essentially a conditional approval. (#)

SECTION 5.3.3.4.4 - REDUCTION OF IMPERVIOUS SURFACES

AC Discussion and Comment:

The AC had no comments.

- All Members voted in favor of the suggested changes for this section which related to incorporation of an Open Space standard and that landbanked parking shall not be counted toward meeting the Open Space standard.

SECTION 5.3.3.4.5 - NATURAL RECHARGE, DRAINAGE, AND PONDS

AC Discussion and Comment:

There was a discussion initiated by LIBI about what are considered “constructed” versus “natural” recharge areas and its implications when constructed natural recharge areas are not allowed to be used to meet the open space standard. Mr. Pavacic explained that natural drainage areas could contain some constructed portions and could require maintenance that would require disturbance (e.g. installation of drainage pipes, headwalls, splash pads and fencing). As a result, the proposed amendment stated that such areas should not be included toward meeting the open space standard. It was noted that such disturbance for maintenance may be infrequent and occurs after several years and therefore it may be unreasonable to prohibit the use of natural drainage areas when calculating the amount of open space proposed to meet the Open Space standard.

- The Members agreed to send to the Commission the recommendation to change the word “are” in the second bullet under this section of the Parking Lot document to “may be considered”. (#)

SECTION 5.3.3.4.6 - SOIL EROSION AND STORMWATER RUNOFF CONTROL DURING CONSTRUCTION

AC Discussion and Comment:

LIBI indicated that if the statement is included in the CLUP that an applicant has to comply with all other requirements then the proposed CLUP requirement that a Stormwater pollution Prevention Plan (SWPPP) would be duplicative and unnecessary.

- All Members voted in favor of the suggested language changes and the concerns stated in the Parking Lot document for this section concerning compliance with EPA Phase 2 stormwater requirements.

***SECTION 5.3.3.5 DEVELOPMENT IN THE CGA THAT REQUIRES PBC REDEMPTIONS**

AC Discussion and Comment:

The Members discussed whether or not the AC should make a specific recommendation to the Commission to adopt the 15% minimum redemption requirement.

- The AC voted in favor of recommending to the Commission that it adopt this specific recommendation concerning the 15% mandatory redemption of credits. LIBI opposed this recommendation because it felt the 15% requirement should include all public benefits and the North Fork Environmental Council abstained. (*)

SECTION 5.3.3.6 - COORDINATED DESIGN FOR OPEN SPACE, HABITAT, AND SOIL PROTECTION

AC Discussion and Comment:

LIBI discussed the need for more clarity as to how to conform with this standard and that perhaps a specific manual or workbook should be cited and pictures included to illustrate what is intended by this standard. There was a discussion on flag lots as to whether or not the “pole” portion of the flag lot should or should not be included in the amount allowed to be cleared and whether the “pole” portion provides valuable habitat or not. The Nature Conservancy (TNC) suggested that pictures also be included to depict what is considered to be valid, meaningful open space.

- All members voted in favor of recommending to the Commission that this section should include a reference to a specific manual or workbook that explains what is intended as coordinated design for open space and to also provide pictures that illustrate this requirement. (#)
- All members voted in favor of forwarding to the Commission for its consideration the flag lot suggestions in the Parking Lot document.
- All members voted in favor of forwarding to the Commission for its consideration the definitions of open space that should include pictures to illustrate this definition. (#)

***FIGURE 5-1 – CLEARANCE STANDARDS**

AC Discussion and Comment:

There was strong disagreement expressed by both the LIPBS and TNC concerning the suggestion to include a separate set of standards in the CLUP for the Town of the

Southampton. It was felt it was unnecessary to include this in the CLUP since the Towns have the authority to require more restrictive standards on their own.

- All Members voted to advise the Commission against allowing separate standards for the Towns in the CLUP since the Towns can require more restrictive standards on their own. (*)
- All Members voted in favor of the suggestion to clarify clearing percentages in the 4 to 5 acre zoning districts, to remove exclusions for septic systems and driveways and for the Towns of Brookhaven and Southampton to provide additional information for this section.

SECTION 5.3.3.6.1.3 - RESIDENTIAL OVERLAY DISTRICT AND REDEMPTION OF PBCs

AC Discussion and Comment:

The AC had no comments.

- The Members voted in favor of the suggested changes to this section which included clarification of the clearing percentages and average lot size applied to meet this standard and cross referencing this section to PBC redemptions in Chapter 6.

*** SECTION 5.3.3.6.1.5 - RELIEF FROM CLEARING**

AC Discussion and Comment:

There was confusion expressed by the Members as to the intent of this section which discussed the need for persons seeking relief from clearing to file a hardship permit with the Commission. An example was provided which used the case in which a residential subdivision had an overall clearing limit and an individual homeowner within the subdivision then over-cleared their lot for a swimming pool which resulted in the total amount of clearing exceeding that which was allowed for the overall subdivision. Such an individual would need to seek relief from the Commission to exceed the clearing limit because the Town Board of Zoning Appeals (BZA) cannot grant this relief. It was noted that the intent of the suggested change was to clarify that only the Commission can grant variances from Central Pine Barrens standards such as clearing, not the Town.

- All of the Members voted in favor of suggesting to the Commission that this recommendation be dropped from consideration. (*)

SECTION 5.3.3.6.1.6 - SPLIT CORE/CGA SITE

AC Discussion and Comment:

There was a discussion as to what a Pine Barrens Credit relates and whether or not there is a relationship between clearing allowed and Pine Barrens Credit use. It was noted that Credits are not used to allow additional clearing specifically. However, in a situation when a project is creating additional lots by redeeming credits, such as in the case of Greystone Estates, there is a small incremental increase in clearing that is allowed (as discussed earlier). The Commission selected the applicable clearing standard for this situation in recognition of the fact that they had several additional lots above and beyond what is allowed under the yield map.

- The Members noted that no action was required on the comment as this was mainly a point of information for the Commission to consider.

Subsequently, Mr. Milazzo asked Mr. Pavacic to explain the comment in the Parking Lot document that refers to the incremental implementation of cash payments toward Pine Barrens Credit redemptions. Mr. Pavacic explained that if a developer is required to redeem Pine Barrens Credits up front, prior to building any units, because the developer has to expend all his money into the development of the site he would have no revenue to purchase Pine Barrens Credits. The suggested change would allow, for example, a developer to build the first phase and use the revenue generated from the sale of units in that phase to purchase and redeem Pine Barrens Credits. This recommendation allows the redemption of Pine Barrens Credits to be prorated over the course of a project's development. Mr. Milazzo noted that perhaps the use of the word "cash" would not be appropriate and that rather a redemption schedule should be created instead of a cash payment. Concern was expressed as to how this would be tracked to ensure compliance. It was noted that this was a comment by an attendee at the technical work session.

- The AC members voted in favor to support the development of a pro-rata formula for the redemption of Pine Barrens Credits.

SECTION 5.3.3.6.1 - CLEARED SITES

AC Discussion and Comments:

The AC had no comments.

- Since this will be referred to legal counsel, the Members agreed to take no action on this section nor the suggestion made in the Parking Lot document to add clarifying and procedural language to this section pertaining to jurisdiction, mitigation and whether overclearing occurred before or after the Pine Barrens Act.

SECTION 5.3.3.6.2 - OPEN SPACE STANDARD

AC Discussion and Comments:

There was a discussion about the definition of habitat and its relationship to open space. LIBI questioned whether there is a percentage requirement for habitat and asked how the definitions distinguish between habitat and open space. Mr. Pavacic explained that a golf course or ball fields may be open space that can't be built on, but the question is whether or not it would constitute adequate habitat for native wildlife species. There was also a question as to whether or not there was a definition of open space.

- All Members voted in favor referring the suggestions for this section to the Commission for its consideration.

*** SECTION 5.3.3.6.3 - UNFRAGMENTED OPEN SPACE AND HABITAT**

AC Discussion and Comments:

There was an objection by LIBI to the suggestion that open space should be kept out of the individual lots. LIBI also stated that the form of ownership is irrelevant as natural area is natural area and overclearing of a lot is an enforcement issue that is easier to resolve with a lot owner as opposed to a Homeowners Association (HOA).

- The members voted in favor of referring the suggestions for this section to the Commission for its consideration and noted LIBI's objection to the suggestion for the fourth paragraph that open space should be kept out of individual lots.(*)

SECTION 5.3.3.6.5 - NATIVE PLANTINGS

AC Discussion and Comment:

Ms. Blumer commented that the current emphasis on revegetation is total planting. She feels that in the Central Pine Barrens this is very counter-productive to what happens naturally. She referred to the Breslin site that has restored itself. Ms. Blumer stated that there is a need for a program, which conforms to the EPA's and New York State's erosion control requirements, and which does not involve planting but instead allows the habitat to restore itself under certain guidelines developed by the Commission. She discussed a site in Middle Island that contained a clearing violation and she stated that planting and seeding suppresses the real return of Pine Barrens vegetation. Ms. Blumer offered to develop language for the native plantings section to include the allowance of natural revegetation to occur as an option for restoration. Mr. McDonald suggested that there should be a mitigation fee then for sites involving clearing violations that are allowed to naturally restore in lieu of active re-planting.

- There was unanimous consensus of the Members that this section should be revised to include language that restoration include self restoration (natural succession) under the supervision of staff with the removal of the non native or invasive plants that are there. It was also decided that Ms. Blumer should submit suggested language to the Commission.
(#)

(Mr. McDonald left the meeting at 1:30 pm.)

SECTION 5.3.3.6.6 - RECEIVING ENTITY AND PROTECTION OF OPEN SPACE AREAS

AC Discussion and Comments:

With regard to who should hold a conservation easement, Mr. Milazzo advised that it should be held by either the Town or the Commission and not solely by a not for profit organization.

- All Members voted in favor of referring the suggestions for this section to the Commission for its consideration.

SECTION 5.3.3.6.8 - INVASIVE PLANT SPECIES MITIGATION

AC Discussion and Comments:

The question arose as to whether or not it would be better to provide the Commission with actual language to revise this standard. However, it was noted by Mr. Pavacic that it may be more prudent to first determine whether the Commission will entertain these changes before staff spends time on drafting language without the Commission's input. Mr. Pavacic recounted the suggestions for this section including specifying who is responsible for assessment of invasives, clarifying a procedure for removal and management of invasives and using more specific language in this section. Ms. Blumer questioned what a developer or homeowner would know about making assessments regarding invasive plants and that the OSC could not endorse this provision unless it was specifically overseen by a professional. It was noted by Mr. Pavacic that this was a recommendation by an attendee at a work session.

- All members voted in favor of forwarding the suggestions for this section to the Commission for its consideration.

SECTION 5.3.3.3.7.2 - BIRD CONSERVATION AND PROTECTION

AC Discussion and Comments:

It was suggested by LIPBS to table this section until input from John Turner and LIBI was received.

- All of the Members voted in favor of tabling this section until input was received from John Turner and LIBI on this section.

SECTION 5.3.3.8.1 - SLOPES, CLEARING AND STABILIZATION

AC Discussion and Comments:

The AC had no comments.

- All members voted in favor of referring the suggestions for this section to the Commission for its consideration.

SECTION 5.3.3.8.5 - PLACEMENT OF ROADWAYS

AC Discussion and Comments:

The AC had no comments.

SECTION 5.3.3.11.2 - SCENIC, CULTURAL AND HISTORIC RESOURCE PROTECTION, #6: SITES CONTAINING EITHER MARKED, KNOWN, OR UNMARKED HUMAN REMAINS OF ANY AGE.

AC Discussion and Comments:

The AC had no comments.

- All members voted in favor of referring the suggestions to the Commission for its review.

SECTION 5.3.3.12.1 - TRAFFIC MANAGEMENT AND MITIGATION

AC Discussion and Comments:

LIPBS expressed its concern that the suggested changes are going in the wrong direction in that traffic management and mitigation should not be left solely to the Towns. LIPBS also stated that the State Legislature has determined that this approach is inadequate and that there have been significant consequences to water quality as a result. LIPBS made the recommendation that because the Commission was created and charged with providing more particularized protection in the Pine Barrens than exists elsewhere on Long Island the Commission should determine what role it shall have with respect to traffic management and mitigation. LIPBS also stated that the idea that the Commission does not need to do something because it is already being reviewed at the local government level is inconsistent with the purpose of the Pine Barrens Act.

LIPBS made a proposal to the AC Members that the Commission investigate and evaluate what actions need to be taken with respect to traffic management and mitigation for the Central Pine Barrens, apart from what is being done by the County and the town. LIBI stated it did not have a problem with this proposal, but felt it may be more direct to suggest to the Commission that it amend its Plan to require the Towns to inform the Commission of traffic-generating applications so that the Commission can provide input as early in the process as possible.

A brief discussion then occurred as to what impacts to the Central Pine Barrens are related to traffic. Examples of situations associated with traffic included the Long Island Railroad transportation of tractor-trailers and the tractor-trailer traffic which comes into railroad depots pick up goods, the existence of construction and demolition debris facilities and facilities that store chemicals located in the Central Pine Barrens area.

- The Members voted in favor of the proposal suggested by LIPBS, as amended by LIBI, concerning the need for the Commission to investigate and evaluate what actions need to be taken with respect to traffic management and mitigation for the Central Pine Barrens apart from what is being done by the County and the Towns and that Commission should consider amending its Plan to require the Towns to inform the Commission of traffic-generating applications so the Commission can provide input as early in the process as possible. (#)

SECTION 6.5.2.3 - PINE BARRENS CREDIT RECEIVING CAPACITY PLAN CERTIFICATION REQUIREMENT

SECTION 6.5.2.4 - CERTIFICATION OF PINE BARRENS CREDIT RECEIVING CAPACITY UPON UTILIZATION OF DESIGNATED AS-OF-RIGHT RECEIVING AREAS

AC Discussion and Comment:

Mr. McDonald suggested that the Towns be required to submit annual certification of Pine Barrens Credit receiving capacity.

- The Members voted unanimously in favor of the suggestion that the Towns be required to submit annual certification of Pine Barrens Credit receiving capacity.

SECTION 6.5.5 - PERMANENCY OF PINE BARRENS CREDIT REDEMPTION

AC Discussion and Comments:

LIBI stated it would be absolutely against anything other than that the redemption of a Pine Barrens Credit is considered to be permanent.

- The Members voted in favor of referring this section to the Commission for its consideration.

SECTION 6.7.3.6 - NEW SECTION

AC Discussion and Comments:

The AC had no comments.