

## **Central Pine Barrens Advisory Committee**

### **WORK SESSION**

**3525 Sunrise Highway  
Great River, New York**

**Tuesday, August 9, 2005 at 5:30 p.m.**

**(Approved 10/11/05)**

### **MEETING SUMMARY**

Advisory Committee Members present: Stephen M. Jones, Chairman, representing Suffolk County Water Authority, Bob Wieboldt representing Long Island Builder's Institute, Susie Husted and Phoebe Loris representing Long Island Pine Barrens Society, Dick DeTurk representing Regional Plan Association, Dr. Henry Bokuniewicz representing SUNY at Stony Brook, Bob Herrick representing Long Island Board of Realtors, Buzz Schwenk representing Hamptons Visitors Council, Ann LaWall representing Southampton Business Alliance, Lauren Hill representing Long Island Association, Bill Patterson representing The Nature Conservancy, and Jim Rigano representing Association for a Better Long Island.

Others present: Bill Spitz, Ken Born, Mike Schiano, Ray Corwin, John McNally, and John Milazzo.

Copies of the Agenda; Volume 1 Update Administrative Draft dated 7/8/05; Volume 2 Updated Administrative Draft dated 8/9/05, Summary of Key Policy Revisions to Volume 1 dated 8/9/05; Comments of Plan Update from Suffolk County Water Authority, Long Island Pine Barrens Society, and Long Island Builder's Institute; SCWA Resolution 048-02-96.

#### Opening Comments:

At 5:55 p.m., Mr. Jones welcomed everyone present and referred to the suggested agenda as a basis for organizing this work session on the Plan Update. He noted that it would be valuable for the Commission to hear from this group having a consensus on certain items.

Mr. Jones referred to the Administrative Policies – he asked if anyone had comments on these in particular or were they a matter to be decided between staff and the Commission. Mr. Wieboldt stated that on pages 3 and 4 he noted that much of the attention of the update is on the Compatible Growth Area, trying to find more land to save rather than having it be compatible with growth. A deal was a deal – nobody gained and nobody lost 10 years ago, it was a compromise. The Plan was not a bad structure; the primacy of government and town review was upheld. The Commission was not a regulatory agency; it was a comment and review agency to make sure certain areas were protected. This update is an

expansion of bureaucratic involvement and substitutes the Commission staff into areas that used to be in the purview of officials of the towns. Mr. Jones asked Mr. Wieboldt about his opinion regarding the legislative basis of the Commission's work. Mr. Wieboldt responded that he believed legislative action was needed in order to make these changes. If the Commission becomes the mandating authority and is directly involved, there will be many delays in permits. The towns had made plans that should be taken into consideration. We can't look at this Plan within a vacuum. The Pine Barrens staff only has review where it is authorized; they are not to be a mandatory coordinator. He believes that development will be over-regulated in the Compatible Growth Area. Also, the annual amendments are too frequent and the 10-year update is too long. Volume 2 should be a part of the plan; these are the facts upon which the plan is based. Ray Corwin noted that the law requires the Commission to update every 5 years – the Towns' involvement with Plan amendments is not addressed in the law. Mr. Wieboldt stated that LIBI's position will be to propose legislation that all amendments be approved by the municipalities.

Susie Husted doesn't see where the suggestions are coming from outside the towns – everything comes from the town first. Ray Corwin agreed that the Commission does not come up with Neighborhood Centers or new Critical Resource Areas – these come from the towns themselves. The towns asked the Commission to put these areas in the update. Mr. Jones noted that if the towns don't approve, these are not going to happen. He asked if there was any objection to having the towns be the ones to make the approval. Mr. Wieboldt said these are not suggestions, these are mandates.

Dr. Bokuniewicz said he wondered about these amendments and were they going to be adopted and then brought before the towns? He said the towns should be adding these things now not after the plan update is written. Ms. Husted noted that the plan update would be open for public review for a certain time period. Mr. Jones mentioned that at the meeting recently held for local government officials, planners from the towns were not sure they could "sell" this update to their town boards. Ms. Husted noted that in the plan, the rule is that whoever has the stricter policy – the town or the Commission – shall apply. Ray Corwin stated that ideally, yes the towns should incorporate the amended plan – but the law has a gap because doesn't address that specifically. Nonetheless, the Commission has had extensive discussions with towns.

Dick DeTurk mentioned that RPA was one of the groups involved in the original plan. He noted that there was a crisis in 1995 and all of Long Island was talking about what to do about the Pine Barrens – right now in 2005, there doesn't seem to be a crisis and things are working pretty well – he doesn't think the public is looking for great changes. Susie Husted disagreed, she said that looking back 10 years ago, she thinks people today are more informed, they don't want sprawl. We know more about the natural resources and we know that the pine barrens are a vital natural resource – so she believes that it is a different discussion than 10 years ago, but she thinks people are still concerned. Mr. Jones noted that this update is really driven by the requirement of the law to review and possibly

update the Plan every 5 years. Mr. Wieboldt said that the last plan was driven by interest groups, this one is moving to change policies as a bureaucratic plan.

Phoebe Loris said that Ken Born had spent time looking at other plans used throughout the US and she thought that the first plan was more of an outline – not really a plan – and that this plan update is actually going to be workable.

**Steve Jones asked if all that were present could agree that substantial updates to the plan should be approved by the towns in the same fashion as the original plan was adopted in 1995? There was agreement on this issue.**

Mr. Jones moved on to Critical Resource Areas (CRA) and Developments of Regional Significance. He mentioned that the original plan pinpointed these areas by tax map id, and that they were areas with features of statewide or regional significance. In 1995, there were 14 CRA's identified split between Brookhaven and Southampton. Has the concept of CRA's changed? Ray Corwin said No, if someone wants to nominate a CRA, it must go to the Commission for review – it originates from the town. CRA is to protect a feature. Mr. Jones asked if there was a "science" to the designation. Yes, there are specific designations for CRA's. Ms. Loris said the language in the update needs to be clarified, so that it is focusing on the resource that needs protecting. There should be clear way of deciding what is a CRA. Mr. Wieboldt has a problem with the recommendation to buy it. Ms. Husted responded that it's up to the Commission to decide whether it's a CRA and it's up to the Town to preserve it – where's the conflict?

**Mr. Jones asked if we could suggest as a group that the definition/language be as specific as it can possibly be – tighten it up.**

Mr. Wieboldt said we can't let the CGA get nibbled away into CRA and then there's no development. Buzz Schwenk asked what is the criteria for a CRA. Ms. Loris responded that the towns decide. Mr. Jones stated that CRA's are protected through clustering – same as in 1995. Ms. Loris responded that she didn't think we should tell the towns how to identify a CRA.

Bob Herrick said we should look at the future of Long Island. The long-term value is that people want to be here – but we need to make housing economically viable. There must be a rational plan – everyone has to look at the big picture.

Bill Patterson noted that everyone would be happier if there were specific reasons for CRA's – are the ones that are presently designated, still valid – or were some missed.

**Mr. Jones then summarized that we suggest a thorough review of the CRA's, a detailed statement of the protection process, if the process is**

**the same, fine; if not, why do we need a new process – tighten up language on the technique.**

Ray Corwin stated that the Towns have not adopted the CRA's - it is a jurisdictional statement – the Role of the Commission is to make sure the natural resource feature within a CRA is protected.

Mr. Herrick raised a question about Pine Barrens credits and the possible use of them countywide. Mr. Jones asked that we keep to the plan for right now but that he would get back to that subject.

#### Developments of Regional Significance

Bob Wieboldt questioned how a wireless communication tower could be a development of “regional” significance. Steve Jones asked if a wireless facility was considered “development” to the Commission. Ray Corwin responded yes, for every new wireless facility in the Core the Commission will take jurisdiction – each time these facilities have been moved to the CGA. Mr. Jones asked if these facilities were considered to be “DRS” what would change – Mr. Corwin responded that the standards and conditions for approval would change.

Mr. Wieboldt said he could understand the visual impact – but what else is “regional”. Ray Corwin said there are 2 areas – one is visual because it is a scenic resources inventory and the other is that migratory bird impact. Mr. Wieboldt again stated that DRS need “regional” impacts, for example across town lines, 1 mile visual impact, where it expands beyond – we need a base number, then put a number on it as to its size – the plan needs to be more specific. Mr. Jones asked a question relating to SEQRA – the different levels correspond to specific sizes – they are standards set in law. What is the rationale for the DRS. Ray Corwin said there are currently 4 categories of DRS.

**Everyone generally agreed with the definition of a Development of Regional Significance (page 2 of Chapter 4). Mr. Wieboldt has a problem with the thresholds. Mr. Jones responded that the thresholds need to have a rational basis.** Ken Born stated that right now our plan is the least restrictive of all the plans he has reviewed.

#### Site Development Policies – (used to be called Standards and Guidelines)

Mr. Jones began by stating that in the original plan, nitrate standards were a big concern – that is not the largest concern for groundwater right now – there are more significant things affecting the groundwater. There was intense discussion on agriculture – he noted that everything in the plan update must agree with Ag & Markets & Farm Law – that law will not be pre-empted by any plan update.

Mr. Wieboldt asked if the Health Department standard (approval) becomes the Pine Barrens standard, and doesn't the Health Department have jurisdiction in these matters? Mr. Jones noted that the Health Department goes up to a point,

and he has found that in some matters, there is a gap – for instance a recharge basin in a development that is in the immediate Zone of Contribution for a well. Mr. Wieboldt said he has no problem with the Health Department moving toward more regulation where drinking water is concerned. But he doesn't think that the Commission belongs with the other regulatory agencies having jurisdiction – we don't need another set of regulations.

Phoebe Loris asked Ken Born where did the goals for the Site Development Standards come from? They should have been italicized. Mr. Wieboldt said that some of these standards don't belong in a serious regulation.

Mr. Jones asked – in this section, what should be the recommendations to the towns and what should be taken out? Mr. Wieboldt said that the permittees are getting hit from left field – there are already rules in place, there are hearings that are held – why do we need more regulations? Ms. Husted said that inter-agency work is another goal that has yet to be obtained.

#### Chapter 5

Phoebe Loris noted that the plan is just citing rules of other agencies. Mr. Jones asked if we were specifically talking about page 3 under Chapter 5 – we need to identify those clearly and make a rationale for them. What about conservation design – he has a problem with that – some consider agriculture to be open-space, others to be business. **The recommendation should be that the staff identifies the policies that are stricter than those of other agencies and give a rationale why they are stricter.**

Mr. Jones opened up the discussion for suggestions or comments on any part of the plan update.

Mr. Wieboldt said he didn't feel there were any big problems or controversial items with Chapters 6, 7, 8, 9, 10 or 11.

Chapter 7 – Stewardship – Ms. Husted said she had no comment at this time. Bill Patterson said some things look different from the last time he reviewed this. Ken Born replied that nothing had changed, just been reordered. Mr. Wieboldt said there is a uniform code on fire prevention, there are standards already in place for open burning and timber harvesting. Ms. Husted said it was the LIPB view that there should be no timber harvesting ever.

Mr. Jones said he was interested in discussing Pine Barrens credits and the use of them throughout the county as long as the zoning of the towns was upheld. He does not believe that the Transfer of Development Rights should be restricted by town boundary as long as no violation of zoning occurs. If there was sufficient interest in discussing this issue – he would place it on the agenda for the quarterly meeting in October.

Mr. Rigano wanted to know what the Commission's position is on the Advisory Committee's reviewing the plan update. Mr. Jones said that Peter Scully was in agreement that the AC should be involved at the earliest possible time. Also, the Commission would have an open public comment period, although no dates had been set yet. Ken Born was trying to get a public review date by 9/21/05. Mr. Jones also noted that all comments from specific agencies would be forwarded directly to the Commission.

Mr. Jones stated that a summary of all points made at this work session would be sent out to all members ASAP, noting which areas we were able to get some consensus on.

Bill Spitz of NYSDEC noted that there were only 9 members of the AC present, so to be careful when you say that you have consensus on a number of issues. Not everyone is represented here.

Ms. Husted responded that this is not the end of the AC comment period – all stakeholders still have chances to speak either together as a part of this committee, or individually.

Mr. Rigano said that the position of ABLI would be that this update is an attempt to fix something that's not broken.

The meeting was adjourned at 8:30 p.m.

NOTE: Text in **boldface** indicates areas of consensus amongst attendees. No resolution was called on these questions.