**Airport Management Advisory Committee**

 **Minutes of Meeting –October 28, 2016 at Town Hall**

Arthur Malman, Chairman of Town of East Hampton’s Airport Management Advisory Committee (“AMAC”), called the meeting to order at 9 AM.

The following members of the AMAC were present: voting members, Pat Trunzo III, Cindy Herbst, Bonnie Krupinski, David Gruber, Gene Oshrin, Munir Saltoun, Charles Ehren and Arthur Malman and non-voting ex officio members, Kathee Burke-Gonzalez, Councilwoman and Board liaison for the AMAC, and Len Bernard, the Town’s Chief Budget Officer. Present by phone was Peter Wadsworth.

 Among others attending (some of whom attended only part of the meeting) were Larry Cantwell, Town Supervisor, Sylvia Overby, Town Board Member, Michael Sendlenski, Town Attorney, Hope DeLauter, Assistant Town Attorney, Catherine van Heuven, outside aviation counsel to the Town James Brundige, who will be starting shortly as interim Airport Director, Marguerite Wolffsohn, director of the Town’s Planning department, Kent Feuerring, the president of the EH Aviation Association, Zachary Cohen, a member of the Town’s Nature Preserve Committee, Jim Mathews, Chair of the East Hampton Environmental Coalition, Rick Prins, partner of Skadden Arps, Christian Haak, microbiologist and film maker, Kathleen Cunningham, Executive Director of the Village Preservation Society and Jonathan Sabin, a local pilot along with several other members of the public. Michael Waibel and Greg VanderMolen of Baker engineering and Jeff Smith of the Eastern Region Helicopter Association also joined the meeting by telephone.

Arthur Malman invited all members of the public to join the discussion, but requested that, since there were more than the usual number of attendees, members of the public who speak would limit themselves to two minutes until all members of the public who wish to speak have had at least one opportunity to do so

The agenda had been previously distributed by Kathee Burke-Gonzalez.

**The next meeting was SCHEDULED for 9 AM on Monday, November 21, 2016.**

The minutes of the September 30 meeting, as circulated were approved.

Arthur Malman explained that the main purpose of the meeting was to allow the AMAC to make a recommendation to the Board about which trees would need to be cut to meet airport operational requirements and how that cutting would take place. There are three elements to be considered: (1) trimming back some trees along the main runway taxiway so that all of the aircraft currently using the airport can do so safely without fearing that their wingtips will be broken by some of the existing trees close to the taxiway, (2) cutting some trees on airport property to restore the existing 20:1 approaches to the east and west end of main runway 10-28 to original utility aircraft standards, and (3) cutting larger numbers of trees on the airport to make main runway 10-28 eligible for night instrument landings under FAA standards, both from the east as presently permitted with FAA approved navigation aids and from the west which is not presently permitted at night. There is no proposal to cut any trees for approaches to the airport’s secondary cross wind runways or taxiways

He indicated on a plan of the airport the limited area of bordering trees proposed to be clear cut along the main runway taxiway and noted that all AMAC members support this necessary phase of the proposed project.

He then pointed to the general areas of the airport plan, both on and off airport property that would be the focus of the discussion about clearing for the **20:1** and for the **34:1** approaches. He indicated that the meeting would be considering where, for each approach slope, mere trimming of limited numbers of trees could take place and where more thorough clear cutting of trees would be expected.

He then asked the members to focus on the Baker tree cutting maps for the approaches distributed at the meeting by Kathee Burke-Gonzalez, Exhibit 1 for approaches from the west and Exhibit 2 for approaches from the east and asked Catherine van Heuven to explain the legal requirements for the various alternatives. Kathee Burke-Gonzalez pointed out that the Baker people were only available for a limited time. Arthur Malman explained that the meeting needed to understand first the legal issues before turning to charts that might or might not be accurate representations of the legal requirements and some members had already raised questions about them.

During Catherine van Heuven’s presentation, Arthur Malman asked her to define and explain to the public and the members many of the technical terms referred to in her outline distributed to members at the meeting : ***VFR*** (Visual Flight Rules), ***IFR*** (Instrument Flight Rules), ***IAP*** (Instrument Approach Procedures), ***RNAV*** (Area Navigation Procedures), ***TERPS*** (Terminal Instrument Procedures-which are the procedures the FAA uses to develop **IFR**—**the TERPS surfaces are only relevant for instrument approaches**), ***TERPS OIS*** surface (also referred to as the obstacle clearance surface, ***OCS***, designed to protect visibility minimums for instrument procedures), ***AAC*** (aircraft approach groups-***A/B*** and ***C/D***), ***VGSI*** (vertical glide slope indicator which the FAA will allow to mitigated in certain circumstances by various techniques including a ***PAPI*** [a precision approach pathway indicator ground lighting system fixture], ***Utility Runway*** (a runway constructed an intended use by a propeller driven aircraft of less than 12,500 lbs.), ***Non-Precision Instrument Runway*** (a runway having an existing straight-in non-precision instrument approach procedure [but for which no precision instrument runway approach facilities are planned], indicated on an FAA planning document.

Catherine van Heuven also described ***Part 77*** of FAA Regulations which defines various civil airport imaginary surfaces to protect particular types of aircraft operations, including horizontal surfaces, primary surfaces, transitional surfaces and approach surfaces. The approach surface under Part 77 extends for varying horizontal distances depending on the runway type:

-5,000 feet at a slope of **20:1** for a **Utility Runway**

**-**10,000 feet at a slope of **34:1** for a **Non-Precision Runway**

**-**10,000 feet at a slope of 50:1 with an additional 40,000 feet for a slope of 40:1 for all precision

 Instrument runways [no such runway is applicable to East Hampton at this time]

Catherine van Heuven stated that East Hampton Airport (***HT0***)’s main runway 10-28 was shown on the most recent **2011** Airport Layout Plan (***ALP***) which the Town filed with the FAA as having been rebuilt with the pavement strength of **60,000 lbs**. and having an approach slope of **34:1**—the requirements for a **Non-Precision Runway** for instrument approaches.

Catherine van Heuven explained that in May 2013 the FAA had done a fly over survey of HTO and sent the Town a letter requiring it to take action to eliminate or light specified tree penetrations to its main runway **20:1** approach or risk temporary suspension of its night operations. When the town did not comply, its five (5) instrument approaches to its main runway were temporarily suspended by the FAA

The 2013 FAA letter also stated the Town *could* request that the FAA allow **HTO** to use **PAPI or** other **VGSI** cutting down or lighting tree penetrations were not practical. The Town did install **PAPI** and the FAA *temporarily* reinstated four of the five instrument approaches to the main runway.

James Brundige referred to the technical diagrams for 5 approach patterns that had been distributed to the members at the meeting. He explained that the FAA had already reinstated 4 of the 5 approaches. The one approach not reinstated was “Yankee”, which was needed for night landings from the west to runway 10 -28 for larger aircraft.

 It was pointed out that due to higher ground elevation to the west, this would require the removal of trees on private property in the Town of Southampton. Furthermore the lower slope of a **34:1** approach as versus a **20:1** approach could substantially increase that number.

Catherine van Heuven stated that since the **2011 ALP** showed this **34:1** slope, the FAA could take the position that the Town was now obligated to promptly cut trees on the airport property to match the **34:1** slope--which would enable HTO to get back its Yankee approach

 Kathee Burke-Gonzalez referred to the Exhibits by Baker Engineering which she explained showed the trees required to be cut to comply with the **34:1** slope being only about 1 acre more than about the 20 acres to comply with a **20:1** slope. Several members questioned the accuracy of these Exhibits

David Gruber, Pat Trunzo III and Charles Ehren, all themselves attorneys who had independently studied these approach issues prior to the meeting, disagreed with Catherine van Heuven’s opinion for several reasons, including:

1. The main runway when rebuilt in 1996 was, for whatever reason, designed and rebuilt to also bear the weight of larger aircraft type C/D but has never legally become a **Non-Precision Instrument Runway** with a **34:1** approach

 The 1989 ALP showed a main runway paved to **Utility Runway** standards- only 12,500 Lbs.

The 1996 ALP which included the pavement upgrade (funded by the FAA) was never legally approved by the Town as was determined in subsequent legal proceedings

Moreover, because of the very significant tree clearing required for a **34:1** approach (much more than the differential stated by Baker, in its Exhibits which are mathematically wrong), it would have required a new SEQRA review before it could proceed--but that was never done.

The 2011 ALP reflected the rebuilt main runway (to type **C/ D** specs) and, erroneously, indicated that main runway approaches were **34:1--**although they had in fact never been cleared as such—which extensive clearing would have required SEQRA review at that time which was still never done. It is their view that the 2010 ALP is simply mistaken as a matter of fact when it states the existing approaches to be **34:1**. They were **20:1** in 1989 according to the 1989 ALP; nothing has been done to alter them since that time; photographs or the airport make self-evident that the existing clearing is only **20:1** as it was in 1989.

1. Under the grant assurances for the funding of the 1996 runway rebuild, the Town would have been required to maintain the runway to the overdesigned **C/D** level, but there is not now any reason to proceed with the **34:1** clearing. The dividing line is that anything that exists must be maintained. There is no federal obligation to implement an ALP. Hence, even if something is shown on the ALP, it need not be built.
2. The **2011 ALP** showed a **34:1** approach which does not exist nor has it ever existed at **HTO** since trees had never been cut on either the airport property and adjoining property to this standard.
3. After retracting the use of **HTO**’s 5 approaches for the main runway because of tree penetrations set forth in the FAA’s 2013 letter, 4 runway 10-28 approaches have been allowed by the FAA with the airport using **PAPI** lights to assist pilots.
4. The FAA has made the reinstatement of the four approaches permanent under its new process. Previously, exceptions based on mitigation could only be temporary. FAA rules now allow them to be permanent and East Hampton’s are permanent. Nothing further need be done to maintain the existing nighttime approaches. The only issue now is part 77 compliance.

6. Some of the tree penetrations for either a **20:1** or a **34:1** approach are outside the airport on private property in both EH and SH

No agreements to date have made with private property owners to cut down or trim trees outside airport property nor have any decisions been made public by either SH or EH on possible small scale condemnation of all or intruding sections of penetrating trees in either town

Markedly fewer trees on private property would be affected by a **20:1** approach than by a **34:1** approach

7. The flyover by the FAA in 2013 was only for **20:1** compliance not **34:1** compliance and **34:1** tree clearing has not been demanded by the FAA.

Catherine van Heuven stated that, nonetheless, since this **34:1** approach was in the 2011 **ALP**, the FAA might take the position that the Town was required to clear trees on airport property to this standard.

Pat Trunzo III suggested that the Town notify the FAA that the ALP is simply in error as it incorrectly states the existing approaches to be 34:1, when they are 20:1, and wait and see how, if at all, the FAA responds.

Catherine van Heuven noted that the FAA has an Airports Division which could enforce the **34:1** requirement under Part 77 section and a Flight Operations which did the flyover for TERPS **20:1** compliance and the sections often don’t talk to each other. Moreover the FAA does fly overs when the leaves are green, so it would be at least next spring before the Airports Division would be interested in even possibly doing their fly over.

Arthur Malman asked what use **34:1** clearing on only the airport property would be since no one could use any approach less than **20:1 without** crashing into a wall of 50-60 trees just over the airport property line.

Michael Sendlenski stated that under NY law the Town could have liabilities if it did not cut down trees on airport property to the **34:1** standard. Charles Ehren questioned this opinion since the town was already satisfying the FAA sufficiently to have it reinstate 4 approaches with the **PAPI’s** it specified; if someone choose to fly in at night on the Yankee approach that the FAA said should not be used at night it was the pilot not the town that should be liable. Arthur Malman asked Michael Sendlenski, the other side of the question: if the town cleared only the airport property to a **34:1** standard would it be liable if a pilot reasonably thought the approach was available and crashed into penetrating trees just beyond the property line? Michael Sendlenski, said he was not prepared to give an opinion on these facts

Some committee members remarked that, before the town starts cutting down acres of trees for **34:1** approach compliance, it should wait for these parts of the FAA to get their own acts together. Some felt that there should be no further cutting to any standard until after further discussion with the FAA and possibly testing the issue in court.

Arthur Malman summarized the discussion so far as agreement by all that the actual main runway pavement has been physically built at the 60,000 lb. strength but disagreement as to whether the Town must clear tree penetrations to the **34:1** standard.

Michael Waibel and Greg VanderMolen then discussed the two Baker Exhibits showing the effects on tree cutting for **20:1** and **34:1** and stating that the difference was only about one acre

Zachary Cohen and David Gruber strongly disagreed with the mathematics of the Baker charts and the conclusions that Baker was drawing.

Zachary Cohen questioned the accuracy of the transitional approach tree cutting zones shown on the Baker charts and, after discussion, it appeared that these were not properly represented and would need to be recalculated and drawn—with the possibility that cutting requirements could be more than Baker was now showing.

David Gruber questioned why the cutting zone for the both the **34:1** and **20:1** approaches had substantially the same shapes for their transitional surfaces. Greg VanderMolen explained that since Baker had only the data from the FAA flyover for the **20:1** compliance and did not have data from a 34:1 survey, it had just stopped at the border of the 20:1 data. Arthur Malman clarified that this method made no sense since it could not possibly show substantially more cutting needed for a **34:1** approach since Baker had just disregarded part of the affected areas

David Gruber asked if anyone thought that the trees just outside the limits of the FAA 20:1 flyover would be substantially different in height from those just next to it. No one disagreed with this proposition and Baker was asked to also redo their charts with this assumption—which again would substantially increase the zone to be cut for a 34:1 approach

Arthur Malman questioned why the east west borders of the cutting areas seemed the same for both the 20:1 and 34:1 approaches. Greg VanderMolen noted that the Baker charts only showed cutting on airport property. Most members felt that this was a distortion since the town’s water recharge zone for its sole source aquifer would be adversely affected whether tree cutting was on airport property or not and this data should also be presented when Baker corrects its charts

Cindy Herbst suggested that the town just go forward with these existing Baker charts and submit them to the FAA to show that the town was complying. Arthur Malman pointed out that now that the Town knew that the charts were misleading and needed to be redone, they could not just be submitted to the FAA nor could they be used to evaluate whether an SEQRA review was needed.

Pat Trunzo III pointed out that a full SEQRA review was needed on the basis of the Baker charts presented –even with the glaring errors—before the town could go forward with these projects.

Len Bernard pointed out that he could not set up bonding for the tree cutting project without a determination that a SEQRA review was not needed. Marguerite Wolffsohn responded that the discussion had shown her that the Baker materials she had been given were incomplete and probably wrong on several accounts and therefore she was not willing to go forward with her planned presentation that concluded a SEQRA review was not needed.

Even though Marguerite Wolffsohn was not prepared to opine on the need for a SEQRA review based on the changed facts, Arthur Malman asked her to go forward with her presentation of some of the factors that she would consider and the conditions of the properties in question.

Marguerite Wolffsohn explained the importance of the forest areas to the water recharge areas and woodlands wildlife. She showed a map of the limited forest areas in East Hampton and noted the importance of woodlands that were in larger blocks, such as some of those at and around the airport.

Cutting isolated trees would be less of a problem and likewise cutting trees along the edge of a forested area such as is being suggested with respect to trimming the trees along the main runway taxiway.

Pat Trunzo III noted the advantages of the trees in forming a canopy to lessen evaporation as opposed to cleared areas that would still allow water to seep through to the groundwater but not trap the water in.

Arthur Malman noted that Zachary Cohen had suggested planting meadow grasses in cleared areas and then mowing them once a year. Marguerite Wolffsohn felt that the natural underbrush would be better because of deeper and broader root structures and other factors. Various native birds would build their nests in the trees and then feed in the open areas; the town has added bird boxes at the perimeter of the airport to try to replicate this condition.

Responding to a lovely view across the airport in the fall, members asked about the use of double deer fences at lower heights as versus standard 8-10 foot fences; these lower double fences would be needed at runway ends along Daniels Hole road where approaches would limit higher fences.

Zachary Cohen and Marguerite Wolffsohn felt that these lower double fences were equally effective and reacted positively to the idea of planting slow growing shrubs between the fence lines to further discourage deer from trying to find a landing zone in the middle of the two fence lines. Bonnie Krupinski felt that, while the standard higher fences could be used next to forested areas, these lower fences could be used in open areas beyond just the ends of the runway where they would give residents more of an opportunity to enjoy the spacious airport views without a high deer fence cutting them off.

In response to a question on using treated wood versus steel for fence posts, Pat Trunzo III explained that there was a new wood preservative, Kebony, that was less harmful than traditional creosote and others. Marguerite Wolffsohn said she was not familiar with it but such a material could be very interesting and she would research it further.

Arthur Malman then asked the members to adopt the resolution on the fence project that he had previously circulated to the members by email, but with the insertion that Gene Oshrin and the pilots association asked for that the fencing at the end of the runway not exceed 4 foot and that Baker should be asked to consider the lower double fence not only at runway ends but also in front of terminal and other non-forested stretches.

The following resolution was adopted

*Resolved that the AMAC recommends that the Town immediately proceed to*

1. *Build new sections of the deer fence in the areas shown on the airport map prepared by Baker Engineering so that all of the airport operations areas will be deer fenced completely north of Industrial Road and west of Daniels Hole Road.*
2. *The deer fence will have 10 foot wooden posts (provided that the newer wood preservatives are compatible with our water recharge area –if not, the posts shall be steel set into concrete) and have black agricultural wire mesh (not galvanized wire) on its first 8 feet and with horizontal wires on the top two feet (if available at reasonable cost, blue or violet wire would be more visible to the deer to discourage jumping over the fence).*
3. *At places at the ends of runways where a 10 foot deer fence would intersect the runway approach plane, there will be lower mesh fencing at the maximum height allowed for that section per the Baker Engineering diagrams (but in no event higher than 4 feet) but, to discourage deer from seeing an open landing area and jumping over it, with a parallel section of similar but opaque fencing which will be separated by a clear area 4-5 feet wide with low slow growing bushes planted in this middle space to further discourage an intermediate landing; there will be no lights on this lower section since none will be required by FAA rules. To further discourage deer from jumping this lower section, after the first 2 feet of the outer fence it will be angled out at a 45 degree angle which it is believed is also confusing to most deer. Baker is requested to give the Town a quote per foot for the both standard high fence and the double lower fence as it appears desirable to members to continue the more attractive double fencing, if practical, around the terminal areas and other areas which are not forested.*
4. *There will be six self-closing gates (one of which will replace the existing gate at the entrance through the deer fence at the executive terminal) to permit entry and exit by authorized vehicles though the deer fence with power (and solar backup) and communications so that visible and audible signals will alert airport management and passersby’s if gates are accidently or intentionally left open for longer than reasonably necessary for a vehicle to pass through.*
5. *In addition to the above deer fence, the airport will erect a lower more decorative safety fence to keep adults and children using**the terminal**from accessing the airport tarmac without an airport sanctioned employee who will have the codes to open the gates in this fence to allow access and egress in accordance with airport policies.*
6. *In order to discover most advantageous pricing, bid requests should give a bidder the opportunity to bid on the entire job for all fences and communications or any one or more of the following components (1) deer fencing, (2) decorative safety fencing, (3) gates, and/or (4) power and communications.*

David Gruber thought the Town should try to get some additional deer expert input on the sections of the fence that are now to be lower. He was concerned that a double two foot fence with a two foot angle may be ineffective. He said he supports working on such a modification of the existing fence plan, but not yet finalizing the modification of the plan to include double four foot segments without benefit of more expert deer management opinion and getting the comparable costs from Baker.

Several members of the public then requested to make statements:

James Mathews, Co-Chair of the EH Environmental Coalition with an extensive membership of associated organizations on the South Fork, indicated that the meeting had focused on what the environment could give up for better airport operations but had not on the other side of the issue: what can the airport give up for the environment that affects a much larger population. His organization will be submitting a more fulsome critique of the discussion at the meeting

Rick Prins, a partner of the law firm of Skadden Arps, pointed out that FAA procedures and policies do not pre-empt environmental concerns and laws.

Christian Haak, a microbiologist and film maker, pointed out that today’s discussion had not focused enough on property outside the airport and what effect operations at the airport had on the areas outside the airport and had on residents not involved with the airport.

The meeting adjourned at 11:50 A.M.

Respectfully submitted

Arthur Malman